

Clear & Objective Update Draft Land Use Code Language

Proposed text in ***bold italic***

Proposed deletions in [bracketed strike-out]

Definitions

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

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

Commercial Zones

9.2181 **Special Standards for Table 9.2180.**

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

Employment and Industrial Zones

9.2471 **Special Standards for Table 9.2470.**

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

Natural Resource Zone

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

(2) **Uses Subject to a Conditional Use Permit.** The following uses are

permitted conditionally in the NR zone:

- (a) Nature interpretive centers and wetland research facilities, when such centers or facilities are specified in or consistent with adopted plans or policies.
- (b) Maintenance facilities for storage of equipment and materials used exclusively for maintenance of wetlands and other natural resource areas.

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

Public Land Zone

9.2687 Special Standards for Table 9.2686.

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

Residential Zones

9.2751 Special Development Standards for Table 9.2750.

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

9.2761 Special Standards for Table 9.2760.

- (1) **Lot Standards.**

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- (c) Lot area, frontage, and width minimums may be modified with an approved cluster subdivision in R-1 or Planned Unit Development (PUD) in any zone, ***or adjustments may be made if consistent with the criteria in EC 9.8030(1) and reviewed and approved concurrently with a planned unit development in any zone, except that for applications proposing housing to be reviewed with clear and objective approval criteria these standards may not be adjusted within 50 feet of any property line that abuts property zoned R-1.***

Downtown Westside Special Area Zone

9.3216 **Special Development Standards for Table 9.3215.**

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

9.3221 **Special Standards for Table 9.3220.**

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

Jefferson Westside Special Area Zone

9.3626 **Special Development Standards for Table 9.3625.**

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

Riverfront Park Special Area Zone

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

Wetland Buffer Overlay Zone

- 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.

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(2) Within /WB Areas:

* * *

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

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

Telecommunication Facilities

9.5750 Telecommunication Devices-Siting Requirements and Procedures.

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- (2) **Siting Restricted.** No telecommunication facility, as defined in this land use code, may be constructed, modified to increase its height, installed or otherwise located within the city except as provided in this section. Depending on the type and location of the telecommunication facility, the telecommunication facility shall be either an outright permitted use, subject to site review procedures, or require a conditional use permit.

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- (b) Site Review. A telecommunication facility which, pursuant to subsections (3) through (5) of this section, is subject to site review shall be processed in accordance with the site review procedures of this land use code. The criteria contained in this section, as well as the criteria contained in EC 9.8440 Site Review Approval Criteria – General/Discretionary, shall govern approval or denial of the site review application. In the event of a conflict in criteria, the criteria contained in this section shall govern. No development permit shall be issued prior to completion of the site review process, including any local appeal.
- (c) Conditional Use Permit. A telecommunication facility which, pursuant to subsections (4) or (5) of this section, requires a conditional use permit shall be processed in accordance with the conditional use permit procedures of this land use code, except that the variance provisions shall not apply. The criteria contained in EC 9.8090 Conditional Use Permit Approval Criteria –General /Discretionary and subsections (6) and (7) of this section shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria contained in subsections (6) and (7) of this section shall govern. No development permit shall be issued prior to completion of the conditional use permit process, including any local appeal.

Special Development Standards for Certain Uses

9.5860 Transition Standards for Housing/Clear and Objective Applications.

- (1) Applicability of Transition Standards.** *The transition standards at EC 9.5860(2) shall apply to land use applications proposing housing to be reviewed with clear and objective approval criteria under EC 9.8100 Conditional Use Permit Approval Criteria – Housing/Clear and Objective, EC 9.8325 Tentative Planned Unit Development Approval Criteria – Housing/Clear and Objective, or EC 9.8445 Site Review Approval Criteria – Housing/Clear and Objective. The transition standards at EC 9.5860(2) apply to all new buildings and any building additions that increase the square footage of livable floor area by 20 percent or more for any of the following:*
- (a) Multiple-family development on property abutting or directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR except where the multiple-family development consists of:**
- 1. a single tri-plex on one lot.**
 - 2. a single four-plex on one lot.**
 - 3. structures that are less than 30 feet in height.**
- (b) Assisted care, boarding and rooming house, campus living organization, university or college dormitory, or single room occupancy (SRO), proposed on property abutting or directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. In cases where the standards in subsection (2) apply to building additions, they shall be applicable between the addition and any property line abutting or directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR.**
- (2) Standards.** *The following standards apply to new buildings and building additions identified in subsection (1) and must be applied along the portion of any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR:*
- (a) Height and Setback Options.** *The proposed development must comply with one of the following four options:*
- 1. Option 1.** *The maximum building height of a new building or building addition shall be limited to 35 feet. In addition, at least one of the following must be provided along the entire portion of any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR:*
 - a. A 6-foot high, 100 percent sight-obscuring wooden fence or masonry wall.**
 - b. Landscaping with a minimum plant bed width of 7 feet meeting EC 9.6210(3) High Screen Landscape Standard (L-3).**

Driveways off an alley may intersect the required screening within 30 degrees of perpendicular, as measured from the centerline of the driveway to the centerline of the alley right-of-way, and are limited to a maximum width of 15 feet for one-way access or 28 feet for two-way access.
 - 2. Option 2.** *The minimum interior yard setback shall be 10 feet from the portion of any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. In addition:*

- a. **At a point that is 25 feet above grade, the interior yard setback shall slope at the rate of 10 inches vertically for every 12 inches horizontally away from that property line until a point 50 feet away from the property line.**
 - b. **For new buildings or building additions within 30 feet of R-1, R-1.5, S-C/R-1, or S-RN/LDR zoned property, trees growing to a mature height of at least 20 feet shall be planted at a minimum interval of 15 feet, parallel to the property line, between buildings and any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. In addition, one of the following shall be provided along the portion of any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR:**
 - (1) **A 6-foot high, 100 percent sight-obscuring wooden fence or masonry wall.**
 - (2) **Landscaping with a minimum plant bed width of 7 feet meeting EC 9.6210(3) High Screen Landscape Standard (L-3).**

Driveways off an alley may intersect the required screening within 30 degrees of perpendicular, as measured from the centerline of the driveway to the centerline of the alley right-of-way, and are limited to a maximum width of 15 feet for one-way access or 28 feet for two-way access.
 - 3. **Option 3. A minimum 30-foot setback shall be provided between a new building or building addition and the portion of any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. The 30-foot setback area may be used for open space, vehicle use area, pedestrian circulation, bicycle parking, stormwater quality facilities, or landscaping and must contain trees growing to a mature height of at least 20 feet, spaced at a minimum interval of 25 feet, parallel to and within five feet of the property line, in the setback area.**
 - 4. **Option 4. A new building or building addition shall be set back at least 50 feet or a setback equal to the height of the tallest building on the development site, whichever is less, from the portion of any property line that abuts or is directly across a public alley from land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR. The 50-foot setback area may be used for open space, vehicle use area, pedestrian circulation, bicycle parking, stormwater quality facilities, or landscaping.**
- (b) Allowed intrusions into setbacks. In lieu of the permitted setback intrusions provided at EC 9.6745(3) the following intrusions are allowed within the interior yard setback area described in EC 9.5860(2)(a)2 through 4:**
- 1. **Eaves and chimneys may intrude a maximum of 2 feet into the vertical plane of the interior yard sloped setback area. No other intrusions are allowed into the vertical plane of the setback.**
 - 2. **Dormers may intrude into the sloped portion of the interior yard sloped setback area provided each dormer is no more than 10**

- feet wide and the total width of all dormers on a given wall does not exceed 30 percent of the linear length of the building wall.*
3. *Architectural screens or arbors serving an upper floor balcony may protrude a maximum of 6 feet into the sloped portion of the interior yard sloped setback area.*
- (c) *Balconies, decks and other outdoor spaces located above the ground floor shall be setback at least 20 feet from any property line that abuts land zoned R-1, R-1.5, S-C/R-1, or S-RN/LDR.*
 - (d) *Tree Exception. An exception to the tree planting required by subsections (a)(2) and (3) is allowed if the applicant provides a signed and notarized letter from the abutting property owner stating that the abutting property owner does not desire the trees required by this section. This exception does not apply to trees required by other applicable standards. Future development proposals subject to the standards in this section will need to obtain a separate exception from the tree planting requirements of this section.*

General Standards for All Development

9.6010 Applications Proposing [Needed] Housing.

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

9.6710 Geological and Geotechnical Analysis.

- (6) **[Needed] Clear and Objective Housing.** Unless exempt under 9.6710(3)[(a)-(f)], in lieu of compliance with subsections (2), (4), and (5) of this section, applications proposing [needed]housing **to be reviewed with clear and objective approval criteria** shall include a certification from an Oregon licensed Engineering Geologist, **an Oregon licensed Geotechnical Engineer**, or an Oregon licensed Civil Engineer with geological experience, **prepared within five years of the date of application, that includes the following information**[stating]:
 - (a) **Identification of any portion of the proposed development site that is located in an area of moderate or high landslide susceptibility as shown on the city’s adopted Eugene Landslide Hazard Map.**
 - (ab) **A statement** [that] the proposed development [activity] will not be impacted by existing or potential stability problems or any of the following site conditions: **slopes 20 percent or greater**, springs or seeps, depth of soil bedrock, **soil types**, variations in soil types, **open drainage ways, fill**, or a combination of these conditions.

(b)c) If proposed development [activity] **will be located in an area identified as moderately or highly susceptible to landslides pursuant to (a), or will be impacted by existing or potential stability problems or** any of the **site** conditions listed in (ab), the **certification must also include:**

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

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

9.6810 **Block Length.**

(1) **Except as provided in subsections (2) and (3) of this section, b[B]lock** length for local streets shall not exceed 600 feet.[-]

~~(1)~~ **Applications not proposing housing to be reviewed with clear and objective approval criteria, [unless an exception is] may be exempt from the block length requirements in subsection (1)**[granted] based on one or more of the following:

- ~~(2)~~ **(2a)** Physical conditions preclude a block length 600 feet or less. Such conditions may include, but are not limited to, topography or the existence of natural resource areas such as wetlands, ponds, streams, channels, rivers, lakes or upland wildlife habitat area, or a resource on the National Wetland Inventory or under protection by state or federal law.
- ~~(3)~~ **(3b)** Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels, physically preclude a block length 600 feet or less, considering the potential for redevelopment.
- ~~(4)~~ **(4c)** An existing public street or streets terminating at the boundary of the development site have a block length exceeding 600 feet, or are situated such that the extension of the street(s) into the development site would create a block length exceeding 600 feet. In such cases, the block length shall be as close to 600 feet as practicable.
- ~~(5)~~ **(5d)** As part of a Type II or Type III process, the developer demonstrates that a strict application of the 600-foot requirement would result in a street network that is no more beneficial to vehicular, pedestrian or bicycle traffic than the proposed street network and that the proposed street network will

accommodate necessary emergency access.

- (23) **Applications proposing housing to be reviewed with clear and objective approval criteria, must comply with the block length requirements in subsection (1) unless existing slopes would result in a street grade that exceeds the grade allowed under current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the subdivision boundary or abutting property under separate ownership.**
- (4) **Block length may be adjusted in accordance with EC 9.8030(37) for applications proposing housing to be reviewed with clear and objective approval criteria.**

9.6815 **Connectivity for Streets.**

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(2) **Street Connectivity Standards.**

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

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

* * *

- (h) **For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions to street connectivity standards may be granted if one of the following conditions exists:**
 - 1. **Existing buildings on land abutting the development site and under separate ownership obstruct the extension of the planned street;**
 - 2. **Existing slopes would result in a street grade exceeding current adopted street design standards when measured along the centerline of the proposed streets to the existing grade of the subdivision boundary or abutting property under separate ownership;**
 - 3. **Provision of an intersecting street would require dedication of 25 percent or more of the total development site area.**
 - 4. **Abutting residential land cannot be further divided under current development standards.**
- (i) **Street connectivity standards may be adjusted in accordance with EC 9.8030(37) for applications proposing housing to be reviewed with clear and objective approval criteria.**

9.6820 Cul-de-Sacs or Emergency Vehicle Turnarounds.

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- (5) As part of a Type II or Type III process, an exception may be granted to the requirements of (1), (3) and (4) of this section. ***For applications proposing housing to be reviewed with clear and objective approval criteria, exceptions may only be granted as provided in subparagraph (c). For all other applications, exceptions may be granted*** because of the existence of one or more of the following conditions:

- ***
- (c) ***For applications proposing housing to be reviewed with clear and objective approval criteria, an exception to the requirements of subsections (1) through (4) may be granted if the applicant provides certification from an Oregon licensed civil engineer stating that a cul-de-sac or emergency vehicle turnaround cannot be constructed to meet current standards according to the adopted Design Standards and Guidelines for Eugene Streets, Sidewalk, Bikeways and Accessways;***
- (6) ***Cul-de-sacs or emergency vehicle turnarounds standards may be adjusted in accordance with EC 9.8030(37) for applications proposing housing to be reviewed with clear and objective approval criteria.***

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

9.6865 Transit Facilities.

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

Tree Preservation and Removal Standards.

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- (2) **Tree Preservation and Removal Standards.** *The standards in this subsection apply only to land use applications processed under EC 9.8100, EC 9.8325, EC 9.8445, and EC 9.8520. Unless exempt under subparagraph (b) below, [N]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 or licensed landscape architect, that] demonstrates compliance with the [following] standards **in this subsection.**[:]*
- (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.~~
- (a) **Definitions.** *For the purposes of this subsection (2), the following definitions apply:*
1. **Critical Root Zone (CRZ).** *That area surrounding a tree that has a radius of 12 inches multiplied by the diameter breast height expressed in inches of the tree trunk or trunks.*
 2. **Tree Removal.** *To fell or sever a tree or to use any procedure the natural result of which is to cause the death or substantial destruction of the tree. Substantial destruction includes actions that destroy more than 15% of the critical root zone of a tree, or topping, or severing the cambial material on 50% or more of the circumference of the tree trunk. Remove does not in any context include those pruning standards as defined in the edition of American National Standards Institute (ANSI) Section A300, Tree, Shrub and Other Woody Plant Maintenance Standard Practices in effect at the time the pruning occurs.*
- (b) *For the purposes of this subsection (2), the South Hills Area is defined as all property located within the City's adopted Urban Growth Boundary, above an elevation of 500 feet, and:*
1. **South of 18th Avenue,**
 2. **South of Franklin Boulevard and East of the intersection of 18th Avenue and Agate Street, or**
 3. **If 18th Avenue were extended from the intersection of 18th Avenue and Willow Creek Road directly west to the Urban Growth Boundary, the area south of that extension of 18th Avenue.**
- (c) **Exemptions.** *A proposed development shall be exempt from the requirements of EC 9.6885(2) if any of the following apply:*
1. *Except as provided in subparagraph 4., the area of the development site is less than 20,000 square feet.*
 2. *Five or fewer significant trees exist on the development site prior to development.*
 3. *The development site is zoned R-1.5 Rowhouse zone, R-3 Medium Density Residential, R-4 High Density Residential, GO*

General Office, C-2 Community Commercial, or C-3 Major Commercial zones.

4. **Notwithstanding subparagraph 1., development sites that include property at or above 900 feet elevation are subject to the requirements of EC 9.6885(2), regardless of the area of the development site.**
- (d) **Tree Preservation Requirements. Unless adjusted per EC 9.8030(13), significant trees must be preserved in accordance with the requirements of Table 9.6855(2)(c). Minimum preservation is based on the total existing Diameter Breast Height (d.b.h.) of significant trees within each specific location category prior to development. Maximum mitigation is the percentage of the minimum preservation that may be mitigated according to subsection 2. below.**

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

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

1. **A Tree Preservation and Removal Plan is required except as provided in EC 9.6885(2)(b) or EC 9.6885(2)(c)3. The plan must be prepared by a certified arborist or licensed landscape architect and shall provide the following:**
 - a. **A table, organized by the location categories listed in Table 9.6885(2)(c), listing all significant trees on the development site and including the following information for each listed tree:**
 - (1) **Diameter Breast Height (d.b.h.)**
 - (2) **Preservation, removal, or mitigation status**
 - (3) **Common name, genus and species**
 - b. **A site plan that includes the following information:**
 - (1) **The locations of all significant trees on the development site, the Diameter Breast Height (d.b.h.) for each significant tree, whether each significant tree is to be preserved, removed, or mitigated according to EC 9.6885(2)(c)2, and the location of the critical root zone (CRZ) for each significant tree to be preserved.**
 - (2) **The location of all existing and/or proposed public and private utility easements, driveways, and areas of grading or excavation on the development site.**
 - (3) **The location of all existing development on the site as well as the location of development proposed in**

the land use application that triggers the requirement for a Tree Preservation and Removal Plan .

- (4) *Proposed lot or parcel boundaries.*
 - (5) *For development sites with any portion located within the South Hills Area, identification of areas at or above 500 feet elevation and areas at or above 900 feet elevation.*
 - c. *A statement by the preparer that the Tree Preservation and Removal Plan meets EC 9.6885(2)(c) Tree Preservation Requirements.*
2. *Mitigation. An applicant may elect to mitigate a portion of the minimum preservation of significant trees on the development site as provided below:*
- a. *The maximum d.b.h. that can be mitigated shall be based on location category as provided in Table EC 9.6885(2)(c) Tree Preservation and Mitigation.*
 - b. *Installation and Maintenance. Each significant tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(c)2 within one year from the date of removal or prior to final occupancy, whichever is later. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association.*
 - c. *The maximum mitigation allowance may be adjusted in accordance with EC 9.8030(13).*

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

Genus and Species	Common Name
<i>Abies koreana</i>	<i>Silver Korean fir</i>
<i>Abies pinsapo</i>	<i>Spanish fir</i>
<i>Acer circinatum</i>	<i>Vine Maple</i>
<i>Acer ginnala</i>	<i>Amur Maple</i>
<i>Acer glabrum var. douglasii</i>	<i>Rocky Mountain Maple</i>
<i>Acer griseum</i>	<i>Paperbark Maple</i>
<i>Acer macrophyllum</i>	<i>Big Leaf Maple</i>
<i>Alnus rhombifolia</i>	<i>White Alder</i>
<i>Alnus rubra</i>	<i>Red Alder</i>
<i>Amelanchier alnifolia</i>	<i>Pacific Serviceberry</i>
<i>Arbutus menziesii</i>	<i>Pacific Madrone</i>
<i>Arbutus unedo</i>	<i>Strawberry Madrone</i>

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

Genus and Species	Common Name
<i>Arbutus 'Marina'</i>	<i>Marina Strawberry Tree</i>
<i>Betula nigra</i>	<i>River Birch</i>
<i>Calocedrus decurrens</i>	<i>Incense Cedar</i>
<i>Carpinus betulus</i>	<i>European Hornbeam</i>
<i>Carpinus caroliniana</i>	<i>American Hornbeam</i>
<i>Castanopsis cuspidata</i>	<i>Japanese Chinquapin</i>
<i>Catalpa speciosa</i>	<i>Northern Catalpa</i>
<i>Cedrus atlantica</i>	<i>Atlas Cedar</i>
<i>Cedrus deodara</i>	<i>Deodar Cedar</i>
<i>Cedrus libani</i>	<i>Cedar of Lebanon</i>
<i>Celtis occidentalis</i>	<i>Common Hackberry</i>
<i>Chrysolepis chrysophylla</i>	<i>Golden Chinquapin</i>
<i>Cinnamomum chekiangense</i>	<i>Camphor Tree</i>
<i>Cornus nuttallii</i>	<i>Pacific Dogwood</i>
<i>Corylus colurna</i>	<i>Turkish Filbert</i>
<i>Cupressus arizonica</i>	<i>Arizona cypress</i>
<i>Cupressus bakeri</i>	<i>Modoc cypress</i>
<i>Fraxinus latifolia</i>	<i>Oregon Ash</i>
<i>Fraxinus ornus</i>	<i>Flowering Ash</i>
<i>Ginkgo biloba (fruitless cultivars only)</i>	<i>Ginkgo</i>
<i>Koelreuteria paniculata</i>	<i>Goldenrain Tree</i>
<i>Maackia amurensis</i>	<i>Maackia</i>
<i>Nyssa sylvatica</i>	<i>Tupelo, Black Gum</i>
<i>Ostrya virginiana</i>	<i>American Hophornbeam</i>
<i>Oxydendrum aroboreum</i>	<i>Sourwood</i>
<i>Parrotia persica</i>	<i>Persian Ironwood</i>
<i>Picea smithiana</i>	<i>Morinda spruce</i>
<i>Pinus ponderosa</i>	<i>Ponderosa Pine</i>
<i>Pinus ponderosa var. benthamania</i>	<i>Willamette Valley Ponderosa Pine</i>
<i>Pinus wallichiana</i>	<i>Himalayan pine</i>
<i>Pistacia chinensis</i>	<i>Chinese Pistachio</i>
<i>Platanus acerifolia</i>	<i>London Plane</i>
<i>Prunus virginiana</i>	<i>Chokecherry</i>
<i>Pseudotsuga menziesii</i>	<i>Douglas Fir</i>
<i>Quercus acutissima</i>	<i>Sawtooth Oak</i>
<i>Quercus agrifolia</i>	<i>Coast Live Oak</i>
<i>Quercus bicolor</i>	<i>Swamp White Oak</i>
<i>Quercus chrysolepis</i>	<i>Canyon Live Oak</i>

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

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

3. **Tree Preservation Area Alternative.**
 - a. **A Tree Preservation and Removal Plan is not required if the applicant chooses to preserve at least 50 percent of**

the total existing d.b.h. of significant trees on the development site within one or more tree preservation area(s) and the following requirements are met:

(1) Tree preservation area(s) must be delineated and shown on a site plan submitted for approval by the City.

(2) Applicant must provide written certification from a certified arborist or licensed landscape architect stating that the area(s) designated for tree preservation include(s) at least 50 percent of the total existing d.b.h. of significant trees on the development site.

b. Mitigation is not allowed when the Tree Preservation Area Alternative is used to meet tree preservation requirements, except as approved through an adjustment review according to EC 9.8030(13).

4. Protection Standards. The following notes must be included on the final plan set submitted for approval by the City and shall apply at the time of development:

a. “Protective fencing for trees identified to be preserved shall be installed by the applicant and inspected by the City prior to beginning any development activities. All protective tree fencing must remain in place until completion of all construction activities; any relocation, removal, or modification of the protective fencing shall only occur under the direction of a certified arborist and a written explanation of the reason for the relocation, removal, or modification of the protective fencing from the certified arborist must be provided to the City.”

b. “At the time of building permit, a site plan in compliance with the approved tree preservation and removal plan is required.”

c. “No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within protective tree fencing areas.”

d. “The removal of trees not designated to be preserved is optional; removal may occur at the owner’s discretion.”

e. “Any tree designated for mitigation must be replaced with one tree selected from the approved species listed in Table 9.6885(2)(c)2 within one year from the date of removal or prior to final occupancy. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner.”

f. “In the event a tree designated to be preserved must be removed because it is dead, diseased, dying, or

hazardous, documentation of the tree's dead, diseased, dying, or hazardous condition by a certified arborist must be provided to the City prior to tree removal. The tree must be replaced with one replacement tree selected from the approved species list in Table 9.6885(2)(c)2. At the time of planting, deciduous trees used for replacement must have a minimum diameter of 2 inches and evergreen trees used for replacement must be a minimum of 6 feet in height as measured according to the 2014 edition of the American Standard for Nursery Stock (ANSI Z60.1), published by the American Nursery and Landscape Association. Maintenance of replacement trees is the ongoing responsibility of the property owner."

(be) Street Tree Removal. If the proposal includes removal of any street tree(s), removal of those street trees has been approved, or approved with conditions according to the process at EC 6.305 Tree Felling Prohibition.

~~[(3) **Adjustment to Standards.** [Except for applications being processed under EC 9.8100 Conditional Use Permit Approval Criteria - [Needed] Housing/Clear and Objective, EC 9.8325 Tentative Planned Unit Development Approval Criteria - [Needed] Housing /Clear and Objective, EC 9.8445 Site Review Approval Criteria - [Needed] Housing /Clear and Objective, or EC 9.8520 Subdivision, Tentative Plan Approval Criteria - [Needed] Housing, /Clear and Objective,] [a] 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.]~~

Application Procedures

9.7007 **Neighborhood/Applicant Meetings.**

- (1) This section applies to the following types of applications:
- (a) Type II: 3-lot partitions, tentative subdivisions, tentative cluster subdivisions and design reviews, **except for 3-lot partitions and tentative subdivisions that implement an approved tentative planned unit development**;

Application Requirements and Criteria

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

* * *

~~[(13) **Tree Preservation and Removal Standards Adjustment.** [Except as otherwise provided in EC 9.6885(3) Adjustments to Standards, the tree preservation and removal standards of EC 9.6885(2) may be adjusted], and~~

~~the number of trees amount of existing d.b.h. required to be preserved may be reduced] based on compliance with all of the following criteria [of (a), (b), (c), and (d), and one of the conditions of (e) exists:~~

- ~~(a) The proposed adjustment to the tree preservation and removal standards is the minimum necessary to implement the development proposal.~~
- ~~(b) The proposal includes an approved replanting or restoration program or plan that mitigates the loss of trees or impacts to other natural features.~~
- ~~(c) The proposal is otherwise in compliance with all applicable standards.~~
- ~~(d) Alternative proposals have been evaluated, and there is no feasible alternative.~~
- ~~(e) One of the following conditions exists:
 - ~~1. Compliance with tree preservation and removal standards is not feasible, or would result in degradation of steep slopes, significant wildlife habitat, or water bodies due to the topography or other natural features of the development site; or~~
 - ~~2. An adjustment to the tree preservation and removal standards is necessary in order to achieve the minimum residential density under this land use code; or~~
 - ~~3. The existing trees required to meet the minimum preservation standard are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.]~~~~

(13) *Tree Preservation and Removal Standards Adjustment. The minimum tree preservation requirement and maximum mitigation allowance of EC 9.6885(2) may be adjusted if one of the conditions listed in subparagraph (a) below applies and the proposed design complies with the criteria in subparagraphs (b) through (e):*

- (a) *Conditions. To qualify for an adjustment, one of the following conditions must apply:***
 - 1. *Strict compliance with tree preservation and removal standards is not feasible due to other requirements of this code or existing site constraints such as topography or other natural features; or,***
 - 2. *An adjustment to the minimum tree preservation and/or mitigation requirement is necessary in order to achieve a net density greater than 75 percent of the maximum allowed under this land use code; or,***
 - 3. *The existing trees required to meet the minimum preservation requirement are unlikely to survive the level and type of anticipated development due to susceptibility to windthrow or other natural causes of failure.***
- (b) *The proposed reduction to the minimum tree preservation requirement or increase in mitigation allowance is necessary to accommodate a reasonable level of development. In no case shall minimum tree preservation for areas at or above 900 feet elevation be reduced below 30%.***
- (c) *The proposed project shall be designed and sited to preserve significant trees to the greatest degree practicable, with trees having the following characteristics given the highest priority for preservation:***

1. *Healthy trees that have a reasonable chance of survival;*
 2. *Trees located within vegetated corridors and stands;*
 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.*
- (d) *Except for areas at or above 900 feet elevation, proposals that include a Tree Preservation and Removal Plan per EC 9.6885(2)(c)1. may mitigate up to 100% of the minimum tree preservation requirement if the following requirements are met:*
1. *For proposed subdivisions, new trees must be planted so that lots up to 7,000 square feet in area will contain a minimum of two trees and lots 7,000 square feet or more will contain a minimum of three trees.*
 2. *For all other developments, the proposed design must either:*
 - a. *Provide one tree per dwelling unit; or,*
 - b. *Provide one replacement tree per 8 inches of d.b.h. reduced below the minimum preservation requirement. For example, if the minimum preservation is 80 inches d.b.h., then 10 replacement trees are required.*
- New trees planted to meet subsection 1. or 2. above are subject to the requirements at EC 9.6885(2)(c)2.b. Installation and Maintenance. Trees planted to meet applicable landscape standards may count toward these requirements. Existing trees on the development site that are under 8-inches Diameter Breast Height (d.b.h.) and listed in Table 9.6885(2)(c)2. Approved Species List may be designated for preservation and counted toward these requirements (in lieu of planting new trees).*
- (e) *For areas at or above 900 feet elevation or applications using the Tree Preservation Area Alternative at EC 9.6885(2)(c)3., mitigation is limited to 10% of the minimum preservation requirement.*

** * **

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

- (b) **The adjustment is necessary due to at least one of the following conditions:**
1. **Existing on-site or off-site geologic or topographic conditions, or existing wetlands designated for protection by the City of Eugene; or**
 2. **Existing development on lands abutting the development site.**

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

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

(1) The proposed subdivision complies with:

(a) EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/Discretionary except for the standards related to EC 9.2760 Residential Zone Lot Standards; and

9.8085 Conditional Use Permit Application Requirements.

* * *

(3) If the proposal includes ~~[needed housing, as defined by state law]~~ **housing**, the written statement submitted with the conditional use permit application shall clearly state whether the applicant is electing to use the ~~[general]~~ **discretionary** approval criteria in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary instead of the approval criteria found in EC 9.8100 Conditional Use Permit Approval Criteria – [Needed] Housing/Clear and Objective.

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

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

- (1) ~~[The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~ **The proposal complies with EC 9.5860 Transition Standards.**

* * *

- (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]~~ **the provisions of EC 9.6880 to EC 9.6885 Tree Preservation and Removal Standards.**
 - ~~[(b) Natural resource areas designated on the comprehensive 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 9.2000 through EC 9.4170 regarding lot dimensions and density requirements for the subject zone and overlay zone.**
 - (b) **EC 9.6500 through EC 9.6505 Public Improvement Standards.**
Renumber remaining subsections
* * *
 - (i) **EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.**
 - (j) **All other applicable development standards for features explicitly included in the application.**
 - (ik) An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.
- (5) Public improvements as required by this land use code or as a condition of ~~[tentative plan]~~ approval **will be** ~~[have been]~~ completed **prior to issuance of a development permit**, or:
- (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the conditional use permit, and the petition has been accepted by the city engineer.
- (6) **If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to adjacent residential areas, transit stops, neighborhood activity centers, parks, schools, commercial centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.**

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

* * *

- (2) **Criteria for Hearings Official Approval.** Applications for conditional use permits within the NR natural resource zone or /WB wetland buffer overlay

zone shall be processed and scheduled for public hearings in the same manner as other conditional use permit applications, except that NR standards (2) through (19) listed in EC 9.2530 Natural Resource Zone Development Standards shall be considered as additional criteria along with the criteria listed in EC 9.8090 Conditional Use Permit Approval Criteria – General/Discretionary.

9.8205 Applicability of Partition, Tentative Plan Applications.

* * *

- (2) A **tentative plan application to partition land** [application that also involves a PUD request] may **be submitted and reviewed concurrently with the** [not be submitted until a decision on the] tentative PUD **application following a Type III application procedure** [approval is final]. **If a partition application that also involves a PUD request is not submitted concurrently with the tentative PUD, the partition application may not be submitted until a tentative PUD is approved.** (Refer to EC 9.8305 Applicability.)
- (3) **If the partition tentative plan application is not reviewed concurrently with the tentative PUD, no development permit shall be issued by the city prior to approval of the tentative partition application. If the tentative partition is reviewed concurrently with the tentative PUD application, no development permit shall be issued by the city prior to approval of the final PUD application.**

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

* * *

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

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

9.8220 Partition, Tentative Plan Approval Criteria- [Needed] Housing/Clear and Objective. **Unless the applicant elects to use the discretionary criteria contained in EC 9.8215 Partition, Tentative Plan Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute,** the planning director shall approve, conditionally approve, or deny the partition application. [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 State statutes, the planning director shall approve or approve with conditions a partition] based on compliance with the following criteria:~~

~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.] *Renumber remaining subsections.*~~

~~(21) The proposed partition complies with all of the following:~~

~~(a) [Let standards of] EC 9.2000 through [9.3980] **9.4170** regarding applicable parcel dimensions and density requirements **for the subject zone and overlay zone**. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:~~

~~* * *~~

~~(k) [EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.]~~

~~*Renumber remaining subsection*~~

~~*Renumber remaining subsections*~~

~~[(4) Partitions abutting collector and arterial streets comply with access management guidelines of the agency having jurisdiction over the street.] *Renumber remaining subsections*~~

~~(53) If the provisions of EC 9.8220(2) require a public street, or if the applicant proposes the creation of a public street, the following criteria also apply:~~

~~* * *~~

~~[(c) 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.]~~

9.8310 Tentative Planned Unit Development General Application Requirements.

~~(5) [Needed] Housing. If the proposal includes [needed housing, as defined by State statutes] **housing**, the written statement submitted with the PUD application shall clearly state whether the applicant is **proceeding under:** (a)[electing to use] the [general] approval criteria in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary; or (b) [instead of] the approval criteria [found] in EC 9.8325 Tentative Planned Unit Development Approval Criteria-[Needed] Housing/Clear and Objective.~~

9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary.

The hearings official shall approve, approve with conditions, or deny a tentative PUD application with findings and conclusions. Decisions approving an application, or approving with conditions, shall be based on compliance with the following criteria:

9.8325 Tentative Planned Unit Development Approval Criteria – [Needed] Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8320 Tentative Planned Unit Development Approval Criteria- General/Discretionary, for housing

applications entitled to clear and objective review pursuant to state statute,

~~the hearings official shall approve, conditionally approve, or deny the PUD application [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:~~

- (1) ~~The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.]~~ **The proposal complies with EC 9.5860 Transition Standards.**

* * *

- (3) ~~[The PUD provides a buffer area between the proposed development and surrounding properties by providing at least a 30 foot wide landscape area along the perimeter of the PUD according to EC 9.6210(7).]~~
- (43) 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 (11) below)].~~
- ~~[(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.]~~
- (5) ~~[There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.]~~
- (64) The PUD provides safe and adequate transportation systems through compliance with all of the following:

* * *

~~[(c) 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.]~~

- (75) The PUD complies with all of the following:
- (a) EC 9.2000 through ~~[9.3980]~~ **EC 9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay zone**. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

* * *

- (k) **All applicable development standards explicitly addressed in the application.**

An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

Renumber next section

* * *

- (97) ~~[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.]~~ **PUDs proposed on development sites that are two acres or larger must comply with either subsection (a) or subsection (b) below:**
- (a) **The PUD is located within 1/2-mile of a public park, public recreation facility, or public school (determined using the shortest**

- distance as measured along a straight line between a point along the perimeter of the development site and a point along a property line of a public park, public recreation facility, or public school);*
- (b) *Except as provided in EC 9.8325(8)(b)1, the PUD shall provide common open space within the development site equal to a minimum of 10 percent of the development site or 14,500 square feet, whichever is greater.*
1. *If the PUD includes lot areas smaller than the minimum lot area allowed in the base zone, then common open space must be provided as follows:*
 - a. *If the average lot area is within 10 percent of the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 15 percent of the development site or 14,500 square feet, whichever is greater.*
 - b. *If the average lot area is more than 10 percent below the minimum lot area of the base zone, then the PUD shall provide common open space within the development site equal to a minimum of 20 percent of the development site or 14,500 square feet, whichever is greater.*
 2. *Common open space shall be provided in one separate tract of land, except that developments providing more than 29,000 square feet of common open space may include up to three common open space tracts provided no tract is less than 14,500 square feet..*
 3. *Ownership of the common open space tract(s) must be dedicated to all lot or parcel owners within the development site.*
 4. *Each common open space tract must include a portion with minimum dimensions of 70 feet by 70 feet.*
 5. *Common open space tracts must have a minimum of 20 feet of lot frontage along an existing or proposed public way or private street.*
 6. *Common open space tracts do not have to meet lot standards.*

~~(108)~~ 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)].

~~(119)~~ [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.]

~~(1210)~~ 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.]

Development on any portion of the development site located above 900 feet elevation is limited by the following:

1. ***The sum of all building area, measured using building footprints, shall not exceed 5,000 square feet on proposed new lots or parcels.***

2. Driveways shall not exceed 20 feet in width on proposed new lots or parcels.

- (b) Development **on any portion of the development site located above 900 feet elevation** shall be setback at least 300 feet from the ridgeline unless there is a determination by the city manager that the area is not needed as a connection to the city's ridgeline trail system. For purposes of this section, the ridgeline [trail] shall be considered as the line indicated as being the urban growth boundary [within the South Hills Study plan area].
- (e) [~~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.~~]
Renumber remaining subsections.
- (dc) Residential density is limited as follows:
 - 1. In the area west of Friendly Street, the maximum level of new development per gross acre shall be 8 units per acre.
 - 2. In the area east of Friendly Street, the maximum level of new development per gross acre shall be limited to 5 units per acre.
 - 3. Housing developed as Controlled Income and Rent Housing shall be exempt from the density limitations in subsections 1 and 2 above, but are subject to the other applicable development standards and review procedures.
 - 4. For any portion of the development site located above 900 feet elevation, the maximum density shall be 2.5 units per gross acre, or one dwelling per legal lot in existence as of August 1, 2001, whichever is greater.**

9.8360 Planned Unit Development, Final Plan Application Requirements. In addition to the provisions in EC 9.7010 Application Filing, the following specific requirements apply to PUD final plan applications:

* * *

- ~~[(4) Public improvements as required by this land use code or as a condition of tentative plan approval have been completed, or:
 - (a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or
 - (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.]~~

9.8365 Final Planned Unit Development Approval Criteria. The planning director shall approve, approve with conditions, or deny a final PUD application, **based on compliance with the following criteria**[: Approval shall include a finding that the final PUD plan conforms with the approved tentative PUD plan and all conditions attached thereto.]

- (1) The final PUD plan conforms with the approved tentative PUD plan and**

all conditions attached thereto.

(2) ***For final PUDs not associated with a land division, public improvements as required by this land use code or as a condition of tentative plan approval will be completed prior to issuance of a development permit, or:***

(a) ***A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to assure the completion of all required public improvements; or***

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

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

9.8445 Site Review Approval Criteria- [Needed] Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8440 Site Review Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, [F] 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:

(1) [The applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.] ***The proposal complies with EC 9.5860 Transition Standards.***

(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]~~ ***the provisions of EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.***

~~[(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource" are protected.]~~

(4) The proposal complies with all of the following [standards]:

(a) EC 9.2000 through [9.3980] ***EC 9.4170*** regarding ***applicable*** lot dimensions and density requirements for the subject zone ***and overlay zone.***

(b) ***EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.***

Renumber remaining subsections

(5) Public improvements as required by this land use code or as a condition of [tentative plan] approval ***will be*** [have been] completed ***prior to issuance of a development permit,*** or:

(a) A performance bond or suitable substitute as agreed upon by the city has been filed with the city finance officer in an amount sufficient to

- assure the completion of all required public improvements; or
- (b) A petition for public improvements and for the assessment of the real property for the improvements has been signed by the property owner seeking the subdivision, and the petition has been accepted by the city engineer.

- (6) ***If the standards addressed under EC 9.8100(4) require a public street, or if the applicant proposes the creation of a public street, the proposal will provide pedestrian and bicycle circulation to adjacent residential areas, transit stops, neighborhood activity centers, parks, schools, commercial centers, office parks, and industrial parks located within ¼ mile radius of the development site, provided the city makes findings to demonstrate consistency with constitutional requirements.***

9.8505 Applicability of Subdivision, Tentative Plan Applications.

Requests to create 4 or more lots shall be subject to the subdivision provisions of this land use code under a Type II application process.

- (1) A ***tentative plan application to subdivision land may be submitted and reviewed concurrently with the*** [application that also involves a PUD request may not be submitted until a decision on the] ***tentative PUD application following a Type III application procedure*** [approval is final]. ***If a subdivision application that also involves a PUD request is not submitted concurrently with the tentative PUD, the subdivision application may not be submitted until a tentative PUD is approved.***

(Refer to EC 9.8305 Applicability.)

- (2) ***If the subdivision tentative plan application is not reviewed concurrently with the tentative PUD, no development permit shall be issued by the city prior to approval of the tentative subdivision tentative plan application. If the tentative subdivision is reviewed concurrently with a PUD application, no development permit shall be issued by the city prior to approval of the final PUD application.***

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

* * *

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

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

* * *

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

9.8520

Subdivision, Tentative Plan Approval Criteria – [Needed] Housing/Clear and Objective. Unless the applicant elects to use the discretionary criteria contained in EC 9.8515 Subdivision, Tentative Plan Approval Criteria- General/Discretionary, for housing applications entitled to clear and objective review pursuant to state statute, the planning director shall approve, conditionally approve, or deny the subdivision application. ~~[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:
~~[(1) The applicant has demonstrated that the proposed housing is needed housing as defined by State statutes.]~~

Renumber remaining subsections.

- (32) The proposed subdivision complies with all of the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:
- (a) EC 9.2000 through ~~[9.3980]~~ **EC 9.4170** regarding **applicable** lot dimensions and density requirements for the subject zone **and overlay zone**. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

Renumber remaining subsections.

- (5) ~~[There shall be no proposed grading on portions of the development site that meet or exceed 20% slope.]~~

Renumber remaining subsections.

- (64) The proposed subdivision provides ~~[safe and adequate transportation systems through compliance with the following:]~~ **for the**

~~[(a) P]~~ provision of pedestrian, bicycle and transit circulation among buildings located within the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, 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.

~~[(b) 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.]~~

- (75) 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] **the provisions of** EC 9.6880 through EC 9.6885 Tree Preservation and Removal Standards.~~

~~[(b) Natural resource areas designated on the comprehensive plan diagram as "Natural Resource."]~~

Renumber remaining subsections.

DRAFT