


COUNCIL ORDINANCE NO. 20679

**AN ORDINANCE CONCERNING CLEAR AND OBJECTIVE APPROVAL
CRITERIA FOR HOUSING; AMENDING SECTIONS 9.0500, 9.2181, 9.2471,
9.2520, 9.2687, 9.2751, 9.2761, 9.3216, 9.3221, 9.3626, 9.3725, 9.4830,
9.5750, 9.6010, 9.6710, 9.6810, 9.6815, 9.6820, 9.6845, 9.6865, 9.6885,
9.7007, 9.8030, 9.8045, 9.8055, 9.8085, 9.8090, 9.8100, 9.8105, 9.8205,
9.8210, 9.8215, 9.8220, 9.8310, 9.8320, 9.8325, 9.8360, 9.8365, 9.8440,
9.8445, 9.8505, 9.8510, 9.8515, AND 9.8520 OF THE EUGENE CODE,
1971; AND ADDING SECTION 9.5860 TO THAT CODE.**

ADOPTED: November 30, 2022

SIGNED: December 1, 2022

PASSED: 6:1

REJECTED:

OPPOSED: Keating

ABSENT:

EFFECTIVE: January 1, 2023



ORDINANCE NO. 20679

AN ORDINANCE CONCERNING CLEAR AND OBJECTIVE APPROVAL CRITERIA FOR HOUSING; AMENDING SECTIONS 9.0500, 9.2181, 9.2471, 9.2520, 9.2687, 9.2751, 9.2761, 9.3216, 9.3221, 9.3626, 9.3725, 9.4830, 9.5750, 9.6010, 9.6710, 9.6810, 9.6815, 9.6820, 9.6845, 9.6865, 9.6885, 9.7007, 9.8030, 9.8045, 9.8055, 9.8085, 9.8090, 9.8100, 9.8105, 9.8205, 9.8210, 9.8215, 9.8220, 9.8310, 9.8320, 9.8325, 9.8360, 9.8365, 9.8440, 9.8445, 9.8505, 9.8510, 9.8515, AND 9.8520 OF THE EUGENE CODE, 1971; AND ADDING SECTION 9.5860 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 the definition of “Pedestrian” to that section in alphabetical order as follows:

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

Pedestrian. Any person afoot or using any type of wheelchair.

Section 2. Section 9.2181 of the Eugene Code, 1971, is amended to provide as follows:

9.2181 **Special Standards for Table 9.2180.**

(1) Lot area, frontage, and width minimums may be adjusted in accordance with the provisions of EC 9.8030(1). Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

Section 3. Section 9.2471 of the Eugene Code, 1971, is amended to provide as follows:

9.2471 **Special Standards for Table 9.2470.**

(1) Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a site review or planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary.)

Section 4. Subsection (2) of Section 9.2520 of the Eugene Code, 1971, is amended to provide as follows:

9.2520 Natural Resource Zone Land Use and Permit Requirements. The provisions of the NR zone do not exempt a person or property from state or federal laws and regulations that protect water quality, wetlands, or other natural areas. In cases where the NR zone overlaps with the /WB wetland buffer overlay zone or the /WP waterside protection overlay zone, only the provisions of the NR zone are applied.
* * *

- (2) **Uses Subject to a Conditional Use Permit.** The following uses are permitted conditionally in the NR zone:
- (a) Nature interpretive centers and wetland research facilities, when such centers or facilities are specified in or consistent with adopted plans or policies.
 - (b) Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resource areas.

Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19), in addition to EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.

* * *

Section 5. Subsection (1) of Section 9.2687 of the Eugene Code, 1971, is amended to provide as follows:

9.2687 Special Standards for Table 9.2686.

(1) Lot area, frontage, and width minimums may be adjusted pursuant to the provisions of EC 9.8030(1) of this land use code. Modifications may be approved through a planned unit development. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

* * *

Section 6. Subsection (2) of Section 9.2751 of the Eugene Code, 1971, is amended to provide as follows:

9.2751 Special Development Standards for Table 9.2750.
* * *

- (2) Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development

permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

* * *

Section 7. Subsection (1)(c) of Section 9.2761 of the Eugene Code, 1971, is amended to provide as follows:

9.2761 Special Standards for Table 9.2760.

(1) Lot Standards.

* * *

- (c) Lot area, frontage, and width minimums may be modified with an approved cluster subdivision in R-1 or Planned Unit Development (PUD) in any zone, or adjustments may be made if consistent with the criteria in EC 9.8030(1) and reviewed and approved concurrently with a planned unit development in any zone.

* * *

Section 8. Subsection (1) of Section 9.3216 of the Eugene Code, 1971, is amended to provide as follows:

9.3216 Special Development Standards for Table 9.3215.

- (1) Maximum building height, minimum building setbacks, and maximum building dimensions may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

* * *

Section 9. Subsection (1) of Section 9.3221 of the Eugene Code, 1971, is amended to provide as follows:

9.3221 Special Standards for Table 9.3220.

- (1) Lot area, frontage, and width minimums may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development

Approval Criteria – General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

* * *

Section 10. Subsection (9) of Section 9.3626 of the Eugene Code, 1971, is amended to provide as follows:

9.3626 Special Development Standards for Table 9.3625.

* * *

- (9) Maximum building height and minimum building setbacks may be modified with an approved planned unit development permit. (For planned unit development procedures refer to EC 9.7300 General Overview of Type III Application Procedures and for approval criteria refer to EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary or EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective.)

Section 11. The lead-in paragraph of Section 9.3725 of the Eugene Code, 1971, is amended to provide as follows:

- 9.3725 S-RP Riverfront Park Special Area Zone Review Procedures.** The master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land use code. For the purpose of this review, the following criteria shall be applied in lieu of the criteria provided in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary:

* * *

Section 12. Subsection (2)(c) of Section 9.4830 of the Eugene Code, 1971, is amended to provide as follows:

- 9.4830 /WB Wetland Buffer Overlay Zone Land Use and Permit Requirements.** Within the /WB overlay zone, there are 2 categories of uses: those allowed by the base zone or special area zone outside of the /WB area, and a more restrictive list of uses allowed within the /WB area.

* * *

(2) Within /WB Areas:

* * *

- (c) Uses Permitted Conditionally. The following uses are permitted conditionally in the /WB overlay zone:
1. Nature interpretive centers, when specified in or consistent with adopted plans or policies.
 2. Maintenance facilities for storage of equipment and materials used exclusively for maintenance and management of wetlands and

natural areas.
Conditional use permit approval shall be based upon conformance with EC 9.2530 Natural Resource Zone Development Standards (2) through (19) in addition to the conditional use criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.

* * *

Section 13. Subsections (2)(b) and (c) of Section 9.5750 of the Eugene Code, 1971, are amended to provide as follows:

9.5750 Telecommunication Devices-Siting Requirements and Procedures.

* * *

- (2) **Siting Restricted.** No telecommunication facility, as defined in this land use code, may be constructed, modified to increase its height, installed or otherwise located within the city except as provided in this section. Depending on the type and location of the telecommunication facility, the telecommunication facility shall be either an outright permitted use, subject to site review procedures, or require a conditional use permit.
- * * *
- (b) **Site Review.** A telecommunication facility which, pursuant to subsections (3) through (5) of this section, is subject to site review shall be processed in accordance with the site review procedures of this land use code. The criteria contained in this section, as well as the criteria contained in EC 9.8440 Site Review Approval Criteria – General/Discretionary, shall govern approval or denial of the site review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.
- (c) **Conditional Use Permit.** A telecommunication facility which, pursuant to subsections (4) or (5) of this section, requires a conditional use permit shall be processed in accordance with the conditional use permit procedures of this land use code, except that the variance provisions shall not apply. The criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary and subsections (6) and (7) of this section shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in subsections (6) and (7) of this section shall govern. No development permit shall be issued prior to completion of the conditional use permit process, including any local appeal.

* * *

Section 14. Section 9.5860 of the Eugene Code, 1971, is added to provide as follows:

9.5860 Transition Standards for Housing/Clear and Objective Applications.

- (1) **Applicability of Transition Standards.** The transition standards at EC 9.5860(2) shall apply to land use applications proposing housing to be reviewed with

clear and objective approval criteria under EC 9.8100 Conditional Use Permit Approval Criteria – Housing/Clear and Objective, EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective, or EC 9.8445 Site Review Approval Criteria – Housing/Clear and Objective. The transition standards at EC 9.5860(2) apply to all new buildings and any building additions that increase the square footage of livable floor area by 20 percent or more for any of the following:

- (a) Multiple-unit development on property abutting land zoned R-1, S-C/R-1, or S-RN/LDR except where the multiple-unit development consists of structures less than 30 feet in height.
- (b) Assisted care, boarding and rooming house, campus living organization, university or college dormitory, or single room occupancy (SRO), proposed on property abutting land zoned R-1, S-C/R-1, or S-RN/LDR.

In cases where the standards in subsection (2) apply to building additions, they shall be applicable between the addition and any property line abutting land zoned R-1, S-C/R-1, or S-RN/LDR.

- (2) Standards. The following standards apply to new buildings and building additions identified in subsection (1) and unless specified otherwise, must be applied within 25 feet along the portion of any property line that abuts land zoned R-1, S-C/R-1, or S-RN/LDR:

- (a) Height and Setback Options. The proposed development must comply with one of the following four options:
 - 1. Option 1. The maximum building height of a new building or building addition shall be limited to 35 feet. In addition, at least one of the following must be provided along the entire portion of any property line that abuts land zoned R-1, S-C/R-1, or S-RN/LDR:
 - a. A 6-foot high, 100 percent sight-obscuring wooden fence or masonry wall.
 - b. A 6-foot high metal fence with high shrubs planted every 6 feet. Chain link or cyclone fences are not allowed. For the purpose of this subparagraph, high shrubs must be:
 - (1) Selected from the City of Eugene Plant Materials list approved by administrative order of the city manager;
 - (2) Designated in the City of Eugene Plant Materials list as meeting the high shrub requirement; and,
 - (3) In at least 5-gallon containers at the time of planting.
 - c. Landscaping with a minimum plant bed width of 7 feet meeting EC 9.6210(3) High Screen Landscape Standard (L-3).
 - 2. Option 2. The minimum interior yard setback shall be 10 feet from the portion of any property line land zoned R-1, S-C/R-1, or S-RN/LDR. In addition:
 - a. At a point that is 25 feet above grade at the property line, the interior yard setback shall slope toward the interior of the property at the rate of 10 inches vertically for every 12 inches horizontally away from that property line until a point 25 feet away from the property line. (See Figure 9.5860(2)(a)2.a. Transition Standards Option 2 Sloped Setback).

standards. Future development proposals subject to the standards in this section will need to obtain a separate exception from the tree planting requirements of this section.

Section 15. Figure 9.5860(2)(a)2 attached as Exhibit A is added.

Section 16. The heading of Section 9.6010 of the Eugene Code, 1971, and subsection (1) of that Section are amended to provide as follows:

9.6010 Applications Proposing Housing.

- (1) As used in EC chapter 9.6000, the term “applications proposing housing to be reviewed with clear and objective approval criteria” includes:
- (a) Applications that are proceeding (or have proceeded) under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520; or
 - (b) Applications for housing developments for residential uses permitted outright in the subject zone that are entitled to clear and objective standards pursuant to state statutes.

* * *

Section 17. Subsection (6) of Section 9.6710 of the Eugene Code, 1971, is amended to provide as follows:

9.6710 Geological and Geotechnical Analysis.

* * *

- (6) Clear and Objective Housing. Unless exempt under 9.6710(3), in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing housing to be reviewed with clear and objective approval criteria shall include a certification from an Oregon licensed Engineering Geologist, an Oregon licensed Geotechnical Engineer, or an Oregon licensed Civil Engineer with geological experience, prepared within ten years of the date of application, that includes the following information:
- (a) Identification of any portion of the proposed development site that is located in an area of moderate or high landslide susceptibility as shown on the city’s adopted Eugene Landslide Hazard Map.
 - (b) A statement that the proposed development will not be impacted by existing or potential stability problems or any of the following site conditions: slopes 20 percent or greater, springs or seeps, depth of soil bedrock, soil types, variations in soil types, open drainage ways, fill, or a combination of these conditions.
 - (c) If proposed development will be located in an area identified as moderately or highly susceptible to landslides pursuant to (a), or will be impacted by existing or potential stability problems or any of the site conditions listed in (b), the certification must also include:
 - 1. A review of the suitability of the proposed lot layout, street locations, and proposed locations for utilities, driveways, parking

- areas, and buildings given the landslide hazards, stability problems, and/or site conditions identified in the certification;
2. Any recommended modifications to the proposed lot layout, street locations, and proposed locations for utilities, driveways, parking areas, and buildings that in the engineer's opinion, would mitigate the landslide hazards, stability problems, and/or site conditions identified in the certification;
 3. Methods for safely addressing the landslide hazards and/or site conditions identified in (a) and (b); and,
 4. Recommendations, if any, for additional geotechnical analysis for future buildings or improvements on the development site.
 5. Recommendations, if any, for additional geotechnical analysis for future buildings or improvements on proposed lots or parcels.

If certification is submitted under (6)(c), the application shall include the applicant's statement that it will develop in accordance with the Engineer's certification.

Section 18. Section 9.6810 of the Eugene Code, 1971, is amended to provide as follows:

9.6810 Block Length.

- (1) Except as provided in subsections (2) and (3) of this section, block length for local streets shall not exceed 600 feet.
- (2) Applications not proposing housing to be reviewed with clear and objective approval criteria will be exempt from the block length requirements in subsection (1) if one or more of the following conditions apply:
 - (a) Physical conditions preclude a block length 600 feet or less. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.
 - (b) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a block length 600 feet or less, considering the potential for redevelopment.
 - (c) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall be as close to 600 feet as practicable.
 - (d) As part of a Type II or Type III process, the developer demonstrates that a strict application of the 600-foot requirement would result in a street network that is no more beneficial to vehicular, pedestrian or bicycle traffic than the proposed street network and that the proposed street network will accommodate necessary emergency access.
- (3) Applications proposing housing to be reviewed with clear and objective approval criteria, must comply with the block length requirements in subsection (1) unless one of the following exemptions applies:
 - (a) Existing slopes would result in a street grade that exceeds the grade allowed under current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the

- (b) subdivision boundary or abutting property under separate ownership.
- (b) An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall not exceed 700 feet.
- (4) Block length may be adjusted in accordance with EC 9.8030(38) for applications proposing housing to be reviewed with clear and objective approval criteria.

Special block requirements related to multiple-unit developments are found in section (10) of EC 9.5500 Multiple-Unit Standards.

Section 19. Subsections (2)(e) and (g) of Section 9.6815 of the Eugene Code, 1971, are amended, and subsections (h) and (i) are added, to provide as follows:

9.6815 Connectivity for Streets.
* * *

(2) Street Connectivity Standards.
* * *

- (e) Except for applications proposing housing to be reviewed with clear and objective approval criteria, all applicants shall show that the proposed street alignment shall minimize excavation and embankment and avoid impacts to natural resources, including water-related features.

* * *

- (g) Except for applications proposing housing to be reviewed with clear and objective approval criteria, in the context of a Type II or Type III land use decision, the city shall grant an exception to the standards in subsections (2)(b), (c) or (d) if the applicant demonstrates that any proposed exceptions are consistent with either subsection 1. or 2. below:

1. The applicant has provided to the city, at his or her expense, a local street connection study that demonstrates:
 - a. That the proposed street system meets the intent of street connectivity provisions of this land use code as expressed in EC 9.6815(1); and
 - b. How undeveloped or partially developed properties within a quarter mile can be adequately served by alternative street layouts.
2. The applicant demonstrates that a connection cannot be made because of the existence of one or more of the following conditions:
 - a. Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.

- b. Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.
- (h) For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions to street connectivity standards may be granted if one of the following conditions exists:
 - 1. Existing building(s) on the development site or on land abutting the development site and under separate ownership obstruct the extension of the planned street. For the purposes of this subparagraph, “building” is defined as a structure designed and used as a place of occupancy. For the purposes of this subparagraph, “building” does not include a shed, carport, detached garage, accessory building, or other structure designed and used solely for storage or shelter;
 - 2. Existing slopes would result in a street grade exceeding current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the subdivision boundary or abutting property under separate ownership;
 - 3. Provision of public street connection would require dedication of 25 percent or more of the total development site area.
 - 4. Abutting residential land cannot be further divided under current development standards.
- (i) Street connectivity standards may be adjusted in accordance with EC 9.8030(38) for applications proposing housing to be reviewed with clear and objective approval criteria.

Section 20. Subsection (5) of Section 9.6820 of the Eugene Code, 1971, is amended

and subsection (6) is added, to provide as follows:

9.6820 Cul-de-Sacs or Emergency Vehicle Turnarounds.

- (5) As part of a Type II or Type III process, an exception may be granted to the requirements of (1), (3) and (4) of this section. For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions may only be granted as provided in subparagraph (c). For all other applications, exceptions may be granted because of the existence of one or more of the following conditions:
 - (a) Physical conditions preclude development of the connecting street. Such conditions may include, but are not limited to, topography or likely impact to natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat areas, or a resource on the National Wetland Inventory or under protection by state or federal law.
 - (b) Buildings or other existing development on the subject property or adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a connection now or in the future, considering the potential for redevelopment.

- (c) For applications proposing housing to be reviewed with clear and objective approval criteria, an exception to the requirements of subsections (1), (3) and (4) may be granted if the applicant provides certification from an Oregon licensed civil engineer stating that a cul-de-sac or emergency vehicle turnaround cannot be constructed to meet current standards according to the adopted Design Standards and Guidelines for Eugene Streets, Sidewalk, Bikeways and Accessways.
- (6) Cul-de-sacs or emergency vehicle turnarounds standards may be adjusted in accordance with EC 9.8030(38) for applications proposing housing to be reviewed with clear and objective approval criteria.

Section 21. Section 9.6845 of the Eugene Code, 1971, is amended to provide as follows:

9.6845 Special Safety Requirements. Except for applications proposing housing to be reviewed with clear and objective approval criteria, where necessary to insure safety, reduce traffic hazards and promote the welfare of the general public, pedestrians, bicyclists and residents of the subject area, the planning director or public works director may require that local streets and alleys be designed to discourage their use by non-local motor vehicle traffic and encourage their use by local motor vehicle traffic, pedestrians, bicyclists, and residents of the area.

Section 22. Section 9.6865 of the Eugene Code, 1971, is amended to provide as follows:

9.6865 Transit Facilities.

- (1) Except for applications proposing housing to be reviewed with clear and objective approval criteria, the city manager may require provisions, including easements, for transit facilities where future transit routes are required on streets extending through or adjacent to the area of the development, and where a need for bus stops, bus pullouts or other transit facilities within the development has been identified, provided the city makes findings to demonstrate consistency with constitutional requirements.
- (2) Except for applications proposing housing to be reviewed with clear and objective approval criteria, where the provision of transit stops, bus pullouts or other facilities along a public street requires a right-of-way or paving width greater than that listed in Table 9.6870 Right-of-Way and Paving Widths and where a need for transit service within the development has been identified, the planning director or public works director, depending upon the type of application being processed, may require that additional right-of-way or paving be provided.

Section 23. Subsection (2) of Section 9.6885 of the Eugene Code, 1971, is amended, and subsection (3) is deleted, to provide as follows:

9.6885 Tree Preservation and Removal Standards.

* * *

- (2) **Tree Preservation and Removal Standards.** The standards in this subsection apply only to land use applications processed under EC 9.8100,

EC 9.8325, EC 9.8445, and EC 9.8520. Unless exempt under subparagraph (b) below, no permit for a development activity subject to this section shall be approved until the applicant demonstrates compliance with the standards in this subsection.

- (a) Definitions. For the purposes of this subsection (2), the following definitions apply:
1. Critical Root Zone (CRZ). That area surrounding a tree that has a radius of 12 inches multiplied by the diameter breast height expressed in inches of the tree trunk or trunks.
 2. Tree Removal. To fell or sever a tree or to use any procedure the natural result of which is to cause the death or substantial destruction of the tree. Substantial destruction includes actions that destroy more than 20% of the critical root zone of a tree, or topping, or severing the cambial material on 50% or more of the circumference of the tree trunk. Remove does not in any context include those pruning standards as defined in the edition of American National Standards Institute (ANSI) Section A300, Tree, Shrub and Other Woody Plant Maintenance Standard Practices in effect at the time the pruning occurs.
- (b) For the purposes of this subsection (2), the South Hills Area is defined as all property located within the City's adopted Urban Growth Boundary, above an elevation of 500 feet, and:
1. South of 18th Avenue,
 2. South of Franklin Boulevard and East of the intersection of 18th Avenue and Agate Street, or
 3. If 18th Avenue were extended from the intersection of 18th Avenue and Willow Creek Road directly west to the Urban Growth Boundary, the area south of that extension of 18th Avenue.
- (c) Exemptions. A proposed development shall be exempt from the requirements of EC 9.6885(2) if any of the following apply:
1. Except as provided in subparagraph 4., the area of the development site is less than 20,000 square feet.
 2. Five or fewer significant trees exist on the development site prior to development.
 3. The development site is zoned R-2 Medium- Density Residential, R-3 Limited High-Density Residential, R-4 High Density Residential, GO General Office, C-2 Community Commercial, or C-3 Major Commercial zones.
 4. Notwithstanding subparagraph 1., development sites that include property at or above 900 feet elevation are subject to the requirements of EC 9.6885(2), regardless of the area of the development site.
- (d) Tree Preservation Requirements. Unless adjusted per EC 9.8030(13), significant trees must be preserved in accordance with the requirements of Table 9.6855(2)(d). Minimum preservation is based on the total existing Diameter Breast Height (d.b.h.) of significant trees within each specific location category prior to development. Maximum mitigation is the percentage of the minimum preservation that may be mitigated according to subsection 2. below.

Table 9.6885(2)(d) Tree Preservation and Mitigation

Location Category	Minimum Preservation	Maximum Mitigation
Outside the South Hills Area	40%	100%
Within the South Hills Area, between 500 feet and 900 feet elevation	50%	50%
Within the South Hills Area, at or above 900 feet elevation	50%	0%

1. A Tree Preservation and Removal Plan is required except as provided in EC 9.6885(2)(c) or EC 9.6885(2)(d)3. The plan must be prepared by a certified arborist, licensed landscape architect, licensed engineer, or licensed surveyor and shall provide the following:
 - a. A table, organized by the location categories listed in Table 9.6885(2)(d), listing all significant trees on the development site and including the following information for each listed tree:
 - (1) Diameter Breast Height (d.b.h.)
 - (2) Preservation, removal, or mitigation status
 - (3) Common name, genus and species
 - b. A site plan that includes the following information:
 - (1) The locations of all significant trees on the development site, the Diameter Breast Height (d.b.h.) for each significant tree, whether each significant tree is to be preserved, removed, or mitigated according to EC 9.6885(2)(d)2, and the location of the critical root zone (CRZ) for each significant tree to be preserved.
 - (2) The location of all existing and/or proposed public and private utility easements, driveways, and areas of grading or excavation on the development site.
 - (3) The location of all existing development on the site as well as the location of development proposed in the land use application that triggers the requirement for a Tree Preservation and Removal Plan.
 - (4) Proposed lot or parcel boundaries.
 - (5) For development sites with any portion located within the South Hills Area, identification of areas at or above 500 feet elevation and areas at or above 900 feet elevation.
 - c. A written statement from a certified arborist or licensed landscape architect that the Tree Preservation and Removal Plan meets EC 9.6885(2)(d) Tree Preservation Requirements. If the Tree Preservation and Removal Plan is prepared by a certified arborist or licensed landscape architect, then the written statement otherwise required by this subparagraph is not required.
2. Mitigation. An applicant may elect to mitigate a portion of the minimum preservation of significant trees on the development site as provided below:
 - a. The maximum d.b.h. that can be mitigated shall be based on

- location category as provided in Table EC 9.6885(2)(d) Tree Preservation and Mitigation.
- b. Proposed subdivisions in areas outside of the South Hills Area may mitigate up to 100% of the minimum tree preservation requirement by either:
 - (1) Providing that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees; or,
 - (2) Providing one replacement tree for each significant tree designated for mitigation.
 - c. Installation and Maintenance. Unless otherwise specified, each significant tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(d)2 within one year from the date of removal or prior to final occupancy, whichever is later. Trees planted in accordance with subparagraph b.(1) must be planted prior to final occupancy. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 5 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association.
 - d. The maximum mitigation allowance may be adjusted in accordance with EC 9.8030(13).

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

Genus and Species	Common Name
Abies koreana	Silver Korean Fir
Abies pinsapo	Spanish Fir
Acer circinatum	Vine Maple
Acer ginnala	Amur Maple
Acer glabrum var. douglasii	Rocky Mountain Maple
Acer griseum	Paperbark Maple
Acer macrophyllum	Big Leaf Maple
Acer rubrum	Red Maple
Acer saccharum	Sugar Maple
Alnus rhombifolia	White Alder
Alnus rubra	Red Alder
Amelanchier alnifolia	Pacific Serviceberry
Arbutus menziesii	Pacific Madrone
Arbutus unedo	Strawberry Madrone
Arbutus 'Marina'	Marina Strawberry Tree
Betula nigra	River Birch
Calocedrus decurrens	Incense Cedar
Carpinus betulus	European Hornbeam

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

Genus and Species	Common Name
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Castanopsis cuspidate</i>	Japanese Chinquapin
<i>Catalpa speciosa</i>	Northern Catalpa
<i>Cedrus atlantica</i>	Atlas Cedar
<i>Cedrus deodara</i>	Deodar Cedar
<i>Cedrus libani</i>	Cedar of Lebanon
<i>Celtis occidentalis</i>	Common Hackberry
<i>Cercidiphyllum japonicum</i>	Katsura Tree
<i>Chrysolepis chrysophylla</i>	Golden Chinquapin
<i>Cinnamomum chekiangense</i>	Camphor Tree
<i>Cornus nuttallii</i>	Pacific Dogwood
<i>Corylus colurna</i>	Turkish Filbert
<i>Cupressus arizonica</i>	Arizona Cypress
<i>Cupressus bakeri</i>	Modoc Cypress
<i>Cupressus leylandii</i>	Leyland Cypress
<i>Fraxinus latifolia</i>	Oregon Ash
<i>Fraxinus ornus</i>	Flowering Ash
<i>Ginkgo biloba</i> (fruitless cultivars only)	Ginkgo
<i>Koelreuteria paniculate</i>	Goldenrain Tree
<i>Maackia amurensis</i>	Maackia
<i>Nyssa sylvatica</i>	Tupelo, Black Gum
<i>Ostrya virginiana</i>	American Hophornbeam
<i>Oxydendrum aroboeum</i>	Sourwood
<i>Parrotia persica</i>	Persian Ironwood
<i>Picea smithiana</i>	Morinda Spruce
<i>Pinus ponderosa</i>	Ponderosa Pine
<i>Pinus ponderosa</i> var. <i>benthamania</i>	Willamette Valley Ponderosa Pine
<i>Pinus wallichiana</i>	Himalayan Pine
<i>Pistacia chinensis</i>	Chinese Pistachio
<i>Platanus acerifolia</i>	London Plane
<i>Prunus virginiana</i>	Chokecherry
<i>Pseudotsuga menziesii</i>	Douglas Fir
<i>Quercus acutissima</i>	Sawtooth Oak
<i>Quercus agrifolia</i>	Coast Live Oak
<i>Quercus alba</i>	White Oak
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus chrysolepis</i>	Canyon Live Oak
<i>Quercus douglasii</i>	Blue Oak

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

Genus and Species	Common Name
Quercus frainetto	Hungarian Oak
Quercus gambelii	Gambel Oak
Quercus garryana	Oregon White Oak
Quercus hypoleucoides	Silver Oak
Quercus ilex	Holly Oak
Quercus kelloggii	California Black Oak
Quercus lobate	Valley Oak
Quercus macrocarpa	Bur Oak
Quercus myrsinifolia	Chinese Evergreen Oak
Quercus palustris	Pin Oak
Quercus phellos	Willow Oak
Quercus rubra	Red Oak
Quercus shumardii	Shumardii Oak
Quercus suber	Cork Oak
Quercus wislizeni	Interior Live Oak
Rhamnus purshiana	Cascara Buckthorn
Salix lucida ssp. Lasiandra	Pacific Willow
Salix scouleriana	Scouler's Willow
Sciadopitys verticillate	Japanese Umbrella Pine
Sequoia sempervirens	Coast Redwood
Sequoiadendron giganteum	Giant Sequoia
Stewartia pseudocamellia	Stewartia
Styrax japonicus (japonica)	Japanese Snowbell
Taxodium distichum	Bald Cypress
Taxus brevifolia	Pacific Yew
Thuja plicata	Western Red Cedar
Tilia Americana	American Linden
Tilia cordata	Little Leaf Linden
Tilia tomentosa	Silver Linden
Tsuga canadensis	Canadian Hemlock
Tsuga heterophylla	Western Hemlock
Tsuga mertensiana	Mountain Hemlock
Tsuga sieboldii	Southern Japanese Hemlock
Ulmus americana	American Elm
Ulmus carpinifolia	Smoothleaf Elm
Ulmus parvifolia	Chinese Elm
Ulmus propinqua	Japanese Elm
Umbellularia californica	California Bay Laurel

Table 9.6885(2)(d)2. Approved Species List	
Genus and Species	Common Name
Zelkova serrata	Zelkova

3. Tree Preservation Area Alternative.
 - a. A Tree Preservation and Removal Plan is not required if the applicant chooses to preserve at least 50 percent of the total existing d.b.h. of significant trees on the development site within one or more tree preservation area(s) and the following requirements are met:
 - (1) Tree preservation area(s) must be delineated and shown on a site plan submitted for approval by the City.
 - (2) Applicant must provide written certification from a certified arborist or licensed landscape architect stating that the area(s) designated for tree preservation include(s) at least 50 percent of the total existing d.b.h. of significant trees on the development site.
 - b. Mitigation is not allowed when the Tree Preservation Area Alternative is used to meet tree preservation requirements, except as approved through an adjustment review according to EC 9.8030(13).
4. Protection Standards. The following notes must be included on the final plan set submitted for approval by the City and shall apply at the time of development:
 - a. "Protective fencing for trees identified to be preserved shall be installed by the applicant and inspected by the City prior to beginning any development activities. All protective tree fencing must remain in place until completion of all construction activities; any relocation, removal, or modification of the protective fencing shall only occur under the direction of a certified arborist and a written explanation of the reason for the relocation, removal, or modification of the protective fencing from the certified arborist must be provided to the City."
 - b. "At the time of building permit, a site plan in compliance with the approved tree preservation and removal plan is required."
 - c. "No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within protective tree fencing areas."
 - d. "The removal of trees not designated to be preserved is optional; removal may occur at the owner's discretion."
 - e. "Any tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(d)2 within one year from the date of removal or prior to final occupancy, whichever is later. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as

measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner.”

- f. “In the event a tree designated to be preserved must be removed because it is dead, diseased, dying, or hazardous, documentation of the tree’s dead, diseased, dying, or hazardous condition by a certified arborist must be provided to the City prior to tree removal. The tree must be replaced with one replacement tree selected from the approved species list in Table 9.6885(2)(d)2. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner.”
- (e) Street Tree Removal. If the proposal includes removal of any street tree(s), removal of those street trees has been approved, or approved with conditions according to the process at EC 6.305 Tree Felling Prohibition.

Section 24. Subsection (1)(a) of Section 9.7007 of the Eugene Code, 1971, is amended

to provide as follows:

9.7007 Neighborhood/Applicant Meetings.

- (1) This section applies to the following types of applications:
 - (a) Type II: Tentative subdivisions, tentative cluster subdivisions and design reviews, except tentative subdivisions that implement an approved tentative planned unit development;

* * *

Section 25. Subsection (13) of Section 9.8030 of the Eugene Code, 1971, is amended,

and subsection (38) is added, to provide as follows:

9.8030 Adjustment Review - Approval Criteria. The planning director shall approve, conditionally approve, or deny an adjustment review application. Approval or conditional approval shall be based on compliance with the following applicable criteria.

* * *

- (13) **Tree Preservation and Removal Standards Adjustment.**
The minimum tree preservation requirement and maximum mitigation allowance of EC 9.6885(2) may be adjusted if one of the conditions listed in

subparagraph (a) below applies and the proposed design complies with the criteria in subparagraphs (b) through (d):

- (a) Conditions. To qualify for an adjustment, one of the following conditions must apply:
 - 1. Strict compliance with tree preservation and removal standards is not feasible due to other requirements of this code or existing site constraints such as topography or other natural features; or,
 - 2. An adjustment to the minimum tree preservation and/or mitigation requirement is necessary in order to achieve a net density greater than 75 percent of the maximum allowed under this land use code; or,
 - 3. The existing trees required to meet the minimum preservation requirement are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.
- (b) The proposed reduction to the minimum tree preservation requirement or increase in mitigation allowance is necessary to accommodate a reasonable level of development. In no case shall minimum tree preservation for areas at or above 900 feet elevation be reduced below 30%.
- (c) Except for areas at or above 900 feet elevation, proposals may mitigate up to 100% of the minimum tree preservation requirement if the following requirements are met:
 - 1. For proposed subdivisions, new trees must be planted so that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees.
 - 2. For all other developments, the proposed design must provide one tree per dwelling unit.

New trees planted to meet subsection 1. or 2. above are subject to the requirements at EC 9.6885(2)(d)2.c. Installation and Maintenance. Trees planted to meet applicable landscape standards may count toward these requirements. Existing trees on the development site that are under 8-inches Diameter Breast Height (d.b.h.) and listed in Table 9.6885(2)(d)2. Approved Species List may be designated for preservation and counted toward these requirements (in lieu of planting new trees).
- (d) For areas at or above 900 feet elevation, mitigation is limited to 10% of the minimum preservation requirement.

* * *

- (38) Street Standards Adjustment. Where this land use code provides that street standards may be adjusted, the standards may be adjusted upon a demonstration by the applicant that the requested adjustment is consistent with the following:
 - (a) The applicant has submitted a report prepared by an Oregon licensed civil engineer that demonstrates it is not technically or financially feasible to construct the street in accordance with adopted plans and policies, and the adopted "Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways, and Accessways."
 - (b) The adjustment is necessary due to at least one of the following conditions:

1. Existing on-site or off-site geologic or topographic conditions, or existing wetlands designated for protection by the City of Eugene; or
2. Existing development on lands abutting the development site.

Section 26. Section 9.8045 of the Eugene Code, 1971, is amended to provide as follows:

9.8045 **Applicability of Cluster Subdivisions.** Cluster subdivision provisions shall be applied when requested by the property owner and when the proposed subdivision meets the definition of cluster subdivision in section 9.0500 of this land use code. A subdivision application proposing housing to be reviewed with clear and objective approval criteria shall be processed pursuant to EC 9.8520 Subdivision, Tentative Plan Approval Criteria – Housing/Clear and Objective. No development permit shall be issued by the city prior to approval of the cluster subdivision.

Section 27. Subsection (1)(a) of Section 9.8055 of the Eugene Code, 1971, is amended to provide as follows:

9.8055 **Cluster Subdivision- Approval Criteria – General/Discretionary.** The planning director shall approve, approve with conditions, or deny a proposed cluster subdivision. Approval or approval with conditions shall be based on the following:

- (1) The proposed subdivision complies with:
 - (a) EC 9.8515 Subdivision, Tentative Plan Approval Criteria – General/Discretionary except for the standards related to EC 9.2760 Residential Zone Lot Standards; and

* * *

Section 28. Section 9.8085 of the Eugene Code, 1971, is amended to provide as follows:

9.8085 **Conditional Use Permit Application Requirements.**

- (1) Conditional use applications shall be processed in accordance with the application procedures contained in EC 9.7000 through 9.7925, Application Procedures.
- (2) When a conditional use permit is required for the proposed use, no development permit application shall be accepted by the city until the hearings official or planning commission approves the conditional use permit, and then only in accordance with the terms and conditions of that conditional use permit.
- (3) If the proposal includes housing, the written statement submitted with the conditional use permit application shall clearly state whether the applicant is electing to use the discretionary approval criteria in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary instead of the approval criteria found in EC 9.8100 Conditional Use Permit Approval Criteria – Housing/Clear and Objective.

Section 29. The heading of Section 9.8090 of the Eugene Code, 1971, is amended to provide as follows:

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

* * *

Section 30. Section 9.8100 of the Eugene Code, 1971, is amended to provide as follows:

9.8100 **Conditional Use Permit Approval Criteria- Housing/Clear and Objective.** The hearings official shall approve, conditionally approve, or deny the conditional use permit application. Unless the applicant elects to use the discretionary criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary, where the applicant proposes housing, the hearings official shall approve or approve with conditions a conditional use based on compliance with the following criteria:

- (1) The proposal complies with EC 9.5860 Transition Standards.
- (2) If applicable, the proposal complies with the standards contained in EC 9.5500 Multiple-Unit Standards.
- (3) For areas not included on the city’s acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with the provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.
- (4) The proposal complies with:
 - (a) EC 9.2000 through EC 9.4170 regarding lot dimensions and density requirements for the subject zone and any applicable overlay zones.
 - (b) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (d) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (e) EC 9.6730 Pedestrian Circulation On-Site.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (l) All other applicable development standards for features explicitly included in the application.
 - (m) 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.
- (5) Public improvements as required by this land use code or as a condition of approval will be completed prior to issuance of a development permit, or:

- (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.
- (6) If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:
- 1. A sign identifying a transit stop; or
 - 2. A point along a property line of a neighborhood activity center.

Section 31. Subsection (2) of Section 9.8105 of the Eugene Code, 1971, is amended to provide as follows:

9.8105 Conditional Use Permits within the NR Natural Resource Zone or /WB Wetland Buffer Overlay Zone.

* * *

- (2) **Criteria for Hearings Official Approval.** Applications for conditional use permits within the NR natural resource zone or /WB wetland buffer overlay zone shall be processed and scheduled for public hearings in the same manner as other conditional use permit applications, except that NR standards (2) through (19) listed in EC 9.2530 Natural Resource Zone Development Standards shall be considered as additional criteria along with the criteria listed in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.

Section 32. Section 9.8205 of the Eugene Code, 1971, is amended to provide as follows:

9.8205 Applicability of Partition, Tentative Plan Applications.

- (1) Except as provided in subsections (2) and (3) of this section, requests to create 2 or 3 parcels shall be subject to the partition provisions of this land use code, and shall follow a Type II application procedure.
- (2) Partition applications that meet the approval criteria in EC 9.8215(7) or EC 9.8220(7) may be processed pursuant to the expedited land division procedures in EC 9.7900 through EC 9.7925.
- (3) Concurrent applications may be processed as provided in EC 9.8005.
- (4) A tentative plan application to partition land may be submitted and reviewed concurrently with a tentative PUD application following a Type III application procedure. If a partition application that also involves a PUD application is not submitted concurrently with the tentative PUD application, the partition application may not be submitted until a tentative PUD is approved. (Refer to

EC 9.8305 Applicability.)

- (5) If a partition tentative plan application is not reviewed concurrently with a tentative PUD application, no development permit shall be issued by the city prior to approval of the tentative partition application. If a tentative partition is reviewed concurrently with a tentative PUD application, no development permit shall be issued by the city prior to approval of the final PUD application in accordance with EC 9.8305.

Section 33. Subsection (4) of Section 9.8210 of the Eugene Code, 1971, is amended to provide as follows:

9.8210 **Partition, Tentative Plan Application Requirements.** In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to partition tentative plan applications:

* * *

- (4) If the proposal includes housing, the written statement submitted with the partition application shall clearly state whether the applicant is electing to use the discretionary approval criteria in EC 9.8215 Partition, Tentative Plan Approval Criteria – General/Discretionary instead of the approval criteria found in EC 9.8220 Partition, Tentative Plan Approval Criteria- Housing/Clear and Objective.

Section 34. The heading of Section 9.8215 of the Eugene Code, 1971, is amended to provide as follows:

9.8215 **Partition, Tentative Plan Approval Criteria – General/Discretionary.** The planning director shall approve, approve with conditions, or deny a partition, with findings and conclusions. Approval, or approval with conditions, shall be based on compliance with the following criteria:

* * *

Section 35. Section 9.8220 of the Eugene Code, 1971, is amended to provide as follows:

9.8220 **Partition, Tentative Plan Approval Criteria- Housing/Clear and Objective.** Unless the applicant elects to use the discretionary criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria – General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the planning director shall approve, conditionally approve, or deny the partition application

- (1) The proposed partition complies with all of the following:
 - (a) EC 9.2000 through 9.4170 regarding applicable parcel dimensions and density requirements for the subject zone and any applicable overlay zones. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area.
- (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (e) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) All other applicable development standards for features explicitly included in the application.

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.

- (2) The proposed partition will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.
- (3) If the provisions of EC 9.8220(1) require a public street, or if the applicant proposes the creation of a public street, the following criteria also apply:
 - (a) The proposed land uses and densities within the partition are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
 - (b) The proposal will provide pedestrian circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site and bicycle circulation to transit stops and neighborhood activity centers located within 2 miles of the development site, provided that the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:
 1. A sign identifying a transit stop; or
 2. A point along a property line of a neighborhood activity center.
- (4) On R-1 zoned property, if the partition results in a parcel greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of parcel lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.
- (5) If the applicant elects to use the expedited land division procedures in EC 9.7900 through EC 9.7925, the application must meet the following additional approval criteria:
 - (a) The partition only includes land zoned for residential uses;

- (b) The parcels created will only be developed for residential use, including recreational or open space accessory to residential use;
- (c) The parcels created will allow construction of residential units at a density of 80 percent or more of the maximum net density per acre permitted in the zone and identified in Table 9.2750; and
- (d) Existing and future dwellings located on the property that is the subject of the partition application will be sold or rented to households with incomes below 120 percent of the median family income for Lane County.

Section 36. Subsections (2)(c) and (5) of Section 9.8310 of the Eugene Code, 1971, are amended to provide as follows:

9.8310 Tentative Planned Unit Development General Application Requirements.
* * *

- (2) **Project Coordinator and Professional Design Team.** The tentative PUD application shall identify the PUD project coordinator and the professional design team and certify compliance with the following:
 - (c) **Plan Certification.** Certification of the services of the professionals responsible for particular drawings shall appear on those drawings

* * *

- (5) **Housing.** If the proposal includes housing, the written statement submitted with the PUD application shall clearly state whether the applicant is proceeding under: (a) the approval criteria in EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary; or (b) the approval criteria in EC 9.8325 Tentative Planned Unit Development Approval Criteria Housing/Clear and Objective.

Section 37. The heading of Section 9.8320 of the Eugene Code, 1971, is amended to provide as follows:

9.8320 Tentative Planned Unit Development Approval Criteria - General/Discretionary.
The hearings official shall approve, approve with conditions, or deny a tentative PUD application with findings and conclusions. Decisions approving an application, or approving with conditions, shall be based on compliance with the following criteria:

* * *

Section 38. Section 9.8325 of the Eugene Code, 1971, is amended to provide as follows:

9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria – General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the hearings official shall approve, conditionally approve,

or deny the PUD application based on compliance with the following criteria:

- (1) The proposal complies with EC 9.5860 Transition Standards.
- (2) The proposed land uses and densities within the PUD are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
- (3) For areas not included on the city's acknowledged Goal 5 inventory, the PUD preserves existing natural resources by compliance with the provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards
- (4) The PUD provides safe and adequate transportation systems through compliance with all of the following:
 - (a) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (b) The proposal will provide pedestrian circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site and bicycle circulation to transit stops and neighborhood activity centers located within 2 miles of the development site, provided that the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:
 1. A sign identifying a transit stop; or
 2. A point along a property line of a neighborhood activity center.
- (5) The PUD complies with all of the following:
 - (a) EC 9.2000 through EC 9.4170 regarding applicable lot dimensions and density requirements for the subject zone and any applicable overlay zones. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
 1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area.
 - (b) EC 9.6500 through 9.6505 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (d) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (e) EC 9.6730 Pedestrian Circulation On-Site.
 - (f) EC 9.6735 Public Access Required.
 - (g) EC 9.6750 Special Setback Standards.
 - (h) EC 9.6775 Underground Utilities.
 - (i) EC 9.6780 Vision Clearance Area.
 - (j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (k) All applicable development standards explicitly addressed in the application.

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.
- (6) The applicant has demonstrated that wastewater service, transportation service, stormwater service, water service, and electrical service will be

provided to the site prior to the need for those facilities and services. Where the facility or service is not already serving the site, this demonstration requires evidence of at least one of the following:

- (a) Prior written commitment of public funds by the appropriate public agencies.
- (b) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.
- (c) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the city manager.

(7) PUDs proposed on development sites that are two acres or larger must comply with either subparagraph (a) or (b), below:

- (a) The PUD is located within 1/2-mile of a public park, public recreation facility, or public school (determined using the shortest distance as measured along a straight line between a point along the perimeter of the development site and a point along a property line of a public park, public recreation facility, or public school); or
- (b) The PUD shall provide common open space within the development as follows:
 - 1. Common open space area.
 - a. If the average lot area is equal to or greater than the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 10 percent of the net acres of the development site or 14,500 square feet, whichever is greater.
 - b. If the average lot area is below the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 15 percent of the net acres of the development site or 14,500 square feet, whichever is greater.

For the purpose of this subparagraph, net acres means the total development site area minus area(s) for public or private streets. In no case shall the common open space requirement exceed one acre.

- 2. Common open space shall be provided in one separate tract of land, except that developments providing more than 29,000 square feet of common open space may include up to three common open space tracts provided no tract is less than 14,500 square feet.
- 3. Ownership of the common open space tract(s) must be dedicated to all lot or parcel owners within the development site.
- 4. Each common open space tract must include a portion with minimum dimensions of 70 feet by 70 feet.
- 5. Except where each lot or parcel in the development abuts one or more of the common open space area(s), common open space tracts must have a minimum of 10 feet of lot frontage along an existing or proposed public way or private street.
- 6. Common open space tracts do not have to meet lot standards.

- (c) For proposals that include multiple-unit development, compliance with subparagraph (a) or (b) shall constitute compliance with the requirements of EC 9.5500(9).
- (8) For any PUD located within or partially within the boundaries of the South Hills Study, the following additional approval criteria apply:
 - (a) No development shall occur on land above an elevation of 901 feet except that either middle housing or one single-unit dwelling may be built on any lot in existence as of August 1, 2001.
 - (b) Development on any portion of the development site located above 900 feet elevation shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline shall be considered as the line indicated as being the urban growth boundary.
 - (c) Residential density is limited as follows:
 - 1. In the area west of Friendly Street, the maximum level of new development per gross acre shall be 8 units per acre.
 - 2. In the area east of Friendly Street, the maximum level of new development per gross acre shall be limited to 5 units per acre.
 - 3. Housing developed as Controlled Income and Rent Housing shall be exempt from the density limitations in subsections 1 and 2 above, but are subject to the other applicable development standards and review procedures.
 - 4. This subsection (c) does not preclude middle housing or the addition of an accessory dwelling on any legal lot.

Section 39. Subsection (4) of Section 9.8360 of the Eugene Code, 1971, is deleted.

Section 40. Section 9.8365 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8365** **Final Planned Unit Development Approval Criteria.** The planning director shall approve, approve with conditions, or deny a final PUD application, based on compliance with the following criteria:
- (1) The final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.
 - (2) For final PUDs not associated with a land division, public improvements as required by this land use code or as a condition of tentative plan approval will be completed prior to issuance of a development permit, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

Section 41. The heading of Section 9.8440 of the Eugene Code, 1971, is amended to provide as follows:

9.8440 **Site Review Approval Criteria – General/Discretionary.** The planning director shall approve, conditionally approve, or deny the site review application. Approval or conditional approval shall be based on compliance with the following criteria:

* * *

Section 42. Section 9.8445 of the Eugene Code, 1971, is amended to provide as follows:

9.8445 **Site Review Approval Criteria- Housing/Clear and Objective.** Unless the applicant elects to use the discretionary criteria contained in EC 9.8440 Site Review Approval Criteria – General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the planning director shall approve, conditionally approve, or deny the site review application based on compliance with the following criteria:

- (1) The proposal complies with EC 9.5860 Transition Standards.
- (2) For a proposal for multiple-unit developments, the proposal complies with the standards contained in EC 9.5500 Multiple-Unit Standards.
- (3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with the provisions of EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
- (4) The proposal complies with all of the following:
 - (a) EC 9.2000 through EC 9.4170 regarding applicable lot dimensions and density requirements for the subject zone and any applicable overlay zones.
 - (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through 9.6505 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
 - (e) EC 9.6710(6) Geological and Geotechnical Analysis.
 - (f) EC 9.6730 Pedestrian Circulation On-Site.
 - (g) EC 9.6735 Public Access Required.
 - (h) EC 9.6750 Special Setback Standards.
 - (i) EC 9.6775 Underground Utilities.
 - (j) EC 9.6780 Vision Clearance Area.
 - (k) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.
 - (l) All other applicable development standards for features explicitly included in the application.

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.

- (5) Public improvements as required by this land use code or as a condition of approval will be completed prior to issuance of a development permit, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city

has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or

(b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

- (6) If the standards addressed under EC 9.8445(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:
1. A sign identifying a transit stop; or
 2. A point along a property line of a neighborhood activity center.

Section 43. Section 9.8505 of the Eugene Code, 1971, is amended to provide as follows:

9.8505 **Applicability of Subdivision, Tentative Plan Applications.**

- (1) Except as provided in subsections (2) and (3) of this section, requests to create 4 or more lots shall be subject to the subdivision provisions of this land use code and shall follow a Type II application process.
- (2) Subdivision applications that meet the approval criteria in EC 9.8515(13) or EC 9.8520(11) may be processed pursuant to the expedited land division procedures in EC 9.7900 through EC 9.7925.
- (3) Concurrent applications may be processed as provided in EC 9.8005.
- (4) A tentative plan application to subdivide land may be submitted and reviewed concurrently with a tentative PUD application following a Type III application procedure. If a subdivision application that also involves a PUD application is not submitted concurrently with a tentative PUD application, the subdivision application may not be submitted until a tentative PUD application is approved. (Refer to EC 9.8305 Applicability.)
- (5) If a subdivision tentative plan application is not reviewed concurrently with a tentative PUD application, no development permit shall be issued by the city prior to approval of the tentative subdivision application. If a subdivision tentative plan application is reviewed concurrently with a tentative PUD application, no development permit shall be issued by the city prior to approval of the final PUD application in accordance with EC 9.8305.

Section 44. Subsection (5) of Section 9.8510 of the Eugene Code, 1971, is amended to provide as follows:

9.8510 **Subdivision, Tentative Plan Application Requirements.** In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements shall apply to tentative subdivision plan applications:

* * *

- (5) If the proposal includes housing, the written statement submitted with the subdivision application shall clearly state whether the applicant is electing to use the discretionary approval criteria in EC 9.8515 Subdivision, Tentative Plan Approval Criteria – General/Discretionary instead of the approval criteria found in EC 9.8520 Subdivision, Tentative Plan Approval Criteria- Housing/Clear and Objective.

Section 45. Subsection (2) of Section 9.8515 of the Eugene Code, 1971, is amended to provide as follows:

9.8515 **Subdivision, Tentative Plan Approval Criteria – General/Discretionary.** The planning director shall approve, approve with conditions, or deny a proposed subdivision. Approval, or approval with conditions shall be based on compliance with the following criteria:

* * *

- (2) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto, based on the provisions of this land use code. For subdivisions involving phasing, it shall be demonstrated that each sequential phase will maintain consistency with the provisions of EC 9.8515 Tentative Subdivision Approval Criteria – General/Discretionary.

* * *

Section 46. Section 9.8520 of the Eugene Code, 1971, is amended to provide as follows:

9.8520 **Subdivision, Tentative Plan Approval Criteria – Housing/Clear and Objective.** Unless the applicant elects to use the discretionary criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria – General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the planning director shall approve, conditionally approve, or deny the subdivision application based on compliance with the following criteria:

- (1) The proposed land uses and densities are consistent with the land use designation(s) shown on the comprehensive plan diagram, as refined in any applicable refinement plan.
- (2) The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
- (a) EC 9.2000 through EC 9.4170 regarding applicable lot dimensions and density requirements for the subject zone and any applicable overlay zones. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:
1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
 2. The /WQ Management Area.

- (b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.
- (c) EC 9.6500 through EC 9.6505 Public Improvement Standards.
- (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas – Standards.
- (e) EC 9.6710(6) Geological and Geotechnical Analysis.
- (f) EC 9.6730 Pedestrian Circulation On-Site.
- (g) EC 9.6735 Public Access Required.
- (h) EC 9.6750 Special Setback Standards.
- (i) EC 9.6775 Underground Utilities.
- (j) EC 9.6780 Vision Clearance Area.
- (k) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

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.

- (3) The proposed subdivision will not cause any existing improvements on proposed lots to be inconsistent with applicable standards in this land use code.
- (4) The proposed subdivision provides pedestrian, bicycle and transit circulation among buildings located within the development site, as well as pedestrian circulation to transit stops and neighborhood activity centers located within ¼ mile of the development site and bicycle circulation to transit stops, and neighborhood activity centers located within 2 miles of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements. The distance between the development site and a transit stop or neighborhood activity center shall be determined using the shortest distance as measured in a straight line between a point along the perimeter of the development site and:
 - 1. A sign identifying a transit stop; or
 - 2. A point along a property line of a neighborhood activity center.
- (5) For areas not included on the city's acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with the provisions of EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
- (6) On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. Any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.
- (7) The subdivision complies with development standards explicitly addressed in the application or is granted adjustments thereto pursuant to the provisions beginning at EC 9.8015 of this land use code.
- (8) Where all or a portion of a development site is within the South Hills Study and above 700 feet in elevation, the proposed development shall have received initial approval through the Planned Unit Development process. Where all or a portion of the development site is within the South Hills Study and is between 500 feet and 701 feet, and the development site is at least 4 acres with areas

- of the development site containing slopes that exceed 20%, the proposal shall have received initial approval through the Planned Unit Development process.
- (9) If the applicant elects to use the expedited land division procedures in EC 9.7900 through EC 9.7925, the application must meet the following additional approval criteria:
- (a) The subdivision only includes land zoned for residential uses;
 - (b) The lots created will only be developed for residential use, including recreational or open space accessory to residential use;
 - (c) The lots created will allow construction of residential units at a density of 80 percent or more of the maximum net density per acre permitted in the zone and identified in Table 9.2750; and
 - (d) Existing and future dwellings located on the property that is the subject of the subdivision application will be sold or rented to households with incomes below 120 percent of the median family income for Lane County.

Section 47. The zip file located on the flash drive attached as Exhibit B-1 to this Ordinance, which contains data identifying the location of areas of moderate and high landslide susceptibility within Eugene's urban growth boundary, is hereby adopted as the City's official Eugene Landslide Hazard Map. The PDFs located on the flash drive attached as Exhibit B-1 to this Ordinance, depicting areas of moderate and high landslide susceptibility, are for illustrative purposes only. The printed map attached to this Ordinance as Exhibit B-2 and depicting areas of moderate and high landslide susceptibility within Eugene's urban growth boundary is also for illustrative purposes only.

Section 48. The findings set forth in Exhibit C attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 49. 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 50. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Further, if this Ordinance is remanded

back to the City Council for further action by the Oregon Land Use Board of Appeals, those sections, subsections, sentences, clauses, phrases or portions that do not require action on remand shall be deemed separate, distinct, and independent provisions and such remand shall not affect their validity or effect.

Passed by the City Council this

30th day of November, 2022



City Recorder

Approved by the Mayor this

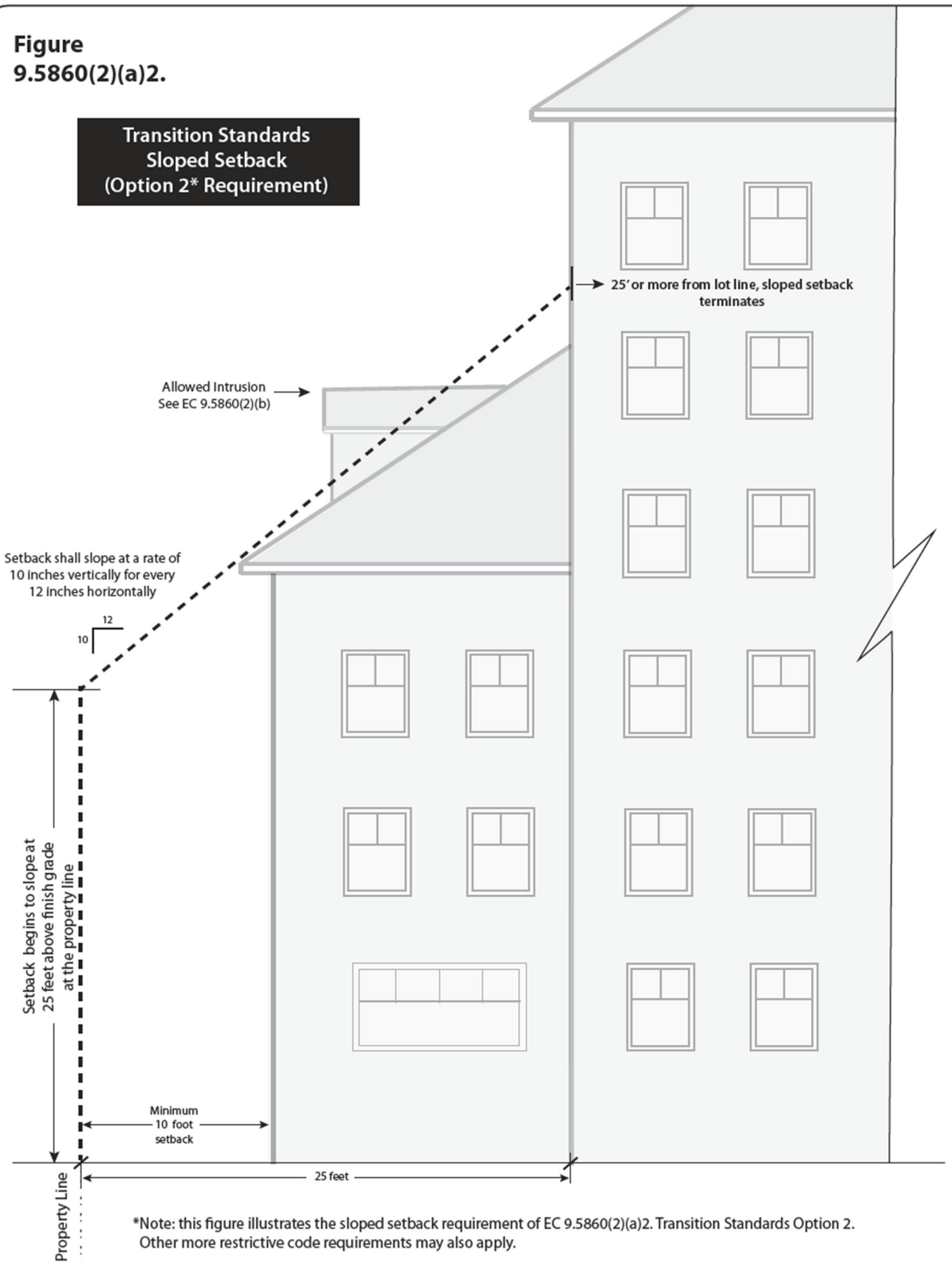
1 day of December, 2022



Mayor

Figure 9.5860(2)(a)2.

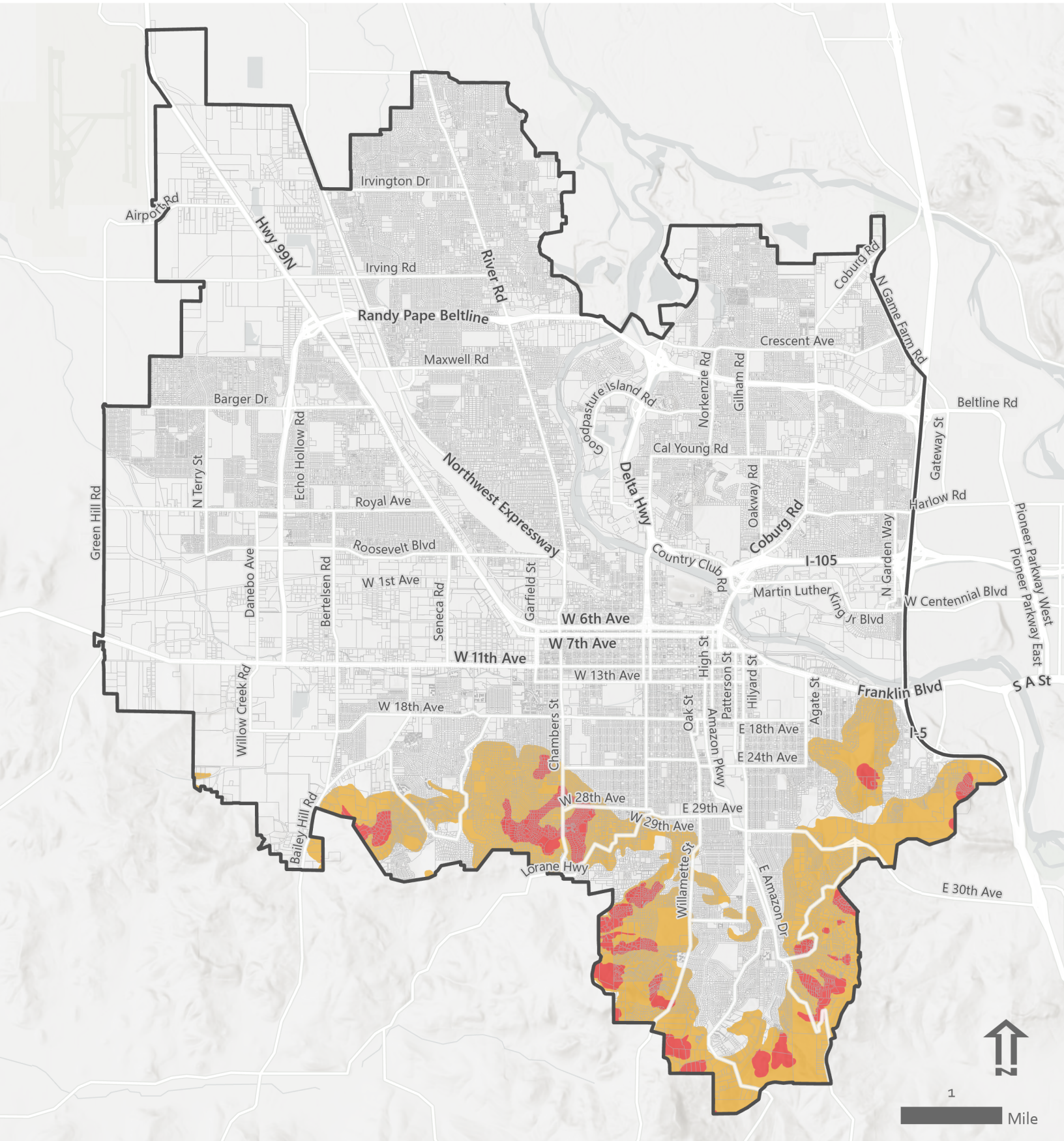
**Transition Standards
Sloped Setback
(Option 2* Requirement)**



**Placeholder for
Flash Drive / Eugene Landslide Hazard Map**

Link to the datasets online: <https://mapping.eugene-or.gov/datasets/eugene-landslide-hazard>

Eugene Landslide Hazard Map



- Taxlots
- Eugene UGB
- Deep Landslide Susceptibility - Relative Risk**
- Moderate
- High

This map is intended for illustrative purposes, and is not suitable for legal, surveying, or engineering purposes.

Map created October 2020 by City of Eugene Planning Division.

Source: IMS-60, Landslide hazard and risk study of Eugene-Springfield and Lane County, Oregon, DOGAMI



Findings

Clear & Objective (City File CA 20-4)

Overview

As part of the Envision Eugene urban growth boundary (UGB) process the Eugene City Council initiated several projects related to housing. This Clear and Objective Housing Approval Criteria Update is one of those projects and is intended to update and improve the City's regulations related to housing. Currently, the City offers two paths to approval for land use applications involving housing. One track, referred to as the Clear and Objective Track includes only clear and objective standards, conditions and procedures. The second approval track, called the Discretionary Track, includes approval criteria that are subjective in nature offering a discretionary option for applicants seeking greater flexibility. Applicants proposing housing are entitled to proceed under the Clear and Objective Track but have the option to proceed under the Discretionary Track.

Findings

Eugene Code Section 9.8065 sets out the following approval criteria (in ***bold italics***) for a land use a code amendment:

- (1) The amendment is consistent with applicable statewide planning goals adopted by the Land Conservation and Development Commission.***

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

The City has acknowledged provisions for community involvement which ensure the opportunity for citizens to be involved in all phases of the planning process and which set out the requirements for such involvement. These land use code amendments do not amend the City's citizen involvement program. The process for adopting these amendments complies with Goal 1 because it is consistent with the City's acknowledged citizen involvement provisions.

In addition to meeting the minimum requirements for compliance with Goal 1, significant public involvement occurred prior to the formal adoption process for these code amendments. As part of Phase 1 outreach, in spring and early summer of 2018, prior to the formal adoption process, staff reached out to stakeholders to solicit input on identifying key issues to be addressed within the scope of the Clear & Objective Housing Approval Criteria Update. Outreach included listening sessions, focus group sessions, phone calls, and in-person follow-up sessions. Staff hosted focus group sessions on June 11 and 12, 2018, to gather stakeholder observations regarding residential development and to solicit specific input on how the City's current clear and objective criteria are working. Over 50 stakeholders were invited to participate and 24 people representing neighborhood associations and residents, housing builders and developers, design professionals, housing advocates and affordable housing providers attended the

Exhibit C

sessions. All stakeholders, including those who were not able to attend a session, were invited to submit written comments over a three-week period.

As part of Phase 2 outreach, between September and October of 2018, staff held a series of four working group meetings to engage stakeholders in discussions related to significant key issues identified during Phase 1. Over the course of Phase 2, the interested parties list grew to over 80 members. Meeting invites and reminders were sent to all interested parties. In addition, an outreach flyer was provided to various City committees such as the Housing Policy Board, the Sustainability Commission, the Historic Review Board, and the Active Transportation Committee. Project updates were included monthly in the Envision Eugene e-newsletter that reaches over 1,500 community members. Over 40 stakeholders representing neighborhood associations and residents, housing builders and developers, design professionals, housing advocates, and affordable housing providers attended some or all of the working group meetings.

This project was designed to be accessible to everyone. Meeting videos and materials along with online surveys were provided on the project website so that anyone wanting to participate had access to the materials. City staff also offered four two-hour drop-in “office hour” sessions for anyone with questions about the project, the land use process, or the issues and possible concepts discussed at the working groups.

During Phase 3, the draft code writing phase, interested parties had opportunities to provide comment on draft code amendments. Their feedback helped to drive refinements processed through multiple Planning Commission and City Council work sessions.

Following the initial public involvement and code drafting process, a Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on September 18, 2020. A public hearing was held before the Planning Commission on October 20, 2020. Consistent with land use code requirements, the Planning Commission public hearing on the proposal was duly noticed to all neighborhood organizations in Eugene, as well as community groups and individuals who requested notice. In addition, notice of the public hearing was published in the Register Guard newspaper. Information concerning the amendments, including the dates of the public hearings, was posted on the City of Eugene website. On February 9, 2021 the Planning Commission unanimously recommended adoption of the Clear and Objective land use code amendments.

Following the Public Hearing and Action of the Eugene Planning Commission, the Eugene City Council held a Public Hearing on March 8, 2021 on the proposed Clear and Objective land use code amendments. Notice of the hearing was provided as required by the Eugene Code and Charter. Following the hearing, and after considering written and oral testimony submitted during the public hearing process, the City Council adopted the Clear and Objective land use code amendments, Ordinance No. 20647, on April 12, 2021.

Ordinance No. 20647 was appealed to the Land Use Board of Appeals (LUBA). LUBA issued a decision on December 17, 2021, upholding the majority of the ordinance, but ultimately

Exhibit C

remanding the ordinance to the City of Eugene on a single issue. LUBA determined that EC 9.8445(6) was not clear and objective as the standard did not specify how the one-quarter mile distance in the standard was to be measured. The petitioner appealed LUBA's decision to the Oregon Court of Appeals, and on March 23, 2022, the Court of Appeals affirmed LUBA's decision.

Following the Court of Appeals' decision, the Clear & Objective ordinance was updated to address the distance measurement identified in the remand. In addition, the ordinance was updated to include minor updates for consistency with Ordinance No. 20667, adopted by the City of Eugene on May 25, 2022. The Eugene City Council held a Public Hearing on October 17, 2022, to allow for testimony on the updated Clear & Objective ordinance. Notice of the Public Hearing was published in the Register-Guard Newspaper on September 30, 2022 and posted on the City's website. A courtesy notice was sent to interested parties on September 16, 2022 to ensure additional time for testimony ahead of the Public Hearing. A notice of the City Council public hearing on the updated ordinance was also submitted to the Oregon Department of Land Conservation and Development (DLCD) on September 13, 2022. Following the public hearing, the record remained open for submission of written testimony.

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

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

Eugene's land use code specifies the formal adoption procedure and approval criteria that were used in considering these amendments. The record shows that there is an adequate factual basis 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 citizens.

To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of these amendments with affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to the Oregon Department of Land Conservation and Development, as well as to Lane County and the City of Springfield. There are no exceptions to Statewide Planning Goal 2 required for these amendments. Therefore, the amendments are consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. To preserve and maintain agricultural lands.

The amendments will only affect properties located within the City of Eugene and do not affect any lands designated by the comprehensive plan for agricultural use. To the extent that there are properties within the City currently zoned for agricultural use the amendments do not force a discontinuance of agricultural practices. As the amendments are intended to reduce barriers

Exhibit C

to construction of housing within the City they may reduce the need to expand the City's urban growth boundary in a way that impacts agricultural land in the future. The amendments are consistent with Statewide Planning Goal 3.

Goal 4 - Forest Lands. *To conserve forest lands.*

The amendments will only affect properties located within the City of Eugene and do not affect any lands designated by the comprehensive plan for forest use. Therefore, Statewide Planning Goal 4 does not apply. To the extent that the amendments may have an indirect impact on forest lands, they are consistent with Statewide Planning Goal 4 because they remove barriers to building housing on land within the city, potentially reducing the need to expand the City's urban growth boundary in the future.

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

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

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

These amendments do not create or amend the City's list of Goal 5 resources, do not amend a 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 significant Goal 5 resource site and do not amend the acknowledged urban growth boundary. Therefore, the amendments are consistent with Statewide Planning Goal 5.

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

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The amendments do not affect the City's ability to provide for clean air, water or land resources. Therefore, the amendments are consistent with Statewide Planning Goal 6.

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

Exhibit C

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis, and wildfires. The amendments update the requirements of EC 9.6710 Geological and Geotechnical Analysis for applicants proposing housing. The amendments require consideration of the Eugene Landslide Hazard Map by a design professional as a part of the development of a housing project. To the extent that the amendments add additional requirements for development and set more specific standards for required geological and geotechnical analyses, these updates are consistent with Goal 7. 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 that recreational facilities are provided to Oregon citizens and is primarily concerned with the provision of recreational facilities in non-urban areas of the state. The amendments do not affect the City's provisions for or citizen's access to recreation areas, facilities, or recreational opportunities. To the extent that the amendments can be related to this goal, EC 9.8325(9 now 7) sets a requirement for Planned Unit Developments (PUD's) to be near public parks, recreation facilities, or to provide common open space. This requirement provides support for Goal 8 as PUD's are often larger scale developments that provide housing for a large number of people. By requiring the development occur near an existing recreation space, or to provide common open space, the criterion helps to support City efforts to provide recreational spaces. Therefore, the amendments are consistent with Statewide Planning Goal 8.

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

Goal 9 requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The amendments do not impact the supply of industrial or commercial lands. Therefore, the amendments are consistent with Statewide Planning Goal 9.

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

Goal 10 requires the City to provide an adequate supply of buildable land to accommodate the City's estimated housing needs for a 20-year planning period. The Envision Eugene Residential Land Supply Study (2017) includes an inventory of buildable lands for residential use. The Envision Eugene Residential Land Supply Study was adopted by the City of Eugene as a refinement of the Envision Eugene Comprehensive Plan and complies with the requirements of Goal 10 and the corresponding Oregon Administrative Rule.

In order to calculate the residential development capacity in Eugene, the Envision Eugene Residential Land Supply Study estimated the capacity of Eugene's residential land supply to accommodate new housing units by converting the land supply into a number of potential

Exhibit C

dwelling units. This “capacity analysis,” allowed the City to account for the differing development capacity of different areas within its urban growth boundary.

Factors such as elevation, slope, and parcel size can affect the capacity of Eugene’s land supply to accommodate new units of housing. The capacity analysis uses different density assumptions for land depending on its land use designation (LDR, MDR, or HDR), elevation (below or above 900’), slope (less than or more than 5%), and lot size (acres located on lots of less than 1 acre, 1-5 acres, or 5 or more acres). Due in part to the land use regulations in effect at the time the capacity analysis was conducted, the analysis assumed lower densities on sloped parcels and parcels located above 900 feet in elevation. Additionally, the capacity analysis made assumptions about future development density based on historic development trends which were influenced by existing land use regulations.

The analysis to arrive at assumptions about the capacity of the residential land took into account constraints that could limit residential development on residential land. The allocation of housing types to each plan designation and the density assumptions used are derived from the housing type allocations and densities actually seen in these plan designations during the development review period.

Part V of the Residential Land Supply Study is the City’s final Residential Buildable Lands Inventory for the 2012-2032 planning period. That Inventory includes maps which demonstrate there is sufficient buildable land designated on the Metro Plan Diagram to satisfy the housing needs for the planning period.

The amendments do not alter or amend the City’s adopted Envision Eugene Residential Lands Supply Study. The amendments are simply intended to increase the efficiency, effectiveness, and clarity of the City’s clear and objective land use standards. However, one potential outcome of the amendments is a net-positive impact on the supply of residential land available for housing. The amendments remove or modify several clear and objective standards that currently constrain development of housing, such as: removal of the requirement for a 30 foot buffer along the perimeter of a PUD site; removal of the prohibition on grading on slopes of 20% or greater; removal of a 40% open space requirement for PUDs and substitution of an open space requirement that is only triggered when open space is not available within a half mile of the development and is scalable based on the size of the site; and modification of a 300 foot setback for PUDs from the ridgeline in the City’s south hills so that the setback only applies to areas above 900 feet in elevation. These amendments will increase the land area available for housing when proposals are reviewed under clear and objective standards and are therefore consistent with Goal 10. Applicants wishing to create higher density developments also have the option to proceed under the City’s alternative discretionary review tracks (currently called the General tracks), which may allow greater flexibility to achieve that goal.

The amendments also add required transition standards and modify existing tree preservation standards. While both the transition standards and tree preservation standards could impact the area available for development on a specific site, both sets of standards provide developers with several compliance pathways that allow for substantial flexibility in design of a project,

Exhibit C

including the ability to choose a compliance pathway that will prioritize density of development. A more detailed analysis of the new transition standards and tree preservation criteria is provided below.

EC 9.5860 Transition Standards for Housing/Clear and Objective Applications is a new set of standards that will apply to Conditional Use Permit (CUP), tentative Planned Unit Development (PUD), and Site Review (SR) applications reviewed under clear and objective standards. The intent of the transition standards is to create a buffer between areas zoned for lower density residential use and higher density uses such as multi-unit development, and housing coupled with services, such as assisted care.

The transition standards provide developers with four different transition options: 1) building height limitation plus a fence or landscaping; 2) a sloped interior yard setback plus a fence and trees/landscaping; 3) a 30 foot setback with trees; or 4) a setback of 50 feet or setback equal to the tallest building on the site, whichever is less. The setback areas may be used as open space, vehicle use area, pedestrian circulation, bicycle parking, stormwater quality facilities or landscaping. These options allow configuration of developments subject to the transition standards in many different ways to provide for flexibility in design and various densities of development. The transition standards do not, on their face, reduce land available for development. In other words, although individual sites or designs might be constrained by the new transition standards, the transition standards themselves are minimal enough and flexible enough that they do not reduce the City's residential land capacity.

The amendments also update the tree preservation and removal standards at EC 9.6885 Tree Preservation and Removal Standards to allow for more options for demonstrating compliance while adding clarity to the standards. The updated standards include exemptions from tree preservation requirements for smaller sites located below 900 feet in elevation, sites with fewer than 5 trees, and sites zoned for higher density residential development. By creating the exemptions and thresholds, the amendments avoid impacting small sites where it may not be as feasible to meet the standards, which could ultimately reduce the buildable area of smaller lots. By scaling the degree to which a project must consider trees, the updated standards maintain consistency with Statewide Planning Goal 10.

The tree standards require preservation based on the Diameter Breast Height (d.b.h.) of existing trees on a given site and the location of the site. Higher minimum preservation is required in areas where adopted City plans and polices, such as the South Hills Study, recognize the significance of natural views. Previously, EC 9.8325(12) (now EC 9.8325(10)) included a requirement to cluster buildings to retain 40% of a given development site as common open space for developments within the South Hills Study area. As discussed above, the 40% open space requirement is being removed, which results in additional land available for the development of housing. To balance the potential impacts of allowing development on larger portions of sites within the South Hills Study area, the requirements for tree preservation are higher within the area.

The new tree standards provide two pathways to approval, the first requires a complete

Exhibit C

inventory of existing significant trees on a site and allows for removal, preservation or mitigation (replanting) of trees based on the location of the site. The second pathway allows an applicant to preserve 50 percent of the total existing d.b.h. within specified tree preservation areas. In the event an applicant has a site with a particularly dense stand of trees and neither option is workable based on their proposal, the new tree standards also allow for adjustment. Although individual sites or development plans may be constrained by the new clear and objective tree preservation and removal standards, the standards themselves are flexible enough that they do not reduce the City's residential land capacity.

Because the new transition standards and tree preservation and removal standards are clear and objective, they must address in a "one-size-fits-all" way the city's legitimate regulatory interests in public health and safety, as applied to many different properties, each of which may have topographic or other challenges to development. Consequently, in order to gain approval of a particular development proposal on a particular property under clear and objective standards, a developer may be left with less developable property on that site. However, that does not mean that the new standards diminish the City's residential land capacity. In order to maximize density of a particular development, a developer may need to modify their development proposal to take advantage of the flexibility inherent in the transition and tree preservation and removal standards, or instead, choose to proceed under the General/Discretionary track. The new transition and tree preservation and removal standards both provide various pathways to approval to allow a housing developer to prioritize density of housing on a site. Further, the transition and tree preservation and removal standards do not preclude a developer from choosing to proceed under the even more flexible discretionary development standards. Therefore, the new transition standards and new tree preservation and removal standards are consistent with Goal 10.

For all the reasons discussed above, the amendments are consistent with Statewide Planning Goal 10.

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

The amendments do not affect the City's provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

[Goal 12- Transportation.](#) To provide and encourage a safe, convenient and economic transportation system.

The Transportation Planning Rule (OAR 660-012-0060) contains the following requirement:

- (1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3),*

Exhibit C

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

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.
 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
 - (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The amendments do not change the functional classification of a transportation facility, change the standards implementing a functional classification system or degrade the performance of a facility otherwise projected to not meet performance standards. Therefore, the amendments do not have a significant effect under OAR 660-012-0060(1)(c)(A), (B) or (C). As such, the amendments do not significantly affect any existing or future transportation facilities. Based on the above findings, the amendment is consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. To conserve energy.

Goal 13 provides guidance on the management of land and land uses to maximize the conservation of energy. Goal 13 provides implementation direction focused on lot sizes, building heights, density of housing, compatibility, and availability of light, wind, and air. The amendments add a new approval criterion, EC 9.5860 Transition Standards for Housing/Clear and Objective Applications which includes options that require an applicant to use setbacks or reduce proposed building heights when property zoned for a lower density zoning is adjacent to a development site. Alternatively, the amendments allow an applicant to provide additional open space and landscaping to mitigate the impact of development. The transition standards align with the intent of Goal 13 by increasing open space and reducing building height. Because the amendments increase compatibility between land use activities, and allow for the movement of light, wind, and air the amendments are consistent with Goal 13.

Goal 14 - Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth

Exhibit C

boundaries, to ensure efficient use of land, and to provide for livable communities.

The amendments do not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, the amendments are consistent with Statewide Planning Goal 14.

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

The amendments do not contain any changes to the City's Willamette River Greenway regulations; therefore, the amendments are consistent with Statewide Planning Goal 15.

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 effected by these amendments. Therefore, these goals are not relevant, and the amendments will not affect compliance with Statewide Planning Goals 16 through 19.

Findings
Adopted Area Plans

Clear & Objective
(City File CA 20-4)

Applicable Metro Plan Policies

The following policies from the *Metro Plan* (identified below in *italics*) appear applicable to these amendments. To the extent that the following policies constitute mandatory approval criteria, based on the findings provided below, the amendments are consistent with the applicable provisions of the *Metro Plan*.

Residential Land Use and Housing Element

- A.11 *Promote higher residential density inside the UGB that utilizes existing infrastructure, improves the efficiency of public services and facilities, and conserves rural resource lands outside the UGB.*
- A.12 *Coordinate higher density residential development with the provision of adequate infrastructure and services, open space, and other urban amenities.*

The above policies are consistent with the amendments. The amendments will increase the efficiency, effectiveness and clarity of the City's clear and objective standards, creating an even more straightforward path to the development of housing, which should incentivize higher residential density and more affordable residential development within the City. In addition, the updates to EC 9.8325(7) (previously EC 9.8325(9)), refine the requirement for PUD's to locate dwellings within ¼ mile of recreation areas or provide an acre of open space for residents. For larger developments, or those located near existing recreation or open space areas meeting this requirement was feasible. In the case of smaller developments, located away from existing recreation areas the criterion created potential development barriers. The amendments set an applicability threshold of two acres for development sites, which opens up development potential for small infill sites. Additionally, the amendments provide two options for compliance which creates flexibility for a developer based on the unique nature of a given site. Taken together, the threshold and options have the cumulative effective of providing more options for development and is consistent with the intent of the policies above.

- A.13 *Increase overall residential density in the metropolitan area by creating more opportunities for effectively designed in-fill, redevelopment, and mixed use while considering impacts of increased residential density on historic, existing and future neighborhoods.*
- A.14 *Review local zoning and development regulations periodically to remove barriers to higher density housing and to make provision for a full range of housing options.*
- A.17 *Provide opportunities for a full range of choice in housing type, density, size, cost*

Exhibit C

and location.

- A.18 *Encourage a mix of structure types and densities within residential designations by reviewing and, if necessary, amending local zoning and development regulations.*
- A.23 *Reduce impacts of higher density residential and mixed-use development on surrounding uses by considering site, landscape, and architectural design standards or guidelines in local zoning and development regulations.*

The above policies have the common themes of increasing density, variety, and affordability in housing types, while considering impacts to existing developments. One of the main goals of the amendments is to remove barriers to housing by reassessing the City's clear and objective zoning regulations. The amendments are intended to provide clarity and promote efficiency in development, which can open up the possibility for providing denser housing and/or a wider variety of housing types. To the extent that allowances will increase development, the impacts of that increased development are balanced with the addition of transition standards and updated tree preservation standards. A more detailed discussion of both standards can be found in the statements of compliance under Statewide Planning Goal 10. Based on the balanced approach to making the process for approval under clear and objective standards more efficient *and* effective, the amendments are consistent with the policies above.

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

The above policy directs the City to consider updating the code to address compatibility, aesthetics, open space, and other community concerns. The above policy provides support for the addition of transition standards, and the updates to tree preservation and removal standards. The amendments address compatibility, aesthetics, open space and other community concerns raised during the scoping phase through clear and objective design standards and, therefore, are consistent with this policy.

- A.33 *Consider local zoning and development regulations impact on the cost of housing.*

The amendments open up potential for smaller in-fill sites by reducing barriers and creating opportunities for more affordable development. By intentionally excluding some smaller sites from compliance with some of the more stringent standards, potentially undue cost burdens are minimized. Where possible, proportionality was written into the standards to better support infill housing development. Based on this consideration, the amendments are consistent with the above policy.

Envision Eugene Comprehensive Plan

The Envision Eugene Comprehensive Plan does not contain any policies relevant to this amendment.

Exhibit C

Applicable Refinement Plans

To the extent that policies in the refinement plans constitute mandatory approval criteria a discussion of the policies that appear to be relevant is provided below. The plan the policy is from is listed in **(bold)** followed by policies in *(italics)* and discussion.

Fairmount-University of Oregon Special Area

The following policy appears to be the only policy applicable to the amendments.

Policies – East Campus Area:

4. The City shall encourage the University to develop its high – and medium-density residential units with concern for adequate parking and appropriate parking solutions, regard for landscaping, and consideration of the impact on the rest of the neighborhood.

To the extent that the above policy places responsibility of mitigating impacts to the existing neighborhood by new development, the amendments are supported by this policy. In particular, the transition standards will mitigate the potential visual and spatial impacts of higher intensity development located near lower intensity development.

Jefferson Far West Refinement Plan (1983)

The following residential policies in the Land Use Element of the plan lend general support for the amendment:

Residential

2.0 Increase the opportunity for home ownership within the area.

3.0 Encourage a mixture of housing densities and types to allow a diverse population group to live in the area.

15. Low-to Medium-Density Residential Area:

This area shall be recognized as a low- to medium-density residential area. The City shall explore methods of encouraging an increase in residential density yet maintaining the character of the area. Residential densities beyond ten units per acre shall be allowed, subject to an approved block plan or rezoning to R-2 in conjunction with a site review.

One of the main goals of the amendments is to remove barriers to housing by reassessing the City's clear and objective zoning regulations. The amendments are intended to provide clarity and promote efficiency in development, which can open up the possibility for providing denser housing and/or a wider variety of housing types. More available housing stock should increase the opportunity for home ownership within the plan area. To the extent that the amendments will increase development, the transition standards reduce impacts of higher intensity development when located near property zoned for lower intensity development. Additionally, the tree preservation and removal standards set thresholds which reduce barriers for smaller in-fill sites, which has the potential to increase density. Based on these findings, the amendments are consistent with the policies above.

Laurel Hill Plan (1974)

The following policies from the Laurel Hill Plan appear applicable to the amendments:

Exhibit C

Laurel Hill Valley

6. The Laurel Hill Plan supports the South Hills Study standards. In general, alteration of land contours shall be minimized to retain views of natural features and retain as much of the forested atmosphere as possible. Aside from purely aesthetic considerations, these hillsides demand care in development because the topsoil is thin and the water runoff is rapid. Proposed developments shall respect the above considerations. The Valley hillside policy applies to all land with an average slope, from toe to crest, of 15 percent or greater. (A 15-percent slope is one in which the land rises 15 feet per 100 horizontal feet.)

- a. If, in the opinion of the responsible City official, an adverse conservation or geological condition exists upon a parcel of land proposed for subdivision, or before any major hillside clearing, excavation, fill or construction is contemplated, the requirements of the Uniform Building Code, Chapter 70, Excavation and Grading, and those sections of the code relative to foundation design may be invoked.*
- b. Considerable latitude shall be allowed the developer in shaping, depth, and required street frontages of lots where it is necessary to preserve terrain.*

The above policy can be summarized as providing direction to preserve the aesthetics of hillsides, and functions of soil on hillsides. The amendments provide more specific tree preservation standards, and also add more stringent tree preservation requirements for properties located at a higher elevation. The amendments also update the requirements for geological and geotechnical analysis, adding additional standards with the intent of identifying any existing or potential stability issues on a given site. The amendments are supportive of the above policy because they add more robust standards that can be applied to applications filed under clear and objective criteria.

River Road-Santa Clara Urban Facilities Plan (1987)

The following policies from the River Road-Santa Clara Urban Facilities Plan appear to be applicable to the amendments:

- 1.0 Recognize and maintain the predominately low-density residential character of the area consistent with the Metropolitan Plan.*
- 2.0 Provide diversity of housing types in the area. Available techniques include encouraging reinvestment and rehabilitation of existing housing stock and the use of development standards that provide for cluster or planned unit development.*

One of the main goals of the amendments is to remove barriers to housing by reassessing the City's clear and objective zoning regulations. The amendments are intended to provide clarity and promote efficiency in development, which can open up the possibility for providing denser housing and/or a wider variety of housing types. More available housing stock should increase the opportunity for home ownership within the plan area. To the extent that the amendments will increase development, the transition standards reduce impacts of higher intensity development when located near property zoned for lower intensity development.

Exhibit C

1.0 Maintain and enhance the compatibility of adjacent land uses through the use of appropriate buffering mechanisms, such as landscaping standards.

The transition standards reduce the potential impact of higher intensity development located near lower intensity development through the use of setbacks, landscaping, or height restrictions.

South Hills Study

The following policies from the South Hills Study appear to be applicable to the amendments:

Ridgeline Park

- 1. To insure preservation of those areas most visibly a part of the entire community.*
- 2. To protect areas of high biological value in order to provide for the continued health of native wildlife and vegetation.*
- 3. To insure provision of recreational areas in close proximity to major concentrations of population.*
- 4. To provide connective trails between major recreational areas.*
- 5. To provide connective passageways for wildlife between important biological preserves*
- 6. To contribute to Eugene's evergreen forest edge; and*
- 7. To provide an open space area as a buffer between the intensive level or urban development occurring within the urban service area and the rural level of development occurring outside the urban service area.*

Specific Recommendations (Policies)

That all vacant property above an elevation of 901' be preserved from an intensive level of development, subject to the following exceptions:

- 1. Development of individual residences on existing lots; and*
- 2. Development under planned unit development procedures when it can be demonstrated that a proposed development is consistent with the purposes of this section.*

Development Standards

- 1. To insure the responsiveness of specific developments to the aggregate of known natural factors;*
- 2. To insure maximum preservation of the natural character of the south hills; and*
- 3. To insure adequate review of public consequence of development in the south hills.*

Specific recommendations (Policies)

That planned unit development procedures shall be utilized for the following purposes:

- 1. To encourage clustering of development in areas characterized by:*
 - a. Shallowest slopes;*
 - b. Lowest elevations;*
 - c. Least amount of vegetation;*
 - d. Least amount of visual impact.*
- 2. To encourage preservation as open space those areas characterized by:*
 - a. Intermediate and steep slopes;*

Exhibit C

- b. *Higher elevations;*
- c. *Significant amounts of vegetation;*
- d. *Significant visual impact.*

That adequate review of both on-site and off-site impact of any development by a qualified engineering geologist occur under any of the following conditions:

1. *All formations*
Soil depth of 40 inches and above
Slopes of 30 Percent and above
2. *Basalt flows*
Soil depth of 40 inches and above
Slopes of 30 percent and above
3. *Eugene Formation*
Soil depth of 40 inches and above
Slopes of 20 percent to 30 percent
4. *Basalt flows*
Soil depth of 20 inches to 40 inches
Slopes of 30 percent and above
5. *Eugene Formation*
Soil depth of 20 inches to 40 inches
Slopes of 30 percent and above

The policies of the South Hills Study can generally be summarized as intending to protect views, protect access to parks, preserve natural features, and encourage cluster development.

EC 9.6710 Geological and Geotechnical Analysis

Proposed development on properties with slopes equal to or greater than 5% are already subject to geotechnical standards, consistent with South Hills Study policy direction. The amendments to the geotechnical standards update the requirements for geological analysis to address additional factors such as slope, soil types, open drainage ways, and fill. The standards also require the use of a newly adopted Landslide Hazard Map to identify and address potential deep landslide risks. Taken together, the updates raise the bar for developments to consider potential impacts of geological constraints, consistent with South Hills Study policy direction.

EC 9.6885 Tree Preservation and Removal Standards

The tree preservation standards provide a variety of options for compliance and set a higher bar for tree preservation for areas within the South Hills Study area. By raising the required amount of preservation to 50%, rather than 40%, and not allowing mitigation for areas over 900 feet in elevation, the tree preservation standards demonstrate consideration of the policy intent to protect views in the South Hills Study area. Previously, a tentative PUD applicant utilizing clear and objective standards for property located within the South Hills Study was only required to *consider* tree preservation. The new tree preservation standards will ensure some preservation as well as provide mitigation for some of the trees to be removed. As such, the new tree preservation standards are better suited to accomplish the policy intent described by the South Hills Study. For additional discussion of tree preservation standards, see the findings provided under Statewide Planning Goal 10.

Exhibit C

EC 9.8325 Tentative Planned Unit Development Approval Criteria

The approval criteria at EC 9.8325(12) (now EC 9.8325(10)) sets specific requirements for development within the South Hills Study area. The updates to those criteria allow additional development of homes at an elevation over 900 feet, while maintaining consistency with the policy direction that all vacant property above an elevation of 901' be preserved from an "intensive" level of development. The addition of more stringent standards for tree preservation and geotechnical analysis both align with the intent of the South Hills Study in a way that is more impactful than simply placing a numerical limit on development.

The amendments also remove EC 9.8325(12)(c) which required clustering of developments. This criterion attempted to address, in a clear and objective manner, the South Hills Study policy to encourage clustering of development in areas characterized by: shallowest slopes; lowest elevations; least amount of vegetation; and least amount of visual impact and to encourage preservation as open space those areas characterized by: intermediate and steep slopes; higher elevations; significant amounts of vegetation; significant visual impact. Much of the policy language is inherently subjective and difficult to translate directly into clear and objective standards. To the extent that the clustering accomplished the intent of the South Hills Study policies, the result was leaving large portions (at least 40%) of a site as undeveloped common open space. This heavy-handed preservation requirement was identified as one of the main disincentives for applicants to use the existing clear and objective track for PUDs. As noted above, the standards for geotechnical analysis and tree preservation are becoming more stringent, in part to better address some of the policy goals and direction in a more holistic way. While the specific approval criterion that requires clustering of development is being removed, the impact of better tree preservation/mitigation standards and development design that takes geological issues into consideration continue to encourage clustering of development in areas with shallowest slopes, lowest elevations, least amount of vegetation, and least amount of visual impact; and encourage preservation of open space in areas characterized by intermediate and steep slopes, higher elevations, significant amounts of vegetation, and significant visual impact.

Based on the above findings and consideration of the amendments as a package, the amendments are consistent with the South Hills Study.

Walnut Station Specific Area Plan

The following policy from the Walnut Station Specific Area Plan appears applicable to the amendments:

(c) Impacts to any adjacent residentially zoned properties are minimized. Design elements for this purpose may include treatment of building massing, setbacks, stepbacks, screening and landscaping.

The above policy does not distinguish between commercial or residential development and the impact it would have on adjacent residentially zoned properties. To the extent that the policy is applicable to the amendments, it provides support for the addition of the transition standards.

Exhibit C

The transition standards address height, setback area, and generally promote compatibility between higher intensity residential and lower density residential development. Based on these findings, the amendments are consistent with the policy listed above. For a more in-depth discussion of the transition standards, see the findings under Statewide Planning Goal 10.

Westside Neighborhood Plan (January 1987)

The City received testimony from Paul Conte (Conte) dated March 6, 2021, which asserted that the proposed code amendments do not conform with EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d). Conte also alleged that the Council is required to make findings that the proposed code amendments are consistent with applicable policies in the Westside Neighborhood Plan.

The City Council finds that Conte misunderstands the applicability of EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d). EC 9.9680 does not apply directly to this code amendment. EC 9.9680 only applies as an approval criterion for subdivision, partition, and site review applications. See EC 9.9500. Consequently, consistency with EC 9.9680 is not required for approval of the amendments.

However, Westside Neighborhood Plan policies, including the policies codified in EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d), may be directly applicable to the amendments through EC 9.8065(2), which requires that the amendments be “consistent with the applicable provisions of ... applicable refinement plans.” To ensure consistency with this approval criterion, all the City’s adopted refinement plans were reviewed, and the City Council makes the following findings regarding the Westside Neighborhood Plan policies codified at EC 9.9680(1)(a) & (c), EC 9.9680(3)(a) & (b), and EC 9.9680(4)(d):

Land Use Element

Policy 1. Prevent erosion of the neighborhood’s residential character

The City Council finds that “residential character” in this refinement plan policy has the meaning as defined in EC 9.0500, i.e., “A combination of qualities and features that gives identity to a particular area where the predominant use is housing and that distinguishes the area from other areas.” The City Council finds that the amendments will not contribute to the erosion of residential character. The amendments update existing approval criteria for land use applications related to housing. The amendments will not rezone, re-designate, or otherwise change the character of the residentially zoned properties. To the extent that the above policy is applicable to the amendments, the amendments are not inconsistent with the policy.

Policy 3. Encourage the concentration of commercial activities within the core of downtown and prevent the conversion of residentially zoned properties to non-residential zoning districts within the Westside Neighborhood.

The Council finds that the above policy is concerned with commercial activities and the re-zoning of residentially zoned property to a non-residential zoning designation. The amendments update approval criteria for land use applications proposing housing; they will not

Exhibit C

apply to zone changes and will neither encourage nor discourage the concentration of commercial activities in the downtown core. Based on this information, the above Westside Neighborhood Plan policy is not an applicable refinement plan policy.

Northern Residential Area

Policy 2. The City shall promote residential development that will provide a transition between retail and auto-oriented activities on West 7th Avenue and lower-density residential developments south of West 8th Avenue.

The above policy is concerned with the promotion of residential development and calls for residential development that will provide a transition between retail and auto-oriented development along 7th Avenue and lower-density residential developments south of West 8th Avenue. The policy provides support for reducing barriers to housing, which is one of the main goals of the amendments. The clear and objective standards and approval criteria which included in the amendments and which reduce barriers to construction of housing will help to facilitate development of housing envisioned by the policy above. To the extent the above policy is applicable to the amendments, the amendments are consistent with this policy.

Policy 4. The City shall encourage alley access and parking to occur in rear yard areas with special landscaping and other amenities provided along West 8th Avenue.

The above policy is concerned with encouraging alley access parking for areas along West 8th Avenue. The S-JW Jefferson Westside Special Area Zone development standards already present in the land use code include specific requirements consistent with this policy. Those standards are not impacted by the amendments. Based on this information, the above Westside Neighborhood Plan policy is not an applicable refinement plan policy.

Transportation and Traffic Element

Policy 5. Improve and maintain bicycle and pedestrian facilities within the Westside Neighborhood and linking to other parts of the city.

The amendments improve the City's ability to require public improvements at the time of private development. Applications for partitions, planned unit developments and subdivisions are currently required to provide off-site connections for bike and pedestrian ways. The amendments add that bike and pedestrian requirement to the approval criteria for site reviews and conditional uses.

Other changes, such as an updated timing requirement for public improvements, are also included in the amendments. Based on the addition of clear requirements for compliance with public improvement standards and new approval criteria that may increase the City's ability to require pedestrian and bicycle connections, the amendments are consistent with the policy provided above.

Whiteaker Plan

The following policies from the Whiteaker Plan appear to be applicable to the amendments:

Exhibit C

Policy 7: Review existing City Code regulations on height, setback, area, and lot coverage to strengthen compatibility between existing residential development and new commercial, industrial, medium and high-density residential developments, and the positive impact of new development on the public streetscape.

To the extent that the policy is applicable to the amendments, it provides support for the addition of the transition standards. The transition standards address height, setback area, and generally promote compatibility between higher intensity residential and lower density residential development. Based on these findings, the amendments are consistent with the above policy. For a more in-depth discussion of the transition standards, see the findings under Statewide Planning Goal 10.

Willakenzie Area Plan (1992)

The following policies from the Willakenzie Area Plan appear to be applicable to the amendments:

Land Use Policies and Proposed Actions

- 3. Retain existing significant vegetation whenever possible to provide buffering between residential and nonresidential uses, as well as between low-density and higher density residential uses.*
- 5. Site review procedures or special development standards shall be considered for properties which abut or face one another, when the uses permitted on those properties are potentially incompatible.*
- 6. Minimize land use conflicts by promoting compatibility between low-density and higher-density residential land uses as well as between residential and nonresidential land uses.*

In the context of the amendments, the above policies provide support for the addition of transition standards and modifications to tree standards. The above policies discuss compatibility between uses, and different intensities of residential development. Because the transitions standards are intended to increase compatibility between higher intensity residential and lower intensity residential development the standards are consistent with the intent of the policies. In addition to promoting compatibility, the tree preservation standards will promote the retention of significant vegetation which is consistent with Policy 3 provided above.

Residential Policies and Proposed Actions

- 1. Maintain the existing low-density residential character of existing Willakenzie neighborhoods, while recognizing the need to provide housing for all income groups in the City.*
- 8. Promote compatibility between low-density residential land uses and medium- to high-density residential land uses.*

Exhibit C

To the extent that the above policies are applicable to the amendments, they provide general support for the transition standards. Because the transition standards require setbacks, landscaping, or limitations to building height they promote compatibility between higher density residential uses and lower density residential uses. Based on these findings, the amendments are consistent with the policies listed above.

Harlow Policies and Proposed Actions:

1. The City shall require that medium-density residential development on the east side of Coburg Road, between Tandy Turn and Bailey Lane and between Adkins Street and Elysium Avenue, is developed in a manner that promotes compatibility between low-density and medium-density uses, enhances the visual character of Coburg Road (a designated Entrance Corridor), and limits traffic conflicts on Coburg Road and local streets.

The above policy requires that new development be compatible with existing lower density developments. The amendments add transition standards which require setbacks, landscaping, or limitations to building height which are all techniques that can be used to promote compatibility. A more robust discussion of the specifics of the transition standards is provided in the discussion under Statewide Planning Goal 10. Based on these findings, the amendments are consistent with the policy listed above.

Willa Gillespie Subarea Policies and Proposed Actions:

2. The City shall encourage infilling of large, vacant residential parcels and residential parcels which have not yet been developed to their fullest capacity in order to accomplish compact urban growth form.

The intent of the amendments is to increase clarity, efficiency, and effectiveness for applications subject to the clear and objective approval criteria. The amendments are intended to support the development of housing and do this by updating and removing existing standards that created barriers to development. For a full discussion of the updated and removed standards and criteria see the discussion under Statewide Planning Goal 10. Based on these findings, the amendments are consistent with the above policy.

3. The City shall ensure that new development and redevelopment occurring on the flanks of the Gillespie Butte will be accomplished in a manner that affords maximum preservation of the natural character of the butte, and is sensitive to topographic constraints, soil conditions, views to and from the butte, and the need for public access to the butte.

To the extent that the above policy is applicable, it provides support for the tree preservation and geological and geotechnical analysis standards. The amendments are consistent with the intent of the above policy.

Chase Gardens Subarea Policies and Proposed Actions:

2. New development abutting historic properties shall provide an effective transition

Exhibit C

between urban and rural uses, recognizing the high density nature of the new development. New buildings facing the historic ensemble from across Garden Way should emulate the architectural forms and materials of the historic residences.

The above policy is concerned with the impacts of new development to historic properties. To the extent that historic properties are zoned for lower density residential uses, the transition standards are consistent with this policy. The options to limit building height, set buildings back, and provide landscaping amenities will minimize the impacts of new higher density development on existing abutting lower density development. For a more robust description of the transition standards, see the findings under Statewide Planning Goal 10 above.

10. Development shall be sensitive to the area's natural features, such as mature trees, windrows, remnant orchards, and the Q Street Channel.

The amendments include updates to tree preservation standards which will provide additional clarity and specificity on how to address existing on-site vegetation. In the context of the above policy, new development will have clear standards for identifying trees for preservation or mitigation. The tree standards are consistent with the above policy. For a more robust description of the tree preservation standards, see discussion under Statewide Planning Goal 10 above.

Based on the findings above, the amendments are consistent with the applicable adopted refinement plans.

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

The amendments do not establish a special area zone. Therefore, this criterion does not apply.



Memorandum

Date: January 24, 2023
To: Katie LaSala, City Recorder
From: Lauren A. Sommers, Assistant City Attorney *LAS*
Subject: Corrections to Ordinance No. 20679

It has come to our attention that reference errors exist in certain Eugene Code sections that were amended by Ordinance No. 20679, which was adopted on November 30, 2022, and took effect on January 1, 2023.

Please effect the following scrivener error corrections:

1. In EC 9.8205(2) (Section 32 of the Ordinance), the reference to EC 9.8220(7) should be changed to EC 9.8220(5) so that it reads:
 - (2) Partition applications that meet the approval criteria in EC 9.8215(7) or EC 9.8220(5) may be processed pursuant to the expedited land division procedures in EC 9.7900 through EC 9.7925.
2. At the end of the first paragraph of EC 9.8220 (Section 35 of the Ordinance), the phrase "based on compliance with the following criteria:" was inadvertently omitted from the clean version of the final Ordinance. Correct that transcription error so that the paragraph reads:

9.8220 Partition, Tentative Plan Approval Criteria- Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria – General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the planning director shall approve, conditionally approve, or deny the partition application based on compliance with the following criteria:
.....
3. In EC 9.8505(2) (Section 43 of the Ordinance), the reference to EC 9.8520(11) should be changed to EC 9.8520(9) so that it reads:
 - (2) Subdivision applications that meet the approval criteria in EC 9.8515(13) or EC 9.8520(9) may be processed pursuant to the expedited land division procedures in EC 9.7900 through EC 9.7925.

These corrections are authorized by Section 49 of Ordinance No. 20679. Please attach a copy of this memo to Ordinance No. 20679.