



COUNCIL ORDINANCE NO. 20682

**AN ORDINANCE CONCERNING THE SKINNER BUTTE HEIGHT LIMITATION
AREA, AMENDING SECTION 9.6715 AND FIGURE 9.6715(3) OF THE
EUGENE CODE, 1971.**

ADOPTED: February 13, 2023

SIGNED: February 15, 2023

PASSED: 4:2

REJECTED:

OPPOSED: Keating, Semple

ABSENT: Evans, Zelenka

EFFECTIVE: March 18, 2023



ORDINANCE NO. 20682

AN ORDINANCE CONCERNING THE SKINNER BUTTE HEIGHT LIMITATION AREA, AMENDING SECTION 9.6715 AND FIGURE 9.6715(3) OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Subsection (3) of Section 9.6715 of the Eugene Code, 1971, is amended to provide as follows:

9.6715 **Height Limitation Areas.**

- (1) **Purpose of Height Limitation Areas.** Certain geographical landmarks have scenic attributes that are of value to the community as a whole. To protect views to and from these landmarks, special limitations on building height are established on and around them.
- (2) **Applicability.** Special building height limitations apply to the specific areas listed in this section. If the exceptions provided for in EC 9.6720 Height Exemptions for Roof Structures and Architectural Features conflict with the building height limitations in this section, this section shall apply. All elevations in the height limitation areas shall be based on the mean sea level.
- (3) **Skinner Butte Height Limitation Area.** The boundaries of the Skinner Butte Height Limitation Area are as follows:
All property lying east of Washington Street, lying north of, and including, the north side of 6th Avenue, lying west of Coburg Road, and lying south of the Willamette River. (See Figure 9.6715(3) Skinner Butte Height Limitation Area.)
 - (a) Except as provided in subsections (b) and (c), within the Skinner Butte Height Limitation Area, the maximum height of any building or structure is 500 feet above mean sea level.
 - (b) Where the existing ground elevation within the Skinner Butte Height Limitation Area is 460 feet or more above mean sea level, the maximum height of any building or structure shall be 40 feet above the existing ground elevation at all points.
 - (c) In the area identified as the Opportunity Area on Figure 9.6715(3), the maximum height of any building or structure shall be 530 feet above mean sea level.
 - (d) In no case shall the maximum height of any building or structure exceed the maximum allowed in the zone.

Section 2. Figure 9.6715(3) is amended as shown in Exhibit A to this Ordinance.

Section 3. The findings set forth in Exhibit B attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 4. 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 5. 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

13th day of February, 2023



City Recorder

Approved by the Mayor this

15 day of February, 2023



Mayor

Figure 9.6715(3)

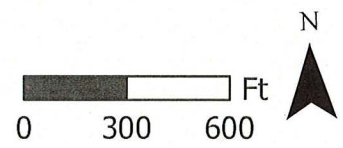


Skinner Butte Height Limitation Area



 Skinner Butte Height Limitation Area

 Opportunity Area



**Skinner Butte Height Limitation Area Amendment
(City File CA 22-3)**

Overview

Skinner Butte Height Limitation Area Amendment: The goal of this Skinner Butte Height Limitation Area Amendment is to increase allowed building heights for several parcels located within the Skinner Butte Height Limitation Area in order to allow for additional development opportunities in the downtown area. The City undertook a similar process in 2018 which resulted in an amendment to the Skinner Butte Height Limitation Area to allow for higher building heights along the entire southern half block between 5th and 6th Avenues. This code amendment allows for higher building heights on four additional parcels located between 5th and 6th Avenues and Oak and Pearl Streets, as well as two parcels located between 4th and 5th Avenues and Willamette and Pearl Streets. Council unanimously initiated this project on July 25, 2022.

This amendment will increase allowable building heights on the six additional parcels from 500 feet above mean sea level, to 530 feet above mean sea level. This will result in an allowance for buildings up to approximately 100 feet in height, where buildings on those parcels were previously limited to approximately 70 feet in height.

Findings

Eugene Code Section 9.8065 requires that the following approval criteria (in ***bold italics***) be applied to 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 set out requirements for such involvement. The code amendment does not amend the citizen involvement program. The process for adopting this amendment complied with Goal 1 because it is consistent with the City's acknowledged citizen involvement provisions.

A Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on October 11, 2022, and a public notice was mailed on October 14, 2022. Additionally, a notice was posted in the Register Guard, the local newspaper of general circulation, on October 26, 2022. Following this initial notice, the date of the public hearing was updated, and additional parties were added to the notice list. A notice announcing the new hearing date was mailed on November 4, 2022. Additionally, signs announcing the hearing were posted in accordance with Chapter 9 of the Eugene Code. A public hearing was held before the Planning Commission on December 6, 2022, followed by deliberations on that same evening. Following deliberations, Planning Commission made

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a recommendation to the Eugene City Council to adopt the Ordinance provided as a draft at the public hearing. The City Council held a public hearing on January 17, 2023. A notice of the public hearing was provided on January 6, 2023 in accordance with Chapter 9 of the Eugene Code. A notice was also published in the Register Guard on December 28, 2022 in accordance with the City Charter.

These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the code amendment 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 procedure and criteria that were used in considering this amendment. The record shows that there is an adequate factual basis for the amendment. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens.

To comply with the Goal 2 coordination requirement, the City engaged in an exchange about the subject of this amendment 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 this amendment. Therefore, the amendment is consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. To preserve agricultural lands.

The amendment will only affect property located within the City of Eugene and does not affect any land zoned or designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

Goal 4 - Forest Lands. To conserve forest lands.

The amendment will only affect property located within the City of Eugene and does not affect any land zoned or designated for forest use. Therefore, Statewide Planning Goal 4 does not apply.

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

OR 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*

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- 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.*

This amendment does not create or amend the City's list of Goal 5 resources, does not amend a land use code provision adopted to protect a significant Goal 5 resource or to address specific requirements of Goal 5, and does not amend the acknowledged urban growth boundary. Therefore, the amendment does not affect (a) or (c).

In regards to (b), the properties subject to the amendment do not contain any Goal 5 resources. However, the 1978 Scenic Sites Working Paper and accompanying map, which are a part of the City's adopted significant Goal 5 inventory (see Ordinance No. 20351), identifies Skinner Butte as a "Scenic Site" (as both a "Vista" and as containing "Prominent and Plentiful Vegetation"). Per OAR 660-023-0230, "scenic views and sites" are lands valued for their aesthetic appearance.

Skinner Butte has long been recognized and valued in the community for its aesthetic appearance, which is evidenced by the adoption of the Skinner Butte Height Limitation Area in 1968. Notably, this predates the adoption of Statewide Planning Goal 5 in December 1974. Section 9.6715(1) of the Eugene Code (EC) describes the purpose of height limitation areas as follows: "Certain geographical landmarks have scenic attributes that are of value to the community as a whole. To protect views to and from these landmarks, special limitations on building height are established on and around them."

Properties on the south side of 6th Avenue, which are not located within the Skinner Butte Height Limitation Area, have a maximum building height of 150 feet for C-3 Major Commercial zoned properties and 120 feet for C-2 Community Commercial zoned properties. Currently, the Skinner Butte Height Limitation Area (HLA) limits the six affected properties to a maximum building height of 500 feet above mean sea level, or approximately 70 feet above grade. South of the six affected parcels, the half-block strip on the north side of 6th Avenue (within the HLA) allows heights of up to 530 feet above sea level. The current proposal would identify an additional six properties on which the maximum height for buildings and other structures would be 530 feet above mean sea level. This would result in these select properties being able to add an approximately 30 feet of additional building height, which when considering zones to the south, still limits building height in a way that is sensitive to Skinners Butte.

Additionally, the properties that are subject to the building height increase are located more than 500 feet from the base of Skinner Butte and more than 1,100 feet from the viewing area at the top of the butte. Given the distance between the subject properties and Skinner Butte, the potential impact to the views to and from the butte is minimal. Moreover, the difference in allowed height for buildings on the six additional properties does not meaningfully impact views from the majority of surrounding streets. The remainder of the height limitation area will remain in place. The change to the Skinner Butte Height Limitation Area does not conflict with the scenic value of the butte or the viewing of its prominent and plentiful vegetation and therefore does not allow new uses that could be conflicting uses with a significant Goal 5 resource site. The amendment is consistent with Statewide Planning Goal 5.

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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 amendment does not affect the City's ability to provide for clean air, water, or land resources. Therefore, the amendment is consistent with Statewide Planning Goal 6.

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

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis, and wildfires. The amendment does not amend or repeal any policies or regulations that protect people and property from natural hazards. Therefore, the amendment is consistent with Statewide Planning Goal 7.

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

Goal 8 ensures that recreational facilities are provided to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The amendment does not affect the City's provisions for or citizens' access to recreation areas, facilities, or recreational opportunities. Therefore, the amendment is 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 amendment does not impact the supply of industrial or commercial lands. Instead, the amendment increases the capacity of existing land zoned to allow commercial development by allowing additional building height. Therefore, the amendment is 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 residential buildable land to accommodate the City's estimated housing needs for a 20-year planning period. The Envision Eugene Residential Land Supply Study (2012-2032) was adopted by the City of Eugene in 2017 as a refinement of the Envision Eugene Comprehensive Plan and complies with the requirements of Goal 10 and Chapter 660, division 008 of the Oregon Administrative Rules.

The amendments do not alter or amend the City's adopted Envision Eugene Residential Land Supply

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Study. The amendment does not impact the supply of residential buildable land, because the subject properties are shown as “Developed Residential Lands” and “Committed or Protected Lands.” These categories are distinct from “Vacant” or “Partially Vacant Residential Lands” because they were not considered as having future development or redevelopment potential when the Residential Land Supply Study was done (see Residential Land Supply Study Part I – Page 5). The amendments will not re-zone or re-designate land from residential use to a nonresidential use. Accordingly, the amendments do not impact the supply or availability of residential lands included in the documented supply of “buildable land” that is available for residential development as inventoried in the acknowledged Residential Lands Supply Study. Finally, the amendments will increase maximum building height on the affected properties, which will allow for the development of a greater number of residential units than the number of units that could have been built without the amendment. The amendment is 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 amendment does 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), (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*

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- 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 amendment does 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 amendment does not have a significant effect under (a) or (b). In regard to (c), the level of increased development that may result from the additional building height would have a negligible impact on any transportation facility. Therefore, the amendment does 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.*

The amendment does not negatively impact energy conservation. Instead, increased capacity for development on the subject properties allows for additional construction of buildings that are likely to consume less energy per unit area than the same uses would consume in a smaller building. Goal 13 is also concerned with the provision of efficient transportation options; the amendment would provide for denser development which is more suited to public transit and other forms of energy efficient transportation. Based on these findings, the amendment is consistent with Statewide Planning Goal 13.

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

The amendment does not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, Statewide Planning Goal 14 does not apply.

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

The amendment does not contain any changes that affect the Willamette River Greenway regulations; therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

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

(2) *The amendment is consistent with applicable provisions of the comprehensive plan and applicable adopted refinement plans.*

Applicable Metro Plan Policies

The following policies from the *Metro Plan* (identified below in *italics*) are applicable to this amendment. To the extent that the following policies constitute mandatory approval criteria, based on the findings provided below, the amendment is consistent with and supported by the applicable provisions of the *Metro Plan*.

Environmental Design Element

- E.5 Carefully develop sites that provide visual diversity to the urban area and optimize their visual and personal accessibility to residents.*

The intent of this amendment is to permit taller buildings on certain specific properties while still preserving the views to and from Skinner Butte. The height standards in the amendment are still more restrictive than those in adjacent commercial zones, so they will preserve views to and from Skinner Butte and create an area of transition between areas of differing building heights.

- E.6 Local jurisdictions shall carefully evaluate their development regulations to ensure that they address environmental design considerations, such as, but not limited to, safety, crime prevention, aesthetics, and compatibility with existing and anticipated adjacent uses (particularly considering high and medium density development locating adjacent to low density residential).*

Consistent with this policy, the amendment provides a creative solution to preserving the views to and from Skinner Butte while promoting commercial and residential development downtown.

Envision Eugene Comprehensive Plan

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

Applicable Refinement Plans

The Eugene Downtown Plan (2004) contains policies relevant to this amendment:

- Chapter 1: Strong Regional Center, Policy 1. Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.*

The amendment supports the development of a denser, more peopled downtown. Additionally, it represents regulatory flexibility that makes residential development more appealing to property owners as an alternative to leaving downtown land as vacant lots, surface parking, or similar uses with significant negative externalities. The amendment and its promotion of additional residential units, vitality, and downtown livability are consistent with this policy.

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Chapter 2: Building a Downtown, Policy 2. Use downtown development tools and incentives to encourage development that provides character and density downtown.

Reasonable use of tools such as height limitation areas in combination with incentives such as increased height allowances can achieve the multiple goals of downtown density, appreciation of natural landscapes, and the other priorities embodied in the HLA. The amendment is consistent with this policy.

Chapter 3: Great Streets, Policy 1. Emphasize Broadway, Willamette Street, 5th and 8th Avenues as Great Streets through public improvements and development guidelines.

Include portions of these streets as follows:

- *Willamette between 5th and 13th Avenues*
- *Broadway between Lincoln and Hilyard*
- *5th Avenue between Lincoln and High Street
(with potential extension to the Willamette River)*
- *8th Avenue between Willamette Street and the Willamette River.*

5th Avenue is the core of the affected area, and its continued importance to downtown has led to the development growing around it: the 5th Street Market. Flexibility in development guidelines around this great street will incentivize filling gaps in the streetscape such as vacant lots and underutilized surface parking. Additionally, with the completion of the 5th Avenue extension to the Riverfront, this area has become an important connection between downtown and the Willamette River. The amendment is consistent with this policy.

Chapter 5: Living Downtown, Policy 1. Stimulate multi-unit housing in the downtown core and on the edges of downtown for a variety of income levels and ownership opportunities.

The amendment would open new options for development on the affected parcels, including higher counts of residential units than would be possible under the current code. The combination of this incentive with the HLA's height limits would, for example, "*Remove regulatory barriers to the development of housing in commercially zoned areas downtown, while ensuring compatibility of uses and design,*" (Implementation Strategy D). The amendment is consistent with this policy.

Chapter 6: Downtown Riverfront, Policy 4. Facilitate dense development in the courthouse area and other sites between the core of downtown and the river.

5th Avenue has been extended into the Downtown Riverfront and now represents a major corridor for connection between downtown and the river. Existing and future developments are poised to make this area one of the busiest subdistricts in the city's core. The amendment would facilitate denser development in key locations, and it is therefore consistent with this policy.

Based on the above findings, the proposal is consistent with and supported by the applicable provisions of these adopted plans.

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- (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 amendment does not establish a special area zone. Therefore, this criterion does not apply.