

3 components of the /WP area are described and defined as follows:

- (1) The area within the channel limits of a water feature (from top of high bank to top of high bank). For a given stream, river, or channel, the top of the bank is the highest point at which the bank meets the grade of the surrounding topography, characterized by an abrupt or noticeable change from a steeper grade to a less steep grade, and, where natural conditions prevail, by a noticeable change from topography or vegetation primarily shaped by the presence and/or movement of the water to topography not primarily shaped by the presence of water. Where there is more than one such break in the grade, the uppermost shall be considered the top of the high bank.
- (2) Buffer setback areas are measured horizontally from the top of the high bank or from the line of ordinary high water. The planning director shall determine whether the buffer is measured from the top of the high bank or from the line of ordinary high water.
 - (b) If the top of the high bank is not identifiable, the buffer setbacks are measured horizontally from the line of ordinary high water. In a given stream, pond, or other water body, the line of ordinary high water is the line on the bank or shore to which seasonal high water rises annually. Identified in the field by physical characteristics that include one or more of the following:
 1. A clear, natural line impressed on the bank.
 2. Changes in the characteristics of soils.
 3. The presence of water-borne litter and debris.
 4. Destruction of terrestrial vegetation.

If reliable water level data are available for 3 or more consecutive previous years, the line of ordinary high water can be considered the mean of the highest water level for all years for which data is available. Buffer setback distances measured from the line of ordinary high water are as follows:

Minimum Buffer Setbacks from Ordinary High Water

<u>Water feature</u>	<u>Buffer setback</u>
Perennial, within floodway	75 feet
Perennial, outside floodway	50 feet
Intermittent or seasonal	25 feet

Section 11. The first paragraph and Subsections (2), (5), and (6) of Section 9.4740 of the

Eugene Code, 1971, are amended, to provide:

9.4740 Prohibited Practices. Practices that are not specifically allowed, and that would adversely affect water quality or damage wildlife habitat, are prohibited within /WP areas. Prohibited practices include the following:

- (2) Depositing, dumping, piling or disposal of refuse, or dumping, piling, disposing or composting of yard debris, fill, or other material except for single family residential composting, which must be kept at least 10 feet from the top of the bank of any water feature, and soils or soil amendments used for replanting in accordance with provisions of this section.
- (5) For areas not on the city's acknowledged Goal 5 inventory, removal or destruction of rare, threatened or endangered plant species, unless a conservation plan for the affected species is submitted by the applicant and approved by the planning director, in conjunction with the Oregon Department of Agriculture and the U.S. Fish and Wildlife Service.
- (6) Filling, grading, excavating, and the application of chemical herbicides, pesticides and fertilizers are prohibited unless they:
 - (a) Are directly related to a use permitted in the waterside protection area,
 - (b) Address an imminent threat to public health and safety, or
 - (c) Result in enhancement of water quality, and enhancement or maintenance of stormwater conveyance capacity, flood control capacity, groundwater discharge and recharge capacity and wildlife habitat.

Section 12. Subsection (3) of Section 9.4760 of the Eugene Code, 1971, is deleted.

Section 13. Section 9.4815 of the Eugene Code, 1971, is amended to provide:

9.4815 /WB Wetland Buffer Overlay Zone Siting Requirements. The /WB overlay zone applies to property adjacent to wetlands identified for protection in the West Eugene Wetlands Plan that meet the approval criteria of EC 9.8865.

Section 14. The first paragraph of Section 9.4820 of the Eugene Code, 1971, is amended to provide:

9.4820 Wetland Buffer Areas. /WB areas shall consist of the area between the jurisdictional wetland boundary accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers and the /WB setback line specified in this section. Standard /WB setback distances are determined by the value category of the adjacent wetland, and whether the buffer setback area is enhanced. Wetland value categories are defined according to the criteria contained in the West Eugene Wetlands Plan. Areas developed prior to May 24, 1995 are excluded from /WB areas. For purposes of this section, development means buildings or other substantial structures, including paved or gravel parking areas. For purposes of this section, fences and landscaping do not constitute "development" to warrant exclusion from the /WB overlay zone. Graded and graveled areas are exempt under these provisions only when they were constructed prior to May 24, 1995, and only if they were constructed as an essential

component of the development of the site. /WB areas are based on the following:

Section 15. Subsection (2)(a)5. of Section 9.4830 of the Eugene Code, 1971, is amended, and a new Subparagraph (2)(d) is added thereto, to provide:

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:

(a) Uses Permitted Outright. The following uses are permitted within /WB areas, subject to the provisions in EC 9.4840 Prohibited Practices:

5. Maintenance of existing utility easements to maintain access and promote safety, as required by local policies, state and federal regulations, and intergovernmental agreements.

(d) Review process. For areas on the city's acknowledged Goal 5 inventory, all development proposed within the wetland buffer sub-district shall be reviewed in accordance with Type II procedures except when the applicant can clearly show that proposed development will occur completely outside of the largest applicable wetland buffer area. This site plan approval shall be based upon conformance with the Natural Resource Zone Development Standards at EC 9.2530.

Section 16. A new Section 9.6010, is added to the Eugene Code, 1971, to provide:

9.6010 Applications Proposing Needed Housing.

(1) As used in EC chapter 9.6000, the term "applications proposing needed housing" 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 development permits for uses permitted outright in the subject zone if the applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.

(2) The term does not include an application that could have proceeded under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520, but the applicant elected to proceed under the discretionary approval process.

Section 17. Section 9.6220 of the Eugene Code, 1971, is amended, to provide:

9.6220 Installation and Maintenance. Except for applications proposing needed housing,

installed plant materials shall meet current nursery industry standards, including necessary soil depth and quality. All required landscape areas soils shall extend to the native soil. Plant materials shall be properly supported to ensure survival. Support devices such as guy wires or stakes shall not interfere with vehicular or pedestrian movement. Maintenance of landscaped areas is the ongoing responsibility of the property owner. All landscaping shall be installed and maintained to protect it from vehicular damage through the use of curbing, to provide adequate vision clearance, and to maintain plant materials in a healthy and attractive manner. Required shrubs and trees shall not be pruned or sheared below their code-required spread or height.

Section 18. Subsection (3) of Section 9.6505 of the Eugene Code, 1971, is amended to provide:

9.6505 Improvements - Specifications. All public improvements shall be designed and constructed in accordance with adopted plans and policies, the procedures specified in Chapter 7 of this code, and standards and specifications adopted pursuant to Chapter 7 of this code. Additionally, all developments shall make and be served by the following infrastructure improvements:

- (3) **Streets and Alleys.** The developer shall grade and pave all streets and alleys in the development site and, except for applications proposing needed housing, the city manager may require the developer to pave streets and alleys that are impacted by the development. All paving shall be to the width specified in EC 9.6879 Street Width and provide for drainage of all such streets and alleys, and construct curbs and gutters within the development site according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code and other adopted plans and policies. Private streets and alleys are prohibited unless the developer can demonstrate to the satisfaction of the planning director that a public street is not necessary for compliance with this land use code and EC 9.6815 Connectivity for Streets. Private streets shall be designed and constructed according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code.

Section 19. The first paragraph and Subsection (1) of Section 9.6510 of the Eugene Code, 1971, are amended to provide:

9.6510 Stormwater Drainage. Except for applications proposing needed housing, the city manager may require the applicant to provide adequate drainage for new development by constructing storm water drainage facilities and dedicating to the public easements approved by the city as adequate for the drainage needs of the area, provided the city

makes findings to demonstrate consistency with constitutional requirements. Stormwater drainage facilities shall be designed and constructed according to adopted plans and policies, and in accordance with standards in Chapters 6 and 7 of this code. The conveyance of ownership or dedication of easements may be required in any of the following circumstances:

- (1) (a) Except for areas on the city's acknowledged Goal 5 inventory, where the subject property in the proposed development is or will be periodically subject to accumulations of surface water or is traversed by any open drainage way, headwater, stream, creek, wetland, spring, or pond, including those not maintained by the city which drain onto or from city-owned property or into city maintained facilities.
- (b) For areas on the city's acknowledged Goal 5 inventory, where the subject property in the proposed development is or will be periodically subject to accumulations of surface water or is traversed by any water course or channel.

Section 20. Subsection (3) of Section 9.6710 of the Eugene Code, 1971, is amended by adding new subsections (f) and (g) thereto, to provide:

9.6710 Geological and Geotechnical Analysis.

- (3) **Exemptions from Geological and Geotechnical Analysis Requirements.** The following activities are exempt from the requirements of this section:

- (f) Activities on land included on the city's acknowledged Goal 5 inventory.
- (g) Development activities that are part of an application proposing needed housing.

Section 21. Subsection (4) of Section 9.6715 of the Eugene Code, 1971, is hereby deleted.

Section 22. Subsections (3)(d) and (3)(e) of Section 9.6730 of the Eugene Code, 1971, are deleted.

Section 23. Section 9.6805 of the Eugene Code, 1971, is amended to provide:

9.6805 Dedication of Public Ways. As a condition of any development, the city may require dedication of public ways for bicycle and/or pedestrian use as well as for streets and alleys, provided the city makes findings to demonstrate consistency with constitutional requirements. Except for applications proposing needed housing, the public ways to be dedicated to the public by the applicant shall be of such design and location as necessary to facilitate provision for the transportation and access needs of the community and subject property according to EC 9.0020 Purpose.

Section 24. Subsection (2) of Section 9.6815 of the Eugene Code, 1971, is amended, to provide:

9.6815 Connectivity for Streets.

(2) Street Connectivity Standards.

- (a) All streets and alleys shall be public unless the developer demonstrates that a public street or alley is not necessary for compliance with this land use code or the street connectivity standards of subparagraphs (b) to (g) of this subsection.
- (b) The proposed development shall include street connections in the direction of all existing or planned streets within 1/4 mile of the development site. The proposed development shall also include street connections to any streets that abut, are adjacent to, or terminate at the development site. Secondary access for fire and emergency medical vehicles is required.
- (c) The proposed development shall include streets that extend to undeveloped or partially developed land that is adjacent to the development site or that is separated from the development site by a drainage channel, transmission easement, survey gap, or similar property condition.
- (d) Except for applications proposing needed housing, all applicants shall show that the streets shall be in locations that will not prevent the adjoining property from developing consistent with applicable standards.
- (e) Except for applications proposing needed housing, all applicants shall show that the proposed street alignment shall minimize excavation and embankment and avoid impacts to natural resources, including water-related features.
- (f) Except for applications proposing needed housing, the requirements of subparagraphs (b) and (c) of this subsection do not apply if it is demonstrated that a connection cannot be made because of the existence of one or more of the following conditions:
 - 1. 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.
 - 2. 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.
- (g) In cases where a required street connection would result in the extension

of an existing street that is not improved to city standards and the street has an inadequate driving surface, the developer shall construct a temporary barrier at the entrance to the unimproved street section with provision for bicycle, pedestrian, and emergency vehicle access. The barrier shall be removed by the city at the time the existing street is improved to city standards or to an acceptable standard adopted by the public works director. In making a determination of an inadequate driving surface, the public works director shall consider the street rating according to Eugene's Paving Management System and the anticipated traffic volume.

- (h) The standards in this subsection (2) may be adjusted if consistent with the criteria of EC 9.8030(12)(a) of this land use code.

Section 25. Subsection (2) of Section 9.6820 of the Eugene Code, 1971, is deleted, Subsections (1)(b) and (5) are amended, and Subsections (3), (4), (5) and (6) are renumbered (2), (3), (4) and (5) respectively, to provide:

9.6820 Cul-de-Sacs.

- (1) All streets that terminate shall be designed as a cul-de-sac bulb, except when any of the following conditions exist:
 - (b) Topographic constraints, existing development, or natural features prevent the construction of a bulb. This subsection does not apply to applications proposing needed housing.
- (2) If a street qualifies for an exception under subsection (1)(b) or (1)(c), a hammerhead turnaround shall be substituted where possible.
- (3) There shall be no cul-de-sacs more than 400 feet long from the centerline of the intersecting street to the radius point of the cul-de-sac bulb.
- (4) The planning director shall require public accessways from a cul-de-sac longer than 150', measured from the centerline of the intersecting street to the radius point of the cul-de-sac to provide safe, convenient, and direct circulation for pedestrians, bicyclists, and emergency vehicles.
- (5) An adjustment may be granted to the maximum cul-de-sac length if consistent with the criteria for adjustment of EC 9.8030(12)(b) of this land use code.

Section 26. Subsections (1) and (2) of Section 9.6835 of the Eugene Code, 1971, are amended to provide:

9.6835 Public Accessways.

- (1) Except for applications proposing needed housing, when necessary to provide

safe, convenient and direct access for pedestrians and bicyclists to and from nearby residential areas, transit stops, neighborhood activity centers, and other commercial and industrial areas, or where required by adopted plans, the city shall require within the development the dedication to the public and improvement of accessways to connect to cul-de-sacs, or to pass through blocks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists. Public accessways shall conform to design standards for accessways contained in the "Design Standards for Eugene Streets, Sidewalks, Bikeways and Accessways".

- (2) Except for applications proposing needed housing, when necessary to provide connectivity, the city shall require improvements to existing unimproved public accessways on properties adjacent to the development, provided the city makes findings to demonstrate consistency with constitutional requirements. Said improvements to unimproved public accessways shall connect to the closest public street or developed accessway. Where possible, accessways may also be employed to accommodate the uses included in EC 9.6500 Easements.

Section 27. Section 9.6845 of the Eugene Code, 1971, is amended to provide:

- 9.6845 Special Safety Requirements.** Except for applications proposing needed housing, 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 28. Section 9.6850 of the Eugene Code, 1971, is amended to provide:

- 9.6850 Street Classification Map.** The November 1999 Street Classification Map adopted by Ordinance No. 20181 and as amended by Ordinance thereafter, shall be the basis for determining the correct classification of a street as a major arterial, minor arterial, major collector, or neighborhood collector in order to meet transportation, access, and safety needs of an area and for determining the dedication, design and location of streets to be required, other than local streets as described in the Eugene Local Street Plan. In the event any conflict exists between any street classification contained in the November 1999 Street Classification Map and a classification contained in any other ordinance, resolution, order or plan, except local streets in the Eugene Local Street Plan, the descriptions in the November 1999 Street Classification Map shall control.

Section 29. Subsections (1) and (2) of Section 9.6865 of the Eugene Code, 1971, are

amended to provide:

9.6865 Transit Facilities.

- (1) Except for applications proposing needed housing, 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 needed housing, 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 30. Subsections (1)(c) and (2) of Section 9.6885 of the Eugene Code, 1971, are amended to provide:

9.6885 Tree Preservation and Removal Standards.

- (1) **Exemptions from Standards.** The standards in this section do not apply to an application for development activity that includes or will result in:
 - (a) **Residential Lots Under 20,000 Square Feet.** Removal of significant trees from a parcel of property not subject to the provisions of subsection (c) of this section with an area of less than 20,000 square feet when:
 1. Such parcel is occupied by a one-family dwelling, secondary dwelling, or duplex;
 2. An application to construct a one-family dwelling, secondary dwelling, or duplex on such lot is being reviewed by the city. However, no significant trees may be removed prior to the approval of the development permit; or
 3. The city has entered into an agreement authorizing the start of construction for a one-family dwelling, secondary dwelling, or duplex.
 - (b) **Lots 20,000 Square Feet or Larger.** Removal of up to 5 significant trees within a period of 12 consecutive months from a parcel of property not subject to the provisions of subsection (c) of this section consisting of 20,000 or more square feet of area;
 - (c) **Land Use Approvals.** Any tree removal on property subject to an approved conditional use permit, planned unit development, site review, or subdivision that include a tree removal/preservation plan or conditions related to tree removal or retention. In those areas, that plan or city

approved modifications thereto control tree removal. This exemption does not apply to the removal of a street tree, which must be authorized by a permit issued pursuant to EC 6.305;

- (d) Tree Removal Permit. Any tree removal specifically authorized by, and carried out in conformity with a city-approved tree removal permit under EC Chapter 6.
- (e) Habitat Restoration. Removal of trees by the city or as authorized by the city for the purpose of implementation of a city-approved habitat restoration plan, and the express purpose of the plan is to restore native plant communities, enhance fish or wildlife habitat, or similar restoration purposes;
- (f) Hazardous Trees.
 - 1. The removal of hazardous trees on private property, provided that prior to removal the property owner submits to the city a written evaluation of each tree proposed for removal prepared by a certified arborist declaring the tree(s) to be hazardous and recommending immediate removal. The written evaluation shall be on a form prescribed by the city manager pursuant to section 2.019 City Manager - Administrative and Rulemaking Authority and Procedures;
 - 2. The removal of hazardous trees by the city or under contract with the city, on public property or street right-of-way, provided the city's urban forester issues a written evaluation of each tree proposed for removal declaring the tree(s) to be hazardous and recommending immediate removal;
- (g) Fire Hazard Abatement. Removal of trees that the city fire marshal has declared in writing poses a potential fire hazard to existing structures; or
- (h) Diseased or Dying Trees. Removal of a diseased or dying tree, provided that prior to its removal the property owner submits to the city a written evaluation of the tree prepared by a certified arborist certifying the unhealthy condition of the tree and recommending its immediate removal. The written evaluation shall be on a form prescribed by the city manager pursuant to section 2.019 City Manager - Administrative and Rulemaking Authority and Procedures.
- (2) **Tree Preservation and Removal Standards**. No permit for a development activity subject to this section shall be approved until the applicant submits plans or information, including a written report by a certified arborist, that demonstrates compliance with the following standards:
 - (a) The materials submitted shall reflect that consideration has been given to preservation in accordance with the following priority:
 - 1. Significant trees located adjacent to or within waterways or wetlands designated by the city for protection, and areas having slopes greater than 25%;
 - 2. Significant trees within a stand of trees; and

3. Individual significant trees.
- (b) 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.
- (3) **Adjustment to Standards.** Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - Needed Housing, EC 9.8325 Tentative Planned Unit Development Approval Criteria - Needed Housing, EC 9.8445 Site Review Approval Criteria - Needed Housing, or EC 9.8520 Subdivision, Tentative Plan Approval Criteria - Needed Housing, adjustments to these standards may be made, subject to compliance with the criteria for adjustment in EC 9.8030(13) Tree Preservation and Removal Standards Adjustment.

Section 31. Subsections (2) and (3) of Section 9.8055 of the Eugene Code, 1971, are amended, and a new Subsection (8) is added thereto, to provide:

- 9.8055** **Cluster Subdivision- Approval Criteria - General.** 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:
- (2) For areas not included on the city's acknowledged Goal 5 inventory, the proposed subdivision includes at least 25% of the development site in common open space that either is suitable area for natural resource protection or for use by residents. Areas used for motor vehicle parking and maneuvering shall not be considered as open space.
 - (3) For areas not included on the city's acknowledged Goal 5 inventory, the proposed subdivision shall maintain open space around natural features, such as steep slopes, wooded areas, and natural waterways or wetlands where those exist, or create common open space with amenities for community activities for residents such as picnic areas, playgrounds, sports features, or gardens.
 - (8) For areas included on the city's acknowledged Goal 5 inventory, natural resource protection shall be consistent with the acknowledged level of protection provided for the resource.

Section 32. Subsection (5) of Section 9.8090 of the Eugene Code, 1971, is amended to provide:

- 9.8090** **Conditional Use Permit Approval Criteria - General.** A conditional use permit shall be granted only if the proposal conforms to all of the following criteria:
- (5) The proposal is designed and sited to minimize impacts to the natural

environment by addressing the following:

(a) Protection of Natural Features.

1. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under state or federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under state or federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors and riparian areas.
 - e. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
2. For areas included on the city's acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.

(b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:

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

(c) Restoration or Replacement.

1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible,

the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:

- a. Planting of replacement trees within common areas; or
- b. Re-vegetation of slopes, ridgelines, and stream corridors; or
- c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.

2. For areas included on the city's acknowledged Goal 5 inventory, any loss of natural features shall be consistent with the acknowledged level of preservation provided for the resource.

- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.

Section 33. Subsections (3) and (4) of Section 9.8100 of the Eugene Code, 1971, are amended to provide:

9.8100 Conditional Use Permit Approval Criteria- Needed Housing. The hearings official shall approve, conditionally approve, or deny the conditional use permit application. Unless the applicant elects to use the general criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions a conditional use based on compliance with the following criteria:

- (3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:
 - (a) The proposal complies with EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.
 - (b) Natural resource areas designated on the Metro Plan diagram as "Natural Resource" are protected. Protection shall include the area of the resource and a minimum 50 foot buffer around the perimeter of the natural resource area.
- (4) The proposal complies with all applicable standards, including, but not limited to:
 - (a) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (b) EC 9.6730 Pedestrian Circulation On-Site.

- (c) EC 9.6735 Public Access Required.
- (d) EC 9.6750 Special Setback Standards.
- (e) EC 9.6775 Underground Utilities.
- (f) EC 9.6780 Vision Clearance Area.
- (g) 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.

Section 34. Subsections (2), (5) of Section 9.8220 of the Eugene Code, 1971, are amended,

Subsection (6) is deleted, and Subsection (7) is renumbered and amended, to provide:

9.8220 Partition, Tentative Plan Approval Criteria- Needed Housing. The planning director shall approve, conditionally approve, or deny the partition application. Unless the applicant elects to use the general criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a partition based on compliance with the following criteria:

- (2) The proposed partition complies with all of the following:
 - (a) Lot standards of EC 9.2000 through 9.3915 regarding applicable parcel dimensions and density requirements.
 - (b) EC 9.6800 through EC 9.6870 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6510 Public Improvement Standards.
 - (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (e) EC 9.6735 Public Access Required.
 - (f) EC 9.6750 Special Setback Standards.
 - (g) EC 9.6775 Underground Utilities.
 - (h) EC 9.6780 Vision Clearance Area.
 - (i) EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - (j) 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) 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 Metro Plan Land Use Diagram, as refined in any applicable refinement plan.
 - (b) The street layout of the proposed partition shall disperse motor vehicle traffic onto more than one public local street when the sum of proposed

partition parcels and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.

- (6) If the partition results in a parcel greater than 13,500 square feet in size, 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.

Section 35. Subsection (4) of Section 9.8320 of the Eugene Code, 1971, is amended, to provide:

9.8320 Tentative Planned Unit Development Approval Criteria- General. 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:

- (4) The PUD is designed and sited to minimize impacts to the natural environment by addressing the following:
- (a) Protection of Natural Features. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
1. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.
 2. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 3. Prominent topographic features, such as ridgelines and rock outcrops.
 4. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 5. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
- (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:
1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
 2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
 3. Trees that fulfill a screening function, provide relief from glare, or

- shade expansive areas of pavement;
- 4. Trees that provide a buffer between potentially incompatible land uses;
- 5. Trees located along the perimeter of the lot(s) and within building setback areas;
- 6. Trees and stands of trees located along ridgelines and within view corridors;
- 7. Trees with significant habitat value;
- 8. Trees adjacent to public parks, open space and streets.
- 9. Trees located along a water feature.
- 10. Heritage trees.

(c) Restoration or Replacement.

- 1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:

- a. Planting of replacement trees within common areas; or
- b. Re-vegetation of slopes, ridgelines, and stream corridors; or
- c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.

- 2. For areas included on the city's acknowledged Goal 5 inventory, any loss of significant natural features described in criteria (a) and (b) above shall be consistent with the acknowledged level of protection for the features.

- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305.

Section 36. Subsections (4), (6) and (7) of Section 9.8325 of the Eugene Code, 1971, are amended, Subsections (8), (9), and (10) are deleted, and Subsections (11), (12), and (13) are renumbered (8), (9), and (10) respectively, to provide:

9.8325 Tentative Planned Unit Development Approval Criteria - Needed Housing.

The hearings official shall approve, conditionally approve, or deny the PUD application with findings and conclusions. Unless the applicant elects to use the general criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General, where the applicant proposes needed housing, as defined

by the State statutes, the hearings official shall approve or approve with conditions a PUD based on compliance with the following criteria:

- (4) For areas not included on the city's acknowledged Goal 5 inventory, the PUD preserves existing natural resources by compliance with all of the following:
 - (a) The provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards, (not subject to modifications set forth in subsection (9) below.
 - (b) Natural resource areas designated on the Metro Plan diagram as "Natural Resource" are protected.
- (6) The PUD provides safe and adequate transportation systems through compliance with all of the following:
 - (a) EC 9.6800 through EC 9.6870 Standards for Streets, Alleys, and Other Public Ways (not subject to modifications set forth in subsection (9) below).
 - (b) The street layout of the proposed PUD shall disperse motor vehicle traffic onto more than one public local street when the PUD exceeds 19 lots or when the sum of proposed PUD lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.
- (7) The PUD complies with all of the following:
 - (a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone.
 - (b) EC 9.6500 through 9.6510 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (d) EC 9.6730 Pedestrian Circulation On-Site.
 - (e) EC 9.6735 Public Access Required
 - (f) EC 9.6750 Special Setback Standards.
 - (g) EC 9.6775 Underground Utilities.
 - (h) EC 9.6780 Vision Clearance Area.

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.
- (8) Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards (these standards may be modified as set forth in subsection (12) below).
- (9) The PUD complies with all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.
- (10) 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 900 feet except that one dwelling may be built on any lot in existence as of August 1,

2001.

- (b) Development 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 trail shall be considered as the line indicated as being the urban growth boundary within the South Hills Study plan area.
- (c) Development shall cluster buildings in an arrangement that results in at least 40% of the development site being retained in 3 or fewer contiguous common open space areas. For purposes of this section, the term contiguous open space means open space that is uninterrupted by buildings, structures, streets, or other improvements.
- (d) 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.

Section 37. Subsection (2) of Section 9.8440 of the Eugene Code, 1971, is amended, and a new Subsection (7) is added thereto, to provide:

9.8440 Site Review Approval Criteria- General. 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:

- (2) Proposed lots, buildings, streets, parking lots, recreation areas, and other proposed uses are designed and sited to minimize impacts to the natural environment by addressing the following:
 - (a) Protection of Natural Features. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - 1. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.
 - 2. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 - 3. Prominent topographic features, such as ridgelines and rock outcrops.
 - 4. Wetlands, intermittent and perennial stream corridors, and riparian areas.

5. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
- (b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:
1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
 2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
 3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
 4. Trees that provide a buffer between potentially incompatible land uses;
 5. Trees located along the perimeter of the lot(s) and within building setback areas;
 6. Trees and stands of trees located along ridgelines and within view corridors;
 7. Trees with significant habitat value;
 8. Trees adjacent to public parks, open space and streets.
 9. Trees along water features.
 10. Heritage trees.
- (c) Restoration or Replacement.
1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.335 and rules adopted thereunder.
 2. For areas included on the city's acknowledged Goal 5 inventory, any loss of significant natural features described in criteria (a) and (b) above shall be consistent with the acknowledged level of protection for the features.
- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.

- (e) Parking. There is a need for parking in the area and the proposed parking area will provide shared parking.
- (7) Any additional specific factors applied at the time the /SR designation was applied.

Section 38. Subsections (3) and (4) of Section 9.8445 of the Eugene Code, 1971, are amended, to provide:

9.8445 Site Review Approval Criteria- Needed Housing. The planning director shall approve, conditionally approve, or deny the site review application. Unless the applicant elects to use the general criteria contained in EC 9.8440 Site Review Approval Criteria - General, where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a site review based on compliance with the following criteria:

- (3) For areas not included on the city's acknowledged Goal 5 inventory, the proposal will preserve existing natural resources by compliance with all of the following:
 - (a) The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - (b) Natural resource areas designated on the Metro Plan diagram as "Natural Resource" are protected.
- (4) The proposal complies with all of the following standards:
 - (a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone.
 - (b) EC 9.6500 through 9.6510 Public Improvement Standards.
 - (c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
 - (d) EC 9.6730 Pedestrian Circulation On-Site.
 - (e) EC 9.6735 Public Access Required.
 - (f) EC 9.6750 Special Setback Standards.
 - (g) EC 9.6775 Underground Utilities.
 - (h) EC 9.6780 Vision Clearance Area.
 - (i) 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.

Section 39. Subsection (7) of Section 9.8515 of the Eugene Code, 1971, is amended to provide:

9.8515 Subdivision, Tentative Plan Approval Criteria - General. 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:

(7) The proposed subdivision is designed and sited such that roads, infrastructure, utilities, and future development of proposed lots will minimize impacts to the natural environment by addressing the following:

(a) Protection of Natural Features.

1. For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under state or federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 - e. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
2. For areas included on the city's acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.

(b) Tree Preservation. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:

1. Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;
2. Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;
3. Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;
4. Trees that provide a buffer between potentially incompatible land uses;
5. Trees located along the perimeter of the lot(s) and within building setback areas;
6. Trees and stands of trees located along ridgelines and within view corridors;

7. Trees with significant habitat value;
 8. Trees adjacent to public parks, open space and streets.
 9. Trees along water features.
 10. Heritage trees.
- (c) Restoration or Replacement.
1. For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:
 - a. Planting of replacement trees within common areas; or
 - b. Re-vegetation of slopes, ridgelines, and stream corridors; or
 - c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.
 2. For areas included on the city's acknowledged Goal 5 inventory, any loss of natural features shall be consistent with the acknowledged level of protection provided for the resource.
- (d) Street Trees. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.

Section 40. Subsection (7) of Section 9.8520 of the Eugene Code, 1971, is deleted, Subsections (3), (6) and (8) are amended, and Subsections (8), (9), (10) and (11) are renumbered (7), (8), (9) and (10) respectively, to provide:

9.8520 **Subdivision, Tentative Plan Approval Criteria- Needed Housing.** The planning director shall approve, conditionally approve, or deny the subdivision application. Unless the applicant elects to use the general criteria contained in EC 9.8515 **Subdivision, Tentative Plan Approval Criteria- General,** where the applicant proposes needed housing, as defined by the State statutes, the planning director shall approve or approve with conditions a subdivision based on compliance with the following criteria:

- (3) The proposed subdivision complies with all of the following:
 - (a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone.
 - (b) EC 9.6800 through EC 9.6870 Standards for Streets, Alleys, and Other Public Ways.
 - (c) EC 9.6500 through EC 9.6510 Public Improvement Standards.

- (d) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.
- (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.

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 proposed subdivision provides safe and adequate transportation systems through compliance with the following: the street layout of the proposed subdivision shall disperse motor vehicle traffic onto more than one public local street when the subdivision exceeds 19 lots or when the sum of proposed subdivision lots and the existing lots utilizing a local street as the single means of ingress and egress exceeds 19.
- (7) For areas not included on the city's acknowledged Goal 5 inventory, the subdivision will preserve existing natural resources by compliance with all of the following:
 - (a) The proposal complies with EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.
 - (b) Natural resource areas designated on the Metro Plan diagram as "Natural Resource."
- (8) If the subdivision results in a lot greater than 13,500 square feet in size, 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.
- (9) 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.
- (10) 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.

Section 41. That the matters contained herein concern the public health, welfare and safety, and therefore, an emergency is hereby declared to exist, and upon its passage by an affirmative vote of two-thirds of all members of the City Council and approval by the Mayor, this Ordinance shall

become effective on the date of its acknowledgment as provided by ORS 197.625.

Section 42. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 43. 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.

Passed by the City Council this

8th day of May, 2002


City Recorder

Approved by the Mayor this

8th day of May, 2002


Mayor

ORDINANCE NO. 20250

AN ORDINANCE CONCERNING LAND USE REGULATIONS, AMENDING SECTIONS 9.6730, 9.6820 AND 9.8325 OF THE EUGENE CODE, 1971; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

The City Council of the City of Eugene finds that:

A. On February 26, 2001 Ordinance No. 20224 was passed by the City Council and approved by the Mayor, adopting a new land use code for the City (Chapter 9 of the Eugene Code, 1971). Section 7 of that Ordinance was subsequently amended on May 29, 2001 by Ordinance No. 20229 to provide an effective date of August 1, 2001 for Ordinance No. 20224. Some corrections and minor amendments to some provisions of Chapter 9 were effected by Ordinance No. 20235 passed by the City Council and approved by the Mayor on October 8, 2001 and Ordinance No. 20238 passed by the City Council and approved by the Mayor on December 10, 2001.

B. The adoption of Ordinance No. 20224 was appealed to the Land Use Board of Appeals (LUBA) on March 19, 2001. On February 28, 2002, LUBA issued its decision remanding the adoption of Ordinance 20224 back to the City. LUBA's remand of the new land use code was based on its determinations that: 1) some sections contain standards or criteria for "needed housing" applications but are not "clear and objective," 2) some sections decrease or increase the level of protection for areas on the City's acknowledged goal 5 inventory but the City has not yet shown that those changes are consistent with Statewide Planning Goal Five; and 3) some sections could decrease the City's supply of commercial, industrial or residential land but the City has not yet shown that those sections are consistent with Statewide Planning Goals Nine or Ten. The effect of LUBA's

remand is to render Ordinance 20224 ineffective.

C. In response to LUBA's remand, the City will be adopting a series of ordinances which address issues raised by the LUBA remand. Together, the ordinances will result in the readoption of the provisions of Ordinances No. 20224, 20235, and 20238 with deletions and changes necessary to comply with LUBA's ruling and the reinstatement of some provisions from the old (acknowledged) land use code to fill in regulatory gaps caused by such deletions.

D. The City held a public hearing on April 8, 2002 to receive comments on the ordinances (Ordinance 1, Ordinance 2 [this Ordinance], and Ordinance 3). Notice of this public hearing was mailed to the parties of the LUBA appeal. Testimony was accepted from anyone, but was limited to those issues on remand from LUBA. These three ordinances are to be the first three in the series of ordinances described in Recital C. This Ordinance adopts standards that are clear and objective to replace some that were remanded by LUBA.

Now, therefore,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.6730 of the Eugene Code, 1971, is amended by adding a new Subsection (3)(d) thereto, to provide:

9.6730 Pedestrian Circulation On-Site.

(3) **Design of On-Site Pedestrian Facilities.** All on-site pedestrian paths provided for the purposes of complying with this land use code shall conform with the following standards:

(d) On-site pedestrian paths intersected by driving aisles shall be marked with striping or constructed with a contrasting paving material to indicate a pedestrian crossing area.

Section 2. Section 9.6820 of the Eugene Code, 1971 is amended by adding new Subsections (2) and (5) thereto, and renumbering the current Subsections (2), (3), and (4) to (3), (4) and (6) respectively, to provide:

9.6820 Cul-de-Sacs.

- (1) All streets that terminate shall be designed as a cul-de-sac bulb, except when any of the following conditions exist:
 - (a) The street will be extended in the future.
 - (b) Topographic constraints, existing development, or natural features prevent the construction of a bulb. This subsection does not apply to needed housing applications.
 - (c) The street is less than 150 feet long.
- (2) If a street qualifies for exception under subsection (1)(a), a temporary easement shall be provided and a turnaround constructed in an alternative location.
- (3) If a street qualifies for an exception under subsection (1)(a) or (1)(b), a hammerhead turnaround shall be substituted where possible.
- (4) There shall be no cul-de-sacs more than 400 feet long from the centerline of the intersecting street to the radius point of the cul-de-sac bulb.
- (5) The planning director shall require public accessways from a cul-de-sac longer than 150', measured from the centerline of the intersecting street to the radius point of the cul-de-sac to provide safe, convenient, and direct circulation for pedestrians, bicyclists, and emergency vehicles.
- (6) An adjustment may be granted to the maximum cul-de-sac length if consistent with the criteria for adjustment of EC 9.8030(12)(b) of this land use code.

Section 3. Section 9.8325 of the Eugene Code, 1971, is amended by adding new Subsections (8) and (9) thereto, and renumbering the current Subsections (8), (9), and (10) to (10), (11), and (12) respectively, to provide:

9.8325 Tentative Planned Unit Development Approval Criteria - Needed Housing.

The hearings official shall approve, conditionally approve, or deny the PUD application with findings and conclusions. Unless the applicant elects to use the general criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General, where the applicant proposes needed housing, as defined by the State statutes, the hearings official shall approve or approve with conditions a PUD based on compliance with the following criteria:

- (8) 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.
- (9) All proposed dwellings within the PUD are within 1/4 mile radius (measured from any point along the perimeter of the development site) of an accessible recreation area or open space that is at least 1 acre in size and will be available to residents.
- (10) Lots proposed for development with one-family detached dwellings shall comply with EC 9.2790 Solar Lot Standards (these standards may be modified as set forth in subsection (11) below).
- (11) The PUD complies with all applicable development standards explicitly addressed in the application except where the applicant has shown that a modification is consistent with the purposes as set out in EC 9.8300 Purpose of Planned Unit Development.
- (12) 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 900 feet except that one dwelling may be built on any lot in existence as of August 1, 2001.
 - (b) Development 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 trail shall be considered as the line indicated as being the urban growth boundary within the South Hills Study plan area.
 - (c) Development shall cluster buildings in an arrangement that results in at least 40% of the development site being retained in 3 or fewer contiguous common open space areas. For purposes of this section, the term contiguous open space means open space that is uninterrupted by buildings, structures, streets, or other improvements.
 - (d) 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.

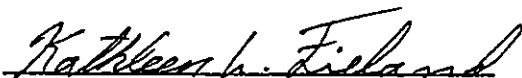
Section 4. That the matters contained herein concern the public health, welfare and safety, and therefore, an emergency is hereby declared to exist, and upon its passage by an affirmative vote of two-thirds of all members of the City Council and approval by the Mayor, this Ordinance shall become effective on the date of its acknowledgment as provided by ORS 197.625, or the effective date of Ordinance No. 20249, whichever is later.

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.

Section 6. 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.

Passed by the City Council this

8th day of May, 2002


City Recorder

Approved by the Mayor this

8th day of May, 2002


Mayor

ORDINANCE NO. 20251

AN ORDINANCE CONCERNING LAND USE REGULATIONS, AMENDING SECTIONS 9.8320 AND 9.8440 OF THE EUGENE CODE, 1971; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

The City Council of the City of Eugene finds that:

A. On February 26, 2001 Ordinance No. 20224 was passed by the City Council and approved by the Mayor, adopting a new land use code for the City (Chapter 9 of the Eugene Code, 1971). Section 7 of that Ordinance was subsequently amended on May 29, 2001 by Ordinance No. 20229 to provide an effective date of August 1, 2001 for Ordinance No. 20224. Some corrections and minor amendments to some provisions of Chapter 9 were effected by Ordinance No. 20235 passed by the City Council and approved by the Mayor on October 8, 2001 and Ordinance No. 20238 passed by the City Council and approved by the Mayor on December 10, 2001.

B. The adoption of Ordinance No. 20224 was appealed to the Land Use Board of Appeals (LUBA) on March 19, 2001. On February 28, 2002, LUBA issued its decision remanding the adoption of Ordinance 20224 back to the City. LUBA's remand of the new land use code was based on its determinations that: 1) some sections contain standards or criteria for "needed housing" applications but are not "clear and objective," 2) some sections decrease or increase the level of protection for areas on the City's acknowledged goal 5 inventory but the City has not yet shown that those changes are consistent with Statewide Planning Goal Five; and 3) some sections could decrease the City's supply of commercial, industrial or residential land but the City has not yet shown that those sections are consistent with Statewide Planning Goals Nine or Ten. The effect of LUBA's remand is to render Ordinance 20224 ineffective.

C. In response to LUBA's remand, the City will be adopting a series of ordinances which address issues raised by the LUBA remand. Together, the ordinances will result in the readoption of the provisions of Ordinances No. 20224, 20235, and 20238 with deletions and changes necessary to comply with LUBA's ruling and the reinstatement of some provisions from the old (acknowledged) land use code to fill in regulatory gaps caused by such deletions.

D. The City held a public hearing on April 8, 2002 to receive comments on the ordinances (Ordinance 1 , Ordinance 2 and Ordinance 3 [this ordinance]). Notice of this public hearing was mailed to the parties of the LUBA appeal. Testimony was accepted from anyone, but was limited to those issues on remand from LUBA. These three ordinances are to be the first three in the series of ordinances described in Recital C. This Ordinance simply carried forward provisions from the City's existing, acknowledged land use code in order to fill in regulatory gaps left by deletions or limitations necessitated by LUBA's remand.

Now, therefore,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Subsection (4)(a) of Section 9.8320 of the Eugene Code, 1971 is amended to provide:

9.8320 Tentative Planned Unit Development Approval Criteria- General. 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:

- (4) The PUD is designed and sited to minimize impacts to the natural environment by addressing the following:
 - (a) Protection of Natural Features.
 1. For areas not included on the City's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:

- a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 - e. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
2. For areas included on the City's acknowledged Goal 5 inventory:
- a. The proposed development's general design and character, including but not limited to anticipated building locations, bulk and height, location and distribution of recreation space, parking, roads, access and other uses, will:
 - (1) Avoid unnecessary disruption or removal of attractive natural features and vegetation, and
 - (2) Avoid conversion of natural resource areas designated in the Metropolitan Area General Plan to urban uses when alternative locations on the property are suitable for development as otherwise permitted.
 - b. Proposed buildings, road, and other uses are designed and sited to assure preservation of significant on-site vegetation, topographic features, and other unique and worthwhile natural features, and to prevent soil erosion or flood hazard.

Section 2. Subsection (2) of Section 9.8440 of the Eugene Code, 1971, is amended to provide:

9.8440 Site Review Approval Criteria- General. 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:

- (2) Proposed lots, buildings, streets, parking lots, recreation areas, and other proposed uses are designed and sited to minimize impacts to the natural environment by addressing the following:

(a) Protection of Natural Features.

1. For areas not included on the City's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:
 - a. Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.
 - b. All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).
 - c. Prominent topographic features, such as ridgelines and rock outcrops.
 - d. Wetlands, intermittent and perennial stream corridors, and riparian areas.
 - e. Natural resource areas designated in the Metro Plan diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.
2. For areas included on the City's acknowledged Goal 5 inventory the applicant shall show that it has given due consideration to the preservation of attractive and distinctive historical and natural features.

Section 3. That the matters contained herein concern the public health, welfare and safety, and therefore, an emergency is hereby declared to exist, and upon its passage by an affirmative vote of two-thirds of all members of the City Council and approval by the Mayor, this Ordinance shall become effective on the date of its acknowledgment as provided by ORS 197.625, or the effective date of Ordinance No. 20249, whichever is later.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. 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.

Passed by the City Council this

8th day of May, 2002

Kathleen L. Fieland
City Recorder

Approved by the Mayor this

8th day of May, 2002

James D. Vukobratovich
Mayor

ORDINANCE NO. 20263

AN ORDINANCE CONCERNING NODAL DEVELOPMENT;
AMENDING SECTIONS 9.4250, 9.4280, AND 9.4290 OF THE
EUGENE CODE, 1971; ADOPTING A SEVERABILITY
CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.4250 of the Eugene Code, 1971, is amended to provide:

- 9.4250 Purpose of /ND Nodal Development Overlay Zone. The /ND Nodal Development overlay zone is intended to direct and encourage development that is supportive of nodal development and to protect identified nodal development areas from incompatible development prior to adoption of nodal development plans and implementing land use regulations. An adopted development plan for a specific node may recommend the /ND Nodal Development overlay zone as the sole implementing land use regulation for all or part of a nodal development area. It is intended that each node identified by the /ND overlay zone achieve an average overall residential density of at least 12 units per net residential acre.

Section 2. Subsection (2) of Section 9.4280 of the Eugene Code, 1971, is amended to provide:

- 9.4280 Prohibited Uses and Special Use Limitations.

(2) Special Use Limitations.

- (a) No use may include a drive-through facility.
- (b) No new building designed to be occupied by retail uses may exceed 50,000 square feet of building area on the ground floor and only one such new building may contain 50,000 square feet of building area on the ground floor.

Section 3. Subsection (1)(a) of Section 9.4290 of the Eugene Code, 1971, is amended to provide:

- 9.4290 Density and Development Standards. In addition to the requirements of the base zone, the following standards shall apply:
- (1) Minimum Residential Density and Floor Area Ratio (FAR).

- (a) Where the base zone is R-1 or R-1.5, new subdivisions shall achieve a minimum residential density of 8 units per net acre. Minimum residential density in R-2 shall be 15 units per net acre; in R-3 it shall be 25 units per net acre; and in R-4 it shall be 30 units per net acre.

Section 4. The Legislative Findings set forth in the attached Exhibit A serve as support for this Ordinance, but are not adopted.

Section 5. 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 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 7. Notwithstanding the effective date of ordinances as provided in the Eugene Charter of 1976, this Ordinance shall become effective 30 days from the date of its passage by the City Council and approval by the Mayor, or upon the date of its acknowledgment as provided by ORS 197.625, whichever is later.


Passed by the City Council this

30th day of October, 2002


City Recorder

Approved by the Mayor this

30th day of October, 2002


Mayor

Ordinance - 2

ORDINANCE NO. 20269

**AN ORDINANCE CONCERNING LAND USE
REGULATIONS, AMENDING CHAPTER 9 OF THE EUGENE
CODE, 1971, ADOPTING A SEVERABILITY CLAUSE, AND
PROVIDING AN EFFECTIVE DATE.**

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The definitions of "Assisted Living," "Lot," "Manufactured Home/Manufactured Dwelling," "Nursing Home," and "Parcel" set forth in Section 9.0500 of the Eugene Code, 1971, are amended to provide:

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

Assisted Care. The 24-hour care and boarding of persons by a paid caregiver who is not the parent or guardian of and is not related by blood, marriage, or legal adoption to the persons served, or other support services for adult transitory individuals. Services provided may include the training or rehabilitation for physically, mentally, or socially dependent persons requiring assisted living care. Services provided may also include meals, housekeeping, and personal care assistance. "Assisted Care" does not include temporary housing or other support services for adult transitory individuals. For purposes of determining residential density, if the design of the facility does not contain dwellings, as defined in this land use code, then every 1.5 beds equals 1 dwelling. Fractional dwellings shall be rounded to the next highest integer, e.g., 2 beds equals 2 dwellings.

Lot. A unit of land that is created by the subdivision of land as provided for in this land use code. Otherwise, the words "lot" and "parcel" are used interchangeably. (Note: See also definition of "Parcel," "Legal Lot," and "Lot of Record.")

Manufactured Home/Manufactured Dwelling. A "manufactured home" is a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. A "manufactured dwelling" includes a residential trailer, a structure constructed for movement on the public highways that has sleeping, cooking

and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and was constructed before January 1, 1962, a mobile home meeting the above requirements that was constructed between January 1, 1962 and June 15, 1976 and met the construction requirements of Oregon mobile home law in effect at the time of construction, and a manufactured home meeting the above requirements. "Manufactured dwelling" does not mean any building or structure constructed to conform to the State of Oregon Structural Specialty Code or the One and Two-Family Dwelling Code adopted pursuant to ORS 455.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer. A manufactured home accessory building or structure includes:

(A) Any portable, demountable or permanent structure established for use of the occupant of the manufactured structure and as further defined by rule of the Director of the State Department of Consumer and Business Services.

Nursing Home. A residence, institution, or other place other than a hospital or assisted care facility that operates and maintains facilities providing 24-hour convalescent or chronic care, or both, for 2 or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick. For purposes of determining residential density, if the design of the facility does not contain dwellings, as defined in this land use code, then every 1.5 beds equals 1 dwelling. Fractional dwellings shall be rounded to the next highest integer, e.g. 2 beds equals 2 dwellings.

Parcel. A unit of land that is created by the partition of land as provided for in this land use code. See also "Lot of Record," "Legal Lot," and "Lot."

Section 2. The "Residential Dwellings" category, "Assisted Living and Day Care" category, and the entries for "Book Store," "Drug Store (excluding Drug Treatment Centers)," "Healthcare Equipment and Supplies," and "Office Equipment and Supplies" of the "Trade" category of Table 9.2160 in Section 9.2160 of the Eugene Code, 1971, are amended to provide:

Table 9.2160 (a) Commercial Zone Land Use and Permit Requirements					
	C-1	C-2	C-3	C-4	C-5
Residential Dwellings					
One-Family Dwelling	P(6)	P(6)			
Rowhouse (One-Family on Own Lot Attached to Adjacent Residence on Separate Lot with Garage or Carport Access to the Rear of the Lot)	S(6)	S(6)			P
Duplex (Two-Family Attached on Same Lot)	P(6)	P(6)			P

Table 9.2170 Commercial Zone Land Uses and Permit Requirements					
	C-1	C-2	C-3	C-4	C-5
Tri-plex (Three Family Attached on Same Lot) (See EC 9.5500)	S(6)	S(6)	S		S
Four-plex (Four Family Attached on Same Lot) (See EC 9.5500)	S(6)	S(6)	S		S
Multiple Family (3 or More Dwellings on Same Lot) (See EC 9.5500)	S(6)	S(6)	S		S
Assisted Care & Day Care (Residences Providing Special Services, Treatment or Supervision)					
Assisted Care (5 or fewer people living in facility and 3 or fewer outside employees on site at any one time)		P	P		P
Assisted Care (6 or more people living in facility)		P	P		C
Day Care (3 to 12 people served)	P	P	P		P
Day Care (13 or more people served)	C	P	P		P
Trade (Retail and Wholesale)					
Book Store	P(1)	P	P	P	
Drug Store (excluding Drug Treatment Centers)	P(1)	P	P	P	
Healthcare Equipment and Supplies		P	P	P	
Office Equipment and Supplies		P	P	P	

Section 3. Subsections (5)(f) and (13) of Section 9.2171 of the Eugene Code, 1971, are amended to provide:

9.2171 Special Commercial Zone Development Standards for Table 9.2170.

- (5) The maximum front yard setbacks stated in Table 9.2170 Commercial Zone Development Standards, shall apply only to new buildings and any building addition that increases the length of the building facade facing the street by at least 100%. In addition, all new buildings and the portion of the development site specifically affected by the new building are subject to the requirements of this subsection. (See Figure 9.2171(5) Maximum Front Yard Setbacks, Building Orientation, and Entrances.)
- (f) The maximum front yard setback may be exceeded if the area between the building and the front property line is landscaped or paved for use by pedestrians. The area must contain at least the equivalent of 1 enhanced pedestrian amenity for every 200 square feet of hard surface. (See Figure 9.2171(5)(e) Landscaped or Paved Pedestrian Area with Pedestrian Amenities.)

- (13) **Underground Utilities.** All utilities on the development site shall be placed

underground, unless adjusted pursuant to EC 9.8030(5). Refer also to EC 9.6775.

Section 4. The caption of Section 9.2180 of the Eugene Code, 1971, is amended to provide:

9.2180 Commercial Zone Lot Standards. The following Table 9.2180 sets forth lot standards within commercial zones. The numbers enclosed within (#) indicate a special development standard of EC 9.2181.

Section 5. The "Recycling - composting facilities requiring DEQ permit" entry in the "Manufacturing" category of Table 9.2450 of Section 9.2450 of the Eugene Code, 1971, is amended to provide:

Table 9.2450 Industrial Zone Land Use and Permit Requirements			
	14	12	13
Manufacturing (Includes processing, assembling, packaging, and repairing)			
Recycling - composting facilities requiring DEQ permit		P	P

Section 6. Subsection (2)(c) of Section 9.2682 of the Eugene Code, 1971, is amended to provide:

9.2682. Public Land Zone Land Use and Permit Requirements.

- (2) **Uses Requiring a Conditional Use Permit.** The following uses not operated by the public agency that owns the property are permitted conditionally when all or part of the property is declared by the owner to not be needed:

(c) Assisted Care

Section 7. The "Assisted Living and Day Care" category of Table 9.2740 of Section 9.2740 of the Eugene Code, 1971, is amended to provide:

Table 9.2740 Residential Zone Land Uses and Permit Requirements					
	R-1	R-1.5	R-2	R-3	R-4
Residential					
Assisted Care & Day Care (Residences Providing Special Services, Treatment or Supervision)					
Assisted Care (5 or fewer people living in facility and 3 or fewer outside employees on site at any one time) (All Assisted Care uses shall meet minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this code.)	P		P	P	P
Assisted Care (6 or more people living in facility) (All Assisted Care uses shall meet minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this code or granted a modification through an approved conditional use permit.)	C		C	C	C
Day Care (3 to 12 people served) (See EC 9.5200)	S		S	S	S
Day Care (13 or more people served)	C		C	C	C

Section 8: The "Small Lot" category under "Lot Area Minimum" is amended, and the heading "Average Width Minimum" in Table 9.2760 of Section 9.2760 of the Eugene Code, 1971, is amended to "Width Minimum" to provide as follows:

9.2760 Residential Zone Lot Standards. The following Table 9.2760 sets forth residential zone lot standards, subject to the special standards in EC 9.2761:

Table 9.2760 Residential Zone Lot Standards (See EC 9.2761 Special Standards for Table 9.2760.)					
	R-1	R-1.5	R-2	R-3	R-4
Lot Area Minimum (1)					
Small Lots (2)	Per Cluster Subdivision or PUD		2,250 square feet or per Cluster Subdivision or PUD	2,250 square feet or per Cluster Subdivision or PUD	2,250 square feet or per Cluster Subdivision or PUD
Width Minimum (1)					
Interior Lot (7)	50 feet		20 feet	20 feet	20 feet
Corner Lot	50 feet		20 feet	20 feet	20 feet
Curved Lot	35 feet		20 feet	20 feet	20 feet

Table 9.2760 Residential Zone Lot Standards (See EC 9.2761 Special Standards for Table 9.2760.)					
	R-1	R-1.5	R-2	R-3	R-4
Cul-de-sac Bulb Lot	35 feet		20 feet	20 feet	20 feet
Residential Flag Lot (4)	50 feet				

Section 9. The "Assisted Living and Day Care" category of Table 9.3210 of Section 9.3210 of the Eugene Code, 1971, is amended to provide:

Table 9.3210 S-DW Downtown Westside Special Area Zone Uses and Permit Requirements	
	S-DW
Residential	
Assisted Care and Day Care	
Day Care (3 to 12 people served) (See EC 9.5200)	S
Day Care (13 or more people served)	C

Section 10. Subsections (1), (2), and (3) of Section 9.3215 of the Eugene Code, 1971, are amended to provide:

9.3215 S-DW Downtown Westside Special Area Zone Development Standards.

- (1) **Application of Standards.** In addition to applicable provisions contained elsewhere in this land use code, the development standards listed in Table 9.3215 S-DW Downtown Westside Special Area Zone Development Standards in this section, and in EC 9.3216 Special Development Standards for Table 9.3215 shall apply to all development within this zone. In cases of conflict, the development standards specifically applicable in the S-DW special area zone shall apply.
- (2) **Residential Standards.** Except as provided in this section or EC 9.3216 Special Development Standards for Table 9.3215, all residential development shall be subject to the standards established for the R-4 zone.
- (3) **Commercial and Office Standards (any non-residential uses).** Except as provided in this section or EC 9.3216 Special Development Standards for Table 9.3215, all non-residential development shall be subject to the standards established in the C-2 zone.

Section 11. The "Assisted Living and Day Care" category of Table 9.3310 of Section 9.3310

of the Eugene Code, 1971, is amended to provide:

Table 9.3310 S-E Elmira Road Special Area Zone Uses and Permit Requirements	
	S-E
Residential	
Assisted Care & Day Care (Residences Providing Special Services, Treatment or Supervision)	
Assisted Care (5 or fewer people living in facility and 3 or fewer outside employees on site at any one time)	P
Assisted Care (6 or more people living in facility)	C
Day Care (3 to 12 people served) (See EC 9.5200)	P
Day Care (13 or more people served)	C
Day care operations not part of a residence are included in the Personal Services category.	

Section 12. Subsection (2)(b)5 of Section 9.3510 of the Eugene Code, 1971, is amended to provide:

9.3510 S-HB Blair Boulevard Historic Commercial Special Area Zone Uses. The S-HB zone designation is based on the area's association with the city's working class and the mix of residential, commercial and light industrial uses within the zone. The S-HB zone is the commercial core of the residential districts located to the east and west of the zone. The Whiteaker Plan Land Use Diagram reflects four underlying land use designations for this zone of residential, commercial, mixed use, and parks. Uses permitted within the S-HB zone are as follows:

(2) Areas Designated for Neighborhood Commercial.

(b) Notwithstanding subparagraph (a) of this subsection, the following uses are permitted:

5. Assisted care (5 or fewer people living in facility and 3 or fewer outside employees on site at any one time);

Section 13. The "Assisted Living and Day Care" category of Table 9.3910 of Section 9.3910 of the Eugene Code, 1971, is amended to provide:

Table 9.3910 S-W Whiteaker Special Area Zone Uses and Permit Requirements	
	S-W
Residential	
Assisted Care & Day Care (Residences Providing Special Services, Treatment or Supervision)	

Ordinance - 7

Table 9.3910 S-W Whiteaker Special Area Zone Uses and Permit Requirements	
	S-W
Assisted Care (5 or fewer people living in facility and 3 or fewer outside employees on site at any one time)	P
Assisted Care (6 or more people living in facility)	P
Day Care (3 to 12 people served) (See EC 9.5200)	P
Day Care (13 or more people served)	P
Day care operations not part of a residence are included in the Personal Services category.	

Section 14, Subsections (4) and (5) of Section 9.4530 of the Eugene Code, 1971, are deleted, and Subsections (6) through (9) are renumbered (4) through (7) to provide:

9.4530 TD Transit Oriented Development Overlay Zone Development Standards.

- (4) **Parking Between Buildings and the Street.** Automobile parking, driving, and maneuvering areas shall not be located between the main building(s) and a street. For sites that abut a street, parking may be located at the rear of the building or on 1 or both sides of a building when at least 60 percent of the site frontage abutting the street (excluding required interior yards) is occupied by a building and/or an enhanced pedestrian space with no more than 20 percent of the 60 percent in enhanced pedestrian spaces, as described in EC 9.4530(3)(c). For purposes of determining the percent of site frontage, the building or enhanced pedestrian space shall be within 15 feet of the street. (See Figure 9.4530(6) Parking Between Buildings and the Street in TD Area.)
- (5) **Structured Parking.** Structured parking on sites that abut a street shall have at least 50 percent of the ground floor street frontage developed for office, retail or other pedestrian-oriented uses. This standard does not apply to parking facilities that are totally underground.
- (6) **Improvements Between Buildings and Streets.** The land between a building or exterior improvement and a street must be landscaped and/or paved with a hard surface for use by pedestrians. If hard surfacing is provided, the area must contain pedestrian amenities such as seating areas, drinking fountains, and/or other design elements (such as public art, planters, and kiosks). The use of porous paving materials for hard surfacing is encouraged. Residential developments are exempt from this requirement. (See Figure 9.4530(8) Improvements Between Buildings and Streets in TD Areas.)
- (7) **Adjustments.** An adjustment to any of the standards in this section may be made for TD parcels with no alley access or with physical or legal constraints pursuant to the criteria beginning at EC 9.8015 of this land use code.

Section 15. Subsection (1)(a) of Section 9.5250 of the Eugene Code, 1971, is amended to provide:

9.5250 Farm Animal Standards. All of the following standards are applicable to farm animals:

(1) Farm Animals Allowed:

- (a) Except as provided in subsection (1)(b) below, up to 2 adult rabbits or fowl (no roosters) over 6 months of age are allowed in any residential zone.

Section 16. The "Assisted Living and Day Care" category in Table 9.6105(4) of Section 9.6105 of the Eugene Code, 1971, is amended to provide:

9.6105 Bicycle Parking Standards.

- (4) **Minimum Required Bicycle Parking Spaces.** The minimum required number of bicycle parking spaces shall be calculated according to Table 9.6105(4) Minimum Required Bicycle Parking Spaces.

Table 9.6105(4) Minimum Required Bicycle Parking Spaces		
Uses	Required Bicycle Parking (Minimum 4 bicycle spaces required unless -0- is indicated.)	Type and % of Bicycle Parking
Residential		
Assisted Care & Day Care		
- Assisted Care (5 or fewer people living in facility and 3 or fewer outside employees on site at any one time)	-0-	NA
- Assisted Care (6 or more people living in facility)	1 per 10 employees	100% long term
- Day Care (3-12 people served)	-0-	NA
- Day Care (13 or more people served)	1 per 10 employees	100% long term

Section 17: Table 9.6205 of Section 9.6205 of the Eugene Code, 1971, is amended by amending the entries for "Drive-Through Services Areas on Commercially zoned Lots," "Outdoor Merchandise Display in Commercial Zones," and "Delivery and Loading Facilities Abutting Residentially Zoned Parcels," and adding an entry for "Outdoor Storage and Display Standards in Industrial Zones," to provide:

Table 9.6205 Landscaping Required by this Land Use Code							
	L-1 Basic	L-2 Low Screen	L-3 High Screen	L-4 High Wall	L-5 Partial Screen Fence	L-6 Full Screen Fence	L-7 Massed
Drive-Through Service Areas on Commercially zoned Lots EC 9.2174(15)(e) Standards Vary	*		*				
Outdoor Merchandise Display in Commercial Zones EC 9.2171(11)(b)2	*						
Delivery and Loading Facilities on Industrially Zoned Lots Abutting Residential Zones EC 9.2461(12)(b)				*			
Outdoor Storage and Display Standards in Industrial Zones (Standards vary, see Table 9.2461.)				*	*		

Section 18: The "Assisted Living and Day Care" category of Table 9.6410, is amended to provide:

9.6410 Motor Vehicle Parking Standards:

Table 9.6410 Required Off-Street Motor Vehicle Parking	
Uses	Minimum Number of Required Off-Street Parking Spaces
Residential	
Assisted Care & Day Care	
Assisted Care (5 or fewer people living in facility and 3 or fewer outside employees on site at any one time)	1 for each 4 beds

Assisted Care (6 or more people living in facility)	1 for each 4 beds
Day Care (3 - 12 people served)	9 for each employee not living in home on site at the same time.
Day Care (13 or more people served)	9 for each employee not living in home on site at the same time.

Section 19 Subsection (3) of Section 9.6505 of the Eugene Code, 1971, is amended to provide:

9.6505 Improvements - Specifications. All public improvements shall be designed and constructed in accordance with adopted plans and policies, the procedures specified in Chapter 7 of this code, and standards and specifications adopted pursuant to Chapter 7 of this code. Additionally, all developments shall make and be served by the following infrastructure improvements:

- (3) **Streets and Alleys.** The developer shall grade and pave all streets and alleys in the development site and, except for applications proposing needed housing, the city manager may require the developer to pave streets and alleys that are impacted by the development. All paving shall be to the width specified in EC 9.6870 Street Width and provide for drainage of all such streets and alleys, and construct curbs and gutters within the development site according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code and other adopted plans and policies. Private streets and alleys are prohibited unless the developer can demonstrate to the satisfaction of the planning director that a public street is not necessary for compliance with this land use code and EC 9.6815 Connectivity for Streets. Private streets shall be designed and constructed according to the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways and standards and specifications adopted pursuant to Chapter 7 of this code.

Section 20 Subsection (5) of Section 9.6615 of the Eugene Code, 1971, is amended to provide:

9.6615 Prohibited Signs. Except where qualified as a nonconforming sign, the following signs are unlawful and are declared to be nuisances:

- (5) Decorative laser signs, search lights, and flashing signs, except electronic message centers.

Section 21. Subsection (9) of Section 9.6640 of the Eugene Code, 1971, is amended to provide:

9.6640 General Provisions.

- (9) **Electronic Message Centers.** Except electronic message centers operated as public signs by governmental agencies, no electronic message center, or portion of a sign used as an electronic message center, shall be larger than 3 square feet in area, display a message containing more than 5 characters, or change the displayed message at intervals of less than once every 3 seconds. No electronic message center, except for temporary construction use, shall exceed a maximum one-hour equivalent A-weighted sound pressure level of 50 dBA at the receiving property line when the receiving property is occupied by a dwelling, hospital, school, library or assisted care center.

Section 22. Section 9.6775 of the Eugene Code, 1971, is amended to provide:

- 9.6775 Underground Utilities.** All new on-site utilities shall be placed underground if there is a utility-owned structure immediately adjacent to the development site, unless adjusted pursuant to the provisions of EC 9.8030(5). This provision does not apply to temporary uses on a development site or to new utility connections to structures or buildings with legally established above ground utility service. This requirement is satisfied if the applicant verifies in writing that utilities will be placed underground concurrent with planned future development to occur within 12 months. Exceptions shall be made for such features as padmounted transformers, switch cabinets, back flow prevention devices and closures needed to safely operate and maintain utility systems.

Section 23. Section 9.7030 of the Eugene Code, 1971, is amended by adding a new subsection (10) thereto, to provide:

- 9.7030 Recordation of Certain City Decisions.** After a decision becomes final at the local level, the city shall record at Lane County Deeds and Records a notice of a decision concerning property that is the subject of the following types of applications:

- (10) Vacations.

Section 24. Table 9.7055 of Section 9.7055 of the Eugene Code, 1971, is amended by adding "Temporary Manufactured Dwelling Hardship Permit, Renewal" as a Type I application with

planning director review authority, to provide:

9.7055 Applications and Review Authorities. Table 9.7055 Applications and Review Authorities, lists applications and the review authorities for the decision and the appeal of the decision.

Table 9.7055 Applications and Review Authorities						
R = Recommendation, D = Decision Maker, A = Appeal Review Authority						
Application	Type	Planning Director	Hearings Official	Historic Review Board	Planning Commission	City Council
Temporary Manufactured Dwelling Hardship Permit, Renewal		D				

Section 25. Table 9.7105 of Section 9.7105 of the Eugene Code, 1971, is amended to provide:

9.7105 Type I Application Requirements and Criteria Reference. The following applications are reviewed under the Type I process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7105:

Table 9.7105 Type I Application Requirements and Criteria	
Type I Applications	Beginning Reference
Historic Landmark, Removal of Designation	EC 9.3150
Property Line Adjustment	EC 9.3430
Temporary Manufactured Dwelling Hardship Permit	EC 9.8600
Temporary Manufactured Dwelling Hardship Permit, Renewal	EC 9.7120(2)
Vacation of an Unimproved Public Easement	EC 9.8700

Section 26. Section 9.7120 of the Eugene Code, 1971, is amended to provide:

9.7120 Expiration of Temporary Manufactured Dwelling Permits.

- (1) Temporary manufactured dwelling hardship permit approvals shall be valid for 12 months after the effective date of approval or until the hardship ceases to exist, whichever occurs first.
- (2) The permittee may submit a renewal application provided the renewal application is submitted not less than 45 days prior to the expiration of the currently approved permit. The renewal application shall be submitted on a form approved by the city manager. The renewal shall be approved, according to a Type I process, if the applicant provides a written communication as described in EC 9.8615(1) showing continued hardship. The renewal shall be

valid for no more than 12 months.

Section 27. Table 9.7205 of Section 9.7205 of the Eugene Code, 1971, as amended by adding an entry for Willamette Greenway Permit, Modification after the entry for "Variance," to provide:

Table 9.7205 Type II Application Requirements and Criteria	
Type II Applications	Beginning Reference
Variance	EC 9.8750
Willamette Greenway Permit, Modification	EC 9.8825

Section 28. Subsection (4) of Section 9.7210 of the Eugene Code, 1971, is amended to provide:

9.7210 Notice of Application.

- (4) If the application being reviewed is for a tentative subdivision or site review, the notice shall be posted in at least 3 locations within 300 feet of the perimeter of the subject property. Additionally, at least 1 freestanding sign at least 6 square feet in area shall be installed on the subject property, facing the improved street abutting the property, if any. For properties that abut more than one improved street, such a sign shall be installed facing each improved street.

Section 29. Subsection (1) and Table 9.7230 of Section 9.7230 of the Eugene Code, 1971, are amended, and a new Subsection (9) is added thereto, to provide:

9.7230 Expiration.

- (1) The planning director's approval of an application shall expire in 12 months, 18 months, or 36 months from the effective date of approval, depending upon the type of land use application as specified in Table 9.7230 Expiration of Type II Application Approvals, or as provided in subsections (2) through (9) of this section. If an application approval has expired according to any of the conditions stated in subsections (2) through (9), the original application approval is revoked and a new application must be filed.