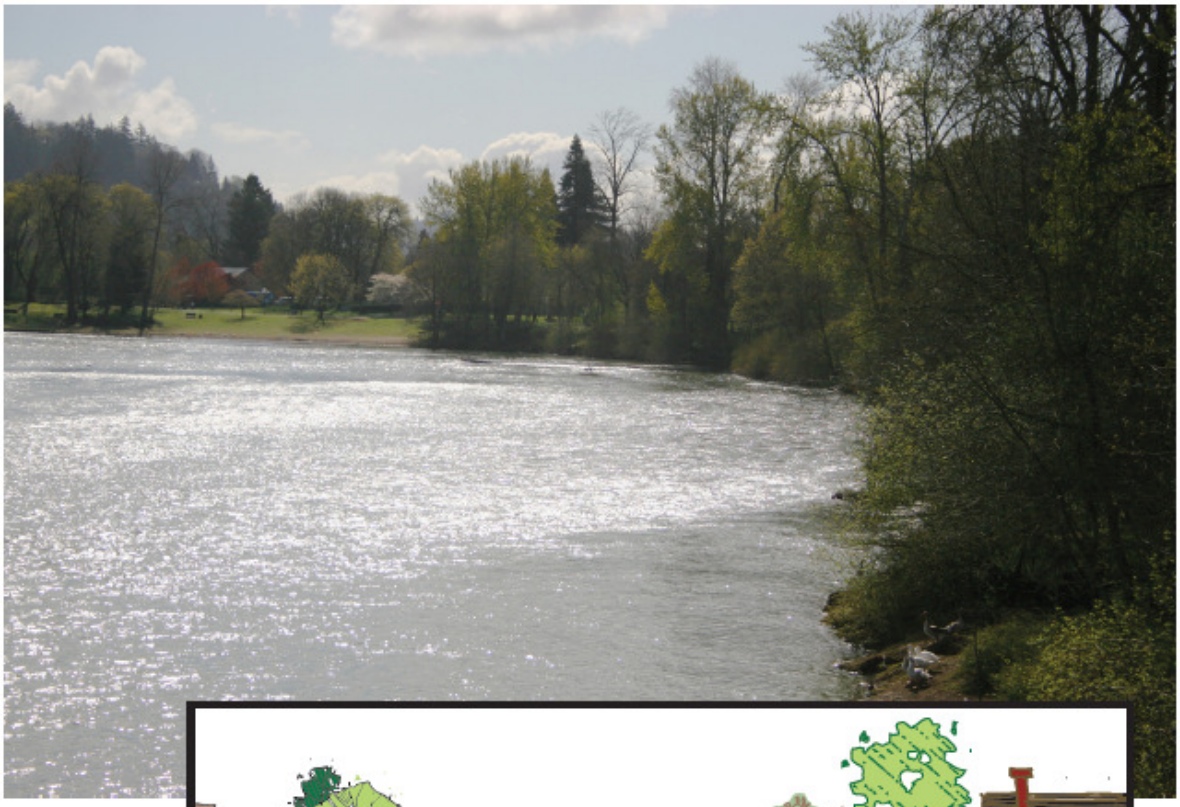

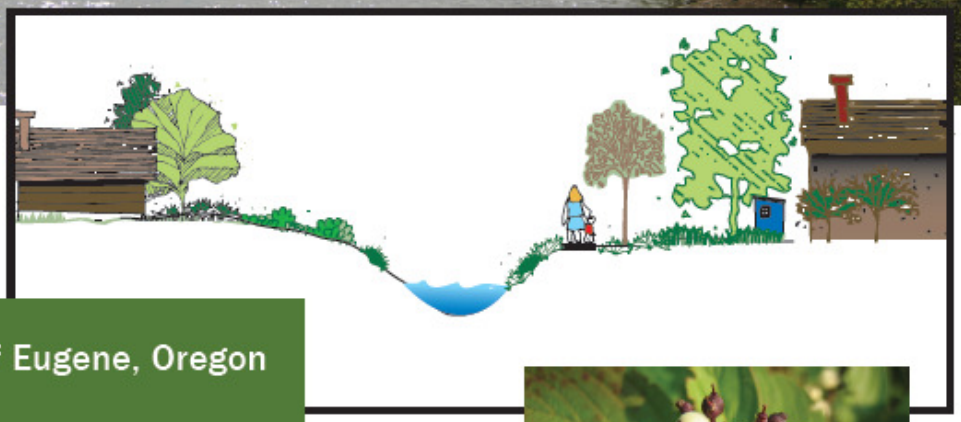

City of Eugene, Oregon

Total Maximum Daily Load (TMDL) First Annual Report

Submitted to
Oregon Department of
Environmental Quality

December 18, 2009

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1. INTRODUCTION

This report summarizes the progress of Total Maximum Daily Load (TMDL) associated implementation activities conducted by the City of Eugene in response to the Willamette Basin TMDLs and as described in the City's TMDL Implementation Plan ("TMDL Plan"). In the case of activities related to discharges covered under another regulatory permit program, the TMDL implementation status is provided indirectly by reference to the other permit program. The City's TMDL Plan, as submitted on October 15, 2008, was approved by the State of Oregon Department of Environmental Quality (DEQ) on December 23, 2008. This is the City of Eugene's first annual TMDL report and will be followed by an annual report each subsequent year detailing implementation activities.

Section 2 of this report provides some background leading up to this report. Section 3 provides information about which local area waterbodies are addressed by the Willamette TMDL, and references the TMDL Plan for strategy development. Section 4 includes an updated status for each City of Eugene TMDL activity, and an update on the other permits and programs that are relevant to the TMDL. Section 5 references water quality monitoring data and analysis included in the City's annual municipal stormwater report.

2. BACKGROUND

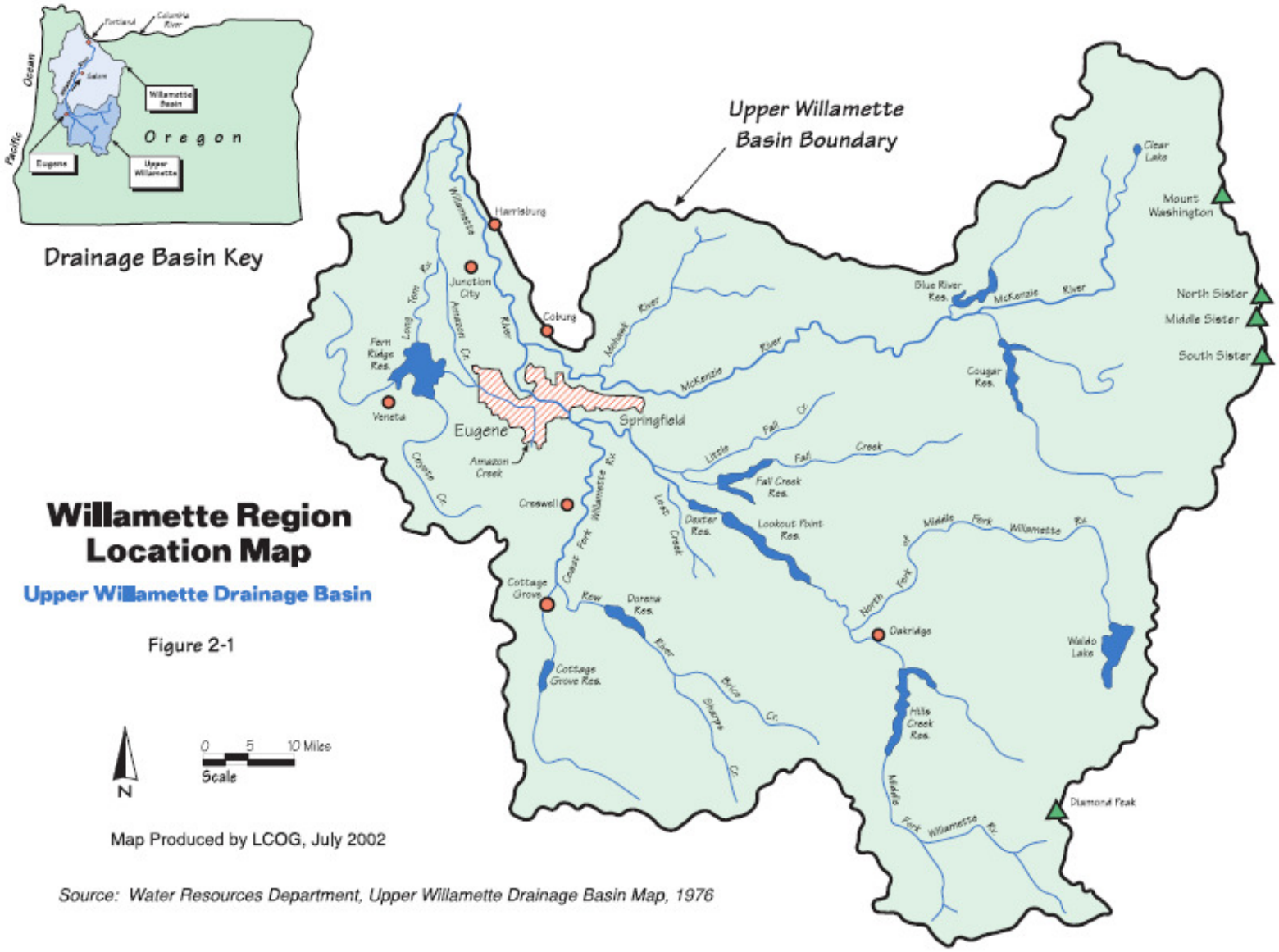
Eugene lies at the upper end of the Willamette watershed, as shown in Figure 2-1. The Willamette River flows for about 6 miles, from River Mile 184 to River Mile 178 through the City, as shown in Figure 2-2[1]. The Willamette River is currently listed by the State of Oregon DEQ as a water quality limited river due to elevated water temperatures, elevated mercury concentration in fish tissues, and elevated bacteria levels all of which at various points on the River may exceed State water quality standards. Other water bodies in the Eugene area that are tributary to the Willamette are water quality limited due to elevated bacteria levels, low dissolved oxygen levels, and elevated turbidity. These waterbodies include Amazon Creek, Amazon Diversion Channel and Fern Ridge Reservoir. When water quality standards are not met, the federal Clean Water Act requires that a TMDL to be established. A TMDL determines how much pollution can be added to the river without exceeding water quality standards. On September 21, 2006, the DEQ issued the Willamette Basin TMDL as an Order, and submitted

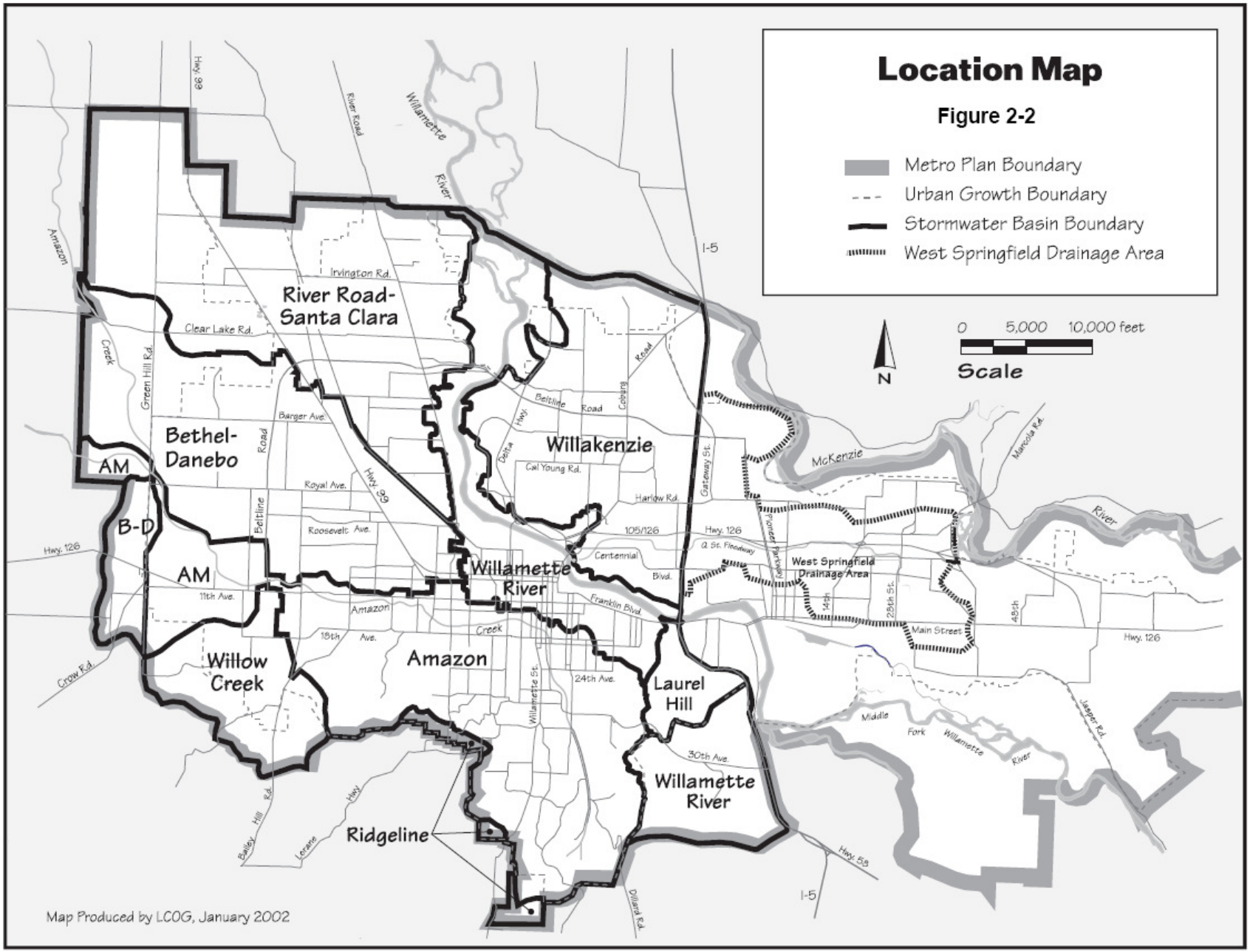
[1] Figure 2-2 illustrates the seven major stormwater drainage basins that have been delineated in Eugene: *1) Amazon Creek, 2) Bethel-Danebo, 3) Laurel Hill, 4) River Road-Santa Clara, 5) Willakenzie, 6) Willamette River, and 7) Willow Creek.* Note that the area depicted on Figure 2-2 is the 2002 stormwater basin planning study area which includes the Eugene city limits and the unincorporated area west of Interstate Highway 5 (I-5), and within the metropolitan plan boundary. The unincorporated portion includes land both within and outside the UGB. The City's responsibilities as a DMA apply only to the limits of its jurisdictional authority.

the TMDL to the Environmental Protection Agency (EPA) for approval. EPA approved the Willamette Basin TMDL on September 29, 2006.

Along with other cities and agencies in the Willamette Basin, the City of Eugene was named by DEQ as a "designated management agency" (DMA) in that it has legal authority over sectors or sources contributing pollutants on the approximately 27,800 acres within the City's limits, in that it operates the regional Eugene-Springfield Water Pollution Control Facility, a sewage treatment plant with permits to discharge stormwater and treated effluent into the Willamette River, and other regional facilities including the Eugene Airport. As such, the City of Eugene was required to develop a TMDL Implementation Plan, to describe ongoing and planned activities that will be undertaken to achieve the TMDL pollutant reductions.

TMDL implementation plan rules, described in OAR 340-042-0080(3), include a requirement to "*Implement and revise the plan as needed"* which according to the DEQ TMDL Implementation Plan Guidance (May 2007), includes an annual report of progress on the implementation of each management strategy. This report summarizes the progress of TMDL implementation related activities for the period of time from TMDL Plan approval through the end of the City's fiscal year 2009 ((December 23, 2008 - June 30, 2009). In effect, this report summarizes TMDL associated implementation activities over the City's fiscal year 2009 (July 1, 2008 – June 30, 2009), since that timeframe coincides with several other permits essential to TMDL implementation and referenced herein. Subsequent TMDL annual reports will cover reporting periods that coincide with the City's fiscal years (July 1 through June 30 of the following year), consistent with most of the other relevant regulatory reports including the MS4 report.


Drainage Basin Key
Pacific Ocean
Portland
Columbia River
Salem
Willamette Basin
Oregon
Eugene
Upper Willamette
Upper Willamette Basin Boundary
Harrisburg
Junction City
Coburg
Fern Ridge Res.
Veneta
Eugene
Amazon Creek
Springfield
Creswell
Cottage Grove
Cottage Grove Res.
Dorena Res.
Dexter Res.
Lookout Point Res.
Fall Creek Res.
Blue River Res.
Cougar Res.
Clear Lake
Mount Washington
North Sister
Middle Sister
South Sister
Oakridge
Hills Creek Res.
Waldo Lake
Diamond Peak
Willamette Region Location Map
Upper Willamette Drainage Basin
Figure 2-1
N
0 5 10 Miles
Scale
Map Produced by LCOG, July 2002
Source: Water Resources Department, Upper Willamette Drainage Basin Map, 1976



Map Produced by LCOG, January 2002

3. LOCAL AREA TMDL WATERBODIES & STRATEGY DEVELOPMENT

Table 3-1 identifies waterbodies addressed by the 2006 Willamette TMDL that lie within or near the City of Eugene and may be affected by activities within the City of Eugene's jurisdiction. The table includes the river miles affected, the TMDL parameter, and the season affected by the listing.

Table 3-1. Water Bodies and TMDL Pollutants[2]

Subbasin	Waterbody Name	River Miles	Parameter	Season
Upper Willamette	Willamette River	50.6 to 186.5	Temperature	Year Round
Upper Willamette	Willamette River	0 to 149	Bacteria	Fall/Winter/ Spring
Upper Willamette	Willamette River	174.5 to 186.4	Mercury	Year Round
Upper Willamette	A3 Channel	mouth to headwaters	Bacteria	Year Round
Upper Willamette	A3 Channel	mouth to headwaters	Mercury	Year Round
Upper Willamette	Amazon Creek	0 to 22.6	Bacteria	Year Round
Upper Willamette	Amazon Diversion Channel	0 to 1.8	Bacteria	Year Round
Upper Willamette	Amazon Diversion Channel	0 to 1.8	Dissolved Oxygen	Spring/Summer/ Fall
Upper Willamette	Long Tom River	0 to 24.2	Bacteria	Fall/Winter/ Spring
Upper Willamette	Fern Ridge Reservoir	24.2 to 31.8	Bacteria	Fall/Winter/ Spring
Upper Willamette	Fern Ridge Reservoir /Long Tom River	24.2 to 31.8	Turbidity	Year Round
Upper Willamette	Long Tom River	0 to 24.2	Temperature	Summer

[2] Table 3-1 has been updated (as compared to Table 3-1 in the City's TMDL Plan), to exactly math the listings in Tables 2-6 and Table 10-6 of the Willamette Basin TMDL.

In developing TMDL reduction strategies, outlined in the TMDL Plan, the City considered the list of affected waterbodies in Table 3-1, potential sources of TMDL pollutants, and existing and planned programs and activities which address TMDL pollutants. From that analysis the City developed reduction strategies for each TMDL pollutant. These reduction strategies are outlined in the City's TMDL Plan. A matrix (TMDL Plan, Appendix A – City of Eugene TMDL Implementation Plan Matrix) was then developed which includes all of the City's activities implemented or planned to carry out the strategies.

4. RELEVANT WATER QUALITY PERMITS AND PROGRAMS

This section includes an updated status for each City of Eugene TMDL activity (Section 4.a), an update on the other water quality permits relevant to the TMDL (Section 4.b), and an update and accomplishments for other programs relevant to the TMDL (Section 4.c).

a. TMDL Implementation Activities

Appendix A of this report includes the detailed list of activities implemented or planned by the City of Eugene for each TMDL pollutant to carry out the pollutant reduction strategies, updated to include status of each activity and progress made over the reporting period. For those activities covered under an existing permit program, Appendix A includes a reference to the permit, and Section 4.b includes references to specific reports within which additional information is available.

With regards to the first two activities in the matrix (Statewide Planning Goal 5 and Statewide Planning Goal 6), an update is provided in this section. In particular with respect to Goal 6, significant accomplishments were made over the TMDL reporting period.

Statewide Planning Goal 5
Oregon's Statewide Planning Goal 5 requires all Oregon cities and counties "to conserve open space and protect natural and scenic resources." Land Use Code regulations that apply to the designated Goal 5 sites, in the form of the /WR Water Resources Conservation Overlay Zone, were adopted in 2005 and 2006, and can be found in Chapter 9 of the Eugene City Code (see City's web site: http://www.eugene-or.gov and follow link to "Eugene Code").

- During the TMDL reporting period, two land use applications were submitted and reviewed (standards reviews), related to the /WR Water Resources Conservation Overlay Zone.

Statewide Planning Goal 6
Oregon Statewide Planning Goal 6 requires the City to, among other things, "maintain and improve water quality." At the time of drafting of the TMDL Plan, City staff had proposed establishing a /WQ (Water Quality) overlay zone for waterways with a significant relationship to 303(d)-listed streams that do not already fall within the Goal 5 protections.

- On March 9, 2009, the Eugene City Council adopted Land Use Code regulations in the form of the /WQ Water Quality Overlay Zone Ordinance and applied it to properties that contain or are adjacent to waterways of interest to protect for water quality and that are not protected through other means (namely, Goal 5). Appendix B of this report includes the adopted ordinance and related exhibits (with the exception of Exhibit A-1 – Water Quality Waterways Map – Compact Disc) which is available upon request. The new code language can be found in Chapter 9 of the Eugene City Code.
- On June 9, 2009, the Eugene City Manager adopted an Administrative Order (Appendix C of this report) related to implementation of certain aspects of the /WQ Water Quality Overlay Zone ordinance.
- On June 10, 2009 the /WQ Ordinance went into effect for specific parcels identified inside city limits (Ordinance Exhibit B). Certain properties outside city limits and inside the urban growth boundary (UGB) will be re-zoned to apply the /WQ Overlay Zone upon future development and annexation (Ordinance Exhibit C).
- Findings of consistency with state land use requirements (aforementioned Ordinance-Exhibit D) were produced for the /WQ Overlay Zone ordinance, thus satisfying OAR 340-042-0080(3)(D) and completing the demonstration of evidence of compliance with land use regulations provided in Section 6 of the City's TMDL Plan.
- Subsequent to the implementation of the /WQ Overlay Zone, and in recognition of the complexity of the local waterway protection regulations, the City began working on a fact sheet describing the City's overall efforts to protect water quality and wildlife habitat through land use regulations.

b. Water Quality Permits

This Section of the report provides information about the status of water quality permits that cover certain discharges but have their own separate review and reporting processes, and the status of water quality permit programs that the City administers on behalf of DEQ.

As explained in the City's TMDL Plan, discharges of surface water pollutants come from both "point" and "nonpoint" sources. Generally speaking, point sources enter surface waters via a pipe or other conveyances, whereas nonpoint sources discharge to surface waters directly or through overland flow (not via pipes or other conveyances). Discharge of industrial wastewater, municipal wastewater, and stormwater into waters of the United States are all regulated through the National Pollution Discharge Elimination System (NPDES) permitting program. The NPDES permitting program is authorized by Section 402 of the Clean Water Act and, in Oregon, the program is administered by the DEQ. The City of Eugene has obtained permits from DEQ under the NPDES program for its point source discharges to surface waters, including:

- **National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit #101244** (a permit issued to the City of Eugene for the municipal stormwater system discharges)
- **NPDES Wastewater Discharge Permit #102486** (a permit issued to the Metropolitan Wastewater Commission (MWMC) and the cities of Eugene and Springfield for the regional wastewater treatment plant discharges)

- **NPDES General 1200Z Industrial Stormwater Permit for WPCF sites** (a permit issued to the MWMC for the wastewater treatment facility stormwater discharges)
- **NPDES General 1200Z Industrial Stormwater Permit for Eugene Airport** (a permit issued to the City of Eugene for the stormwater discharges from the regional airport facility located outside of the Eugene UGB but operated by the City of Eugene)

These permits serve as the TMDL Implementation Plans for the discharges they cover, and the annual reports associated with each permit serve as the report of progress required for TMDL implementation, for the discharges they cover. Following is a summary of the status of the reporting for each of these permits. For more explanation about the permits themselves, see the City's TMDL Plan.

NPDES MS4 Permit #101244

The MS4 permit covers the discharges from the municipal stormwater system. The City is currently in its second permit term, which was scheduled to expire in February 2009 but was administratively extended pending action by DEQ on the City's permit renewal application. The City submitted a permit renewal application in September 2008, including a proposed Stormwater Management Plan (SWMP) for its third permit term. The City of Eugene submitted its most recent annual report (Year Six Annual Report) to DEQ on December 1, 2009.

At the time that the City submitted its proposed TMDL Plan, it was assumed that the third-term MS4 permit would be issued by the time of the first annual TMDL report. Therefore, the TMDL Plan references the proposed SWMP best management practices (BMP) codes, descriptions, tasks, measurable goals and tracking measures included in the MS4 permit renewal submittal. Since the new MS4 permit has not yet been issued and the City is still operating under its current SWMP, the Year 6 annual MS4 report reflects the existing BMP codes (not proposed), and includes "assessment methods" (not measurable goals and tracking measures, as reflected in the TMDL Plan). A table is provided in Appendix D for the reader of this report, to correlate the TMDL BMP codes reflected in the TMDL Plan (corresponding with the proposed SWMP) with the Year 6 Annual Report BMP codes (corresponding with the current SWMP). With respect to MS4 permit-related activities, the matrix in Appendix A refers to the Year 6 Annual Report. If the SWMP is further modified before approval of the third-term MS4 permit, the additional modifications will be reflected in the second annual TMDL Report to DEQ in December 2010. Once the MS4 permit is re-issued, and the BMP codes are consistent between the MS4 permit and the TMDL Plan, this issue of inconsistent BMP codes will be resolved.

- The most recent annual MS4 report (Year Six Annual Report), covering the reporting period from July 1, 2008 through June 30, 2009, was submitted to DEQ on December 1, 2009. Since the MS4 SWMP encompasses a significant component of the City's TMDL strategies, the Year Six Annual Report is included herein as Appendix E. The Year 6 Report includes SWMP BMP status and water quality monitoring data analysis and trends.

NPDES Wastewater Discharge Permit #102486 and NPDES General 1200Z Industrial Stormwater Permit for WPCF sites

The Metropolitan Wastewater Management Commission (MWMC) and the cities of Eugene and Springfield hold a NPDES permit for the discharge of treated wastewater to the Willamette River from the Eugene-Springfield Water Pollution Control Facility (WPCF). The MWMC also holds a permit for stormwater discharges from the WPCF and related Biosolids Management Facility (BMF) site.

- A Discharge Monitoring Report (DMR) for the WPCF is submitted to DEQ monthly, by 15th day of each month.
- A Pre-treatment Annual Report is submitted to DEQ each year by March 1, covering the entire previous calendar year.
- The 1200-Z report for the WPCF and BMF is completed by July 31st each year, and covered the previous fiscal year (July 1 through June 30). The most recent 1200-Z report for the WPCF and BMF sites was submitted to the DEQ on August 24, 2009 as a part of the 1200-Z data submittal referenced below under "Administration of NPDES 1200-A and 1700-A General Permits."

NPDES General 1200Z Industrial Stormwater Permit for Eugene Airport

The City of Eugene also holds a General 1200Z permit for discharges of stormwater runoff from the Eugene Airport site to Amazon Creek and the A1 Channel, both of which eventually flow into the Long Tom River.

- The 1200-Z DMR for the Eugene Airport is completed each year, covering the previous fiscal year (July 1 through June 30). The most recent 1200-Z report for the Eugene Airport site was submitted to the DEQ on July 13, 2009.

In addition to the point source permits held by the City of Eugene (and MWMC), the City acts as an agent for DEQ for three general permit programs of relevance to the TMDL: administration of the 1200-Z and 1700-A general permits (industrial stormwater permits and wash water permits, respectively), and administration of the 1200-C general permits (construction activities).

Administration of NPDES 1200-Z and 1700-A General Permits

The City currently acts as an agent for DEQ in the administration of 1200-Z (Industrial Stormwater) and 1700-A (Vehicle and Equipment Wash Water) General Permits inside the Eugene UGB[3].

- Yearly reports are submitted to the DEQ via email as a Microsoft Excel database. The most recent data submittal for the 1700-A permits occurred on November 11, 2009 and was entitled "City of Eugene 1700-A Permit Data." The most recent data submittal for the 1200-Z Permits occurred on August 24, 2009 and was entitled "Eugene – 1200-Z 2008-2009 DMR Data."

[3] The description of the City's responsibilities has been updated from the TMDL Plan, to indicate that the City administers the 1200-Z and 1700-A permits inside the Eugene UGB.

Administration of NPDES 1200-C General Permits
The City currently acts as an agent for DEQ in the administration of 1200-C (Construction Activities) General Permits inside city limits and outside city limits, inside the Eugene UGB on behalf of Lane County under the City of Eugene/Lane County Stormwater Intergovernmental Agreement described in Section 2(e) of the TMDL Plan.

- The City's activities related to the erosion program are included in the MS4 Annual Report, referenced under "Municipal Separate Storm Sewer System (MS4) permit."

c. Other Relevant Programs

This section provides information about the status and accomplishments of two other program areas or activities relevant to the TMDL, however indirectly: 1) Sustainability and 2) Low Impact Development.

Sustainability
Up-to-date information on the City's Sustainability Program can be found on the City's web site at: http://www.eugene-or.gov and follow links to "Sustainable Eugene."

- The Sustainability Commission produced its First Annual Report, covering the period of time from May 2008 through June 2009, which is available from the Sustainable Eugene web site, and is provided in this report for convenience as Appendix F.

Low Impact Development
Staff has continued its efforts to increase the implementation of low impact development (LID) practices, following Eugene City Council direction in September 2008. Staff is exploring multiple avenues of opportunity to increase LID including administrative adjustments, additional integration of LID practices with other initiatives, development of proposals for land use code amendments, and development of proposals for other program enhancements.

- Subsequent to the September 2008 Council work session, City staff has identified a number of specific follow up actions and next steps to increase implementation of LID, and will formally incorporate them into the staff's work plan for calendar year 2010.

5. WATER QUALITY MONITORING

The City has conducted ambient and stormwater monitoring at several locations for over 12 years. The monitoring data, analysis and trend information are provided to DEQ annually as part of the MS4 permit reporting. For the latest assessment of water quality conditions through monitoring, please see the Year 6 Stormwater (MS4) Annual Report, dated December 1, 2009, provided in Appendix E.

APPENDIX A

TMDL IMPLEMENTATION PLAN MATRIX
UPDATED DECEMBER 2009

Appendix A - City of Eugene TMDL Implementation Plan Matrix (Updated 12-09)

MS4 SWMP BMP ID (if applicable) (1)	BMP or Activity	Description of BMP or Activity	Measurable Goals & Timeline	Tracking Measures What is being tracked to show progress towards meeting measurable goals	Milestone Intermediate goals to know progress is being made	Progress Reporting Period (7-1-08 through 6-30-09)	TMDL Pollutants Addressed(2)					Water-shed(3)		Regulatory Program(s)(4)							
							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
WATERWAY PROTECTION, RESTORATION & SHADING																					
	Stream buffers/riparian protection	Consider adoption of an ordinance to establish setback buffers by means of a Water Quality Overlay Zone on waterways with a significant relationship to 303(d) listed streams, and which are not already protected by some other means (namely, Goal 5 and other protective zoning regulations).	/WQ Overlay Zone ordinance adopted and implemented (or alternative protections implemented) by June 2009	• Stakeholder comments through City Council decision • Discussion, decisions of elected officials	City Council worksession tentatively January 28, 2009	• Stakeholder comments solicited and addressed in the adoption process. • Eugene City Council adopted the /WQ Water Quality Overlay Zone March 9, 2009, and Eugene City Manager adopted related Administrative Order on June 9, 2009. • WQ Ordinance in effect June 10, 2009. • Draft "comprehensive waterway protection through overlay zones" fact sheet produced.	√	√	√	√	√									X	X
	Stream buffers/riparian protection	Track and support the implementation of Goal 5 natural resource waterway protections.	Track implementation of /WR Overlay Zone	• Applications involving /WR Overlay Zone	NA	• Two /WR standards review applications were received during the reporting period.	√	√	√	√	√								X		x
	Temperature trading feasibility	Explore options and partnership opportunities for ecosystem restoration to off-set temperature impacts, for example the regional wastewater treatment facility.	Identify follow up actions from March 2008 Preliminary Findings prepared by the Long Tom Watershed Council by June 2009.	• Document discussions and intermediate decisions	Discussions with City of Springfield by March 2009.	• Informal discussions held with City of Springfield and DEQ over the reporting period. Some uncertainty as to whether DEQ will give regulatory credit for restoration of riparian shading along the lower Long Tom. Have had discussions with DEQ staff and provided input to the development of the DEQ's Internal Management Directive for trading, which is focused on temperature.	P	√	P	P	P						X				X
	Enhance streamside shading, with an emphasis on Amazon Creek	Document existing planting plans and programs that relate to tree and shrub planting including: Amazon Creek plant community restoration plan (P3); tree planting code requirements; Neighborwoods; Stream Team (P1); Natural Resource Maintenance planting efforts (P4); Stormwater Management Manual (E4). Include in program adaptive management activities an evaluation of opportunities to enhance streamside shading.	Plant trees (goal=400/yr) along south and west side of Amazon Creek; Plant willow plantings (goal=4,000 lineal ft/year) of willow plantings along Amazon Creek	• Number/type of trees planted along Amazon Creek annually • Number of willow plantings along Amazon Creek annually • Number/type of trees planted along other waterways annually • Number of willow plantings along other waterways annually	NA	• 230 trees planted along Amazon Creek • Approximately 1,670 willows planted along Amazon Creek (along 5,010 LF) • 2,465 trees planted along other waterways • 5,200 willows planted along other waterways • All tree listed above are native, overstory trees that will provide shade on the water's surface at maturity. There is a mixture of both native broad leaf species (approx 80%) and native conifers (approx 20%).	P	√	P	√	P			X							X
	TMDL web page	Develop TMDL web page, including links to related web sites, the City's TMDL Implementation Plan, and staff contact information.	Develop and populate web page by December 2008.	• Confirm web page information is current once/month	NA	• Links to TMDL information provided from City's /WQ Overlay Zone web page. • MS4 permit and annual reports posted to the City's web site at www.ci.eugene.or.us: Home > Public Works > Stormwater > Stormwater Permits & Regulations. • TMDL web page under development.	√	√	√	√	√										X
MERCURY REDUCTION STRATEGIES (NOT ASSOCIATED WITH EXISTING PERMITS)																					
	Dental Waste MOA	Participate in the implementation of activities as outlined in the 2006 Memorandum of Agreement (MOA) between the Oregon Dental Association (ODA), Metropolitan Wastewater Management Commission (MWMC), and the cities of Eugene and Springfield to limit the discharge of mercury and mercury bearing dental wastes into the regional wastewater collection system.	Provide services in the ten areas outlined in the MOA between ODA, MWMC and the cities of Eugene and Springfield.	• Track certifications of compliance with ODA BMPs, for dental offices in Eugene.	Monitor implementation of 2006 MOA ten specific services.	• 127 dental BMP certifications granted over the reporting period.			√												X
	School Cleanout Campaign	Participate in the School Cleanout campaign, led by Lane County with funding from DEQ, including (but not limited to) the disposal of chemicals and equipment containing mercury (barometers, manometers, thermometers).	Commence with efforts once intergovernmental agreement is signed by DEQ and Lane County. Timing of Clean Out campaign is dependent upon receipt of grant funding.	• Track quantities of chemicals and equipment identified for disposal.	Participate in stakeholder meeting to commence with Campaign by end of December 2008.	• Campaign was conducted by DEQ and Lane County staff, however City of Eugene staff were unable to participate due to scheduling conflicts.			√												X

Appendix A - City of Eugene TMDL Implementation Plan Matrix (Updated 12-09)

MS4 SWMP BMP ID (if applicable) (1)	BMP or Activity	Description of BMP or Activity	Measurable Goals & Timeline	Tracking Measures What is being tracked to show progress towards meeting measurable goals	Milestone Intermediate goals to know progress is being made	Progress Reporting Period (7-1-08 through 6-30-09)	TMDL Pollutants Addressed(2)					Water-shed(3)		Regulatory Program(s)(4)							
							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
MUNICIPAL SEPARATE STORWMATER SEWER SYSTEM (MS4) NPDES PERMIT																					
Public Education																					
A1	Stormwater Education	Plan, develop, implement and revise as necessary a program to provide stormwater information and education to homeowners, school children, City and other agency staff and the general public about the impacts to stormwater quality and natural resource values from both point and non-point sources of pollution. In addition, educate professional, commercial, and industrial businesses about best management practices that can help prevent and reduce stormwater quality impacts to the public stormwater system and local receiving waters.	• Conduct bi-annual surveys (i.e. one survey every other year) with Eugene residents to determine attitudes and opinions of residents about the stormwater management program. • Provide SPLASH educational curriculum to teachers and administrators in local school districts. • Develop and implement internal stormwater education to city staff through new employee orientation, "green team" presentations, work group presentations and audio/visual presentation. • Increase catch basin markers with "dump no waste" messages and storm drain covers installed on public improvement projects. • Work collaboratively on education campaigns with other local agencies.	• Quantity of newsletters (Stormwater Connections) and rate brochures mailed to Eugene residents. • Number of students and teachers that use SPLASH curriculum annually. • Number of attendees at public outreach events. • Number of employees attending stormwater education sessions. • Track quantity of installed catch basin markers and storm drain covers. • Identify collaborative campaigns, target audience and summary of campaign. • Documentation of stormwater survey responses.	Spring Stormwater Connections newsletter published by May each year; Fall Stormwater Connections newsletter published by November each year.	• See Year 6 Stormwater Annual Report	√	√	√	√	√			X				X			x
P1	Educational Volunteer Program	Manage and support the City's Stream Team stormwater volunteer program. Provide opportunities to involve citizens of all ages and socio-economic backgrounds in meaningful, hands-on and educationally oriented stormwater related projects. Such projects are aimed at providing both physical benefits and participant awareness related to protecting stormwater quality, fostering citizen stewardship of the City's water resources, promoting the use of native-vegetation, and enhancing fish and wildlife habitat within the local urban watershed.	• On average, recruit and sustain three new adoption groups per year. • On average, conduct 12 volunteer work parties per year. • Conduct at least one partnership based large-scale water resource clean-up or enhancement volunteer project per year.	• Number of new adoption groups brought into the program. • Number of work parties conducted and number of volunteer participants. • Document annual large-scale project(s), participating partners and number of volunteer participants.	On-going program	• See Year 6 Stormwater Annual Report	√	√	P	P	√			X							x
Planning, Capital Improvements, and Data Management																					
E1	Stormwater Capital Improvement Projects	Implement the Stormwater CIP including projects identified in the City's 2002 Stormwater Basin Master Plans (Basin Plans) for Amazon, Willow Creek, Bethel-Danebo, Willakenzie, Laurel Hill, and Willamette River basins. Finalize the River Road – Santa Clara Basin Master Plan. The Basin Plans describe a multiple-objective strategy for managing stormwater that addresses water quality protection and improvement, conveyance and flood control, and waterway protection and restoration. The basin strategies reflect the unique characteristics, problems and opportunities in each basin. Volume I contains a prioritized city-wide capital projects list including: water quality facilities in high pollutant source areas, streambank stabilization, stream restoration, and capacity enhancement projects. The Basin Plan capital projects are one of the main sources of capital projects that comprise the City's Capital Improvement Program (CIP). In addition to the Basin Plans, CIP projects also originate from a list of maintenance and rehabilitation needs, from focused planning studies such as the Metro Waterways Restoration Study, and other partnership opportunities. The prioritized Basin Plan capital projects are combined with projects from these other	• Complete River Road-Santa Clara Basin Plan by February 2009. • Implement Stormwater CIP projects including at least one "water quality facilities in high source areas" project over the five-year permit term, and other retrofits as opportunities arise.	• Document completion of River Road-Santa Clara Basin Plan. • Track the number, type, watershed location and total drainage area of capital improvement projects constructed for water quality.	Public draft RR-SC plan by October 2008.	• See Year 6 Stormwater Annual Report	√	√	P	√	√			X				X			x

Appendix A - City of Eugene TMDL Implementation Plan Matrix (Updated 12-09)

MS4 SWMP BMP ID (if applicable) (1)	BMP or Activity	Description of BMP or Activity	Measurable Goals & Timeline	Tracking Measures What is being tracked to show progress towards meeting measurable goals	Milestone Intermediate goals to know progress is being made	Progress Reporting Period (7-1-08 through 6-30-09)	TMDL Pollutants Addressed(2)					Water-shed(3)		Regulatory Program(s)(4)							
							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
E3	Stormwater System Mapping and Data Management	Keep up-to-date inventories and maps of the public and private, natural and constructed, stormwater system. Include mapping of public and private water quality and flow control facilities such as grassy swales and detention basins. Develop and integrate asset inventory data and geographic information system (GIS) systems which describe the conveyance system, water quality attributes and related natural resource information. Integrate information generated through BMPs such as E1 (Capital Improvement Projects) and E4 (Development Standards) which create or modify system components and/or change the attributes of the stormwater system.	• Enter 95% of all newly constructed stormwater system features into inventory databases and GIS within six months of final construction approval. • Ensure that 90% of GIS and data application users surveyed rate the GIS/data systems as satisfactory or better.	• Report on map and database update activities annually. • Survey map and data system users bi-annually.	NA	• See Year 6 Stormwater Annual Report	Pollutants are not directly addressed by this BMP, but it is an essential support function for the other program activities							X				X			x
P2	Bacteria Pilot Study	Amazon Creek is water quality limited for bacteria and load reductions of 84% are necessary as specified in the 2006 Willamette Basin Bacteria TMDL. Conduct pilot study within a portion of the Amazon Creek stormwater basin to identify localized sources and types of bacteria contributions to Eugene's MS4 system. Where feasible, apply appropriate and specific BMPs to address these source types and measure BMP effectiveness using quantitative and qualitative methods.	• Collect and analyze stormwater samples within the study area during at least 3 significant wet weather storm events per year for the duration of the permit cycle. • Conduct field condition surveys within the study area at least 4 times per year through the end of new Permit Year 2. • Implement at least 2 new BMPs by February 2010 that will either identify or rule out specific sources of bacterial contributions to the MS4 within the study area. • Starting in new March 2010, implement at least one new BMP per year that will address identified specific sources of bacteria with the study area.	• Track the number of sampling events, samples collected, and resulting bacteria analysis results. • Track the number of field condition surveys conducted, the weather and antecedent weather patterns, and correlate noted conditions with results of sampling analysis. • Document additional source identification BMPs, BMP activity and any conclusions derived as a result of conducting the BMP. • Document additional bacteria reduction BMPs and BMP activity. • Document all follow up sampling and analysis and conclusions derived regarding BMP effectiveness.	Document pre-BMP implementation observations and water quality data from Phase I of the study by October 08.	• See Year 6 Stormwater Annual Report	√							X							X
Construction and New Development																					
E2	Erosion Prevention and Construction Site Management Program	Administer and monitor an Erosion Prevention and Construction Site Management Program in compliance with Eugene Code 6.625-6.645, preventing and mitigating pollutant and sediment discharges into the city's stormwater system due to construction activities and land disturbance. *NOTE: Projects that disturb one or more acres or are located in a sensitive area must have a permit based on a construction site management plan (CSMP) which shows the measures to be taken to comply with the mandated outcomes. In addition, even smaller construction projects which do not require a permit must meet the objectives of the ordinance. All public improvement projects must include a CSMP. See Appendix D-2 and D-3 of this Report for copies of the Ordinance and Administrative Rule, provided herein for information.*	• Inspect all construction sites prior to issuing an erosion permit. • Inspect all non-erosion-permitted sites at least twice during the life of the building/construction permit. • Inspect permitted sites monthly. • Conduct one annual erosion prevention training event.	• Number of compliance orders issued. • Number of permits issued. • Number of inspections. • Number of training/outreach events.	NA	• See Year 6 Stormwater Annual Report	√		√	√	√			X							x

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							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
E4	Stormwater Development Standards	Administer and monitor a program that implements the city's Stormwater Development Standards, Eugene Code 9.6790-9.6796, Eugene Code 7.143 (3), and associated Stormwater Management Manual. The Stormwater Development Standards regulate the location, design, construction and maintenance of private and public stormwater facilities for flood control, water quality, and natural resource protection. (Note: Stormwater development standards are controls for post-construction water quality. Standards for erosion control during construction related to new development are covered under BMP E2).	• Review stormwater management proposals for land use applications. • Review and approve construction plans for stormwater management facilities for all development sites which create 1000 square feet or more impervious surface. • Update Eugene's Stormwater Management Manual bi-annually.	• Number of water quality facilities permitted with building permits. • Number of land use applications reviewed. • Number and type of public water quality facilities constructed. • Number of training/outreach events held.	NA	• See Year 6 Stormwater Annual Report	√	P	√	√	√			X				X			x
P6	Compliance Program for Maintenance of Privately Owned Vegetated Stormwater Facilities	Develop, implement and manage a program to ensure that privately owned and operated vegetated stormwater treatment facilities are maintained so that they function as designed and constructed. The program will employ a combination of rules, protocols and procedures to require: that each private vegetated facility is routinely inspected; that routine and corrective maintenance actions are performed in a timely manner; and that completion of both such activities are regularly reported to City staff. Based on Eugene Municipal Code requirements, penalties and/or other legal remedies will be employed to enforce compliance with these requirements when necessary.	• Inspect all new vegetated private stormwater facilities at the time of construction and log pertinent information into a maintenance tracking and enforcement database. • Adopt and implement an administrative rule to enforce the maintenance of private stormwater facilities by February 2010. • Ensure the inspection of each vegetated private stormwater facility is conducted at least once per year by the owner/operator and an annual report documenting the necessary corrective actions filed with City staff.	• Number of private facility inspections. • Number of owner/operator annual reports received. • Number of notices of non-compliance and subsequent enforcement.	NA	• See Year 6 Stormwater Annual Report	√	P	√	√	√			X							x
M6	Regulation of Inspection, Maintenance and Reporting of Private Underground Stormwater Structures	Develop, implement and manage a program to ensure that privately owned and operated underground stormwater treatment structures are properly maintained. The program will employ the guidance provided by the required individual Operations and Maintenance (O&M) plan for each structure.	• Inspect all new private underground stormwater structures at the time of construction and log pertinent information into a database. • Establish a correspondence file for each structure/operator. • Ensure that each private underground stormwater structure is inspected, maintained and reported on as required by the O&M plan for the specific device.	• Track the number of O&M plans obtained. • Track the number of private inspection, maintenance and reporting activities conducted. • Track any enforcement activities related to the individual structures.	NA	• See Year 6 Stormwater Annual Report	√	P	√	√	√			X							x
Operations and Maintenance																					
M3	Street Sweeping Program and Leaf Pick-up	Undertake both mechanical brush and vacuum sweeping of publicly maintained roads, bike paths, and parking lots in accordance with the Stormwater Operations and Maintenance Manual. Perform on-going review of the revised sweeping practices and schedules implemented as part of the City's previous stormwater discharge permit. Monitor and evaluate new technology and methods related to street sweeping, and make appropriate adjustments to the current sweeping program when feasible to maximize water quality benefits.	• Sweep downtown core twice per week. • Sweep university and industrial areas once per week. • Sweep arterial streets every 2 weeks. • Sweep residential streets every 6-8 weeks. • Sweep bike paths and improved alleys twice per year. • Coordinate and manage two seasonal opportunities for the citizen's leaves to be picked up and managed by the SW operations crew.	• Lane miles swept. • Amount of debris collected. • Amount of leaves picked up.	NA	• See Year 6 Stormwater Annual Report	√		√	√	√			X							x

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							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
M5	Public Stormwater System Cleaning Programs - Piped System	Undertake frequent, systematic cleaning of the components of the public stormwater system such as catch basins, pipes, culverts, inlets, and stormwater quality devices in accordance with the adopted Stormwater Operations and Maintenance (O&M) Plan. Document quantities of material removed from each structure. Using the maintenance management system, refine the regular cleaning schedule for conduits, catch basins and stormwater quality devices. Research and monitor developments in maintenance technology and operations and maintenance methods for the closed systems which will further increase the effectiveness of our cleaning practices and water quality improvement practices.	• Clean 50% of the all of the public catch basins and inlet structures annually. • Clean the inlet conduits associated with the individual structures. • Clean 50% of all of the public underground stormwater quality structures annually.	• Track the number of structures cleaned. • Track the amount of debris recovered.	NA	• See Year 6 Stormwater Annual Report	√		√	√	√			X				X			x
P3	Tree Planting and Information Programs	Manage and support both governmental and community tree planting programs. Provide information to the public about the multiple benefits that trees provide for protecting an enhancing stormwater quality.	• On average, conduct 12 Neighborwoods volunteer program tree planting projects per year. Plant 600 trees per year through this program. • Include the planting of street trees with all new private developments and with all new public street improvement projects as opportunities arise. • Provide information about the stormwater benefits of trees at major publicly attended events at least 4 times per year.	• Track the number of Neighborwoods volunteer program planting projects and the resulting number of trees planted. • Track the number of trees planted through new development tree planting requirements and through City-engineered street improvements. • Track the number and type of publicly attended events where stormwater related tree information was provided or where a presentation was made	NA	• See Year 6 Stormwater Annual Report		√	√	√	√			X							x
P4	Public Landscape and Natural Vegetation Management	Evaluate and, as necessary, adapt or revise turf, landscape and natural area vegetation management programs for public lands under the City's jurisdiction. Such areas include both developed and undeveloped parkland, public right-of-way, wetland, drainage channels, natural creeks, ponds and other water resources. The focus of this BMP is to minimize and further limit the discharge of pollutant laden runoff from these sites, enhance the shading potential of waterway and pond riparian areas, and to promote wildlife habitat where appropriate.	• Complete Integrated Pest Management policy document and operations manual by February 2009. • On average, plant 5000 lineal feet of riparian area each year with native trees and shrubs. • On average, add one additional park to the Pesticide Free Parks Program every other year for the next six years.	• Document completion of IPM policy document and operations manual. • Track the number of riparian vegetation planting projects, including the number of lineal feet planted, and the number and general type of native species planted (i.e. trees, shrubs, grasses, etc.). • Track the number of parks added to the Pesticide Free Parks Program.	NA	• See Year 6 Stormwater Annual Report	√	√	√	√	√			X							x
P5	Public Stormwater System Maintenance – Open Waterways	Evaluate and, as necessary, adapt or revise turf, landscape and natural area vegetation management programs for public lands under the City's jurisdiction. Such areas include both developed and undeveloped parkland, public right-of-way, wetland, drainage channels, natural creeks, ponds and other water resources. The focus of this BMP is to minimize and further limit the discharge of pollutant laden runoff from these sites, enhance the shading potential of waterway and pond riparian areas, and to promote wildlife habitat where appropriate.	• Complete Integrated Pest Management policy document and operations manual by February 2009. • On average, plant 5000 lineal feet of riparian area each year with native trees and shrubs. • On average, add one additional park to the Pesticide Free Parks Program every other year for the next six years.	• Document completion of IPM policy document and operations manual. • Track the number of riparian vegetation planting projects, including the number of lineal feet planted, and the number and general type of native species planted (i.e. trees, shrubs, grasses, etc.). • Track the number of parks added to the Pesticide Free Parks Program.	NA	• See Year 6 Stormwater Annual Report	√	√	P	√	√			X							x

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MS4 SWMP BMP ID (if applicable) (1)	BMP or Activity	Description of BMP or Activity	Measurable Goals & Timeline	Tracking Measures What is being tracked to show progress towards meeting measurable goals	Milestone Intermediate goals to know progress is being made	Progress Reporting Period (7-1-08 through 6-30-09)	TMDL Pollutants Addressed(2)					Water-shed(3)		Regulatory Program(s)(4)							
							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
Illicit Discharge Controls																					
M1	Enforcement of Illicit Discharges to the Stormwater System	Discourage and reduce improper discharges into the stormwater system through operation of a stormwater discharge compliance enforcement program. The primary goals of this program are to protect the quality of the receiving waters of the City's stormwater system and to ensure that discharges to the City's stormwater system are in compliance with local, state, and federal regulations to the maximum extent practicable. The City will conduct periodic review of enforcement program practices and procedures and make revisions as deemed necessary.	• Work to reduce the number of stormwater pollution complaints received by the City through public outreach and a reasonable enforcement of regulations.	• Track the number of stormwater pollution complaints received by the City. • Track the number of formal communications sent to stormwater system users. • Track the number of incidents which required enforcement.	NA	• See Year 6 Stormwater Annual Report	P	P	P	P	P			X				X			x
M2	Spill Response	Maintain an on-call team trained in spill response procedures involving environmentally hazardous materials and a vehicle equipped for such spill mitigation. Coordinate efforts with other local response teams such as the City of Eugene Fire and Police Departments, Lane County, and state agencies.	• Maintain a fully trained team of staff that will respond to spills in a timely fashion. • Maintain an up to date list of trained personnel and the proper notification procedures for the on-call guide.	• Up-to-date list of employees trained for spill response. • Track number of spills and follow-up details.	NA	• See Year 6 Stormwater Annual Report	P	P	P	P	P			X				X			x
M7	Systematic Field Investigation of System Condition and Improper Discharges	Using a watershed basin approach, systematically inspect all commercial/industrial private stormwater systems that connect to the public drainage system. The purpose of this is to map private systems where no records currently exist and to assess the impacts of the private system on the public system. Where evidence is found that significant levels of pollutants are being introduced to the public system, work with property owners to correct the problems causing the discharge of pollutants. In addition to inspection of the private stormwater system, the Systematic Field Investigation program will be inspecting the public system for condition assessment.	• Develop "map update" requests based on field inspections and forward this information to the Geographic Information Systems (GIS) manager for inclusion into the citywide GIS system. • Work with the stormwater operations crew to assess, inspect and map the public and private stormwater system. • Work with the inspection and enforcement staff to continue to educate and regulate the users on the proper use of the stormwater system.	• Track the number of map update requests forwarded to the GIS team. • Track and create work orders for the system repairs discovered through the inspection process. • Record and track all written communication with the stormwater system users prompted by the results of the field investigation.	NA	• See Year 6 Stormwater Annual Report	√		P	P	√			X							x
P7	Litter and Illegal Dumping Control	Manage and support efforts to reduce impacts to stormwater runoff and local receiving waters by controlling litter and debris in public spaces and by removing illegally dumped refuse and debris as well as garbage and trash from illegal camp sites. There are two primary focal points of this BMP. The first is to provide opportunities for proper disposal of litter and trash at strategic publicly owned sites to prevent it from being washed into the public stormwater system. The second is to clean-up illegal dump sites and illegal camp sites prior to pollutants from the trash and debris being washed into the public storm system or the local receiving waters.	• Ensure all parks, all public space areas managed by the City and all venues for outdoor public events on City lands have adequate rash receptacles and are emptied frequently enough to prevent spillage due to being over filled. • Ensure at least 75% of all rentals of parks, park shelters, and other City operated outdoor facilities will result in no loose litter and debris left behind. • Inspect all major waterways and riverbanks weekly for dumped or discarded debris and illegal campsites. When found, remove dumped materials within two working days. When found, dismantle illegal campsites and clean-up as soon as is physically and legally possible. • Monitor all identified historic dumping sites in the public right-of-way and clean-up as necessary at least twice per month.	• Track the collection frequency for trash receptacles in City parks and other public space areas managed by the City. • Document the number or percentage of rentals of parks, park shelters, and other outdoor venues held on City managed land that forfeit all or part of their clean-up deposit due to excessive litter left behind. • Track the number of illegal campsites cleaned-up along riverbanks, waterways, or other public space areas managed by the City. • Track the frequency of collection and the amount of debris collected from waterways and from the public right-of-way.	NA	• See Year 6 Stormwater Annual Report	√		P	P	√			X							x

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MS4 SWMP BMP ID (if applicable) (1)	BMP or Activity	Description of BMP or Activity	Measurable Goals & Timeline	Tracking Measures What is being tracked to show progress towards meeting measurable goals	Milestone Intermediate goals to know progress is being made	Progress Reporting Period (7-1-08 through 6-30-09)	TMDL Pollutants Addressed(2)					Water-shed(3)		Regulatory Program(s)(4)							
							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
Waste Management																					
B1	Household Hazardous Waste Disposal	Support existing efforts and programs within the Eugene metro area to inform citizens of local opportunities for the proper discard and disposal of their household hazardous waste materials. Support and promote facilities and programs that provide such opportunities. The improper disposal of household hazardous waste poses a serious threat to local stormwater quality. Old paint, solvents and thinners, pesticides, bleach, drain cleaners, antifreeze, gasoline, used motor oil and other motor vehicle fluids can easily be flushed into the stormwater system if disposed of in yards, left uncovered in the rain, or poured down driveways or into the street. Supporting efforts to inform homeowners and tenants about where they can properly dispose of these products as well as supporting local household hazardous waste management facilities and efforts is an effective way to reduce the amount of these products that inadvertently make their way into the stormwater system and local receiving waters.	• Update "Brown Pages" in the US Dex directory to include new electronics requirements for the 2009-10 edition. • Update the City's website by Spring 2009.	• Document completion of "Brown Pages" update. • Document materials disbursed about household hazardous materials	NA	• See Year 6 Stormwater Annual Report			√	P				X							x
B2	Solid Waste Management	Evaluate and revise, as necessary, existing solid waste and recycling collection rules to address stormwater quality. Improper and/or unregulated collection and recycling of solid waste has a serious potential for creating negative impacts to stormwater quality. High collection fees, infrequent or spotty collection service may lead to illegal dumping activity. Unregulated waste containers may be prone to leaking or spilling allowing pollutants to wash into the storm system. By continuing to monitor and evaluate local solid waste management collection efforts, the City will be better able to improve local regulations so that stormwater quality is taken into account.	• Review Administrative Rule to ensure regulations are up to date and include requirements to support appropriate waste management and prevention. • Contract with Oregon DEQ for a waste composition study.	• Document total tons of yard debris collected through the curbside program. • Document the number of compost demonstration workshops and participants. • Document number of enforcement cases related to inappropriate garbage handling. • Compare waste composition study with the prior one.	NA	• See Year 6 Stormwater Annual Report	√		√	√	P			X							x
Industrial Controls																					
W2	Industrial Stormwater Management Program	Provide oversight of stormwater discharges and washing activities from industrial facilities, screening new businesses for those that may require NPDES Permits, conducting inspections and providing technical assistance to industries with NPDES Permits, and responding to spills at facilities with permits.	• Conduct site inspections on 20% of permitted facilities annually.	• Percentage of permitted facilities inspected. • Number of corrective action letters sent and follow up responses. • Number of Action Plans prepared by permit registrants.	NA	• See Year 6 Stormwater Annual Report	√		P	P	√			X							x
Monitoring & Reporting																					
	Stormwater & Receiving Water Quality Monitoring	Conduct stormwater and receiving water (ambient) monitoring in accordance with Monitoring Plan. Continue to update TMDL management strategies based upon new stormwater and ambient monitoring data.	Analyze and report results to DEQ	Submit Monitoring Report Annually	NA	• See Year 6 Stormwater Annual Report	Pollutants are not directly addressed by this BMP, but it is an essential support function for the other program activities							X							X
WATER POLLUTION CONTROL FACILITY (WPCF) NPDES WASTEWATER DISCHARGE PERMIT																					
		Meet WPCF NPDES permit effluent limits as they relate to TMDL pollutants	Meet permit effluent limits, as required under NPDES permit	on-going under existing permit; permit renewal in progress	NA	NA	√	√	√								X				x
		Conduct pretreatment program as required under WPCF NPDES permit	Meet permit requirements to track number of inspections and outcomes	on-going under existing permit; permit renewal in progress	NA	NA	√	√	√								X				x

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							Bacteria	Temperature	Hg	DO	Turbidity	Amazon	Willamette	NPDES MS4	NPDES 1200Z - WPCF	NPDES 1200Z - Airport	NPDES - Wastewater	Underground Injection Con	Goal 5	Goal 6	Willamette TMDLs
		Prevent overflows, as required under WPCF NPDES permit	Document and report to DEQ overflow-related information (e.g. number of emergency overflows from pump stations and reason for overflow; number of plant upsets and reason), as required under WPCF NPDES permit.	on-going under existing permit; permit renewal in progress	NA	NA	√	√	√								X				x
		Conduct monitoring as required under WPCF NPDES permit	Number of samples taken and parameters analyzed; report results to DEQ	on-going under existing permit; permit renewal in progress	NA	NA	Pollutants are not directly addressed by this BMP, but it is an essential support function for the other program activities										X				x
STORMWATER PERMIT (1200Z) FOR WASTEWATER TREATMENT PLANT																					
		Implement best management practices for wastewater treatment facility under its 1200Z, as they relate to TMDL pollutants.	As required under WPCF NPDES 1200Z permit	on-going	NA	NA	√				√				X						x
		Conduct annual stormwater pollution control training for wastewater treatment plant staff.	As required under WPCF NPDES 1200Z permit	on-going	NA	NA	√				√				X						x
		Conduct monitoring as required under WPCF's NPDES 1200Z permit as it relates to TMDL pollutants.	As required under WPCF NPDES 1200Z permit	on-going	NA	NA	Pollutants are not directly addressed by this BMP, but it is an essential support function for the other program activities								X						x
STORMWATER PERMIT (1200Z) FOR EUGENE AIRPORT																					
		Implement best management practices for Eugene Airport as required under its NPDES 1200Z permit, as they relate to TMDL pollutants.	As required under Airports' NPDES 1200Z permit	on-going	NA	NA	√				√	por.				X					x
		Conduct annual stormwater pollution control training for airport employees.	As required under Airports' NPDES 1200Z permit	on-going	NA	NA	√				√	por.				X					x
		Conduct monitoring as required under Eugene Airports' NPDES 1200Z permit as it relates to TMDL pollutants	As required under Airports' NPDES 1200Z permit	on-going	NA	NA	Pollutants are not directly addressed by this BMP, but it is an essential support function for the other program activities					por.				X					x

(1) "MS4 SWMP BMP ID" refers to the MS4 Stormwater Management Plan best management practice identification number as shown in the Proposed SWMP 2008, submitted with the permit renewal dated September 2, 2008

(2) √ = Clearly addresses pollutant; P = Possibly addresses pollutant

(3) Shading indicates that BMP/Program applies within the watershed; no shading indicates that it does not apply within the watershed

(4) X = the TMDL is the primary driver for the management strategy; x = another permit or program is the primary driver, however the strategy addresses one or more TMDL pollutants.

APPENDIX B

/WQ WATER QUALITY WATERWAYS ORDINANCE

COUNCIL ORDINANCE NUMBER 20430

COUNCIL BILL NUMBER 4975

AN ORDINANCE ADDING SECTIONS 9.4770 THROUGH 9.4790 TO THE EUGENE CODE, 1971 THAT ESTABLISH A WATER QUALITY OVERLAY ZONE; AMENDING SECTIONS 9.0500 9.1040, 9.7055, 9.7205, 9.7305, 9.7820, 9.8005, 9.8025 9.8030, 9.8055, 9.8215, 9.8220, 9.8320, 9.8325, 9.8415, 9.8470, 9.8472, 9.8474, 9.8515, 9.8520, 9.8855, AND 9.8865 OF THAT CODE; REPEALING ORDINANCE NO. 20194 AND SECTIONS 6.650, 6.655, 6.660, 6.665, AND 6.670 OF THAT CODE; ADOPTING THE WATER QUALITY WATERWAYS MAP; AMENDING THE EUGENE OVERLAY ZONE MAP; ADOPTING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

ADOPTED: March 9, 2009

PASSED: 5/3

REJECTED:

OPPOSED: Clark, Poling, Solomon

ABSENT:

EFFECTIVE: June 10, 2009

ORDINANCE NO. 20430

AN ORDINANCE ADDING SECTIONS 9.4770 THROUGH 9.4790 TO THE EUGENE CODE, 1971 THAT ESTABLISH A WATER QUALITY OVERLAY ZONE; AMENDING SECTIONS 9.0500 9.1040, 9.7055, 9.7205, 9.7305, 9.7820, 9.8005, 9.8025 9.8030, 9.8055, 9.8215, 9.8220, 9.8320, 9.8325, 9.8415, 9.8470, 9.8472, 9.8474, 9.8515, 9.8520, 9.8855, AND 9.8865 OF THAT CODE; REPEALING ORDINANCE NO. 20194 AND SECTIONS 6.650, 6.655, 6.660, 6.665, AND 6.670 OF THAT CODE; ADOPTING THE WATER QUALITY WATERWAYS MAP; AMENDING THE EUGENE OVERLAY ZONE MAP; ADOPTING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The definition of "Development Permit" set forth in Section 9.0500 of the Eugene Code, 1971, is amended, and a new definition of "City engineer" is added thereto, to provide:

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

City Engineer. The person authorized by the city manager to carry out the duties of city engineer under this code, or the city engineer's designee(s).

Development Permit. A permit authorized or required by the Oregon Structural Specialty Code and Oregon One and Two Family Dwelling Code, including but not limited to permits for:

(A) New buildings.
(B) Additional square footage added to a building.
(C) Building demolition.
(D) Foundations.
(E) Change of occupancy.
(F) Grading/Fill.
(G) Site improvements.

Section 2. Section 9.1040 of the Eugene Code, 1971, is amended by adding a Water Quality Overlay Zone in alphabetical order to the Table, to provide as follows:

9.1040 **Establishment and List of Overlay Zones.** The overlay zones listed in Table 9.1040 Overlay Zones are established as follows:

Table 9.1040 Overlay Zones	
Overlay	**Description**
/WP	Waterside Protection Overlay Zone
/WQ	Water Quality Overlay Zone
/WR	Water Resources Conservation Overlay Zone

Section 3. The following caption and Sections 9.4770 through 9.4790 are added to the Eugene Code, 1971, to provide:

/WQ WATER QUALITY OVERLAY ZONE

9.4770 **/WQ Water Quality Overlay Zone - Purpose.** The purpose of the /WQ Water Quality Overlay Zone is to protect the health and safety of the public in a manner that complies with federal and state water quality requirements. The Overlay Zone is intended to protect and improve the physical integrity and water quality function within and adjacent to otherwise unprotected waterways consisting of waterways identified pursuant to section 303(d) of the federal Clean Water Act, waterways that are tributaries to those waterways, and headwater streams.

9.4772 **/WQ Water Quality Overlay Zone – Applicability.** EC 9.4770 through 9.4790 apply to all property to which the /WQ Water Quality Overlay Zone has been applied through the city's rezoning process or through automatic rezoning upon annexation.

9.4774 **/WQ Water Quality Overlay Zone – Relationship to Other Zones and State and Federal Laws.** When conflicting zoning provisions apply to land within a /WQ Management Area (See EC 9.4778), the /WQ provisions shall control. Consistency with the provisions of EC 9.4780 does not exempt the property owner from state or federal laws or regulations.

9.4776 **/WQ Water Quality Overlay Zone - Siting Requirements.** In addition to the criteria at EC 9.8865, when considering an application to add the /WQ Overlay Zone to a lot, the following criteria apply:

(1) The subject lot Includes:
- (a) A waterway identified pursuant to section 303(d) of the federal Clean Water Act, a waterway that is a tributary to a 303(d) waterway, or that is a headwater stream; or
- (b) A portion of the /WQ Management Area, as described in EC 9.4778(1), for a waterway described in (a); and

(2) The subject segment of waterway (it may be natural or constructed):
- (a) Is not already protected by the NR zone or the /WR, /WP or /WB overlay zones;
- (b) Has a discernable streambed and side banks;
- (c) Carries water at least part of the year;

(d) Provides a drainage function for surface runoff from land areas beyond a roadway; and

(e) If a ponded area, has an inlet and outlet drainage function.

9.4778 <u>/WQ Water Quality Overlay Zone – /WQ Management Area</u>.

(1) Except as provided in subsections (2), (3) or (4) the /WQ Management Area is that area depicted on the city's adopted Water Quality Waterways Map.

(a) As depicted on the Water Quality Waterways Map, the /WQ Management Area is comprised of both the waterway channel, which for purposes of EC 9.4770 through 9.4790, and 9.8030(25), means the area between the top of high banks on each side of the waterway, and the applicable setback, as described in (b) or (c) below.

(b) For a waterway identified on the Water Quality Waterways Map as a waterway identified pursuant to section 303(d) of the federal Clean Water Act, or a tributary to such a waterway, the applicable setback is 25 feet from top of high bank (THB). For purposes of EC 9.4770 through 9.4790 and 9.8030(25), THB is the highest point at which the vertical rise of the waterway bank meets the horizontal grade of the adjoining topography.

(c) For waterways identified on the Water Quality Waterways Map as headwater streams, the applicable setback is 40 feet from the waterway's centerline.

(d) The procedures used for mapping these setbacks on the Water Quality Waterways Map shall be more particularly described in an administrative rule adopted by the city manager in accordance with EC 2.019 <u>City Manager – Administrative and Rulemaking Authority and Procedures</u>.

(2) For a lot that is 6,000 square feet in area or less with a /WQ Management Area, alone or in combination with a /WR Conservation Area, that constitutes more than 33% of the lot, as part of the city's consideration of an application for a development permit or land use approval, the city shall automatically reduce the applicable setback distance described in (1) above, provided:

(a) The lot was created pursuant to a planned unit development, subdivision, partition or property line adjustment application described in EC 9.4780(2)(i)2.;

(b) Unless precluded by (2)(d) below, the reduction in setback shall result in the /WQ Management Area constituting 33% of the lot area, alone or in combination with a /WR Conservation Area; and

(c) The new boundary shall be located:

1. Parallel to the original boundary (closer to the waterway); or
2. Through the application of setback averaging. Setback averaging shall be accomplished by expanding the /WQ Management Area in an undeveloped area of the development site, and reducing it in another area of the development site.

(d) In no case shall the setback boundary be located within the waterway channel.

(3) As part of the city's consideration of an application for a development permit or land use approval, the city shall exclude from the /WQ Management Area:

(a) Those areas which the applicant has shown to have been developed prior to June 10, 2009. For purposes of this subsection, "developed areas" are those within the physical ground surface footprint of a legally constructed:

1. Structure (including a manufactured dwelling) with a permanent foundation, constructed or sited pursuant to an approved permit;

2. Utility facility (such as a transmission pole, utility transmission vault box, or pump station), telecommunication tower, telecommunication platform, satellite dish, sign or billboard;
3. Permanent deck or patio that is attached to a structure listed in subsection 1. above; or
4. Paved parking area, street, driveway, bike path, or pedestrian path.

Fences and landscaping do not cause an area to be "developed" to warrant exclusion from the /WQ Management Area. All other uses and structures that were legally established prior to June 10, 2009 but that do not comply with the allowed uses and standards of the /WQ Overlay Zone are subject to EC 9.1200 through EC 9.1240 Legal Nonconforming Situations; and

(b) Any land that is included in a:
1. /WP Waterside Protection area as described in EC 9.4720;
2. /WB Wetland Buffer area as described in EC 9.4820; or
3. /WR Water Resources Conservation area as described in EC 9.4920.

(4) Where an existing development under subsection (3)(a)1. or 3. above or an existing developed street or sound wall physically isolates a portion of the /WQ Management Area, as part of the city's consideration of an application for a development permit or land use approval, the city shall exclude that isolated portion from the /WQ Management Area.

9.4780 **<u>/WQ Water Quality Overlay Zone - Permitted and Prohibited Uses</u>.** Uses are permitted or prohibited within the /WQ Water Quality Overlay Zone based on whether they occur outside or within the /WQ Management Area as follows:

(1) Uses Permitted Outside /WQ Management Area.

(a) The uses permitted on portions of a lot located outside of the /WQ Management Area are the same as those otherwise permitted on that lot without consideration of the /WQ Water Quality Overlay Zone; and

(b) Prior to issuance of a development permit, the city shall verify that the /WQ Management Area setback has been accurately demarcated by a prominent and continuous protective feature indicating a "No Disturbance Area." No site preparation, including but not limited to vegetation removal, may take place within 50 feet of the /WQ Management Area, until such verification has been provided.

(2) Uses Permitted Within /WQ Management Areas. Subject to any applicable development permits, the following uses are the only uses permitted outright within the /WQ Management Area:

(a) <u>Vegetation Planting and Management</u>.
1. Plantings of plants and vegetation provided they are not Invasive, Non-Native Plant species as defined in EC 9.0500 <u>Definitions</u>; and
2. Mowing, replacing and pruning vegetation within lawn and garden landscaped areas existing as of June 10, 2009.

The use of native vegetation in the /WQ Management Area is preferred, in order to reduce the need to apply water, herbicides, pesticides and fertilizers;

(b) <u>Removal of Plants and Vegetation</u>.
1. Other than as permitted pursuant to EC 9.4780(2)(a)2., or approved pursuant to EC 9.4780(3) or EC 9.8030(25), removal of plants and vegetation shall be limited to the following:

a. Removal of Invasive, Non-Native plant species;
b. A public entity's removal of plants or vegetation from publicly owned property by mechanical or manual means within a strip not to exceed 15 feet in width where that property abuts private property that is not within a /WQ Management Area;
c. Removal of plants or vegetation that the city fire marshal has declared poses a potential fire hazard to existing structures. Written documentation of the fire marshal's declaration, including a description of the location of the structure and the location of the plants or vegetation to be removed, shall be provided to the planning director prior to the removal. The removal shall be limited to the extent specified by the fire marshal's declaration; and
d. Removal of hazardous tree(s), or removal of trees that create an unsafe condition due to proximity to existing structures, proposed construction, or interference with utility services or pedestrian or vehicular safety, so long as prior to removal the property owner is able to produce upon request a written evaluation of any tree proposed for removal prepared by a certified arborist declaring the tree(s) to be hazardous or creating an unsafe condition and recommending removal;

2. Areas of bare soil existing as a result of plant or vegetation removal shall be:
   a. Protected or covered consistent with EC 6.625 through EC 6.645;
   b. Replanted as soon as practicable, but no later than March 15 of the calendar year following disturbance; and
   c. If not replanted within 15 days of disturbance, areas of bare soil shall be mulched and seeded with straw mulch and native seed for temporary stabilization within 15 days of disturbance.

(c) <u>Maintenance, Repair and Reconstruction Activities</u>.
1. Removal of refuse;
2. Removal of fill in response to a written determination from a regulating agency that the fill is in violation of local, state or federal regulations;
3. Maintenance, repair and reconstruction of streets, bridges, driveways, parking areas and pathways, including, but not limited to, sweeping, striping, sealing, and resurfacing, provided such activity is not a part of a broader project for which additional incursion into the /WQ Management Area is proposed;
4. Channel maintenance practices, including mowing and sediment removal necessary to maintain stormwater conveyance and flood control capacity or to protect water quality, as required by local policies, local, state, and federal regulations, and intergovernmental agreements;
5. Maintenance, repair, and reconstruction of utility facilities such as wastewater and stormwater pipes, culverts, electrical transmission lines, and television and cable systems, provided such activity is not a part of a broader project for which additional incursion into

the /WQ Management Area is proposed; and

6. Maintenance, repair, and reconstruction of a fence that was legally established prior to June 10, 2009, provided that for any reconstruction it occurs in the same location and to the same dimensions as the pre-existing fence;

(d) Emergency Activities.

1. Emergency repair of utility facilities (such as wastewater and stormwater pipes, electrical transmission lines, and television and cable systems) and transportation facilities (such as roadways, bridges, bikeways and pathways), failing slopes or eroding channel banks or channel beds; provided the city engineer has declared in writing that:
   a. Immediate repair is necessary to avert an imminent threat to water quality, the environment, public health, public safety, or the structural integrity of the utility facilities, transportation facilities, stream channel banks or stream channel beds, or structural integrity of adjacent structure(s); and
   b. The method of repair will minimize impacts to water quality and any emergency repairs resulting in bare soil conditions will comply with EC 9.4780(2)(b)2.;
2. Emergency response to spills of materials that threaten water quality;
3. Fire suppression and medical emergency response operations;

(e) Construction and Maintenance of Vegetated Stormwater Management Facilities. Swales, filter strips, constructed wetlands, and other vegetated stormwater management facilities for pollution reduction or flow control are permitted if otherwise approved through the provisions of EC 9.6791 through 9.6797 in accordance with the Stormwater Management Manual adopted by administrative order of the city manager;

(f) Public Improvement Projects. For purposes of this subsection (f), a public improvement project is defined as any improvement which upon construction and acceptance by a public entity shall become the entity's responsibility to maintain, repair or replace. Public improvement includes, but is not limited to, local improvements or other structures or facilities constructed upon or under public or private property. Provided the city has on file the certification described in (f)4. below, the following public improvement projects, are permitted:

1. Construction of a public water quality improvement project that is identified in an approved city plan (including but not limited to the repair or rehabilitation of stream channels and banks, installation of aeration features, construction of facilities for removing stormwater pollutants, plantings for improving pollutant filtration, channel shading, or erosion control);
2. Construction or improvement of parks, recreation facilities, open space, and habitat enhancements (including but not limited to footpaths, bike paths, pedestrian and bike bridges, site furniture, boardwalks, kiosks, signs, planting of native species, hydrology and landscape restoration, and barriers for species containment);
3. Construction of public infrastructure including but not limited to streets, bridges, sidewalks, stormwater facilities, and other public utilities provided:

a. Construction will take place within an existing public way, or at the location shown in a plan adopted by the city or another public entity prior to June 10, 2009;
b. The public facility is a water dependent structure or use such as a boat ramp, dock, bridge or an accessway to such a structure or use, which by its nature cannot be located anywhere except within the /WQ Management Area; or
c. The facility is intended to provide safe public access to the waterway for the purposes of public education or to provide protection of the waterway by managing access;

4. For any public improvement project authorized by (2)(f), the city shall have on file for city projects a certification from the city engineer, and for other public entities a certification from a licensed civil engineer with authority to represent the public entity, that all of the following were addressed in the project's design:
   a. Pervious surface materials have been considered for all pathways, bikeways, driveways and parking areas where well draining soils are present as defined by the requirements of the Stormwater Management Manual adopted by administrative rule of the city manager as authorized by EC 9.6790 Stormwater Management Manual;
   b. Applicable stormwater development standards contained in EC 9.6791 through 9.6795 and erosion control requirements contained in EC 9.6792 and EC 6.625 through EC 6.645 are met;
   c. For areas located outside the footprint of construction-related impervious surfaces:
      (1) Soil permeability rates and sheet-flow drainage patterns are restored to pre-construction conditions or improved from preconstruction conditions by increasing soil permeability or enhancing sheet flow patterns; and
      (2) Plants and vegetation are planted to the following specifications:
         (a) 80% of the area is covered;
         (b) Species planted are not Invasive, Non-Native species as defined in EC 9.0500;
         (c) Species consist of a balance of trees, shrubs and forbs;
   d. Bio-engineering methods are used to stabilize stream banks and repair areas of erosion, including but not limited to bank failure, bank sloughing, and channel incision, or the city engineer has provided written approval of alternative methods;
   e. Based on the city's Water Quality Function Rating System, (see EC 9.4782), the project will result in a water quality function rating equal to or greater than previously existed; and
   f. For a public improvement project allowed pursuant to (f)2. or (f)3., impervious surfaces are minimized by constructing the facility or infrastructure with as little impervious surface as allowed by city standards and the Americans With Disabilities Act;

(g) Authorized Enhancement and Restoration. Wetland, stream and riparian enhancement and restoration if the proposed activity is authorized:

1. Under a Mitigation Improvement Plan approved by the Oregon Department of State Lands (DSL) and, if required, by the U. S. Army Corps of Engineers (ACOE);
2. Under a wetland restoration permit or wetland enhancement permit approved by the DSL, and if required by the ACOE; or
3. By a "Finding of No Significant Impact" or a "Record of Decision" under the federal National Environmental Policy Act (NEPA) that identifies the restoration or enhancement activity as the final selected alternative;

(h) Other Activities.

1. Construction and maintenance of paths with no impervious surface for pedestrian or bicycle use not to exceed 5 feet in width;
2. Construction and maintenance of facilities for monitoring water quality and gauging stream flows;
3. Construction and maintenance of publicly accessible recreational/environmental interpretative signs with a ground disturbance not to exceed 12 square feet in area;
4. Construction or replacement of fences located at least 20 feet from THB, provided that they are not constructed with continuous footings or other obstructions to surface drainage;
5. Construction and maintenance of publicly accessible educational/ interpretive facilities including concrete pads for benches with a ground disturbance not to exceed 120 square feet in area;
6. Construction and maintenance of a slatted deck of no more than 120 square feet in area, with no impervious surface, and located at least 20 feet from THB;
7. Construction and maintenance of accessory structures that do not require a building permit such as a garden shed, playhouse or greenhouse of no more than a total of 120 square feet, located at least 20 feet from THB;
8. Installation and maintenance of erosion control measures that have been approved pursuant to EC 6.625 through 6.645;
9. Single family residential composting located outside the channel, and at least 10 feet from THB;
10. City placement and maintenance of fences or woody debris for purposes of habitat or species protection;
11. Construction of new underground utilities for providing service to an existing lot of record where there is no other alternative location; or
12. Maintenance, repair, replacement, upgrading and expansion of telecommunications facilities and facilities used for the transmission of television and radio signals, including towers, satellite dishes and related support structures such as foundations, footings, platforms, and wiring, that were legally established prior to June 10, 2009, provided that for any expansion, the applicant has submitted a certification signed by a professional referenced in EC 9.4782(2) that, based on the city's Water Quality Function Rating System, the expansion will result in a water quality function rating equal to or greater than previously existed; and

(i) Prior Approved Development. Uses, structures, streets and utilities that are explicitly authorized, or that are necessary to carry out the uses or development explicitly authorized, by a city approval of:

1. An application for a development permit that was submitted prior to June 10, 2009; or
2. An application for a land use approval that was submitted prior to June 10, 2009 and was deemed by the city to be complete when first submitted or made complete by the submittal of all requested additional information within 180 days of the application's submittal date.

(3) Uses Subject to Standards Review Within the /WQ Management Area. Unless prohibited by subsection (4), or permitted outright in subsection (2), the following uses are permitted, subject to the standards review process beginning with EC 9.8460. Consistency with the specific standards provided or referenced for each use below shall be used as the criteria for approval. These uses may require additional development permits pursuant to other provisions of this code.

(a) Construction of private water quality improvements, including stabilization or reconfiguration of channels and pond banks to improve stability and installation of aeration features. Subject to EC 9.4790 /WQ Water Quality Overlay Zone Development Standards (1) through (3) and (7) through (11);

(b) Realignment or reconfiguration of channels and pond banks to accommodate a proposed development:

1. Where, due to the physical constraints of the development area, including, but not limited to, slope/hillsides, natural hazards, natural resources, lot configuration or existing right of way, there is no other feasible option for locating the proposed development outside the /WQ Management Area;
2. Provided the realignment will not cause the /WQ Management Area to:
   a. Occupy any portion of an adjacent lot not currently having the /WQ overlay zone, unless the standards review application is accompanied by an owner-authorized rezoning application to apply the /WQ overlay zone to the newly affected lot; or
   b. Increase an existing /WQ Management Area on an adjacent lot, unless the standards review application is accompanied by the written consent of the affected lot owner(s);
3. Provided the applicant has submitted a certification signed by a professional referenced in EC 9.4782(2) that, based on the city's Water Quality Function Rating System, the realignment will result in a water quality function rating equal to or greater than previously existed; and
4. Subject to EC 9.4790 /WQ Water Quality Overlay Zone Development Standards (1) through (3) and (7) through (11);
5. If a realignment under 2. above is approved, necessitating a correction to the Water Quality Waterways Map, the planning director shall update that Map to reflect the correction. If the correction results in the complete removal or relocation of the

/WQ Management Area from a lot, or a determination that the /WQ Overlay Zone should be removed or relocated from a lot, the planning director shall update the Eugene Overlay Zone Map to reflect the determination;

(c) Construction of public improvements not already permitted under subsection (2) above (including but not limited to streets, bridges, boardwalks, paths, flood control structures, and public utilities):

1. Where, due to the physical constraints of the development area, including, but not limited to, slope/hillsides, natural hazards, natural resources, lot configuration or existing right of way, there is no feasible option for locating the proposed improvements outside the /WQ Management Area;
2. Provided the applicant has submitted a certification signed by a professional referenced in EC 9.4782(2) that, based on the city's Water Quality Function Rating System, the construction will result in a water quality function rating equal to or greater than previously existed; and
3. Subject to EC 9.4790 <u>/WQ Water Quality Overlay Zone Development Standards</u> (1) through (11);

(d) Construction of a private stream crossing with a culvert or bridge for an access road or pedestrian use:

1. Where, due to the physical constraints of the development area, including, but not limited to, slope/hillsides, natural hazards, natural resources or lot configuration, no point of access to an adjacent street or road is available within the applicant's real property ownership that is outside the /WQ Management Area;
2. Where the number of stream crossings is the minimum necessary for the approved use; and
3. Subject to EC 9.4790 <u>/WQ Water Quality Overlay Zone Development Standards</u> (1) through (3), (5), (6), (8), (10) and (11);

(e) Construction of a private street and related infrastructure including utilities not already permitted under subsection (2) above:

1. Where, due to the physical constraints of the development area, including, but not limited to, slope/hillsides, natural hazards, natural resources or lot configuration, or access location restrictions by the city, there is no feasible option for locating the street outside of the /WQ Management Area;
2. Provided the applicant has submitted a certification signed by a professional referenced in EC 9.4782(2) that, based on the city's Water Quality Function Rating System, the construction will result in a water quality function rating equal to or greater than previously existed; and
3. Subject to EC 9.4790 <u>/WQ Water Quality Overlay Zone Development Standards</u> (1) through (3), (5), (6), (10) and (11);

(f) Construction of new underground utility lines not already permitted under subsection (2) above:

1. Where, due to the physical constraints of the development area, including, but not limited to, slope/hillsides, natural hazards, natural resources, lot configuration or existing right of way, no reasonable alternative route exists outside the /WQ Management Area to

provide service to an unserved area or to connect to an existing line; and

2. Subject to EC 9.4790 /WQ Water Quality Overlay Zone Development Standards (1) through (4) and (10) and (11);

(g) Construction of water dependent structures and uses not already permitted under subsection (2) above, and access ways to those structures and uses, which, by their nature, cannot be located anywhere except within the /WQ Management Area, such as boat ramps or docks. Subject to EC 9.4790 /WQ Water Quality Overlay Zone Development Standards (1) through (3), (5), (10), and (11); and

(h) Non-emergency repair or stabilization of a failing slope or eroding channel bank that is not already permitted under subsection (2) above:

1. Subject to EC 9.4790 /WQ Water Quality Overlay Zone Development Standards (1) through (3), (9) through (11); and
2. Provided the applicant submits to the planning director a report from a registered engineer or an Oregon licensed engineering geologist that, based on the city's Water Quality Function Rating System, the repair or stabilization will result in a water quality function rating equal to or greater than previously existed.

(4) **Uses Prohibited Within the /WQ Management Area.** Uses that are not specifically allowed under subsections (2) or (3) are prohibited within the /WQ Management Area unless an adjustment is granted pursuant to EC 9.8030(25)(c)1. Such prohibited uses include, but are not limited to the piping of a waterway (other than culverts explicitly permitted), storage of wood, building materials, vehicles, machinery, or other items or materials, and dumping, piling, or disposal of refuse, fill, yard debris, pet waste, or other material.

9.4782 **Water Quality Function Rating System.**

(1) When this code requires the use of the city's Water Quality Function Rating System, the applicant shall comply with the requirements contained in the administrative order adopted by the city manager pursuant to EC 2.019 City Manager – Administrative and Rulemaking Authority and Procedures. As more specifically described in that order, the city's Water Quality Function Rating System sets out a process for evaluating a specific /WQ Management Area's water quality function based on the presence or frequency of enumerated characteristics.

(2) Unless waived by the planning director, that portion of the application utilizing the city's Water Quality Function Rating System shall be prepared by one or more of the following professionals:

(a) Oregon licensed architect;
(b) Oregon licensed civil or geotechnical engineer;
(c) Oregon licensed landscape architect;
(d) Oregon licensed geologist;
(e) A professionally trained botanist, biologist, ecologist or geomorphologist; or
(f) A creek restoration specialist with a bachelor's degree in the subject field and at least 5 years of applied experience in botany, biology, ecology, geomorphology or a closely related field.

9.4784 /WQ Water Quality Overlay Zone – Adjustments.

(1) Adjustments to the provisions of EC 9.4778 /WQ Water Quality Overlay Zone – /WQ Management Area may be made subject to compliance with the criteria for adjustment in EC 9.8030(25)(a) or (b).

(2) Adjustments to the provisions of EC 9.4780 /WQ Water Quality Overlay Zone – Permitted and Prohibited Uses or 9.4790 /WQ Water Quality Overlay Zone – Development Standards may be made subject to compliance with the criteria for adjustment in EC 9.8030(25)(c).

9.4786 /WR Water Quality Overlay Zone – Map Correction/Removal of Overlay Zone.

Consistent with the application requirements at EC 9.7010, proposals to correct the Water Quality Waterways Map shall be subject to the procedures and criteria in this section. When considering an application to remove the /WQ Water Quality Overlay Zone from a specific lot, the provisions of this section apply instead of the zone change procedures and criteria described at EC 9.8850 through 9.8865.

(1) Application Requirements. Except as provided in EC 9.8005(2), the application shall be processed under the Type II application procedure (EC 9.7200 – 9.7230).

(a) If an error on the Water Quality Waterways Map is alleged, the application shall:

1. Identify the waterway or /WQ Management Area alleged to have been incorrectly mapped;
2. Identify the tax lots and a description of any right-of-way alleged to have been incorrectly included in the /WQ Management Area; and
3. Include a description of the alleged error, the basis of the error, including evidence such as a land survey, ortho-photo and topographic information, and the proposed correction;

(b) If the application proposes to remove the /WQ Water Quality Overlay Zone from a lot or parcel due to a partition, subdivision or property line adjustment that results in a new or reconfigured lot onto which the /WQ Management Area does not extend, the application shall:

1. Include a copy of the proposed or recorded plat for such partition, subdivision or, for a property line adjustment, a copy of the recorded deed and approved map; and
2. Identify the waterway or /WQ Management Area that is located on the parent lot.

(2) Approval Criteria. Approval shall be based on consideration of the procedures for mapping described in EC 9.4778(1), the administrative rule referenced therein, and compliance with the following criteria:

(a) For an allegation of error on the Water Quality Waterways Map, the evidence submitted demonstrates that:

1. The waterway does not have a discernable streambed and side banks;
2. The waterway does not carry water at least part of the year;
3. The waterway only provides a drainage function for surface runoff from a roadway;
4. The waterway is a ponded area with no inlet or outlet drainage feature;

5. The waterway location or alignment is incorrect; or
6. The /WQ Management Area as depicted on the map extends beyond the applicable 25 foot or 40 foot setback as described in EC 9.4778(1);

(b) For removal of the /WQ Overlay Zone that is proposed due to a partition, subdivision or property line adjustment:
1. The newly created lot does not include any portion of a /WQ Management Area; and
2. In cases where the lot has not yet been recorded, removal of the /WQ Overlay Zone shall be conditioned upon recordation.

(3) Update of the Water Quality Waterways Map and the Eugene Overlay Zone Map. If the Type II process described above results in the approval of a correction to the Water Quality Waterways Map, the planning director shall update that Map to reflect the correction. If the correction results in the complete removal or relocation of the /WQ Management Area from a lot under (2)(a) or a determination that the /WQ Overlay Zone should be removed or relocated from a lot under (2)(b), the planning director shall update the Eugene Overlay Zone Map to reflect the determination.

9.4790 **/WQ Water Quality Overlay Zone - Development Standards.** The following standards apply only as specifically required by EC 9.4780(3):

(1) **Vegetation Removal.** Vegetation removal in order to accommodate a use listed in EC 9.4780(3) shall comply with the following standards:
(a) Vegetation removal in excess of that allowed by EC 9.4780(2)(b) shall be the minimum necessary to accommodate the use; and
(b) Any clearing of vegetation that is not within the footprint of uses approved in accordance with EC 9.4780(3), or uses approved through an adjustment approved under EC 9.8030(25), must be followed by replanting in accordance with the requirements of subsection (2) below.

(2) **Planting and Replanting.** Planting or replanting of areas that are cleared or graded in order to accommodate a use listed in EC 9.4780(3) and that are located outside of the use's footprint shall comply with the following standards:
(a) Plantings of plants and vegetation provided they are not Invasive, Non-Native Plant species as defined in EC 9.0500 Definitions, including some tree or large shrub species and planted in sufficient quantity and location to provide bank stability and to create substantial shading of the channel during times of peak solar input;
(b) Except as required in (d) below, the plant species and plant spacing to be utilized shall further the objective of increasing, to the greatest extent practicable, the capacity of the /WQ Management Area to filter pollutants from runoff that flows across the /WQ Management Area;
(c) Plant species selected for all plantings shall be appropriate to the site given its topography, hydrology, and soil type;
(d) Areas of bare soil existing as a result of vegetation removal shall be protected or covered consistent with EC 6.625 through EC 6.645, and replanted or mulched and seeded with straw mulch and native seed within 15 days of disturbance;

(e) Disturbed areas shall be re-planted consistent with this section as soon as practicable, but no later than March15 of the calendar year following disturbance; and

(f) A 70% survival rate of plantings shall be guaranteed for a 3-year period in the form of a financial deposit, bond or other means sufficient to cover the cost to remove dead and dying species, and to purchase and replant with living species. City staff shall be granted access to the planted area by the property owner as a condition of approval for this use in order to monitor the establishment of the plantings during this 3-year period.

(3) Construction Practices. Construction to accommodate a use listed in EC 9.4780(3) shall comply with the following standards:

(a) Construction, maintenance, repair, reconstruction and restoration activities shall be planned and timed so as to minimize adverse impacts to water quality;

(b) For purposes of this subsection, heavy machinery is defined as motorized or mechanized machinery or equipment capable of deliberately or inadvertently damaging vegetation, or damaging or compacting soil. The following standards shall apply to use of heavy machinery within the /WQ Management Area:

1. The use of heavy machinery shall be the minimum necessary for the use or activity and shall be restricted to those areas where its use is necessary;
2. The use of heavy machinery within the channel shall be limited to the period between June 15 and September 30 except as allowed by permit from the Army Corps of Engineers or Oregon Department of State Lands; and
3. On sites where soils are severely compacted through the use of heavy machinery, the soils shall be tilled or re-tilled to a depth of 6 inches.

Construction may also be subject to construction site management practices such as the erosion prevention provisions of EC chapter 6, which apply to, among other things, clearing, grading, grubbing, excavation and filling.

(4) Utility Alignment. Routing of new utility lines to accommodate a use listed in EC 9.4780(3) shall be designed so as to minimize adverse impacts to water quality within the /WQ Management Area to the greatest extent practicable.

(5) Paved Surfaces. Construction of new paved surfaces to accommodate a use listed in EC 9.4780(3) shall comply with the following standards:

(a) Impervious surfaces shall be minimized by constructing the facility or infrastructure with as little impervious surface as allowed by city standards and the Americans With Disabilities Act;

(b) Impervious surfaces shall be located as far from the waterway as practicable; and

(c) For paved foot paths, lightly used access roads, or low volume parking areas where soils and flat topography will facilitate infiltration of runoff, pervious pavement systems, or other infiltration devices approved by the planning director or city engineer shall be used in lieu of standard impervious paving surfaces to increase infiltration of stormwater where practicable. For the purposes of this subsection, gravel surfaces are considered pervious unless they cover impervious surfaces or are

compacted to a degree that causes their rational method runoff coefficient to exceed 0.8, determined in accordance with the city's adopted Public Improvement Design Standards Manual.

(6) **Stream and Channel Crossings.** Bridges, culverts or other structures that cross waterways permitted under EC 9.4780(3) shall comply with the following standards:

(a) Crossings shall be designed and constructed in a manner that results in the least physical impact to the waterway, utilizing a minimum width, appropriate invert elevations and slope, and aligned at right angles to the waterway whenever practicable;

(b) Culverts and bridges shall not increase or decrease water depth, velocity or flow rate upstream or downstream from the culvert, except as necessary to address conveyance needs identified in the city's adopted Stormwater Management Manual or as otherwise allowed or required by this code;

(c) When a culvert 72 inches in diameter or greater would be required, bridges shall be utilized, or box or arch culverts with bottoms filled to a depth of at least 12 inches with stone; and

(d) Stream banks and stream beds must be stabilized at crossings, using vegetative bio-engineering methods to the maximum extent practicable.

(7) **Hydrology.** Existing hydrology shall be maintained unless modification of hydrology is an element of an approved use and/or intended to improve water quality to minimize flow concentration, downcutting, and erosion.

(8) **Stormwater Discharges.**

(a) Improvements shall not increase or decrease stormwater conveyance capacity either upstream or downstream of improvements except as necessary to address conveyance needs identified in the city's adopted Stormwater Management Manual, or as otherwise allowed or required by this code;

(b) Improvements shall meet the stormwater development standards of EC 9.6790 through EC 9.6797; and

(c) Flow spreaders and energy dissipaters shall be utilized to prevent erosive impacts to protected areas from stormwater discharges where practicable to avoid concentrating stormwater discharges.

(9) **Repair and Reconstruction of Stream Banks and Channels.** Bio-engineering methods are to be used to repair stream bank failures and channel erosion problems and to reconstruct stream banks and channels except where those methods by themselves would be ineffective. Where bio-engineering alone is inadequate, stones and boulders may be used to augment bank repair efforts, dissipate energy or control flows.

(10) **Removal of Materials Harmful to Water Quality.** All refuse, toxics, fill, unauthorized auto bodies, or similar materials located within the /WQ Management Area that are harmful to water quality or that limit the filtration of pollutants from runoff that flows across the /WQ Management Area shall be removed.

(11) **Protect Management Area During Construction.** Prior to engaging in the use authorized under EC 9.4780(3), the applicant shall demarcate the /WQ Management Area setback area by a prominent and continuous protective feature indicating a "No Disturbance Area." No site preparation, including but not limited to vegetation removal, may take place within 50 feet of the /WQ Management Area, until the city has verified the required demarcation.

Section 4. Section 9.7055 of the Eugene Code, 1971, is amended by adding an entry for "/WQ Water Quality Overlay Zone" in alphabetical order therein to provide:

9.7055 **Applications and Review Authorities.** Table 9.7055 Applications and Review Authorities, lists applications and the typical review authorities for the decision and the appeal of the decision. To accommodate a request for concurrent review, the city may instead review multiple applications according to the highest applicable type.

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**
/WQ Water Quality Overlay Zone - Map or Zone Error (See EC 9.4786)	II	D	A			

Section 5. Table 9.7205 of the Eugene Code, 1971, is amended by adding an entry for "/WQ Water Quality Overlay Zone" in alphabetical order therein to provide:

9.7205 **Type II Application Requirements and Criteria Reference.** The following applications are typically reviewed under the Type II review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7205. To accommodate a request for concurrent review, the city may instead review multiple applications according to the highest applicable type.

Table 9.7205 Type II Application Requirements and Criteria	
Type II Applications	**Beginning Reference**
/WQ Water Quality Overlay Zone – Map Correction/Removal of Overlay Zone	EC 9.4786(3)

Section 6. The paragraph following Table 9.7305 of the Eugene Code, 1971, is amended to provide:

9.7305 **Type III Application Requirements and Criteria Reference.** The following applications are typically reviewed under the Type III review process according to the requirements and criteria set forth for each application as reflected in the beginning reference column in Table 9.7305. To accommodate a request for

concurrent review, the city may instead review multiple applications according to the highest applicable type.

Table 9.7305 Type III Application Requirements and Criteria	
Type III Applications	**Beginning Reference**
Adjustment Review (when part of a Type III Application)	EC 9.8015
Conditional Use Permits (CUP)	EC 9.8075
Historic Landmark Designation	EC 9.8150
Planned Unit Development, Tentative Plan	EC 9.8300
Willamette Greenway Permit	EC 9.8800
Zone Changes*	EC 9.8850

*Zone changes processed concurrently with a Metro Plan amendment, the adoption or amendment of a refinement plan, or a land use code amendment shall follow the applicable procedure for the amendment. A zone change to apply the /ND overlay zone shall be processed according to EC 9.4260. Removal of the /WQ overlay zone is controlled by EC 9.4786. Removal of the /WR overlay zone is controlled by EC 9.4960.

Section 7. Subsection (3) of Section 9.7820 of the Eugene Code, 1971, is amended to provide:

9.7820 Annexation – Procedures.

(3) Land annexed to the city according to the procedures in EC 9.7800 – 9.7835 shall be automatically rezoned as of the effective date of the annexation from Lane County land zones and zoning overlays to equivalent Eugene zones and overlay zones as shown in Table 9.7820 Equivalent Zones and Overlay Zones.

Table 9.7820 Equivalent Zones and Overlay Zones			
Urbanizable Land Zones		**Eugene Zones**	
AG/UL	Agricultural	AG	Agricultural
PL/UL	Public Land	PL	Public Land
R-1/UL	Low-Density Residential	R-1	Low Density Residential
R-2/UL	Medium-Density Residential	R-2	Medium Density Residential
GO/UL	General Office	GO	General Office
C-1/UL	Neighborhood Commercial	C-1	Neighborhood Commercial
C-2/UL	Community Commercial	C-2	Community Commercial
I-2/UL	Light-Medium Industrial	I-2	Light-Medium Industrial
I-3/UL	Heavy Industrial	I-3	Heavy Industrial
Urbanizable Land Zoning Overlay		Eugene Overlay Zones	
/SR	Site Review	/SR	Site Review
/CAS	Commercial Airport Safety	/CAS	Commercial Airport Safety
/WR	Water Resources Conservation Overlay Zone	/WR	Water Resources Conservation Overlay Zone

For purposes of this section, land that is also within an area identified as a Nodal Development Area on the Metro Plan Diagram shall be automatically included in the Eugene /ND Nodal Development Overlay Zone. A parcel that was identified on Exhibit C to Ordinance No. 20430 as one to which the /WQ Water Quality Overlay Zone should be applied upon annexation, or any portion of such a parcel that contains a /WQ Management Area, will also automatically be changed to include the /WQ Overlay Zone. The official city zoning map shall be amended to reflect the change of zone.

Section 8. Subsection (2) of Section 9.8005 of the Eugene Code, 1971, is amended to provide:

9.8005 Applicability and Effect of Application Requirements, Criteria, and Concurrent Review.

(2) If an initial proposal also requires an application be submitted for one or more of the following:
(a) Adjustment review;
(b) Site review;
(c) Conditional use permit;
(d) Planned unit development;
(e) Zone change;
(e) Willamette Greenway permit; or
(f) Standards review,
the applicant may elect to have the applications reviewed concurrently according to the highest application type. All other provisions of this code would continue to apply to each application, including, but not limited to, the approval criteria.

Section 9. The lead sentence of Subsection (1) of Section 9.8025 of the Eugene Code, 1971, is amended, and a new Subsection (3) added thereto, to provide:

9.8025 Adjustment Review – General Requirements.

(1) Except as provided in subsections (2) and (3), the adjustment review application shall be prepared by one or more of the following professionals unless waived by the planning director:

(3) Unless waived by the planning director:
(a) An application for adjustment review under EC 9.8030(25)(a) and (b) shall be prepared by one or more of the following professionals:
1. Oregon licensed architect;
2. Oregon licensed civil engineer;
3. Oregon licensed landscape architect; or
4. Oregon licensed land surveyor.

(b) An application for adjustment review under EC 9.8030(25)(c) shall be prepared by one or more of the following professionals:
1. Oregon licensed architect;
2. Oregon licensed civil or geotechnical engineer;
3. Oregon licensed landscape architect;
4. Oregon licensed geologist;
5. A professionally trained botanist, biologist, ecologist or geomorphologist; or
6. A creek restoration specialist with a bachelor's degree in the subject field and at least 5 years of applied experience in botany, biology, ecology, geomorphology or a closely related field.

Section 10. Section 9.8030 of the Eugene Code, 1971, is amended, by adding a new Subsection (25) thereto, to provide:

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.

(25) /WQ Water Quality Overlay Zone Adjustment. In accordance with EC 9.4784, a provision of the /WQ Water Quality Overlay Zone may be adjusted only upon a finding that the proposed adjustment meets criterion (a), (b), or (c) below:

(a) Adjustment to Applicable Setback to Limit /WQ Management Area to 33% of Development Site. For any parcel greater than 6,000 square feet (not eligible for an automatic setback reduction under EC 9.4778(2)), the city shall make an adjustment to the applicable setback set out at EC 9.4778(1)(b) and (c) if no previous adjustment under this section has been approved for the specific portion of the /WQ Management Area and all of the following are met:
1. More than 33 percent of the development site, as defined in EC 9.0500, is occupied by the /WQ Management Area alone or in combination with a /WR Conservation Area;
2. The proposed reduction in the applicable setback will result in the /WQ Management Area, alone or in combination with a /WR Conservation Area constituting no less than 33 percent of the development site;
3. The new boundary of the /WQ Management Area shall be located:
   a. Parallel to the original boundary (closer to the waterway); or
   b. Through the application of setback averaging. Setback averaging shall be accomplished by expanding the /WQ Management Area in an undeveloped area of the development site, and reducing it in another area of the development site;
4. For either the parallel adjustment in 3.a above or the setback averaging adjustment in 3.b. above, the applicable setback is not reduced by more than 15 feet for a 25 foot setback or more than 20 feet for a 40-foot setback unless further reduction is necessary

to achieve the reduction in the /WQ Management Area to 33%, and in no case shall the setback boundary be located within the waterway channel;

5. For parcels 13,500 square feet or greater, the water quality function rating when the proposed adjustment is implemented will be equal to or greater than the pre-adjustment water quality function rating for the /WQ Management Area based on the city's Water Quality Function Rating System; and
6. Removal of all refuse, toxics, fill, unauthorized auto bodies, or similar materials located within the /WQ Management Area that are harmful to water quality or that limit the filtration of pollutants from runoff that flows across the /WQ Management Area shall be a condition of approval.

(b) Adjustment to Applicable Setback Due to Development Constraints. For a parcel containing a /WQ Management Area, an adjustment to the applicable setback provisions of EC 9.4778(1)(b) and (c) shall be made if no previous adjustment under this section has been approved for the specific portion of the /WQ Management Area, consistent with the following:

1. The adjustment is necessary due to development constraints on the lot caused by the unique physical characteristics of the lot, including but not limited to narrow lot dimensions, irregular shape, and the relationship of these characteristics to the location and extent of the /WQ Management Area;
2. The adjustment is the minimum necessary to allow the proposed use;
3. Except as provided under (b)4. below, the new setback boundary shall be located through the application of setback averaging with no overall reduction in the /WQ Management Area. Setback averaging shall be accomplished by expanding the /WQ Management Area in an undeveloped area of the development site and reducing it in another area of the development site, provided:
   a. At any location, the applicable setback is not reduced by more than 15 feet for a 25-foot setback or by more than 20 feet for a 40-foot setback; and
   b. The water quality function rating when the proposed adjustment is implemented will be equal to or greater than the pre-adjustment water quality function rating for the /WQ Management Area based on the city's Water Quality Function Rating System;
4. If, after applying the provisions of (b)3. above, the parcel remains physically constrained as described in (b)1. above, then the overall /WQ Management Area may be reduced. The new setback boundary shall be located:
   a. Parallel to the original boundary (closer to the waterway); or
   b. Through the application of setback averaging. Setback averaging shall be accomplished by expanding the /WQ Management Area in an undeveloped area of the development site, and reducing it in another area of the development site.
   c. For either the parallel adjustment in 4.a. or the setback averaging adjustment in 4.b., the applicable setback is not

reduced by more than 15 feet for a 25-foot setback or by more than 20 feet for a 40-foot setback;

d. For either the parallel adjustment in 4.a. or the setback averaging adjustment in 4.b., the water quality function rating when the proposed adjustment is implemented will be at least 150% of the pre-adjustment water quality function rating for the /WQ Management Area based on the city's Water Quality Function Rating System.

5. Removal of all refuse, toxics, fill, unauthorized auto bodies, or similar materials located within the /WQ Management Area that are harmful to water quality or that limit the filtration of pollutants from runoff that flows across the /WQ Management Area shall be a condition of approval.

(c) Adjustment to Allowed Uses and Development Standards. For property containing a /WQ Management Area, an adjustment to the provisions of EC 9.4780 or EC 9.4790 shall be made consistent with the following:

1. If the proposed adjustment is to allow a use that is otherwise prohibited under EC 9.4780(4), one of the following shall apply:

a. General Use Adjustment.

(1) The proposed use is of similar nature to a specific use listed in EC 9.4780(2) or (3);

(2) The applicant has submitted evidence through a qualified professional that the proposed use will have a water quality impact similar to the specific use identified pursuant to a.(1) above; and

(3) The applicant has shown compliance with any standards applicable to the specific use identified pursuant to a.(1), above.

b. Public Transportation System Improvements.

(1) The use or activity is:

(a) Necessary to construct a transportation facility included on a financially constrained or illustrative table in the federally approved Regional Transportation Plan; or

(b) Necessary to protect the public safety by ensuring the structural integrity of existing flood control structures; and

(2) The applicant has demonstrated that, based on the city's Water Quality Function Rating System (see EC 9.4782), the project will result in a water quality function rating equal to or greater than previously existed.

(3) If the applicant demonstrates that it is not feasible to meet the standards described in (c)1.a.(3) above, the applicant shall, instead, make improvements to another /WQ waterway over which the applicant also has management control. The applicant shall demonstrate that, based on the city's Water Quality Function Rating System (see EC 9.4782), such improvements will result in an increase in the water quality function rating of that waterway by an amount that is equal to or greater than

the rating of the subject waterway prior to the approved adjustment.

2. If the proposed adjustment is to a development standard of EC 9.4790, the applicant has provided evidence that the proposed alternative approach for effectively addressing a specific water quality concern is equal to or greater than the standard that would be otherwise required.

Section 11. Subsection (1)(c) of Section 9.8055 of the Eugene Code, 1971, is amended 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:

(1) The proposed subdivision complies with:

(c) Within the /WR Water Resources Conservation Overlay Zone or the /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area;

Section 12. Subsection (1)(a) of Section 9.8215 of the Eugene Code, 1971, is amended to provide:

9.8215 **Partition, Tentative Plan Approval Criteria- General.** 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:

(1) 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. Within the /WR Water Resources Conservation Overlay Zone or the /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

Section 13. Subsection (2)(a) of Section 9.8220 of the Eugene Code, 1971, is 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. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

Section 14. Subsection (11)(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:

(11) 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. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

Section 15. Subsection (7)(a) of Section 9.8325 of the Eugene Code, 1971 is amended 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:

(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. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

Section 16. Subsection (5) of Section 9.8415 of the Eugene Code, 1971, is amended to provide:

9.8415 **Property Line Adjustment Approval Criteria.** The planning director shall approve, approve with conditions, or deny the property line adjustment application. Approval or approval with conditions shall be based on compliance with the following criteria:

(5) 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:

(a) The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or

(b) The /WQ Management Area.

Section 17. Section 9.8470 of the Eugene Code, 1971 is amended, to provide:

9.8470 **Standards Review Approval Criteria.** The decision-maker shall determine whether the application is in compliance with the standards setout in the code section that calls for standards review.

Section 18. Section 9.8472 of the Eugene Code, 1971 is amended, to provide:

9.8472 **Standards Review – Application Requirements.** In addition to the provisions in EC 9.7010 Application Filing, applications for uses subject to standards review under EC 9.4780(3) or EC 9.4930(3) shall be subject to the following requirements:

(1) Unless waived by the planning director, the application shall be prepared by one or more of the following professionals:
(a) Oregon licensed architect.
(b) Oregon licensed civil engineer.
(c) Oregon licensed landscape architect.
(d) For applications submitted under EC 9.4780(3), a professionally trained botanist, biologist, ecologist, or geomorphologist or creek restoration specialist with a bachelor's degree in the subject field and at least 5 years of applied experience in botany, biology, ecology, geomorphology, or a closely related field, or an Oregon licensed geologist.
(e) For applications submitted under EC 9.4930(3), a professionally trained botanist or biologist, with sufficient training and experience in planning and design to evaluate consistency of the application with all applicable standards.

(2) Unless waived by the planning director, if the application submitted under EC 9.4930(3) is not prepared by a professionally trained botanist or biologist, one or more of the professionals preparing the application shall have sufficient professional expertise and training in field botany or related biological sciences to evaluate consistency of the application with application standards.

(3) The application shall include a site plan that shows sufficient detail and supporting narrative information to demonstrate compliance with applicable standards. Unless waived by the planning director, the site plan shall be prepared by an Oregon licensed civil engineer or Oregon licensed surveyor.

(4) The site plan and application shall be signed by each of the professionals preparing the application, certifying that the application is true and correct to the best of his or her professional ability, and that, if applicable, the professional standards of his or her profession have been met therein.

Section 19. Section 9.8474 of the Eugene Code, 1971 is amended, to provide:

9.8474 **Standards Review – Modification.** Modification of an approved standards review granted pursuant to EC 9.4780(3) or 9.4930(3) may be requested following the Type II process. The planning director shall approve the request if it complies with the following criteria:

(1) The proposed modification is consistent with the conditions of the original approval.

(2) The proposed modification will not result in a greater impact to the resource than permitted by the initial approval.

If the planning director determines that the modification is not consistent with the above criteria, the proposed modification may not occur until a new standards review application is submitted and reviewed based on the Type II application procedures in section 9.7200 and the requirements and criteria in sections 9.4770-9.4790 or 9.4900-9.4980. Nothing in this section shall preclude the applicant from initially submitting the requested modification as a new standards review application.

Section 20. Subsection (1)(a) 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:

(1) The proposed subdivision complies with the following:

(a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject 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:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area;

Section 21. Subsection (3)(a) of Section 9.8520 of the Eugene Code, 1971, is amended 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. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or
2. The /WQ Management Area.

Section 22. Section 9.8855 of the Eugene Code, 1971, is amended by adding a new Subsection (6) thereto, to provide:

9.8855 **Applicability.** Changes in zoning, including the application of or change of an overlay zone or special area zone shall be processed as a Type III application as provided in EC 9.7300 through EC 9.7340 Type III Application Procedures, with the

following exceptions:

(6) The proposed zone change is to remove the /WQ Water Quality Overlay Zone, in which case the zone change shall be processed as described in EC 9.4786.

Section 23. Subsection (4) of Section 9.8865 of the Eugene Code, 1971 is amended by adding a new subsection (p) thereto, and relettering the current subsections (p), (q) and (r), to (q), (r) and (s) to provide:

9.8865 **Zone Change Approval Criteria.** Approval of a zone change application, including the designation of an overlay zone, shall not be approved unless it meets all of the following criteria:

(4) The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in:

(p) EC 9.4776 /WQ Water Quality Overlay Zone Siting Requirements (only for the purposes of adding the overlay zone. See EC 9.4786.).
(q) EC 9.4915 /WR Water Resources Conservation Overlay Zone Siting Requirements (only for the purposes of adding the overlay zone. See EC 9.4960.).
(r) EC 9.4815 /WB Wetland Buffer Overlay Zone Siting Requirements.
(s) An uncodified ordinance establishing a site specific S-H Historic Special Area Zone, a copy of which is maintained at the city's planning and development department.

Section 24. Ordinance No. 20194 and Sections 6.650, 6.655, 6.660, 6.665, and 6.670 of the Eugene Code, 1971, are repealed.

Section 25. The Map on the attached compact disc (Exhibit A-1), depicting the location of lot lines, applicable setback measurement points (centerline or top of high bank) and /WQ Water Quality Overlay Zone Management Areas, is hereby adopted as the City's official Water Quality Waterways Map. The Map, attached hereto as Exhibit A-2, is a printed copy of the Water Quality Waterways Map attached only for illustrative purposes. As provided by EC 9.4786(3), future amendments to the Map may be

effected by an administrative order of the City Manager adopted pursuant to Section 2.019 of the Eugene Code, 1971.

Section 26. The /WQ Water Quality Overlay Zone is hereby applied to the properties listed on Exhibit B hereto and the Eugene Overlay Zone Map is amended to add the /WQ Overlay Zone to those properties.

Section 27. The City Council adopts Exhibit C hereto as the list of properties to which the /WQ Overlay Zone should be applied upon annexation.

Section 28. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

Section 29. Although not part of this Ordinance, the City Council adopts the Legislative Findings set forth in the attached Exhibit D in support of this action.

Section 30. 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 31. Notwithstanding the effective date of ordinances as provided in the Eugene Charter of 2002, this Ordinance shall become effective at midnight on June 10, 2009.

Passed by the City Council this

9th day of March, 2009

Elizabeth Forest

Acting City Recorder

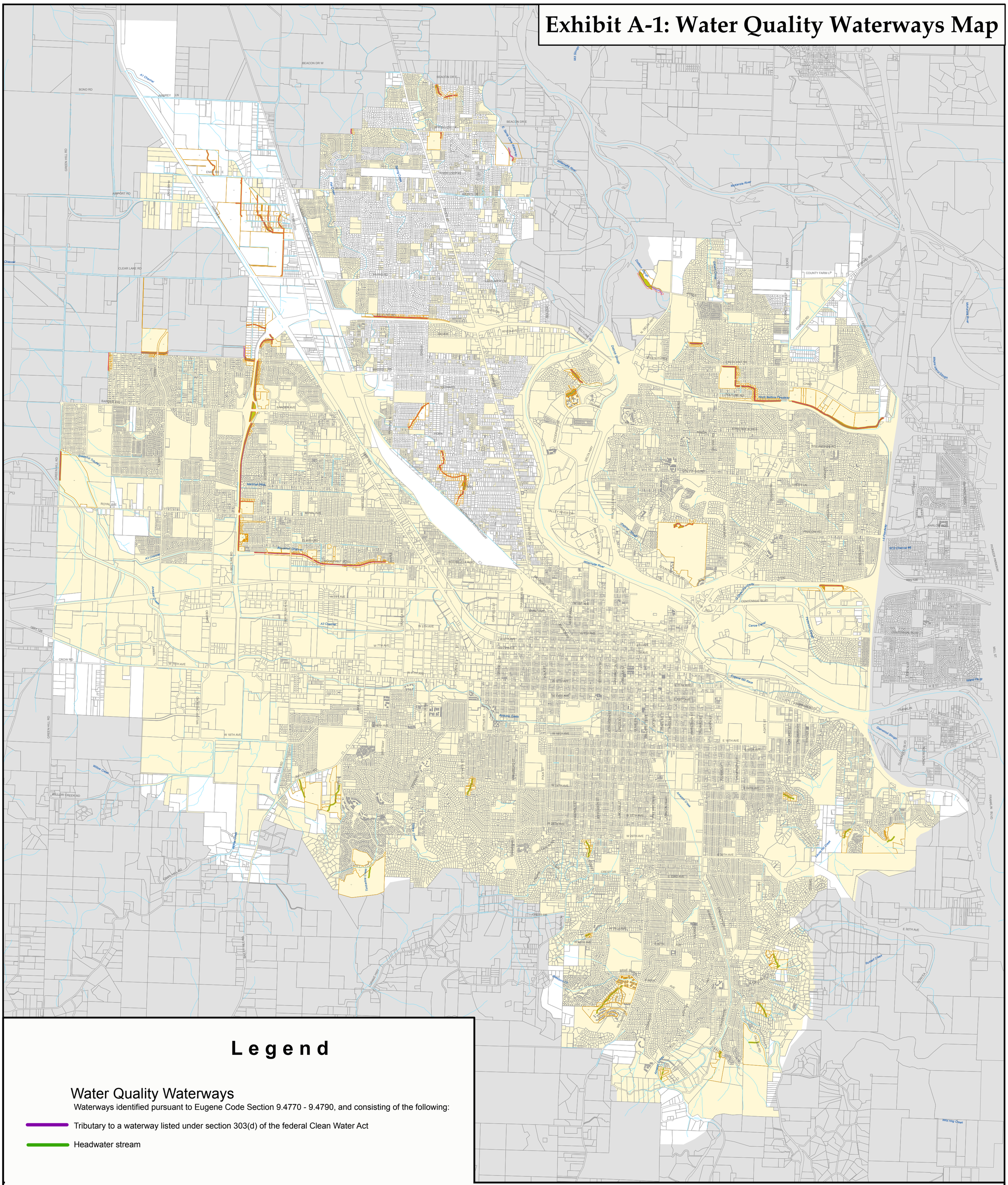
Approved by the Mayor this

10th day of March, 2009

Keith Price

Mayor

Exhibit A-1: Water Quality Waterways Map



Legend

Water Quality Waterways

Waterways identified pursuant to Eugene Code Section 9.4770 - 9.4790, and consisting of the following:

- Tributary to a waterway listed under section 303(d) of the federal Clean Water Act
- Headwater stream

Applicable Setbacks

- Top of High Bank — Applicable Setback = 25 feet from top of high bank for a waterway that is tributary to a waterway identified pursuant to section 303(d) of the federal Clean Water Act
- Centerline of Stream — Applicable Setback = 40 feet from the waterway's centerline for Headwater Streams

Water Quality Management Areas

The /WQ Management Area is comprised of the waterway channel and the applicable setback.

- Other Open Waterways
- Taxlots (2/20/09)
- Eugene City Limits
- Area outside the Eugene Urban Growth Boundary

0 0.5 1 Mile

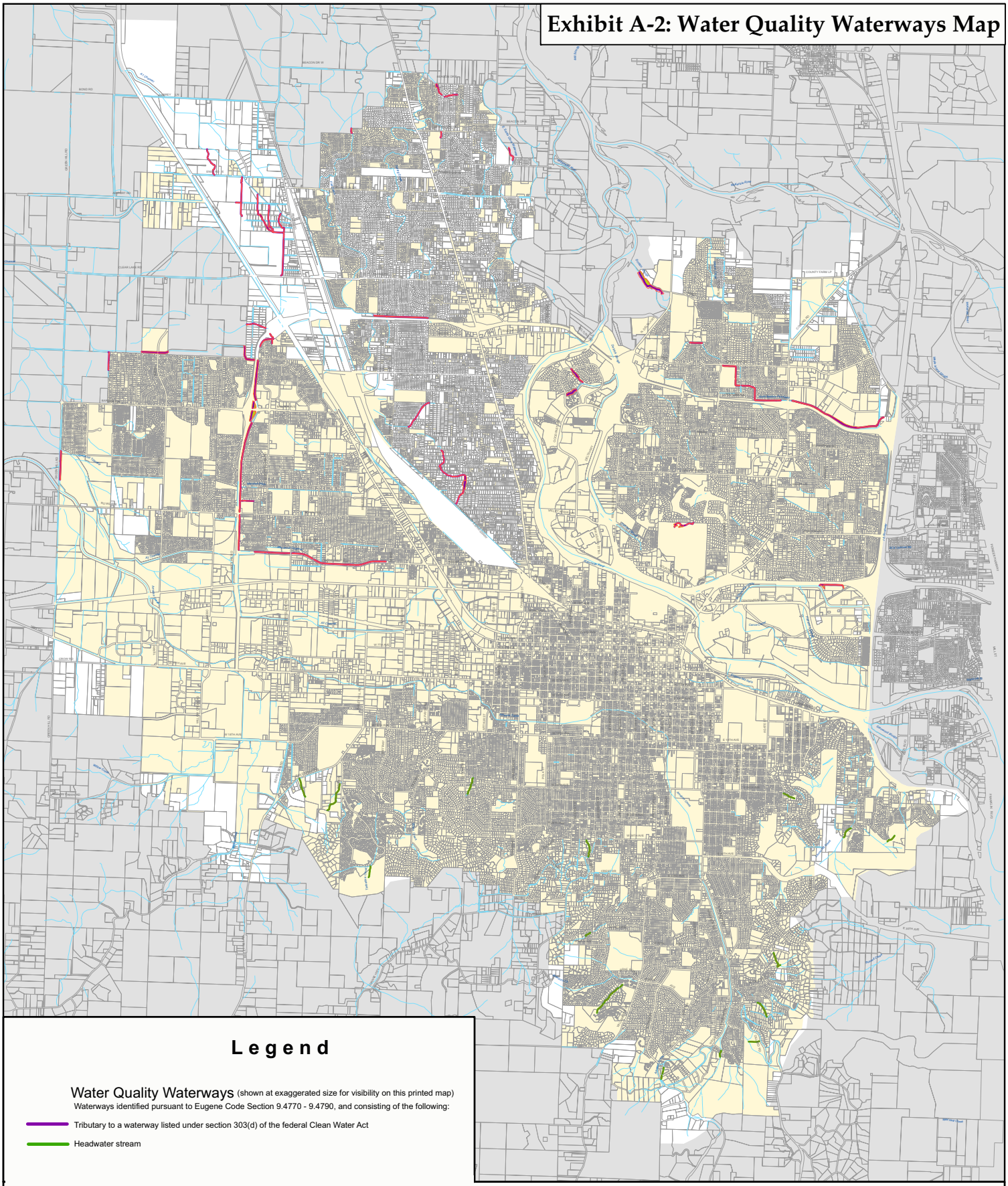
Map Data Sources:
Open Waterways: City of Eugene Stormwater System
Taxlots: Lane County Parcel File, as of February 20, 2009

N

LCOG
Lane Council of Governments

Map produced by LCOG, February 2009

Exhibit A-2: Water Quality Waterways Map



Legend

Water Quality Waterways (shown at exaggerated size for visibility on this printed map)
Waterways identified pursuant to Eugene Code Section 9.4770 - 9.4790, and consisting of the following:

- Tributary to a waterway listed under section 303(d) of the federal Clean Water Act
- Headwater stream

Applicable Setbacks

- Top of High Bank — Applicable Setback = 25 feet from top of high bank for a waterway that is tributary to a waterway identified pursuant to section 303(d) of the federal Clean Water Act
- Centerline of Stream — Applicable Setback = 40 feet from the waterway's centerline for Headwater Streams

Water Quality Management Areas

The /WQ Management Area is comprised of the waterway channel and the applicable setback.

- Other Open Waterways
- Taxlots (2/20/09)
- Eugene City Limits
- Area outside the Eugene Urban Growth Boundary

0 0.5 1 Mile

Map Data Sources:
Open Waterways: City of Eugene Stormwater System
Taxlots: Lane County Parcel File, as of February 20, 2009

N

LCOG

Map produced by LCOG, February 2009

Attachment A - Exhibit B (page 1of 2)
List of Affected Taxlots Inside City Limits
City of Eugene Water Quality Protected Waterways (March 2009)

Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number
1	1604354304400	48	1703174105400	95	1704031118700	142	1704164108200	189	1704214404600
2	1604354304500	49	1703174105500	96	1704031118800	143	1704164108300	190	1704214404700
3	1604354314534	50	1703174105600	97	1704131400700	144	1704164108400	191	1704214404800
4	1604354314535	51	1703174105700	98	1704131400900	145	1704164108500	192	1704214404900
5	1604354314536	52	1703174105800	99	1704134100100	146	1704164108900	193	1704214405000
6	1604354314537	53	1703174105900	100	1704134100301	147	1704164109000	194	1704214409000
7	1604354314538	54	1703174106000	101	1704134100311	148	1704164109100	195	1704231300120
8	1703160000302	55	1703174200135	102	1704134100313	149	1704164109200	196	1704231306502
9	1703160001201	56	1703174200136	103	1704134100314	150	1704164114000	197	1704232000111
10	1703163100400	57	1703174200142	104	1704134100327	151	1704164201800	198	1704232000112
11	1703163200400	58	1703174200143	105	1704134100330	152	1704164216200	199	1704232000113
12	1703163200500	59	1703174205001	106	1704134100334	153	1704164216300	200	1704234100204
13	1703163200600	60	1703174205100	107	1704134100335	154	1704164400300	201	1704234103500
14	1703163200601	61	1703174205300	108	1704134100336	155	1704164403801	202	1704262301601
15	1703163403703	62	1703174205400	109	1704134100500	156	1704164403802	203	1704262301621
16	1703163403704	63	1703174207400	110	1704134100600	157	1704164404100	204	1704262301622
17	1703163403800	64	1703174207500	111	1704134100800	158	1704171400100	205	1704262301623
18	1703164300100	65	1703174207600	112	1704134400101	159	1704171400200	206	1704262301624
19	1703164400700	66	1703174207700	113	1704134400103	160	1704171400300	207	1704262301625
20	1703172300301	67	1703174207800	114	1704134400105	161	1704173101000	208	1704262301626
21	1703172300302	68	1703174207900	115	1704152301000	162	1704173101100	209	1704262301801
22	1703172300303	69	1703174208000	116	1704161400201	163	1704173101200	210	1704262301805
23	1703172300304	70	1703174208100	117	1704161400202	164	1704173101201	211	1704262301817
24	1703172300305	71	1703174208200	118	1704161400300	165	1704173101300	212	1704262301818
25	1703172300306	72	1703174208201	119	1704161400400	166	1704173101401	213	1704262301819
26	1703172300307	73	1703174208300	120	1704161400500	167	1704173101500	214	1704271300102
27	1703172300308	74	1703174208400	121	1704161400600	168	1704173101600	215	1704271300126
28	1703172300309	75	1703174208500	122	1704161400700	169	1704173101601	216	1704271300300
29	1703172300310	76	1703174208600	123	1704161403700	170	1704173101702	217	1704271300400
30	1703173100900	77	1703174208700	124	1704161403800	171	1704173101801	218	1704271300500
31	1703173101000	78	1703174208800	125	1704161403900	172	1704174100100	219	1704271302300
32	1703173101100	79	1703174208900	126	1704161404000	173	1704174102700	220	1704271302401
33	1703173101101	80	1703174209000	127	1704164104400	174	1704174102800	221	1704271400111
34	1703173101102	81	1703174209100	128	1704164104500	175	1704174102900	222	1704271400112
35	1703173101300	82	1703174209200	129	1704164104600	176	1704174103000	223	1704271400113
36	1703173101400	83	1703174211200	130	1704164104700	177	1704174103100	224	1704271400114
37	1703173101801	84	1703174211300	131	1704164105400	178	1704200002000	225	1704271400115
38	1703173101802	85	1703174211400	132	1704164105500	179	1704202316100	226	1704271400116
39	1703173102000	86	1703183200422	133	1704164105600	180	1704211101600	227	1704271400132
40	1703173102101	87	1703194401100	134	1704164105700	181	1704211101700	228	1704271401600
41	1703173102201	88	1703203305800	135	1704164106400	182	1704211104200	229	1704271401700
42	1703173102300	89	1703203306300	136	1704164106500	183	1704211104300	230	1704271402100
43	1703173102400	90	1703283001600	137	1704164106600	184	1704211106700		
44	1703173413800	91	1703284000400	138	1704164106700	185	1704211107000		
45	1703174105100	92	1703284000600	139	1704164107900	186	1704214404300		
46	1703174105200	93	1703301001302	140	1704164108000	187	1704214404400		
47	1703174105300	94	1704021300500	141	1704164108100	188	1704214404500		

Attachment A - Exhibit B (page 2 of 2)
List of Affected Taxlots Inside City Limits
City of Eugene Water Quality Protected Waterways (March 2009)

Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number
231	1704271402200	260	1704281108500	289	1803072201108	318	1803174021401	347	1804012312806
232	1704271405700	261	1704281108600	290	1803072202101	319	1803174021402	348	1804012312807
233	1704271405701	262	1704281114900	291	1803072202102	320	1803174023500	349	1804012313000
234	1704271406500	263	1704281401000	292	1803072202103	321	1803181302500	350	1804012313306
235	1704271406600	264	1704281401100	293	1803073300807	322	1803181302800	351	1804012313307
236	1704272301002	265	1704281401200	294	1803073300808	323	1803181303400	352	1804012313309
237	1704272301005	266	1704281401901	295	1803073300809	324	1803181303600	353	1804012313310
238	1704272400300	267	1803033303100	296	1803073300810	325	1803182412100	354	1804013202903
239	1704272400301	268	1803033303200	297	1803073300811	326	1803182412200	355	1804013203000
240	1704272401400	269	1803042307300	298	1803162000306	327	1803182412300	356	1804013203100
241	1704272401413	270	1803042308100	299	1803162000500	328	1803182412400	357	1804013203200
242	1704272401414	271	1803042308200	300	1803162000501	329	1803183000200	358	1804013203300
243	1704272402202	272	1803042308300	301	1803162000502	330	1803183103000	359	1804030000700
244	1704272402203	273	1803042308400	302	1803162000503	331	1803183103100	360	1804030000800
245	1704272402204	274	1803042308500	303	1803162000601	332	1803183103200	361	1804030005102
246	1704272402205	275	1803042308600	304	1803162000700	333	1803183103900	362	1804030005700
247	1704272402206	276	1803042308800	305	1803171105700	334	1803183104000	363	1804030006400
248	1704272402222	277	1803042310100	306	1803171106000	335	1803183104100	364	1804030006701
249	1704272402302	278	1803042310200	307	1803171106600	336	1803183150000	365	1804030006703
250	1704272403700	279	1803044300801	308	1803171409800	337	1803183190000	366	1804030006706
251	1704281102900	280	1803044300901	309	1803171411000	338	1803184205400	367	1804110000302
252	1704281103000	281	1803044300902	310	1803174000900	339	1803200000101	368	1804112301200
253	1704281103100	282	1803044301300	311	1803174001002	340	1803202100102		
254	1704281107900	283	1803044301400	312	1803174001100	341	1803202201001		
255	1704281108000	284	1803044301500	313	1803174001400	342	1803202201002		
256	1704281108100	285	1803063310000	314	1803174001401	343	1803202300101		
257	1704281108200	286	1803063310301	315	1803174001500	344	1804012312802		
258	1704281108300	287	1803072201100	316	1803174001600	345	1804012312803		
259	1704281108400	288	1803072201107	317	1803174021300	346	1804012312804		

Attachment A - Exhibit C
List of Affected Taxlots Outside City Limits and Within UGB
City of Eugene Water Quality Protected Waterways (March 2009)

Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number	Number	Taxlot Number
1	1604354305600	47	1704091102500	93	1704142202266	139	1704234100202
2	1604354305700	48	1704091102900	94	1704142202267	140	1704234100300
3	1604354307600	49	1704091103000	95	1704142202268	141	1704234100400
4	1604354307700	50	1704091103001	96	1704142202300	142	1704234100500
5	1604354308600	51	1704091103100	97	1704143402200	143	1704234100501
6	1604354308700	52	1704091103200	98	1704143404400	144	1704234100502
7	1604354308900	53	1704091103201	99	1704143404600	145	1704234101200
8	1604354309300	54	1704091103202	100	1704143410500	146	1704234101300
9	1604354309400	55	1704092000100	101	1704144303401	147	1704234101400
10	1604354309500	56	1704100001700	102	1704144303500	148	1704234101500
11	1604354313100	57	1704102202400	103	1704151002500	149	1704234101600
12	1604354313200	58	1704102202501	104	1704161100100	150	1704234101700
13	1604354313300	59	1704102202600	105	1704161101300	151	1704234101800
14	1604354313400	60	1704102202800	106	1704161101400	152	1704234103000
15	1604354313500	61	1704102202999	107	1704161101500	153	1704234103100
16	1604354313600	62	1704102203000	108	1704161101900	154	1704234103200
17	1703070001000	63	1704102204198	109	1704161102000	155	1704234103300
18	1703070001002	64	1704102204200	110	1704161103300	156	1704234103400
19	1704010008500	65	1704102204300	111	1704161103400	157	1704234103600
20	1704012300800	66	1704102204401	112	1704161103700	158	1704234103700
21	1704013100327	67	1704102204500	113	1704161400100	159	1704234105200
22	1704013100328	68	1704142100101	114	1704161405900	160	1704234105300
23	1704013100329	69	1704142100129	115	1704161406000	161	1704234105400
24	1704021300415	70	1704142100131	116	1704161406100	162	1704234105700
25	1704021300416	71	1704142100132	117	1704161406200	163	1704234105701
26	1704021300417	72	1704142100133	118	1704161406300	164	1704234200300
27	1704021300418	73	1704142100134	119	1704161406400	165	1704234200400
28	1704040001000	74	1704142100135	120	1704161407800	166	1704234200500
29	1704040001002	75	1704142100136	121	1704231300118	167	1704234202401
30	1704040002101	76	1704142100137	122	1704231301900	168	1704234202500
31	1704040002200	77	1704142100138	123	1704231302000	169	1704234202600
32	1704044400400	78	1704142100139	124	1704231302900	170	1704234202700
33	1704044400500	79	1704142100142	125	1704231302905	171	1704234202800
34	1704090000103	80	1704142100143	126	1704231303000	172	1704234402800
35	1704091100200	81	1704142100144	127	1704231303100	173	1704234402900
36	1704091100500	82	1704142100145	128	1704231306600	174	1704234403000
37	1704091100600	83	1704142100146	129	1704231306701	175	1704234403100
38	1704091101000	84	1704142100147	130	1704231306702	176	1704234403200
39	1704091101400	85	1704142202258	131	1704231306800	177	1704234403300
40	1704091101500	86	1704142202259	132	1704231306801	178	1704234403400
41	1704091101600	87	1704142202260	133	1704232000114	179	1804030005103
42	1704091101800	88	1704142202261	134	1704232000115	180	1804030006704
43	1704091101801	89	1704142202262	135	1704232000199	181	1804030006900
44	1704091101802	90	1704142202263	136	1704232002401		
45	1704091101900	91	1704142202264	137	1704234100200		
46	1704091102000	92	1704142202265	138	1704234100201		

Attachment A - Exhibit D
Legislative Findings
to Ordinance No. _____
(Legislatively Updated)

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

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

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

The City of Eugene land use code implements Statewide Planning Goal 1 by requiring that notice of the proposed amendments be given and public hearings be held prior to adoption.

The process leading up to the development of the Water Quality Waterways Ordinance has provided numerous opportunities for citizen involvement. In June 2006, the city hosted an Open House to provide information and receive input on a preliminary proposal for water quality waterway protection. Notice of the open house was sent to all potentially affected property owners, and a list of over 300 interested persons. A news release about the open house was issued and a display ad was placed in the local newspaper. A web site was established to convey information about the proposal, the citizen involvement and adoption process, and staff contact information. Three newspaper articles were published in the local paper between June 2006 and August 2006 regarding the proposal. Subsequent to the open house, between August 2006 and March 2007, four separate postcards were sent to all potentially affected property owners and interested persons to convey the most up-to-date process and timeline, a project web address for additional information, and staff contact information. Site visits were conducted upon request to confirm the accuracy of the City's digital information regarding the existence and location of waterways, and the applicability of the proposed protections to individual sites. Presentations about the proposal were made to interested groups upon request. The citizen input received on the preliminary proposal resulted in significant changes and in November 2007, a notice describing the revised proposal was sent to all potentially affected property owners and interested persons with an updated public hearing and adoption schedule.

The City of Eugene's land use code implements Statewide Planning Goal 1 by requiring that notice of the proposed land use code amendments be given and public hearings be held prior to adoption. Consideration of this ordinance began with a Eugene Planning Commission work session on January 14, 2008. On January 15, 2008, a public hearing was held before the Eugene Planning Commission on the proposed amendments. Department of Land Conservation and Development notice, notice to affected property owners, Planning Commissioners, neighborhood

group leaders and interested persons, as well as a legal notice in the local newspaper were provided for that hearing.

A worksession with the Eugene City Council was held onMay 12, 2008, and a City Council public hearing was conducted on May 19, 2008, for which notice to affected property owners, Planning Commissioners, neighborhood group leaders and interested persons, as well as a legal notice in the local newspaper were provided. Three people testified at the public hearing, and 23 pieces of public testimony were received through the public hearing proceedings. A follow up worksession was held on June 18, 2008 and again on January 28, 2009 for purposes of considering purchasing conservation easements as an alternative approach to regulatory protections. The Eugene City Council is scheduled to take action on the proposed ordinance on March 9, 2009.

The project web site is regularly updated to inform interested persons of the status of the proposal, and provides links to City Council materials, a detailed map showing the proposed protected areas, other related information.

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

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

The Eugene-Springfield Metropolitan Area General Plan (Metro Plan) is a policy tool that provides a basis for decision-making in this area. The Metro Plan was acknowledged by the State in 1982 to be in compliance with statewide planning goals. The Eugene Comprehensive Stormwater Management Plan (CSWMP), a refinement to the Metro Plan specifically related to reducing stormwater pollution, adopted by the City of Eugene only, provides additional policy basis for decision-making in this area. CSWMP was acknowledged by the State to be in compliance with statewide planning goals.

These findings and record show that there is an adequate factual base for decisions to be made concerning the proposed amendments. Goal 2 requires that plans be coordinated with the plans of affected governmental units and that opportunities be provided for review and comment by affected governmental units. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the city and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens. To comply with the Goal 2 coordination requirement, the City provided information and sought input on these proposed land use code amendments from all affected governmental units. Specifically, Lane County, Oregon Department of Transportation, Eugene Water & Electric Board and other affected governmental agencies were notified as affected property owners of the June 2006 Open House and subsequent schedule updates and changes to the proposal. City staff communicated with Lane County staff, Oregon Department of Transportation staff, and Eugene Water & Electric Board staff during the development of this

proposal to obtain their input which was subsequently factored into the updated proposal. There are no Goal 2 exceptions required for this ordinance.

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

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

Goal 4 - Forest Land: To conserve forest lands.

Goal 4 is not applicable to this ordinance as the subject sites and actions do not affect any forest plan designation or use. Goal 4 does not apply within urban growth boundaries and, therefore, does not apply to the adoption of this ordinance. Goal 4 is not relevant and the ordinance does not affect the area's compliance with Statewide Planning Goal 4.

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

The following administrative rule (OAR 660-023-0250) is applicable to this post-acknowledgement plan amendment (PAPA) request:

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

- *(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;*
- *(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*
- *(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.*

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

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

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

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The proposed regulations are a key aspect of the City's response to federal Clean Water Act regulations, specifically the Upper Willamette Basin Total Maximum Daily Load (TMDL). Several waterways in Eugene do not state water quality standards for certain pollutants. For these waterways, the state of Oregon Department of Environmental Quality, the state agency charge with implementing TMDL regulations, has developed the Upper Willamette TMDL to bring these waterways back into compliance with state standards. The Upper Willamette TMDL allocates pollutant loads to designated management agencies, including the City of Eugene that have the authority to implement water quality improvements within their jurisdictional boundaries. One management strategy identified in the Upper Willamette TMDL for addressing multiple pollutants is the application of streamside buffers.

Therefore, the ordinance is consistent with Statewide Planning Goal 6.

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

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as land slides. This ordinance does not directly address potential natural disasters and hazards. These hazards are addressed by separate studies and protection measures. However, the /WQ overlay zone prohibits construction within specified setbacks of the identified waterways. As such, the overlay zone provides benefits with relation to flood impacts to real property and thus could provide further protections consistent with Statewide Planning Goal 7.

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

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

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

The ordinance will not impact the supply of industrial or commercial lands. Therefore, the amendments are consistent with Goal 9. The /WQ overlay zone does not render a property unusable for commercial or industrial uses. In fact, specific provisions in the /WQ overlay zone ensure that the overlay zone does not have such an effect on a property. Some of those provisions are:

1. The use restrictions of the /WQ overlay zone only apply to that portion of a lot, or right-of-way area, that is within the channel of an identified /WQ waterway and the specified setback distance from the waterway based on the associated setback measurement point. The use-restricted area is referred to as the "/WQ setback management area." Within the portions of the lot that are outside of the /WQ management area, land uses are not restricted by the /WQ overlay zone. EC 9.4780(1). Properties that have a base zoning and designation allowing commercial or industrial uses can still be developed with such uses on those portions of the lot that are not within the /WQ management area.

2. If the regulated area occupies more than 33% of a development site area, upon application of the property owner, and consistent with the other criteria of EC 9.8030(25)(a), the City will reduce the size of the /WQ conservation area to ensure that the area constitutes no more than 33% of the development site area.

3. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(b), the city will reduce the size of the setback distance.

4. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(c), the city will allow uses not otherwise identified in the ordinance, or approve a different means of protecting water quality to allow a proposed development that would not be permissible under the strict application of the ordinance.

Considering these provisions of the /WQ overlay zone, the application of the overlay zone to a property zoned and designated for commercial or industrial use does not result in an unlawful diminution in the area's supply of commercial or industrial land.

Even supposing the provisions above were not a part of the overlay's regulations, the overlay is being applied to such a small number of acres included in the area's inventories of commercial and industrial lands that this ordinance overlay could not diminish the area's supply of those lands below the projected need.

An analysis of potential impacts to the supply of buildable commercial lands within the Eugene city limits and UGB was conducted using the regional Geographic Information System (GIS) and calculations of supply and demand from the Eugene Commercial Lands Study, 1992. The State-acknowledged Eugene Commercial Lands Study included a surplus of Commercial acreage of 170 acres. This acreage represents those lands that were designated as commercial lands, beyond the acreage needed to accommodate the projected 20-year demand. Since the adoption of that Study, the City has taken various actions through December 2008 that have had a net decrease in the amount of surplus commercial acreage, resulting in a current surplus of 94.29 acres. Even if the provisions described in 1.-4., above, were not included in the ordinance, the /WQ regulations contained in this ordinance could affect, at most, 1.30 acres of commercially designated land all located within the current city limits, leaving a surplus of 92.99 acres.

An analysis of potential impacts to the supply of buildable industrial lands within the Eugene UGB was conducted using the regional Geographic Information System (GIS), data provided by

City of Springfield staff and calculations of supply and demand from the Metropolitan Industrial Lands Inventory Report, 1993. The State-acknowledged Metropolitan Industrial Lands Inventory Report included a surplus of industrial acreage of 2,954.28 acres (considering a low demand assumption) or of 2,432.28 acres (considering a high demand assumption). This acreage represents those lands that were designated as industrial lands, beyond the acreage needed to accommodate the projected 20-year demand. Since the adoption of that Report, Eugene and Springfield have taken various actions that have had a net decrease in the amount of surplus industrial acreage, resulting in a current surplus of either 2,048.37 acres (considering a low demand assumption) or of 1,526.37acres (considering a high demand assumption). The /WQ regulations will impact 14.28 acres of industrial buildable land within the city limits, leaving a surplus of 2,034.09 acres (considering a low demand) and 1,512.09 acres (considering a high demand). Outside the city limits and within the UGB, /WQ regulations will affect 12.89 industrial acres for a total impact of 27.17 acres when added to impact acres within the city limits. Total /WQ impact acres, within and outside the city limits and within the UGB, will leave a net surplus supply of 2,021.20 acres (considering a low demand) and 1,499.20 acres (considering a high demand). Therefore, even if the provisions described in 1. – 4., above, were not included in the ordinance, the /WQ regulations contained in this ordinance, or an ordinance applying /WQ to acres outside the city limits and within the UGB, do not unlawfully diminish the supply of industrial land.
Based on the forgoing discussion and analysis, it is clear that even if the maximum possible area within the proposed /WQ management area was treated as a subtraction from the buildable lands inventory, and taking into account plan amendments that took land out of commercial and industrial categories, and taking into account legislative zone changes, there would still be a net surplus of buildable lands in the applicable categories for both industrial and commercial land.[1]

Therefore, the ordinance is consistent with Goal 9.

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

The /WQ overlay zone does not render a property unusable for residential uses. In fact, specific provisions in the /WQ overlay zone ensure that the overlay zone does not have such an effect on a property. Some of those provisions are:

1. The use restrictions of the /WQ overlay zone only apply to that portion of a lot, or right-of-way area, that is within the channel of an identified /WQ waterway and the specified setback distance from the waterway based on the associated setback measurement point. The use-restricted area is referred to as the "/WQ setback management area." Within the portions of the lot that are outside of the /WQ management area, land uses are not restricted by the /WQ overlay zone. EC 9.4780(1). Properties that have a base zoning and designation allowing commercial or

[1] The City's adoption of the /WQ regulations do not impact land outside of the City limits. If Lane County chooses to adopt similar provisions, it will assess its impact at that time. The land identified to receive the /WQ overlay zone upon annexation includes no commercial buildable land and 12.89 acres of industrial buildable land. However, it is not clear when, if ever these parcels will be annexed or, whether, when they do annex, they will qualify for an exemption under the ordinance. Even if these parcels are considered as debits to the existing surplus, the ordinance is consistent with Goal 9.

industrial uses can still be developed with such uses on those portions of the lot that are not within the /WQ management area.

2. If the regulated area occupies more than 33% of a development site area, upon application of the property owner, and consistent with the other criteria of EC 9.8030(25)(a), the City will reduce the size of the /WQ conservation area to ensure that the area constitutes no more than 33% of the development site area.

3. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(b), the city will reduce the size of the setback distance.

4. Upon application of the owner of a lot with the /WQ overlay that shows consistency with the criteria of EC 9.8030(25)(c), the city will allow uses not otherwise identified in the ordinance, or approve a different means of protecting water quality to allow a proposed development that would not be permissible under the strict application of the ordinance.

Considering these provisions of the /WQ overlay zone, the application of the overlay zone to a property zoned and designated for residential use does not result in an unlawful diminution in the area's supply of residential land.

Even supposing the provisions above were not a part of the overlay's regulations, the overlay is being applied to such a small number of acres included in the area's inventory of residential lands that this ordinance overlay could not deplete the area's supply of those lands below the projected need.

An analysis of potential impacts to the supply of buildable residential lands within the Eugene UGB was conducted using the regional Geographic Information System (GIS), data provided by City of Springfield staff and calculations of supply and demand from the Supply and Demand Technical Analysis of the Eugene- Springfield Metropolitan Area Residential Lands and Housing Study (RLHS), 1999. The State-acknowledged Eugene-Springfield Metropolitan Area Residential Lands and Housing Study included a surplus of residential acreage of 1,862 acres (considering a low demand assumption) or of 790 acres (considering a high demand assumption). This acreage represents those lands that were designated as residential lands, beyond the acreage needed to accommodate the projected 20-year demand. Since the adoption of that Study, Eugene and Springfield have taken various actions that have had a net decrease in the amount of surplus residential acreage, resulting in a current surplus of either 1,250.33 acres (considering a low demand assumption) or of 178.33 acres (considering a high demand assumption). Even if the provisions described above were not included in the ordinance, the /WQ regulations contained in this ordinance could affect, at most, 45.75 acres of residentially designated land within the city limits, leaving a surplus of 1,204.58 acres (considering a low demand assumption) or of 132.58 acres (considering a high demand assumption).
Outside the city limits and within the UGB, /WQ regulations will affect 25.99 residentially designated land acres for a total impact of 71.74 acres when added to impact acres within the city limits. Total /WQ impact acres, within and outside the city limits, will leave a net surplus supply of 1,178.59 acres (considering a low demand) and 106.59 acres (considering a high demand).

Based on the forgoing discussion and analysis, it is clear that even if the maximum possible area within the proposed /WQ management area was treated as a subtraction from the residential buildable lands inventory, and taking into account plan amendments that took land out of residential categories, and taking into account previous legislative zone changes, there would still be a net surplus of buildable lands in the applicable categories for residential land.[2]

Therefore, the ordinance is consistent with Goal 10.

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

The area affected by this ordinance is located inside the city limits and is served by the public facilities in which the existing level of service is adequate to serve the needs of existing and future development. The provisions of this ordinance do not affect the planning or development of future public facilities or services. Therefore, the ordinance is consistent with Goal 11.

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

Goal 12 is implemented through the Transportation Planning Rule (TPR), as defined in Oregon Administrative Rule OAR 660-012-0000, et seq. The Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan) provides the regional policy framework through which the TPR is implemented at the local level. The TPR (OAR 660-012-0060) states that when land use changes, including amendments to acknowledged comprehensive plans, significantly affect an existing or planned transportation facility the local government shall put in place measures to assure that the allowed land uses are consistent with the identified function, capacity and performance standards (level of service, volume to capacity ratio, etc.) of the facility.

Adoption of the ordinance will not significantly affect an existing or planned transportation facility. Therefore, Goal 12 is not implicated by this ordinance.

Goal 13 - Energy Conservation: To conserve energy.

This ordinance does not concern energy conservation. Therefore, Goal 13 does not apply.

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

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

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[2] The City's adoption of the /WQ regulations do not impact land outside of the City limits. If Lane County chooses to adopt similar provisions, it will assess its impact at that time. The land identified to receive the /WQ overlay zone upon annexation includes 25.99 acres of buildable residential land. However, it is not clear when, if ever these acres will be annexed or, whether, when they do annex, they will qualify for an exemption under the ordinance. Even if these parcels are considered as debits to the existing surplus, the ordinance is consistent with Goal 10.

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

The Willamette Greenway area within the Eugene Urban Growth Boundary and city limits is governed by existing local provisions which have been acknowledged as complying with Goal 15. Those provisions are unchanged by this ordinance. The proposal does not affect any area within the Willamette Greenway Boundary and, even if it did, the proposed provisions would serve to further implement this goal by providing water quality setback protections along affected waterways.

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

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

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

The proposed code adds regulations to the Land Use Code with the intent of protecting those waterways that have a significant relationship to waterways identified by the state Department of Environmental Quality as not meeting water quality standards but that are not otherwise regulated in a way that protects water quality. The proposed /WQ Water Quality Overlay Zone designates a regulated "water quality management area" which is comprised of the waterway channel and its applicable setback. The proposed setback distance, applied to both sides of the regulated waterway, is either 25 feet measured from the top of high bank for a tributary to a water quality limited stream –or– 40 feet measured from centerline for a headwater stream.

METRO PLAN POLICIES.
The above described /WQ overlay regulations are consistent with the following Metro Plan Policies:

C. Environmental Resources Element

Air, Water and Land Resources Quality (Goal 6)

C.25 *Springfield, Lane County, and Eugene shall consider downstream impacts when planning for urbanization, flood control, urban storm runoff, recreation, and water quality along the Willamette and McKenzie Rivers.*

The overlay zone restricts development activities and other uses within and adjacent to certain waterways to protect the quality of stormwater runoff and water quality in receiving waterways including the Willamette River.

C.26 *Local governments shall continue to monitor, to plan for, and to enforce applicable air and water quality standards and shall cooperate in meeting applicable federal, state, and local air and water standards.*

The overlay zone is one element of a broader pollution reduction strategy in response to federal water quality standards including the Clean Water Act and related Upper Willamette Total Maximum Daily Load (TMDL).

C.33 *Eugene shall maintain and improve hillside development regulations.*

The overlay zone prevents development immediately adjacent to headwater streams that are otherwise unprotected and which are particularly sensitive to development impacts that are detrimental to receiving water quality. Headwater streams are streams located in hillside areas on slopes greater than 10%, in areas with highly erodible soils, and that drain at least 10 acres.

D. Willamette River Greenway, River Corridors, and Waterways Element

D.2 *Land use regulations and acquisition programs along river corridors and waterways shall take into account all the concerns and needs of the community, including recreation, resource, and wildlife protection; enhancement of river corridor and waterway environments; potential for supporting non-automobile transportation; opportunities for residential development; and other compatible uses.*

The allowed uses in the /WQ overlay zone are consistent with this policy.

D.5 *New development that locates along river corridors and waterways shall be limited to uses that are compatible with the natural, scenic, and environmental qualities of those water features.*

The allowed uses in the /WQ overlay zone are consistent with this policy.

E. Environmental Design Element

E.2 *Natural vegetation, natural water features, and drainage-ways shall be protected and retained to the maximum extent practical. Landscaping shall be utilized to enhance those natural features. This policy does not preclude increasing their conveyance capacity in an environmentally responsible manner.*

Provisions of the /WQ overlay zone explicitly address the protection of natural vegetation, water features, and drainageways and are therefore consistent with this policy.

G. Public Facilities and Services Element

Services to Development Within the Urban Growth Boundary: Stormwater

G.13 *Improve surface and ground water quality and quantity in the metropolitan area by developing regulations or instituting programs for stormwater to:*

a. Increase public awareness of techniques and practices private individuals can employ to help correct water quality and quantity problems;

b. Improve management of industrial and commercial operations to reduce negative water quality and quantity impacts;

c. Regulate site planning for new development and construction to better manage pre- and post-construction storm runoff, including erosion, velocity, pollutant loading, and drainage;

d. Increase storage and retention and natural infiltration of storm runoff to lower and delay peak storm flows and to settle out pollutants prior to discharge into regulated waterways;

e. Require on-site contracts and development standards, as practical, to reduce off-site impacts from stormwater runoff;

f. Use natural and simple mechanical treatment systems to provide treatment for potentially contaminated runoff waters;

g. Reduce street-related water quality and quantity problems;

h. Regulate use and require containment and/or pretreatment of toxic substances;

i. Include containment measures in site review standards to minimize the effects of chemical and petroleum spills; and

j. Consider impacts to ground water quality in the design and location of dry well.

The /WQ overlay zone regulates development uses and activities within a designated water quality management area, retains the natural filtration capabilities of certain waterways, and includes mitigation provisions for when, in certain circumstances, water quality impacts are unavoidable.

G.16 *Manage or enhance waterways and open stormwater systems to reduce water quality impacts from runoff to improve stormwater conveyance.*

The /WQ overlay zone includes allowances for management practices that are beneficial to water quality or that are not harmful to water quality.

G.17 *Include measures in local land development regulations that minimize the amount of impervious surface in new development in a manner that reduces stormwater pollution, reduces the negative effects from increases in runoff, and is compatible with Metro Plan policies.*

The /WQ overlay zone includes measures that prohibit additional impervious surface area adjacent to and within certain streams to reduce additional negative water quality effects of development related activities and uses.

REFINEMENT PLAN POLICIES
The above described /WQ overlay regulations are consistent with the following Refinement Plan Policies:

Comprehensive Stormwater Management Plan Policies

1.1 *Incorporate the beneficial functions (flood control, stormwater conveyance, water quality treatment) of natural resources into the City's storm drainage system.*

Establishment of a /WQ overlay zone protects certain waterways that have important water quality functional benefits and are vulnerable to impact from development uses and activities. The overlay zone protections signify the importance of these waterways to the City's storm drainage system.

1.2 *Maintain flood control, drainage, and water quality treatment capacities along the City's stormwater conveyance corridors while protecting and enhancing the health, diversity and continuity for wildlife habitat, native vegetation, and endangered species.*

The overlay zone includes provisions to protect the water quality treatment capacities of certain waterways, while at the same time maintaining the flood control and conveyance functions, and protecting and enhancing native vegetation.

1.4 *Amend existing regulations and administrative policies and practices to be consistent with the goals and policies of the Stormwater Plan.*

The proposal amends the Eugene Code to add a /WQ Water Quality Overlay Zone, in fulfillment of Stormwater Plan policies.

1.5 *Develop new design standards and maintenance practices that meet the multiple objectives of the Stormwater Plan.*

The overlay zone includes specific criteria and development standards for certain allowed uses within the /WQ management area which meet the multiple objectives of the Stormwater Plan.

2.1 *Meet or exceed federal flood hazard requirements.*

The overlay zone includes provisions that enable maintenance of storm drainage channels in accordance with applicable federal guidelines, regulations, and maintenance agreements.

3.1 *Meet or exceed federal and state stormwater quality requirements especially where they conform with existing local policy.*

The /WQ overlay zone protects waterways which are identified by the state of Oregon Department of Environmental Quality as water quality impaired (on the state's "303(d) List"), waterways that drain directly into a water quality impaired waterway, and

headwater tributaries that are particularly sensitive to erosive effects of increased stormwater runoff from new development and that drain into a water quality impaired waterway –AND- which are not otherwise protected by existing regulations. The Upper Willamette Total Maximum Daily Load lists the City of Eugene as a Designated Management Agency, responsible for developing and implementing a plan to achieve water quality improvement goals for water quality impaired waterways including Amazon Creek, A3 Channel, Amazon Diversion Channel, Willow Creek and the Willamette River. The overlay zone meets federal and state stormwater quality requirements and conforms with existing Stormwater Plan policies.

3.3 *Reduce stormwater pollution associated with new construction and development, soil erosion, improper use of stormwater facilities, and city operations and maintenance practices.*

The /WQ overlay zone protects certain waterways from adverse water quality impacts from development uses and activities that could be harmful to water quality including new construction, vegetation removal, soil disturbance, and operations and maintenance practices. The overlay zone includes provisions to mitigate for the water quality impact of certain uses and activities for which there is no other alternative.

4.1 *Maintain the stormwater system through techniques and practices that balance flood control, drainage services, water quality, and natural resource protection needs.*

The /WQ overlay zone insures that channel maintenance practices are protective of the water quality function of specifically identified waterways.

6.1 *Encourage and support communication, coordination and cooperative efforts that maximize available resources, reduce duplication of services, and prevent management conflict.*

The City collaborated with Oregon Department of Transportation, Lane County and Eugene Water & Electric Board staff during the development of this proposal to obtain their input. The /WQ overlay zone provisions include allowances for routine channel maintenance that do not adversely impact water quality. The overlay zone includes provisions to mitigate for the water quality impact of certain uses and activities for which there is no other alternative.

Bethel Danebo Refinement Plan (as amended, January 13, 2003) Policies

II-D 1. *The Royal Avenue Specific Plan shall serve as the basis for development regulations and infrastructure improvements within the Royal Avenue Specific Plan area. Amendments to land use regulations for the Royal Avenue Node shall be consistent with the Land Use Element of the Royal Avenue Specific Plan.*

The /WQ overlay zone will not be applied to any properties within the Royal Special Area Zone. The Royal Avenue Specific Plan includes provisions for the protection and utilization of drainage channels for multiple functions including water quality protection.

Bethel Danebo Neighborhood Refinement Plan Phase 2 – West Eugene Industrial Study and Roosevelt Extension and Drainage Facility Policies

West Eugene Industrial Study IV.A.4 *Further information on industrial wastewater run-off and water quality should be used as input in revising development regulations affecting drainage and the multiple-use potential of drainage channels in the West Eugene Industrial Area.*

The /WQ overlay zone includes provisions to protect specific waterway from the impacts of uses and activities that could impact water quality. The waterways identified for protection include those listed by the state Department of Environmental Quality as water quality impaired (on the state's "303(d) List"), waterways that drain directly into a water quality impaired waterway, and headwater tributaries that are particularly sensitive to erosive effects of increased stormwater runoff from new development and that drain into a water quality impaired waterway –AND- which are not otherwise protected by existing regulations. The Roosevelt Channel and the West Beltline Floodway are identified for protection by the /WQ Overlay.

Laurel Hill Plan Policies

Laurel Hill Valley Neighborhood

I.C.6. *The Laurel Hill Plan supports the South Hills Study standards. In general, alteration of land contours shall be minimized to retain view of natural features and retain as much of the forested atmosphere as possible. Aside from purely aesthetic considerations, these hillsides demand care in development because the topsoil is thin and the water runoff is rapid. Proposed developments shall respect the above considerations. ……".*

III.C.3. *Right-of-way maintenance should be provided for footpaths and natural drainage channels, and channel banks should be closed to construction. …"*

East Laurel Hill Area

I. *Many of the plan provisions that apply to the Laurel Hill Valley also apply to East Laurel Hill. …… Plans for development should take into account the existing natural conditions, including the topographical features, vegetation, and natural drainage….."*

The /WQ overlay zone would ensure that sensitive headwater streams are protected from the impact of certain uses and activities that would adversely affect the structural integrity of the streams and impair receiving water quality. The headwater streams protected by /WQ, including some in Laurel Hill, are those that are in steeply sloped areas, with shallow, erodible soils, and are not otherwise protected.

River Road – Santa Clara Urban Facilities Plan Policies

3.1 (Storm Sewers/Drainage)

Policy 2. *If a large annexation in the River Road – Santa Clara area occurs, enclosed storm drains shall be eventually installed to replace roadside ditches.*

The /WQ overlay zone does not apply protections to roadside ditches unless those waterways have a significant relationship to waterways identified by the state Department of Environmental Quality as not meeting water quality standards, are not otherwise protected, and provide a drainage function for a larger area beyond the roadway. Based upon the weight of the other Metro Plan and refinement plan policies in support of the /WQ overlay zone, and given the early date of this policy (1987), the /WQ overlay zone is not inconsistent with Policy 2.

Policy 3. *As annexation or incorporation occurs, a comprehensive drainage plan for the area shall be developed in cooperation with Lane County and other appropriate agencies.*

> ***3.b.*** *Identify those portions of the open storm drainageways which can be retained and those which should be eliminated and provide sufficient right-of-way or easements for their continued maintenance.*

The /WQ overlay zone applies protections to specific waterways identified due to their significant relationship to waterways on the state DEQ's list as not meeting water quality standards, that currently provide water quality functions, and that are otherwise unprotected from the impact of certain uses and activities detrimental to water quality. The proposal identifies the waterways that should be retained as open storm drainageways.

Policy 6. *In the event of incorporation or annexation, the responsible general purpose government shall:*

> ***a.*** *Adopt ordinance prohibiting dumping in open drainage channels.*

The ordinance identified (Exhibit C) specific taxlots outside the city limits and inside the urban growth boundary to which the /WQ overlay zone would be applied upon annexation, if and when the properties annex to the city of Eugene.

South Hills Study Recommendations

D (Development Standards) II (Specific Recommendations) 9. *That all developments (planned unit developments or subdivisions) in the south hills area be reviewed to insure maximum preservation of existing vegetation.*

The /WQ overlay zone includes provisions that limit the removal of existing vegetation and require planting of any bare soil resulting from allowed vegetation removal.

West Eugene Wetland Plan Policies

The /WQ overlay zone does not apply to any properties within the West Eugene Wetland Plan Boundary. The West Eugene Wetlands Plan outlines mechanisms for balancing wetland protection with urban development. The Plan calls for the protection of over 1,000 acres of wetlands through a multiple objectives strategy addressing flood control, drainage services, water quality treatment, and natural resources. It addresses the issue of

stormwater and supports the use of management approaches that incorporate natural systems for water quality and other beneficial uses.

<u>Willakenzie Area Policies</u>
Public Facilities and Services Element, Storm Drainage Facilities

1. *Encourage development practices that reduce the need for construction of an extensive subsurface storm sewer system.*

The ordinance regulates specific waterways determined to be important to water quality and not otherwise protected, thus ensuring their continued function in an open condition as an important part of the city's stormwater system.

2. *Encourage growth and development patterns that are compatible with natural features and discourage the alteration of natural features. Relocation of natural drainage features may be considered as an alternative to replacement with a closed pipe system.*

The /WQ overaly zone regulates certain waterways including limiting alterations to the waterways. The ordinance includes provisions that allow channel relocation and reconfiguration under certain circumstances, and with water quality mitigation requirements.

3. *Encourage measures that will improve the quality of stormwater runoff discharged into local waterways.*

The /WQ overlay zone protects existing water quality functions of certain waterways. The ordinance is a compliment to existing adopted stormwater development standards which require on-site pollution reduction and flow control measures.

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

The amendments do not establish a special area zone.

Application of the Overlay Zone Eugene Code Section EC 9.8856 requires that the following criteria (in bold and italic) be applied to a proposal to rezone properties:

(1) The proposed change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

See above.

(2) The proposed zone change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

The overlay zone does not change the base zoning of a parcel, which has already been found to be consistent with any applicable refinement plan.

(3) The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

The uses and densities of development allowed in the zone are less of a tax on the key urban facilities and services already serving or planned for the effected areas.

(4) The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in: [(a) through (l)]

Although not listed in EC 9.8856(4), the siting requirements for the /WQ Water Quality Overlay Zone applicable to the proposed were addressed above.

APPENDIX C

/WQ WATER QUALITY WATERWAYS ADMINISTRATIVE ORDER

ADMINISTRATIVE ORDER NO. 58-09-07-F
of the
City Manager of the City of Eugene

ADOPTION OF /WQ WATER QUALITY OVERLAY ZONE RULE R-9.4770.

The City Manager of the City of Eugene finds that:

A. Section 2.019 of the Eugene Code, 1971 authorizes the City Manager to adopt rules for implementation of any provisions of that Code. Sections 9.4770 through 9.4790, establishing the /WQ Water Quality Overlay Zone, its purpose, applicability, siting requirements, permitted and prohibited uses and a process for map correction or removal of the /WQ Overlay Zone, were added to the Eugene Code, 1971 (EC) by Ordinance No. 20430, adopted on March 9, 2009, and will become effective on June 10, 2009.

B. Section 25 of Ordinance No. 20430 adopts the electronic Water Quality Waterways Map, which depicts the location of lot lines, applicable setback measurement points (centerline or top of high bank) and Water Quality Management Areas. EC 9.4778(1)(d) directs the City Manager to adopt an administrative rule describing the procedures the City used to map the /WQ setbacks on the Water Quality Waterways Map. Pursuant to EC 9.4786(2), the City shall consider the procedures described in the administrative rule when it reviews any future requests for a Water Quality Waterways Map correction or a request for removal of the /WQ Overlay Zone.

C. Pursuant to 9.4780(2), 9.4780(3), and 9.8030(25), some uses, activities and adjustments within the /WQ Overlay Zone can be allowed/approved if the applicant submits a certification that after the use, activity or adjustment is in place, there will be a water quality function rating equal to or greater than the subject lot's rating before the use, activity or adjustment. This certification must be based on a Water Quality Function Rating System that, pursuant to EC 9.4782, is contained in administrative rules adopted by the City Manager in accordance with EC 2.019.

D. Pursuant to EC 2.019, on May 11, 2009, I issued Administrative Order No. 58-09-07 proposing the adoption of /WQ Water Quality Overlay Zone Rule R-9.4770 effective June 10, 2009.

E. Notice of the proposed Rule adoption was published in the Register-Guard Newspaper on May 12, 13, 14, 15 and 16, 2009. In addition, Notice was provided to the Mayor and City Council, made available to any person who had requested the notice, and made available for review at the Public Works Department, 99 E. Broadway, Suite 400, Eugene, Oregon, 97401. The Notice provided that written comments would be received for a period of 15 days from the date of posting and publication, or at the public hearing to be held on May 27, 2009, at 4 p.m. in the Lyle Conference Room on the fourth floor of the Public Works Department, 99 E. Broadway, Eugene, Oregon. There were no attendees at the public hearing,

however, two written comments were received. A summary of the comments and my response to the comments are as follows:

Comments from William Heady: William Heady submitted comments by letter dated May 27, 2009. He requested a realignment of the Water Quality Management Area established by Ordinance No. 20430, and expressed his dissatisfaction that the Water Quality Management Area cuts off access to a half-acre lot of residentially zoned land within the Eugene City limits.

Response: Mr. Heady's comments are directed to Ordinance No. 20430 which was adopted on March 9, 2009. Because his comments do not address concerns regarding the proposed Water Quality Waterways Administrative Rule, no changes are being made to the Rule as a result of these comments.

Comments from Barbara Combs: Barbara Combs submitted the following comments by letter dated May 27, 2009:

Comment 1: She was unable to find a copy of Ordinance No. 20430 so as to refer to Code references that were cited in the proposed Rule.

Response: Ordinance No. 20430 was adopted on March 9, 2009, with an effective date of June 10, 2009, and, therefore, had not been incorporated into the City Code during the time that comments were being accepted. However, the Ordinance was posted on the Water Quality Waterways web page, and is posted on the City's weblink for City documents. In addition, an informational postcard with the web address and staff contact information was sent to all affected property owners and interested persons in March, 2009. No amendment to the Rule is necessary as a result of this comment.

Comment 2: She felt that Water Quality Overlay Zones for properties that are not within the city limits should not be established at this time.

Response: This comment is directed to Ordinance No. 20430, which has been adopted. Because the comment does not address concerns regarding the proposed Water Quality Waterways Administrative Rule, no changes are being made to the Rule as a result of this comment.

Comment 3: She believes that requirements for lots of less than one-half acre along seasonal ditches should be simplified; Rule should not require placement of trees where they might damage a house.

Response: The requirement to mitigate for impacted water quality function, and the list of professionals authorized to develop the certification, report or determination of water quality function mitigation are described in Ordinance Number 20430. The proposed Rule describes the water quality function mitigation process and provides options for how impacted function can be mitigated, including enhancing vegetation, but it is not prescriptive in that it does not specify the exact measures that must be taken.

With respect to vegetation enhancement as an option for mitigating impacted water quality function, the proposed Rule gives "credit" for planting trees but does not specifically require that trees be planted. No change to the Rule is necessary as a result of these comments.

Comment 4: She opined that those who raised issues about the overlay zone with respect to their property prior to the adoption of Ordinance No. 20430 and whose concerns have not been addressed, should not be subject to a formal process to change the overlay zone.

Response: The City Council considered all testimony received, as well as staff's responses to comments, prior to taking action on the Water Quality Overlay Zone. In response to testimony that waterway alignments were incorrectly shown on the City's maps, staff reviewed the 2004 aerial photographs, the City's waterway system data, and conducted either a drive-by verification or a site visit when necessary and upon property owner authorization. (See City Council memo dated June 18, 2008, Attachment A: "Staff Response to Public Testimony and City Council.") The Council memo, public testimony, and other related information is available on the City's web site: http://www.eugene-or.gov/wqpw. If the City did err in mapping a Water Quality Waterway, the proposed amendment of land use application fee schedule includes the following provision for Water Quality Overlay Zone map correction or removal of overlay zone: "*Application fee to be refunded in full if final decision approves the application pursuant to EC 9.4786(2)(a).*" No change to the Rule is necessary as a result of this comment.

Now, therefore, based on the above findings and the findings attached hereto as Exhibit A, which are adopted in support of this Administrative Order, and pursuant to the authority contained in Section 2.019 of the Eugene Code, 1971, the /WQ Water Quality Overlay Zone Administrative Rule R-9.4770 is adopted effective June 10, 2009, to provide as follows:

/WQ WATER QUALITY OVERLAY ZONE ADMINISTRATIVE RULE R-9.4770

R-9.4770-A **Purpose.** It is the purpose of this Rule to: (a) describe the procedures used for mapping the setbacks on the Water Quality Waterways Map, to be considered when evaluating a request submitted pursuant to EC 9.4786; and (b) establish a Water Quality Rating System that includes procedures for evaluating a specific Water Quality Management Area's water quality function based on the presence or frequency of enumerated characteristics.

R-9.4770-B **Definitions.** For purposes of these rules, the following words and phrases mean:

1. **303(d) waterway.** A waterway identified pursuant to section 303(d) of the federal Clean Water Act that, on March 9, 2009, was not already protected by the NR Natural Resource Zone, the /WR Water Resources Conservation Overlay

Zone, /WP Waterside Protection Overlay Zone or /WB Wetland Buffer Overlay Zone.

2. **Headwater stream.** A natural or constructed waterway that, on March 9, 2009:
   (a) Had all or a portion of their length on slopes greater than 10%;
   (b) Was a minimum of 500 feet in length including infrastructure culverts;
   (c) Provided stormwater drainage for an upstream area of 10 acres or more;
   (d) Had discernable streambed and side banks;
   (e) Carried water at least part of the year;
   (f) Provided a drainage function for surface runoff from land areas beyond a roadway;
   (g) If ponded, had an inlet and outlet drainage function; and
   (h) Was not already protected by the NR Natural Resource Zone, the /WR Water Resources Conservation Overlay Zone, /WP Waterside Protection Overlay Zone or /WB Wetland Buffer Overlay Zone.

3. **Streambank instability.** Streambank instability is characterized by the erosion and eventual sloughing of bank material onto the bed of the waterway. This may be caused by such things as removal of riparian vegetation or physical disturbance of the sloped area within a waterway channel, or where the toe of a bank slope is undermined by bed incision.

4. **Streambed downcutting.** Also referred to as incision, streambed downcutting is the vertical erosion of the channel bed leading to increased channel confinement and deepening of the bed, often characterized by small channels or rills in the early stages and deep, wide gullies in later stages. This may be caused by such things as the loss of riparian vegetation or changes in stream flow.

5. **Tributary to a 303(d) waterway.** A natural or constructed waterway that, on March 9, 2009:
   (a) Directly connected to a 303(d) waterway;
   (b) Was in an open condition, except for existing culverts installed to enable waterway crossings for public and private infrastructure including, but not limited to, railroads, streets, driveways, parking lots, sanitary sewer mains, stormwater mains, water mains, gas mains, or electrical conduits and existing stormwater pipes less than 100 feet in length;
   (c) Had discernable streambed and side banks;
   (d) Carried water at least part of the year;
   (e) Provided a drainage function for surface runoff from land areas beyond a roadway;
   (f) If ponded, had an inlet and outlet drainage function; and
   (g) Was not already protected by the NR Natural Resource Zone, the /WR Water Resources Conservation Overlay Zone, /WP Waterside Protection Overlay Zone or /WB Wetland Buffer Overlay Zone.

6. **Water Quality Waterways.** The waterways depicted on the City's adopted Water Quality Waterways Map.

R-9.4770-C **Water Quality Waterways Map – Mapping Procedures.** Pursuant to EC 9.4786(2) and EC 9.4778(1), approval of an application to correct the Water Quality Waterways Map must be based, in part, on consideration of the procedures the City used for mapping the setback areas on that Map. This Section sets out those procedures. All mapping relates to conditions in place on March 9, 2009, the date the City Council approved Ordinance 20430.

1. **Waterway Location**. The location of each water quality waterway depicted on the adopted Water Quality Waterways Map ("the Map") was initially determined based on the City of Eugene's open waterways data file referred to as "DOPEN" and verified, with any necessary modifications, through aerial photography and field visits where access was granted by property owners.

2. **Map Setback Measurement Point by Waterway Category**:

   2.1. Tributary to 303(d) waterway. As provided at EC 9.4778(1)(b), the setback for tributaries to 303(d) waterways was measured from the waterway's top of high bank (THB). THB was identified at the highest point at which the vertical rise of the waterway bank met the horizontal grade of the adjoining topography. THB location was identified and digitized into a Geographic Information System (GIS) shape file using a combination of the City's DOPEN file, 2004 aerial photography, and 2 foot contour elevations. The location of the setback measurement point was identified on the adopted Water Quality Waterways Map.

   2.2. Headwater stream. As provided at EC 9.4778(1)(c), the setback for headwater streams was measured from the stream's centerline. The location of stream centerline was based on the City of Eugene's DOPEN file.

3. **Map Setback Area by Waterway Category**:

   3.1. Tributary to 303(d) waterway. Based on the location of the setback measurement point and per EC 9.4778(1)(b), 25 foot setback areas were identified on the Water Quality Waterways Map extending landward from the THB on each side of the waterway's channel, forming GIS polygons. These setback area polygons constitute a portion of the overall water quality management area mapped for tributaries to 303(d) waterways included on the adopted Water Quality Waterways Map. The other component of the Water Quality Management Area for tributaries to 303(d) waterways is the waterway's channel which, pursuant to EC 9.4778(1)(a), is that area located between the THB on each side of the waterway. This channel area was identified by creating a GIS polygon that connects and encloses the area between the two THBs and was also depicted on the adopted Water Quality Waterways Map.

3.2. Headwater stream. Based on the location of the setback measurement point and per EC 9.4778(1)(c), 40 foot setback areas were identified on the Water Quality Waterways Map extending landward in both directions from the stream centerline, forming GIS polygons. This setback area constitutes the entire water quality management area for Headwater Streams and was included on the adopted Water Quality Waterways Map.

4. The Water Quality Waterways Map, adopted as Exhibit A-1 to Ordinance No. 20430, is a Portable Document Format (PDF) file created from the geographic data layers referenced in sections 1-3 above. The City has retained the geographic data layers from which the Water Quality Waterways Map was produced and they are available for reference in interpreting the Water Quality Waterways Map.

5. Upon final approval of a change pursuant to EC 9.4780(3)(b)5, 9.4786 or 9.8030(25) necessitating an update to the Water Quality Waterways Map, the Planning Director or the Planning Director's designee, shall record at Lane County Deeds and Records a notice of the decision, prepare an updated Map indicating the date of the update and enter the date of the update with a reference to the underlying decision document on a log to be maintained by the City.

R-9.4770-D **Water Quality Function Rating System.** Pursuant to EC 9.4782, when EC 9.4780(2), 9.4780(3) or 9.8030(25) requires the submittal of a certification, report or determination based on the city's Water Quality Function Rating System, the following provisions apply.

1. **Preparer**. The required certification, report or determination shall be prepared by one or more of the professionals described at EC 9.4782(2).

2. **Content**. The required certification, report or determination shall be composed of the following four components:

2.1. Site Plan I – Pre-Proposal Conditions. The purpose of this site plan is to illustrate the location and extent of the water quality function features as they exist on the subject lot prior to the proposed use, activity or adjustment and mitigation measures. The illustrations on this site plan must correspond with the pre-proposal rating calculations shown on the Water Quality Function Rating Table described in Section 2.3 of this rule.

2.1.1. This site plan must be submitted on a sheet of paper that can be folded to 8.5" x 11" and must be prepared at a scale sufficient for showing the details described at section 2.1.2., below.

2.1.2. This site plan shall include the following:

(a) The lot lines, dimensions, and lot area at the locations shown on the City's Water Quality Waterways Map;

(b) The waterway channel area, applicable setback measurement point (THB or centerline), and setback area at the locations shown on the City's Water Quality Waterways Map;

(c) Existing uses or activities within the lot's Water Quality Management Area, including the dimensions and area of those uses or activities (field or aerial photo verified);

(d) Any areas excluded from the lot's Water Quality Management Area pursuant to EC 9.4778;

(e) Existing uses on the lot located outside, and within 50 feet of, the Water Quality Management Area (field or aerial photo verified);

(f) Existing trees, shrubs, and other low-level plantings (e.g. forbs, grasses, rushes and ferns) within the lot's Water Quality Management Area, including extent of cover, species composition, and distribution (verified with site photo looking up or downstream at the waterway or aerial photo);

(g) Location of existing indicators of streambank instability and streambed downcutting (field verified) on the lot, if applicable.

2.2. Site Plan II - Post-proposal conditions. The purpose of this site plan is to illustrate the lot's water quality function condition with the proposed use, activity or adjustment and the completion and maturity of any proposed mitigation measures. The illustrations on this site plan must correspond with the post-proposal rating calculations shown on the Water Quality Function Rating Table described in Section 2.3 of this rule.

2.2.1. This site plan must be submitted on a sheet of paper that can be folded to 8.5" x 11" and must be prepared at a scale sufficient for showing the details described at section 2.2.2., below.

2.2.2. This site plan shall include the following:

(a) The information described in sections 2.1.2.(a)-(c) above;

(b) If an adjustment to the setback area is proposed pursuant to EC 9.8030(25)(a) or (b), the dimensions and area of the proposed setback area;

(c) If uses or activities are proposed pursuant to EC 9.4780(2)(f)4, EC 9.4780(2)(h)12, EC 9.4780(3)(b), (c), (e) or (h), the location, dimensions and area of the proposed uses or activities to be established or to remain within the Water Quality Management Area;

(d) Uses or activities proposed to be established or to remain outside the lot's Water Quality Management Area;

(e) All mitigation measures proposed, if any (See Section 2.2.3., below);

(f) The dimensions of any areas that will be excluded from the lot's Water Quality Management Area pursuant to EC 9.4778;

(g) Trees, shrubs, and other low-level plantings (e.g. forbs, grasses, rushes and ferns) proposed to be established, or to remain, within the lot's Water Quality Management Area, including extent of cover, species composition, and number or quantity of plants.

2.2.3. Mitigation measures. In conjunction with a proposed use, activity or adjustment, mitigation measures shall be taken to offset negative water quality impacts of the proposed use, activity or adjustment. Except as provided in (c) below, such mitigation measures must be located within the impacted lot's Water Quality Management Area. The following are suggested, not required, mitigation measures for increasing a post-proposal Water Quality Function Rating:

(a) Plant vegetation to accomplish greater areas of, and diversity in, vegetative cover;

(b) Remove structures or impervious areas that are excluded from the Water Quality Management Area pursuant to EC 9.4778 and replace with vegetation cover.

(c) Submit a recorded use restriction that creates a permanent area of open space adjacent to the Water Quality Management Area that is equal to, or greater than the area to be disturbed by the proposed use or activity.

(d) Plant with native species. (Native plant species thrive without chemical fertilizers and pesticides, typically require less water for irrigation than non-native species, and are low maintenance once established. Deeply rooted native plants increase the soil's capacity to store water and reduce water runoff.)

(e) As permitted under EC 9.4780(3)(a), use bio-engineered Best Management Practices for repairing streambank instability and streambed downcutting.

2.3. Water Quality Function Rating. As part of a Water Quality Function Rating System certification, report or determination, the preparer shall submit a completed Water Quality Function Rating Table. The Table shall use the following methodology as a scoring and rating system for quantifying water quality function condition at the parcel-scale and within the lot's Water Quality Management Area, or any additional area as provided in 2.2.3.(d), above. The Table shall address the following conditions: (1) pre-proposal/existing conditions; (2) post-proposal

conditions without mitigation; and (3) post-proposal conditions after mitigation, if any. On a scale of 1 to 5, with 5 the highest and 1 the lowest score, water quality function is measured by the total score from the following three categories:

2.3.1. Water Quality Management Area. This category requires the preparer to rate the overall water quality function of the subject lot based on the open physical area within the Water Quality Management area shown on the City's Water Quality Waterways Map, taking into account any areas that are excluded from the Water Quality Management Area pursuant to EC 9.4778 and permitted uses pursuant to EC 9.4780(2). This category recognizes that a larger area dedicated to preserving water quality function is likely to lower risk to water quality.

- 5 rating: 100% of the Water Quality Management Area is available for water quality function.
- 4 rating: 90% - 99% of the Water Quality Management Area is available for water quality function.
- 3 rating: 80% - 89% of the Water Quality Management Area is available for water quality function.
- 2 rating: 60% to 79% of the Water Quality Management Area is available for water quality function.
- 1 rating: less than 60% of the Water Quality Management Area is available for water quality function.

2.3.2. Pollutant Filtration, Erosion Prevention, Channel Shading. This category requires the preparer to rate the overall water quality function of the subject lot based on the extent and type of vegetation in the Water Quality Management Area shown on the City's Water Quality Waterway Map. This category recognizes that greater vegetative coverage comprised of multiple layers of trees, shrubs, and low-level vegetation (e.g. forbs, grasses, rushes and ferns) lowers risks to water quality by filtering pollutants, preventing erosion, and shading water for temperature control.

- 5 rating: 90% - 100% of the Water Quality Management Area is covered by vegetation consisting of a balanced distribution of trees, shrubs, and low-level plantings that can be expected to form a multi-layered, closed canopy upon maturity.
- 4 rating: 80% - 89% of the setback area is covered by vegetation consisting of a balanced distribution of trees, shrubs, and low-level plantings that can be expected to form a multi-layered, closed canopy upon maturity.
- 3 rating: 70% - 79% of the setback area is covered by vegetation consisting of a balanced distribution of trees,

shrubs, and low-level plantings that can be expected to form a multi-layered, closed canopy upon maturity.
• 2 rating: 50% - 69% of the setback area is covered by vegetation consisting of a balanced distribution of trees, shrubs, and low-level plantings that can be expected to form a multi-layered, closed canopy upon maturity.
• 1 rating: less than 50% of the water quality management area is covered by vegetation consisting of a balanced distribution of trees, shrubs, and low-level plantings that can be expected to form a multi-layered, closed canopy upon maturity.

2.3.3. Streambank and Streambed Stability. This category requires the preparer to rate the overall water quality function of the subject lot based on the physical condition of the waterway channel as potential sources of sediment. This category recognizes that lower potential for sedimentation decreases the risks to water quality. If the /WQ Management Area on the subject lot does not include the waterway channel, the rating for this category is "not applicable." If the /WQ Management Area on the subject lot includes only a portion of the waterway channel, the rating applies to the physical condition of that portion only.

• 5 rating: No evidence of streambed downcutting or streambank instability.
• 4 rating: 1%-5% of length of streambed or streambank on the lot shows evidence of streambed downcutting or streambank instability.
• 3 rating: 6%-10% of length of streambed or streambank on the lot shows evidence of streambed downcutting or streambank instability.
• 2 rating: 11%-20% of length of streambed or streambank on the lot shows evidence of streambed downcutting or streambank instability.
• 1 rating: More than 20% of length of streambed or streambank on the lot shows evidence of streambed downcutting or streambank instability.

2.3.4. Table. The following Water Quality Function Rating Table shall be completed by the preparer consistent with the category descriptions in 2.3.1., 2.3.2. and 2.3.3., above and submitted as part of the Water Quality Function Rating System certification, report or determination. (a) The "Pre-Proposal" column shall be used to quantify the water quality function of the subject lot under pre-proposal/existing conditions. (b) The "Post-Proposal Without Mitigation" column shall be used to quantify water quality function of the subject lot under those conditions that would exist

after the proposed use, activity or adjustment and without any mitigation measures. (c) The "Post-Proposal With Mitigation" column shall be used to quantify those conditions expected to exist under the proposal, including any mitigation measures being proposed.

Water Quality Function Rating Table				
Water Quality Function	**(a) Pre-Proposal Points (1-5)**	**(b) Post-Proposal Without Mitigation Points (1-5)**	**(c) Post-Proposal With Mitigation Points (1-5)**	**Net Change from Pre-Proposal to Post-Proposal Points**
Water Quality Management Area				
Pollutant Filtration, Erosion Prevention, Channel Shading*				*
Streambed and Streambank Stability				
Total				

**Incentive for Planting with Native Species*: *Increase "net change" score for "Pollutant Filtration, Erosion Prevention, Channel Shading" by 150% if mitigation measures for this function involve the removal of non-native species and replanting with native species within the Water Quality Management Area or an adjacent area as described at Section 2.2.3(c).*

2.4. Written Report. As part of a Water Quality Function Rating System certification, report or determination, the preparer shall submit a written report based on the site plans and Water Quality Function Rating Table certifying that after the proposed use, activity or adjustment is in place, there will be a water quality function rating equal to or greater than that which existed before the use, activity or adjustment.

3. For illustrative purposes, two sets of example certification documents (each including a Site Plan I, Site Plan II, Water Quality Function Rating Table and Written Report) are attached to this Rule.

Dated this 9th day of June, 2009.

Jon R. Ruiz
City Manager

00162681.DOC-9

Example Site #1

Water Quality Function Rating System

Pre-Proposal/Existing Condition

Maplot: 1705173101111
Lot Size: 13,700 square feet (0.31 acres)
Lot Area Within /WQ Management Area: 4,850 sf (35.4% of lot area)
Existing Land Use or Activity: Vacant

Preparer pursuant to EC 9.4782
Name and Qualifications

Stamp or other identification of qualification

Legend:

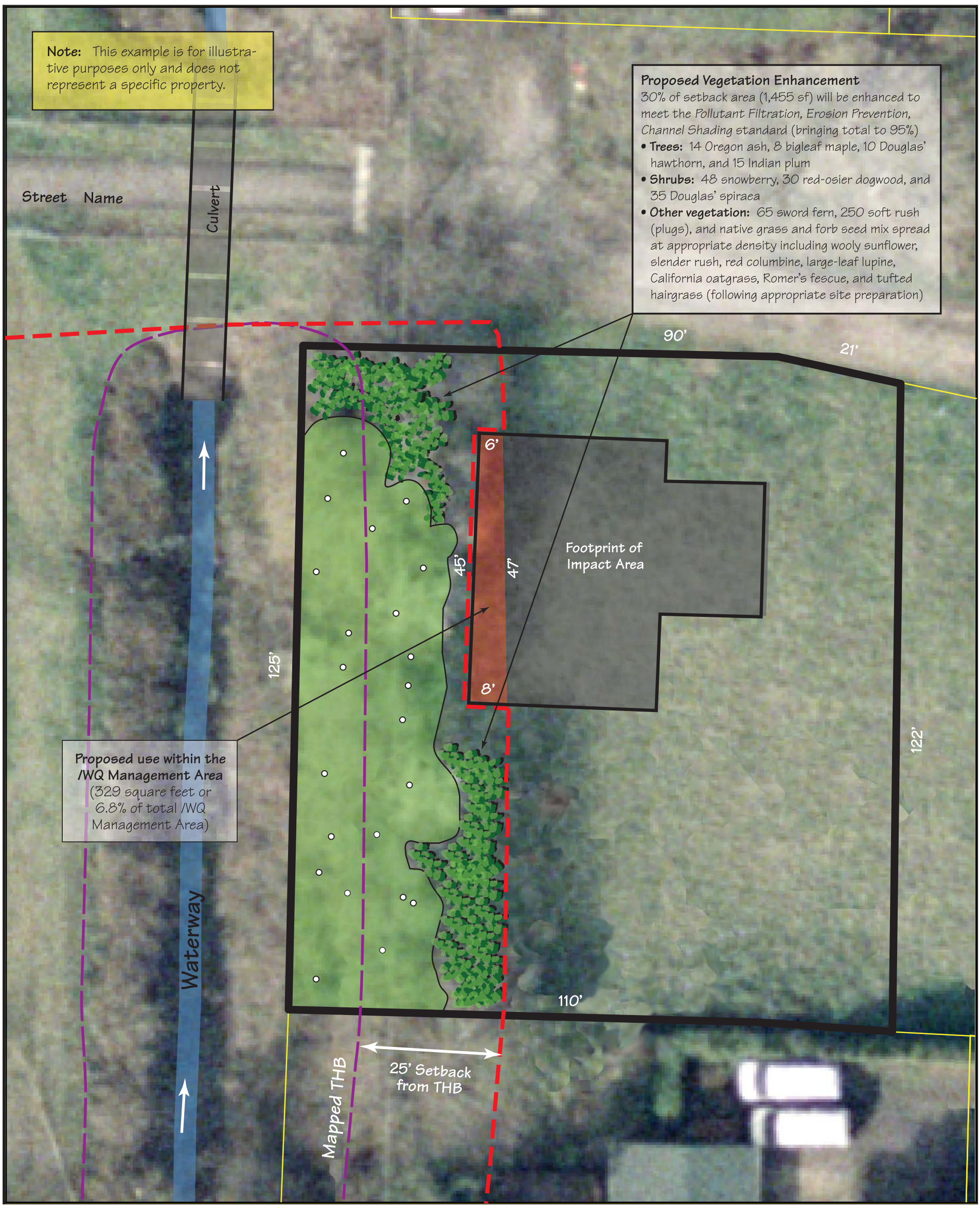
- Parcel Lot Lines (applicant lot)
- Adjacent Parcel Lot Lines
- Waterway
- Setback Measurement Point (top of high bank)
- /WQ Management Area
- Extent of Existing Canopy and Location of Trees

N
W E
S

0 10 20 Feet
Scale

May 2009

Aerial Photo Base: March 2008



Example Site #1

Water Quality Function Rating System

Post Proposal

Maplot: 1705173101111
Lot Size: 13,725 square feet (0.32 acres)
Lot Area Within /WQ Management Area: 4,850 sf (35.4% of lot area)
Existing Land Use or Activity: Vacant
Proposed Land Use or Activity: Single Family Residential
Extent of /WQ Management Area Impacted: 329 sf

Preparer pursuant to EC 9.4782
Name and Qualifications

Stamp or other identification of qualification

Legend:

- Parcel Lot Lines (applicant lot)
- Adjacent Parcel Lot Lines
- Waterway
- Setback Measurement Point (top of high bank)
- /WQ Management Area Setback
- Extent of Existing Canopy and Location of Trees
- Proposed Use Within /WQ Management Area
- Proposed Vegetation Enhancement Area

N
W E
S

0 10 20 Feet
Scale

May 2009
Aerial Photo Base: March 2008

WRITTEN REPORT
FOR DOCUMENTING COMPLIANCE WITH CITY OF EUGENE
WATER QUALITY FUNCTION RATING SYSTEM
"EXAMPLE SITE #1"

Applicant: Example Site #1
Maplot: 1705173101111
Site Address: 1234 Example Site #1

In accordance with R-9.4770-D, 2.4, the following written report is provided:

1. **Preparer of Site Plans**:

Name: Example, Site Plan #1

Qualifications: Oregon Licensed Landscape Architect

2. **Content**

2.1 *Site Plan I - Pre-Proposal Conditions*

a) Lot dimensions and area: 110' x 125'; 13,700 square feet (0.31 acres).
b) The upper portion of the east bank of the waterway channel is located on the lot; the lower portion of the bank and the waterway itself is not located on the lot. The waterway affecting this lot is a tributary to a 303(d) Waterway; the setback Measurement Point is the Top-of-High-Bank; the setback is 25 feet; extent of lot affected by the Water Quality Management Area is 4,850 square feet (35.4% of lot area).
c) There are no existing uses or activities within Water Quality Management Area
d) There are no exclusions within the Water Quality Management Area and received a rating of **5**.
e) There are no existing uses/activities located on the lot and outside Water Quality Management Area.
f) Vegetation within Water Quality Management Area consist of: 65% multi-layered with trees, shrubs and other similar vegetation with a mixture of native and non-native vegetation; and 35% single layer mostly non-native grasses and scattered rushes and received a rating of **2**.
g) There is no evidence of streambank instability and received a rating of **5**.

2.2 *Site Plan II – Post-Proposal Conditions*

a) In addition to the information contained in Site Plan I (a) – (c), the following required information is provided on b) through g).
b) The request includes an adjustment to EC 9.8030(25)(a)(5) as the parcel is greater than 13,500 square feet and the Water Quality Management Area affects more than 33% of the lot (ie, 35.4%). The proposed adjustment will reduce the Water Quality Management Area to 4,521 square feet (33% of total lot area).
c) Not applicable.
d) The proposed use within the Water Quality Management Area is a portion (329 square feet) of a new single family residence (2,000 square feet). The proposed encroachment impacts the water

quality function rating system of the pre-proposal conditions by reducing the water quality management area from a rating of "5" to a "**4**." Refer to the Water Quality Function Rating Table.

e) Measures proposed to mitigate the adjustment impact are shown on Site Plan II and are applied to the "Pollutant Filtration, Erosion Prevention, Shading" function where 30% of the remaining setback area will be enhanced to include a multi-layered vegetation condition. In addition, the applicant proposes to replant with native species where 150% credit is given in accordance with the administrative rule. With this credit, the rating for this function was increased to **5**.

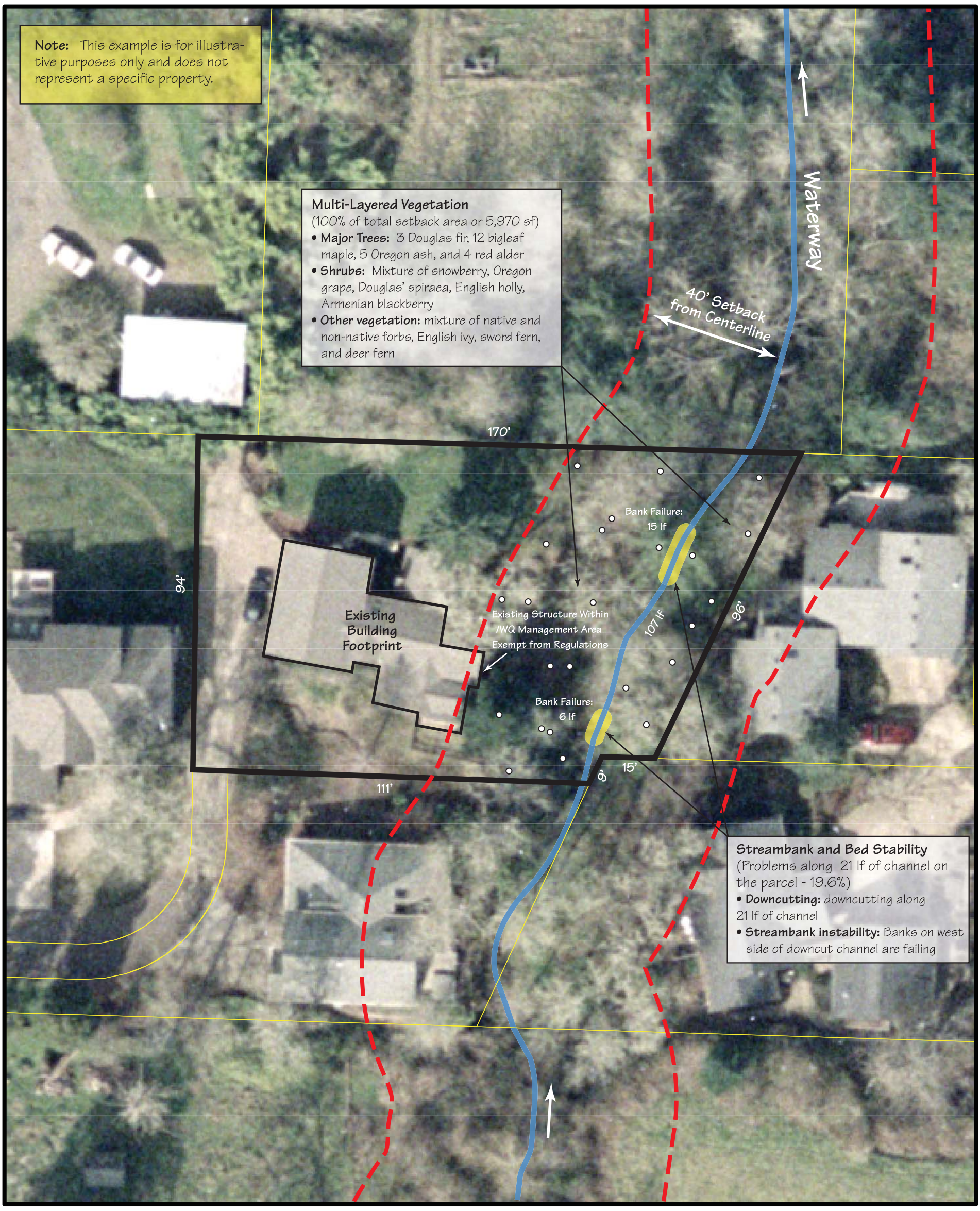
2.3 *Water Quality Function Rating Table*. The following table documents the individual and overall water quality function conditions under pre-proposal (total score 12), post-proposal without mitigation (total score 9), and post-proposal with mitigation conditions (total score 12).

Water Quality Function Rating Table				
Water Quality Function	**Pre-Proposal Points (1-5)**	**Post-Proposal without Mitigation Points (1-5)**	**Post-Proposal with Mitigation Points (1-5)**	**Net Change from Pre-Proposal to Post-Proposal Points**
Water Quality Management Area	5	4	4	-1
Pollutant Filtration, Erosion Prevention, Shading*	2	2	5* (includes native plant bonus	+3
Streambed and Streambank Stability	5	5	5	0
Total	12	11	14	+2

As shown in the table above and reflected on Site Plan II, it is hereby certified that the water quality function rating under post-proposal conditions with mitigation measures will be equal to or greater than the pre-proposal conditions and, in this case, post conditions will be greater than pre-conditions.

_____

(signature, date, and stamp of certified preparer)



Example Site #2

Water Quality Function Rating System

Pre-Proposal/Existing Condition

Maplot: 1705173101112
Parcel Size: 14,156 square feet (0.32 acres)
Parcel Area Within /WQ Management Area: 5,930 sf (42%)
Existing Land Use or Activity: Single Family Residential

Preparer pursuant to EC 9.4782
Name and Qualifications

Stamp or other identification of qualification

Legend:

- Parcel Lot Lines (applicant lot)
- Adjacent Parcel Lot Lines
- Setback Measurement Point (Waterway Centerline)
- /WQ Management Area
- Approximate Location of Significant Trees (6"+ dbh)
- Bank Instability Area (one or both sides)

N W E S

0 20 40 Feet
Scale

May 2009

Aerial Photo Base: March 2008

Example Site #2

Water Quality Function Rating System

Post Proposal Condition

Maplot: 1705173101112
Parcel Size: 14,156 square feet (0.32 acres)
Parcel Area Within /WQ Management Area: 5,930 sf (42%)
Existing Land Use or Activity: Single Family Residential
Proposed Impact within /WQ Management Area: 525 sf

Preparer pursuant to EC 9.4782
Name and Qualifications

Stamp or other identification of qualification

Legend:

- Parcel Lot Lines (applicant lot)
- Adjacent Parcel Lot Lines
- Setback Measurement Point (Water Centerline)
- /WQ Management Area
- Approximate Location of Significant Trees (6"+ dbh)
- Proposed Use Within /WQ Management Area
- Bank Instability Area Proposed for Repair
- Proposed Location of Grade Control

N W E S

0 20 40 Feet
Scale

May 2009 Aerial Photo Base: March 2008

WRITTEN REPORT
FOR DOCUMENTING COMPLIANCE WITH CITY OF EUGENE
WATER QUALITY FUNCTION RATING SYSTEM
"EXAMPLE SITE #2"

Applicant: Example Site #2
Maplot: 1705173101112
Site Address: 1234 Example Site #2

In accordance with R-9.4770-D, 2.4, the following written report is provided:

1. **Preparer of Site Plans**:

Name: Example, Site Plan #2

Qualifications: Oregon Licensed Architect

2. **Content**

2.1 *Site Plan I - Pre-Proposal Conditions*

a) Lot dimensions (see Site Plan) and area: 14,156 square feet (0.32 acres).

b) The site contains the entire waterway channel including both streambanks. The waterway affecting this lot is a Headwater Stream; the setback Measurement Point is the centerline of the stream; the setback is 40 feet; extent of lot affected by the Water Quality Management Area is 5,930 square feet (42% of lot area).

c) Existing uses on the site includes a single family residence.

d) A portion of the residence, approximately 150 square feet, is located in the Water Quality Management Area and is determined to be an exclusion per EC 9.4778(3)1. This exclusion reduces the overall Water Quality Management Area on the site to 5,930 square feet, resulting in a Water Quality Management Area rating of **4**.

e) The remaining portion of the residence is located outside the Water Quality Management Area.

f) Existing vegetation within Water Quality Management Area is 100% multi-layered with trees, shrubs and other similar vegetation with a mixture of native and non-native vegetation, resulting in a Pollutant Filtration, Erosion Prevention, Shading rating of **5**.

g) There is evidence of bed downcutting and streambank instability along approximately 21 feet of the streambed and streambank, resulting in a rating of **2**.

2.2 *Site Plan II – Post-Proposal Conditions*

a) In addition to the information contained in Site Plan I (a) – (c), the following required information is provided on b) through g).

b) The request includes an adjustment to EC 9.8030(25)(a)(5) as the parcel is greater than 13,500 square feet and the Water Quality Management Area affects more than 33% of the lot (i.e., 42%). The proposed use would reduce the Water Quality Management Area by 525 square feet (to 38% of total lot area).

c) Not applicable.

d) The proposed use within the Water Quality Management Area is a portion (525 square feet) of an existing single family residence. The proposed encroachment impacts the water quality function rating system of the pre-proposal conditions by reducing the water quality management area from a rating of "5" to a "**3**." Refer to the Water Quality Function Rating Table.

e) The proposed use will impact the Pollutant Filtration, Erosion Prevention, Channel Shading function by eliminating 525 square feet of vegetation within the Water Quality Management Area resulting in a reduced rating from 5 to **4**.

f) Measures proposed to mitigate the adjustment impact are shown on Site Plan II and are applied to the "Bed and Bank Stability" function where 20% of the channel bed and banks will be repaired including 3 grade control features and bioengineering measures including willow fascines along toe of bank and willow stakes on the bank spaced t feet on center (96 stakes total). These measures will improve Bed and Bank Stability rating from 2 to **5**.

2.3 *Water Quality Function Rating Table*. The following table documents the individual and overall water quality function conditions under pre-proposal (total score 12), post-proposal without mitigation (total score 9), and post-proposal with mitigation conditions (total score 12).

Water Quality Function Rating Table				
Water Quality Function	**Pre-Proposal Points (1-5)**	**Post-Proposal without Mitigation Points (1-5)**	**Post-Proposal with Mitigation Points (1-5)**	**Net Change from Pre-Proposal to Post-Proposal Points**
Water Quality Management Area	5	3	3	-2
Pollutant Filtration, Erosion Prevention, Shading*	5	4	4	-1
Streambed and Streambank Stability	2	2	5	+3
Total	12	9	12	0

As shown in the table above and reflected on Site Plan II, it is hereby certified that the water quality function rating under post-proposal conditions with mitigation measures will be equal to pre-proposal conditions.

_____

(signature, date, and stamp of certified preparer)

Exhibit A

Findings in Support of Adoption Administrative Rule R-9.4770 /WQ Water Quality Overlay Zone

With its recent passage of Ordinance No. 20430, the City of Eugene adopted provisions in its land use code to regulate activities in areas that impact the water quality of important waterways within the City. The administrative rule carries out two directives in the implements two directives in Ordinance No. 20430.

Section 25 of Ordinance No. 20430 adopts the electronic Water Quality Waterways Map, which depicts the location of lot lines, applicable setback measurement points (centerline or top of high bank) and /WQ Management Areas. EC 9.4778(d) directs the City Manager to adopt an administrative rule describing the procedures the City used to map the /WQ setbacks on the Water Quality Waterways Map. Pursuant to EC 9.4786(2), the City is to consider those procedures described in the administrative rule when it reviews future requests for a Water Quality Waterways Map correction or a request for removal of the /WQ Overlay Zone.

Pursuant to 9.4780(2), 9.4780(3), and 9.8030(25), some uses, activities and adjustments within the /WQ Overlay Zone can be allowed/approved if the applicant submits a certification that after the use, activity or adjustment is in place, there will be a water quality function rating equal to or greater than that which existed before the use, activity or adjustment. This certification must be based on the City's Water Quality Function Rating System that, pursuant to EC 9.4782, is contained in an administrative order to be adopted by the City Manager in accordance with EC 9.2019. EC 9.4782 directs the City Manager to set out in the administrative rule a process for evaluating a specific /WQ Management Area's water quality function based on the presence or frequency of enumerated characteristics.

The administrative rule is not a land use regulation. However, since it implements provisions in the City's land use code, the City manager's adoption of the order is arguably a "land use decision." The City recognizes that state law does not require a local government to show consistency with the Statewide Planning Goals when making an administrative land use decision. However, because the administrative rule implements a land use regulation, the findings set forth below are intended to demonstrate such consistency.

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

The City has acknowledged provisions for citizen involvement that ensure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The proposed administrative rule will not amend the citizen involvement program. The process for adopting these amendments complies with Goal 1 since it complies with, and

surpasses Eugene's requirements for the adoption of an administrative rule. Specifically, the City provided notice of, and held, a public hearing and considered all testimony received.

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

The record shows that there is an adequate factual base for the adoption of the rule. EC 9.4778(d) directs the City Manager to adopt an administrative rule describing the procedures the City used to map the /WQ setbacks on the Water Quality Waterways Map. EC 9.4782 directs the City Manager to adopt an administrative rule setting out the City's Water Quality Function Rating System. The rule does not affect any other governmental units. There are no Goal 2 Exceptions required. Therefore, the amendments are consistent with Goal 2.

Goal 3 - Agricultural Lands. To preserve agricultural lands.

The amendments do not affect any land designated for agricultural use. Therefore, Goal 3 does not apply.

Goal 4 - Forest Lands. To conserve forest lands.

The amendments do not affect any land designated for forest use. Therefore, Goal 4 does not apply.

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

These amendments do not create or amend the city's list of Goal 5 resources, do not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged UGB. Therefore, Goal 5 does not apply.

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

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. The City's /WQ regulations implement Goal, as a a key aspect of the City's response to federal Clean Water Act regulations, specifically the Upper Willamette Basin Total Maximum Daily Load (TMDL). Several waterways in Eugene do not state water quality standards for certain pollutants. For these waterways, the state of Oregon Department of Environmental Quality, the state agency charge with implementing TMDL regulations, has developed the Upper Willamette TMDL to bring these waterways back into compliance with state standards. The Upper Willamette TMDL allocates pollutant loads to designated management agencies, including the City of Eugene that have the authority to implement water quality improvements within their jurisdictional boundaries. One management

strategy identified in the Upper Willamette TMDL for addressing multiple pollutants is the application of streamside buffers. The administrative rule implements the /WQ regulations and is therefore, also consistent with Statewide Planning Goal 6.

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

The administrative rule does not effect the City=s restrictions on development in areas subject to natural disasters and hazards. Further, the amendments do not allow for new development that could result in a natural hazard. Therefore, Goal 7 does not apply.

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

The administrative rule does not effect the city=s provisions for recreation areas, facilities or recreational opportunities. Therefore, Goal 8 does not apply.

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

The administrative rule does not impact the supply of industrial or commercial lands. Therefore, it is consistent with Goal 9.

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

The administrative rule does not impact the supply of residential lands. Therefore, it is consistent with Goal 10.

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

The administrative rule does not effect the City=s provision of public facilities and services. Therefore, Goal 11 does not apply.

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

The administrative rule does not implicate the requirements of Goal 12.

Goal 13 - Energy Conservation. To conserve energy.

The administrative rule does not concern energy conservation. Therefore, Goal 13 does not apply.

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

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

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

The administrative rule does not contain any changes that affect the regulation of areas within the Willamette River Greenway. Therefore, Goal 15 does not apply.

Goals 16 - 19. Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocaen resources.

These Statewide Planning Goals do not apply to the administrative rule.

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APPENDIX D

RELATIONSHIP BETWEEN MS4 PERMIT RENEWAL SWMP BMP CODES AND CURRENT PERMIT SWMP BMP CODES

Appendix D

Relationship Between MS4 Permit Renewal SWMP BMP codes and Current Permit SWMP BMP Codes

2008 (Proposed)[1]	Proposed BMP Title	2008 (Current)[2]	Current BMP Title
A1	Stormwater Education	A1	Best Management Practices for Businesses
		A2	Stormwater Education
E1	Stormwater Capital Improvement Projects	E1	Stormwater Basin Master Plans
E2	Erosion Prevention & Construction Site Management Program	E2	Erosion Prevention & Construction Site Management Program
E3	Stormwater System Mapping and Data Management	E3	Stormwater System Mapping and Data Management
E4	Stormwater Development Standards	E4	Stormwater Development Standards
M1	Enforcement of Illicit Discharges to the Stormwater System	M1	Enforcement for Illicit Discharges
M2	Spill Response	M2	Environmental Spill Response Team
M3	Street Sweeping Program and Leaf Pick-up	M6	Street Sweeping Program
M4	Prevent Leaks and Spills from Municipal Vehicles and Equipment	M4	Prevent Leaks and Spills from Municipal Vehicles and Equipment
M5	Public Stormwater System Cleaning Program – Piped System	M5	Public Stormwater System Cleaning Programs
P5 (new)	Public Stormwater System Maintenance – Open Waterways		
M6 (new)	Regulation of Inspection, Maintenance and Reporting of Private Underground Stormwater Structures	n/a	n/a
P6 (new)	Compliance Program for Maintenance of Privately Owned Vegetated Stormwater Facilities	n/a	n/a
M7	Systematic Field Investigation of System Condition and Improper Discharges	M7	Systematic Field Investigation for Improper Discharges
M8	Winter Road Sanding and De-Icing Program	M8	Winter Road Sanding and De-Icing Program
P1	Educational Volunteer Program	P1	Educational Volunteer Activities
P2	Bacteria Pilot Study	W3	Bacteria Pilot Study
P3	Tree Planting and Information Programs	P3	Tree Planting and Urban Forest Enhancement
P4	Public Landscape and Natural Vegetation Management	P4	Public Landscape and Vegetation Management
P7	Litter and Illegal Dumping Control	M3	Litter & Illegal Dumping Programs
B1	Household Hazardous Waste Disposal	B1	Household Hazardous Waste Disposal
B2	Solid Waste Management	B2	Solid Waste Management
---	'[integrated into on-going City processes]	W1	Address Impact of City Activities on Water Quality
W1 (new)	Permit Management and Reporting	n/a	n/a
W2	Industrial Stormwater Management Program	W2	Industrial Stormwater Management Program

APPENDIX E

YEAR 6 ANNUAL STORMWATER REPORT (DECEMBER 1, 2009)

APPENDIX F

SUSTAINABILITY COMMISSION ANNUAL REPORT AND FY10 WORKPLAN

City of Eugene Sustainability Commission

People + Planet + Prosperity

sustainability

Work Plan FY10 and First Annual Report

www.eugene-or.gov/sustainabilitycommission

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Sustainability Commission Members

The commission first met on November 28, 2007. The thirteen commissioners, 12 chosen by the City Council, and one councilor appointed by the Mayor are:

- Lisa Arkin
- Shawn Boles
- Howard Bonnett
- Joshua Bruce
- Brian Erickson
- David Funk
- Lorraine Kerwood
- Tim Laue (Vice-chair)
- Steve Newcomb
- Rusty Rexius
- Will Shaver (Chair)
- Joshua Skov
- Alan Zelenka (Councilor)
- Kip Much (served from November 2007 to October 2008)

Sustainability Commission Work Plan FY10

The Sustainability Commission was established in 2008 as a policy advisory body to the City Council and City Manager in the development or initiation of programs or actions that will enhance and create sustainable practices within the City and the community. The commission shall advise on policy matters related to:

- sustainable practices
- businesses that produce sustainable products and services
- City building design and infrastructure
- related issues that directly affect sustainability efforts considered by the council.

The first four outcomes in this work plan focus on new work the commission will engage in during FY10.

Sustainability Commission Mission Statement:

The Sustainability Commission works to create a healthy community now and in the future by proposing measurable solutions to pressing environmental, social and economic concerns to the City of Eugene, its partners and its people.

Outcome 1: Build community understanding of the triple bottom line (social equity, environmental health and economic prosperity).

In FY10, the Sustainability Commission will:

- Develop and implement the first phase of the Commission's Communications Plan
- Assist with education and outreach for the Community Climate and Energy Action Plan (including to the business community, neighborhood associations, not for profit groups, education sector, etc)
- Maintain established commission liaisons
- Hold joint meetings with the Planning Commission and Human Rights Commission and assess ways to work together to support the other groups' missions and outcomes while advancing a more sustainable community
- Hold a joint meeting with the Sustainability Board, maintain board liaisons and create common messaging for the community around sustainability issues.

Outcome 2: Link land use and transportation planning more closely with sustainability goals.

In FY10, the Sustainability Commission will:

- Delegate the Land Use and Transportation Subcommittee to research and prepare recommendations for discussion by the full commission and then make recommendations to council on land use and transportation issues
- Maintain Commission member participation on the Eugene Comprehensive Lands Assessment
- Strengthen relationship with Planning Commission around sustainability issues.

Outcome 3: Develop more sustainable businesses, including creation of "green" jobs and "greening" of existing jobs and businesses.

In FY10 the Sustainability Commission will:

- Review University of Oregon MBA business school report commissioned by the City, Sustainability Commission and partners on the tools desired by businesses to help them become more sustainable. Assess role of commission in development/delivery of tools identified by businesses
- Work collaboratively with city and community partners to advance economic development in Eugene with a focus on green job creation.

Outcome 4: Partner with groups and agencies working on social equity issues.

In FY10 the Sustainability Commission will:

- Consider the request from the Eugene Springfield Solidarity Network to develop performance measurements and standards related to wages, benefits and other employment aspects for the City of Eugene
- Develop the partnership with the Human Rights Commission and investigate ways to collaborate on advancing social equity aspects of a sustainable community
- Explicitly connect social equity as part of the sustainability triple bottom line in all communications to council and the community.

The next three outcomes summarize the follow-up required for the five initial recommendations adopted by City Council and one accepted by the City Manager during FY09.

Outcome 5: Decrease Eugene community and city organization carbon emissions, including decreasing fossil fuel use 50 percent by 2030, and plan for adaptations.

In FY10 the Sustainability Commission will:

- Assist in the development of the Community Climate and Energy Action Plan. A commissioner will participate in the advisory team helping to develop the plan
- Review and comment on draft Community Climate and Energy Action Plan before June 2010
- Review and comment on draft Internal City Operations Climate and Energy Action Plan (to achieve carbon neutrality by 2020)
- Develop, in conjunction with Sustainability Board, measures for tracking success in implementing Internal City Operations Climate and Energy Action Plan.

Outcome 6: Develop and implement triple bottom line assessment tool and waste reduction goal.

In FY10 the Sustainability Commission will:

- Develop, in conjunction with the Sustainability Board, measures for tracking use and application of the triple bottom line assessment tool in City decision making
- Review and comment on draft internal Waste Reduction Action Plan to reduce City operations waste to landfill 90 percent by 2020
- Develop, in conjunction with the Sustainability Board, measures for tracking success in implementing internal Waste Reduction Plan.

Outcome 7: In conjunction with a wide variety of community partners, develop a community food security scoping and resource plan.

In FY10 the Sustainability Commission will:

- Meet in fall 2009 with community groups and organizations focused on food security
- Review and comment on food security scoping report prepared by staff for development of a food security plan.

Outcome 8: Respond to time sensitive and emerging issues and/or issues as requested by the City Council and/or City Manager

In FY10 the Sustainability Commission will:

- Investigate issues as appropriate.

Sustainability Commission
First Annual Report: May 2008 – June 2009

1 Introduction

The Sustainability Commission is reporting on progress and accomplishments from its first work plan. The City Council approved the commission's first work plan in April 2008, to cover the period from May 08 – June 09. In 2007 the council adopted Ordinance No. 20379, establishing the Sustainability Commission as a policy advisory body to the council and City Manager, to assist in the development of programs to create or enhance sustainable practices within the community. The Sustainability Commission is charged with advising on policy matters related to: sustainable practices, businesses that produce sustainable products and services, City building design and infrastructure, and related issues that directly affect sustainability efforts considered by the City Council.

1.1 Mission and scope

From the first commission meeting, both commissioners and community members attending the meetings have expressed an urgency to make bold recommendations to the City Council to help create a more sustainable Eugene. The commissioners have shown focused commitment to enhancing sustainable operations of the City organization and the community at large – including businesses, households, other organizations and institutions.

The commission quickly developed bylaws and a mission statement.

> *The Sustainability Commission works to create a healthy community now and in the future by proposing measurable solutions to pressing environmental, social and economic concerns to the City of Eugene, its partners and its people.*

One of the biggest challenges for the commission has been the scope of its task. While the Sustainable Business Initiative Task Force Report provided an excellent starting place for the commission work, the recommendations do not cover all possible initiatives to help our community become more sustainable. The commission has received pertinent, timely and well researched comments from many different community members which have brought new issues to commission attention. This public comment has been helpful in refining commission work for the year.

2 Initial Work Plan

The first commission work plan framework laid out eight priority topics:

- climate change
- transportation
- triple bottom line
- land use
- green building
- business initiatives
- waste
- food

It was not anticipated the commission could address all of these issues in the first year, but rather the commission considered these issues a priority to investigate as they all had a significant impact on Eugene's sustainability. For each of the eight priority topics the commission outlined the need to consider internal City operations, the broader community, as well as education and outreach.

Climate change was acknowledged as a major social and economic issue, as well as an environmental issue and the need to respond to climate change as a primary focus of the work plan was called out. Implicit in all the issues listed is the need to plan for the effects of increased fossil fuel prices and potential availability fluctuations that would impact the whole community.

3 Progress and Accomplishments

3.1 Recommendations to Council

While the commission began investigating the priority work plan issues, an Immediate Action Subcommittee was established to identify recommendations that could be forwarded to the council without further research. The Sustainable Business Initiative Task Force Report and the Portland Peak Oil Task Force Report *Descending the Oil Peak: Navigating the Transition from Oil and Natural Gas*, provided sufficient information for the development of five recommendations to the council. Public testimony highlighted the need for immediate attention to food security[1], enabling an additional recommendation to be proposed.

The City Council unanimously adopted five recommendations as below:

1. All City-owned facilities and City operations shall be "carbon neutral" (i.e., shall reduce net carbon emissions to zero, or if that is not possible, cancel all remaining emissions through the funding of approved local offset mechanisms or the purchase of approved offsets) by 2020.
2. The City of Eugene shall increase the volume of waste diverted from landfill from internal operations and facilities from current levels of an estimated 45 percent to at least 75 percent by 2014 and 90 percent by 2020.
3. The City of Eugene shall, in conjunction with a wide variety of community partners: by August 2010, develop a community climate action plan that will (1) set a carbon emission reduction goal and establish targets for achieving that goal; (2) identify strategies to achieve those targets; (3) identify necessary adaptations; (4) develop measures for tracking success; (5) identify financial impacts; and (6) include periodic progress reports to the community with annual reports of progress to the Sustainability Commission.
4. The City of Eugene shall, in conjunction with a wide variety of community partners: by August 2010, develop a community action plan that aims to reduce total, current community-wide fossil fuel consumption 50 percent by 2030 (as an absolute not a per capita reduction) by (1) establishing targets for achieving that goal; (2) identifying strategies to achieve those targets; (3) identifying necessary adaptations; (4) developing measures for tracking success; (5) identifying financial impacts; and (6) including periodic progress reports to the community with annual reports of progress to the Sustainability Commission.

   (Note: This plan is being undertaken in conjunction with the community climate action plan, see recommendation 3 above. The resulting plan will focus on both climate and energy issues.)
5. The City of Eugene shall, in conjunction with a wide variety of community partners: by January 2010, return to the council with a scoping and resource plan for developing a food security plan which will (1) identify

[1] Community food security is a condition in which all community residents obtain a safe, culturally acceptable, nutritionally adequate diet through a sustainable food system that promotes community self-reliance and social justice. Food security also consists of resilience to sudden changes in food availability and/or cost, such as would be caused by a rise in the price of transportation fuels, a decrease in local production, or decreased access to food imports to the community and the region.

community partners and form a project advisory committee; (2) review existing policies and food system assessments; (3) develop a market analysis plan; (4) identify benefits and barriers; and (5) determine the budget and timeline to complete the plan and identify resources available, including external funding sources.

The City Manager accepted the sixth recommendation as below:

6. Develop and implement a triple bottom line screen/assessment tool for City Council policy decisions. Once created and after staff training has been undertaken, this screen shall be used in the development of service profiles and to assess all policy level decisions made by the council, including new items proposed in the annual or supplemental budgets.

The recommendations are a combination of high priority initiatives, such as a coordinated response to climate change and energy use reduction, as well as initiatives on which immediate action could be taken without further analysis; for example, the City operations waste reduction goal. The commission is very aware that there are other extremely high priority recommendations likely to arise from the Land Use and Transportation Subcommittee that it will need to spend time and energy on researching, developing and then proposing to the City Council.

3.1.1 Progress on Recommendations

Recommendation	Progress	Next Steps
1. City operations carbon neutral by 2020	Internal staff team developing action plan to reduce emissions.	Draft plan ready for commission review August 2009 Develop measures to track implementation of climate plan
2. City facilities 90% waste reduction by 2020	Staff identified to undertake work with input from cross departmental team	Work to begin July 09 Develop measures to track implementation of waste reduction plan
3. & 4. Community Climate and Energy Action Plan	Community climate and energy coordinator identified, community outreach and plan preparation underway	Community partner advisory team developed to help plan development and community outreach
5. Food security plan scoping report	Staff identified to undertake work, community partners aligned to assist	Work to begin July 09
6. Develop triple bottom line assessment tool for City decision making	Draft tool developed by staff team, piloted within City and refined	Training of staff on tool use and inclusion in decision making beginning summer 09. Develop measures to track implementation of TBL tool

3.2 Education and Outreach

The commission identified the need for both education and behavior change as critical components in helping to create a more sustainable community. In the first year the commissioners focused on educating themselves about City and key community sustainability initiatives. To help refine where the commission could be most effective within the eight broad issues, briefings were received from City staff and community members on aspects of climate change, transportation, land use, triple bottom line, green building, economic development, waste reduction and food. To enhance the discussion, the commission was briefed by the Portland Multnomah Sustainable Development Commission and United Way of Lane County. The commission also met with the Sustainability Board, an internal staff group, to identify opportunities to work collaboratively.

The commission established liaisons with over 20 groups and organizations throughout the community to develop and enhance partnership opportunities. Much valuable work has already been undertaken in the community. The commission is meeting and talking with other groups to explore how work can be undertaken more collaboratively. An initial joint meeting with the Planning Commission provided an excellent platform for further discussion of how to most effectively learn and work together.

Through commissioner outreach a partnership has been established with KEZI of Chambers Communications. KEZI was looking for ways to expand their sustainability issues related programming. The commission formed a small steering group to identify issues and provide relevant topics and experts to help create an active community forum through news stories, discussion panels and interactive internet dialogue.

With help from commissioners and other volunteers, the website www.sustaineugene.com has been re-launched. The website provides a framework for community sustainability information. Sustainability Commission information, the Mayor's Bold Steps Awards for sustainable businesses and the Mayor's Carbon Challenge form the core of the site.

3.3 Community Forum

The commission has become a forum for community members to voice their concerns and offer suggestions for improving sustainability policies and practices, as well as a venue to share sustainable initiatives they have developed with the commission and community. It's been a great opportunity for commissioners to hear from active community members. The commission is developing ways it can act as a hub, facilitating the sharing of experiences, linking complementary projects and offering ways to help the flow of information and collaboration between groups.

Several University of Oregon Planning and Business Management classes have also been attending commission meetings, following the development of the commission and learning how to be actively engaged in the community.

The commission developed a community request form and process for accessing requests for commission involvement, endorsement, assistance with community projects or presentations to groups. During the year the commission has written several letters of support including: Farmers' Market Promotion Program grant application, Oregon State University Extension Service, Oregon Transportation Commission regarding the "Last Resort" Herbicide spray pilot project and the Meet in the Street Project. The commission also urged EWEB to reconsider the option of installing solar photovoltaic panels on the new Roosevelt facilities.

The commission co-sponsored and participated in the Human Rights 60th Anniversary Celebration, as well as participating in the Neighborhood Leaders Summit, Centre for the Advancement of Sustainable Living Earth Day ground breaking

event and the Holistic Options for Planet Earth Sustainability (HOPES) conference.

3.4 Land Use and Transportation Subcommittee

In November 2008, the commission created the Land Use and Transportation Subcommittee (LUTSCO) to focus on land use and transportation issues and tasked the subcommittee with researching and proposing recommendations on the nexus of these issues to the full commission and ultimately to the City Council. Given the breadth and scope of this charge LUTSCO developed an inventory of the many different land use and transportation initiatives underway and began researching progress. The subcommittee has been briefed on the Infill Compatibility Standards, Opportunity Siting and Eugene Comprehensive Lands Assessment projects, the West Eugene Collaborative, Lane Transit District transit and funding issues, electric vehicle infrastructure opportunities and the Pedestrian and Bicycle Strategic Plan. The subcommittee met with the Planning Commission prior to the joint commission meeting to begin exploring the commissions' intersection of interest and responsibilities.

The subcommittee is discussing specific recommendations to bring back to the Sustainability Commission, focusing in particular on where the Sustainability Commission can most effectively contribute to the discussion of moving the community towards increased sustainability – while acknowledging that much time and effort has already been invested in initiatives underway.

3.5 Business Study

One of the priorities identified by the commission was business. In the FY10 Work Plan the commission will look more specifically at business issues and in particular, job creation initiatives. To help inform discussion next year, research to identify the information and tools businesses need to help them operate more sustainably and/or produce more sustainable products or services was undertaken. Commission members and staff partnered with the Eugene Chamber of Commerce, GreenLane (a sustainable business network) and an MBA team at the Lundquist School of Business, University of Oregon, on the research.

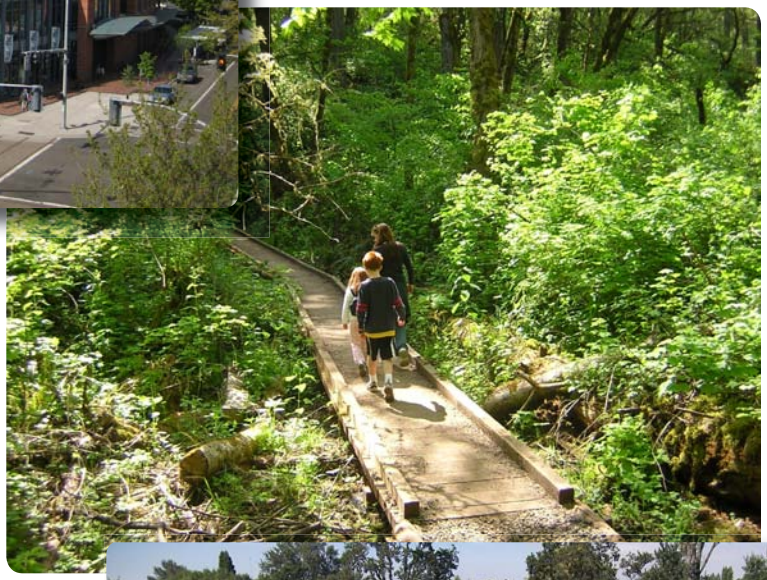
4 Review of the Year

The work outlined in this annual report could not have been accomplished without the help of volunteers and interns, as well as the many hours each commissioner has contributed to the tasks.

Creating a more sustainable community and City organization is a huge undertaking that requires commitment to change and resources at a number of different levels. The commissioners have worked intensively to prioritize the many issues they consider require research and action to help Eugene become more sustainable. Expectations are high from both the community and commissioners that they will be able to move swiftly and continue to make substantive recommendations to the City Council on ways to enhance the sustainability of Eugene across the triple bottom line.

The development of appropriate measures to assess the impact of the six adopted recommendations and future recommendations is a challenge. It is essential to establish metrics to ensure any action taken has a measurable outcome.

As the changes required to live and operate more sustainably are increasingly understood it is critical to integrate broad sustainability criteria throughout every decision made. A community and City response to climate change, and fossil fuel price increases and availability fluctuations have both emerged as urgent issues to address. The commission will need to work effectively with many different community partners to find ways of mitigating emissions and plan for adaptations that will be required in our community as a result of climate change.



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