



# Planning Commission Agenda

**Community Development Director:**

Tom Boyatt, 541.744.3373

**Interim Planning Manager:**

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**Management Specialist:**

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**City Attorney's Office:**

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**Planning Commissioners:**

Sophie McGinley, Chair

Andrew Landen, Vice Chair

Kuri Gill

Grace Bergen

Michael Koivula

Matthew Salazar

Andrew Buck

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**From your computer, tablet or smartphone**

<https://zoom.us/j/99650109398?pwd=dIYzQVI0OUJwNmhzS2VicXQOU0NaUT09>

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**September 8, 2021 (Wednesday)**

**5:30 p.m. Planning Commission Work Session  
Virtual**

**CALL TO ORDER****ATTENDANCE:**

Chair McGinley\_\_\_\_, Vice Chair Landen\_\_\_\_, Koivula\_\_\_\_, Gill\_\_\_\_,  
Bergen\_\_\_\_, Salazar\_\_\_\_ and Buck\_\_\_\_.

**WORK SESSION ITEM(S)****1. DEVELOPMENT CODE UPDATE PROJECT- DRAFT CODE SECTIONS**

**Staff: Mark Rust  
90 Minutes**



Commission members' declaration of potential conflict of interest

**ADJOURNMENT**

**September 8, 2021 (Wednesday)**

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**7:00 p.m. Planning Commission Regular Session  
Virtual**

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**CONVENE AND CALL TO ORDER THE REGULAR SESSION OF THE SPRINGFIELD PLANNING COMMISSION**

**ATTENDANCE:** Chair McGinley \_\_\_\_\_, Vice Chair Landen\_\_\_\_\_, Gill \_\_\_\_\_, Koivula \_\_\_\_\_, Bergen \_\_\_\_\_, Salazar \_\_\_\_\_ and Buck \_\_\_\_\_.

**PLEDGE OF ALLEGIANCE**

**ADJUSTMENTS TO THE REGULAR SESSION AGENDA**

In response to a request by a member of the Planning Commission, Staff or Applicant; by consensus

**BUSINESS FROM THE AUDIENCE**

Public comment is limited to 3 minutes; testimony may not discuss or otherwise address land use applications appearing on this Regular Session Agenda. If you wish to provide comment, please send a message to the “host” stating your name and the topic you’d like to address. The meeting host will ask those joining by phone if they wish to comment.

**APPROVAL OF MINUTES**

- August 17, 2021 Work/Regular/CCI Session

**LAND USE DECISIONS**

**1. FLOODPLAIN OVERLAY DISTRICT CODE UPDATES – PUBLIC HEARING  
811-21-00021—TYP4**

**Staff:** Katie Carroll, PSU Summer Fellow  
Sandy Belson, Interim Planning Manager  
**30 Minutes**

The City of Springfield participates in the National Flood Insurance Program (NFIP) and must adopt and enforce a floodplain management ordinance regulating development in the community’s floodplain. The City must adopt an updated floodplain development ordinance to ensure ongoing compliance with current NFIP minimum standards.

- ☐ Staff explanation of Legislative hearing process Springfield Development Code 5.2-120 through 5.2-150)
- ☐ Chair opens the public hearing
- ☐ Commission members’ declaration of potential conflicts of interest-
- ☐ Any challenges to the impartiality of the Commissioners or objection to the jurisdiction of the Commission to hear the matter
- ☐ Staff report
- ☐ Public Testimony

- ☐ Summation by staff
- ☐ Planning Commission questions to staff or public
- ☐ Close or continue public hearing; close or extend written record (continuance or extension by motion)
- ☐ Planning Commission Deliberations – discussion of the proposal including testimony and evidence addressing the applicable approval criteria
- ☐ Motion to recommend approval as presented, or approval with modifications based on the findings of fact contained in the staff report or as modified, oral and written testimony, and all other evidence submitted into the record

**2. REQUEST FOR ADOPTION OF REMAND FINDINGS FOR SUB ELECTRIC SUBSTATION AND TRANSMISSION LINE, EAST END OF EAST 22<sup>ND</sup> AVENUE, GLENWOOD, CASES 811-19-000016-TYP2; 811-19-000084-TYP2 & 811-19-000085-TYP2**

**Staff: Kristina Kraaz, CAO**  
**10 Minutes**

- ☐ Planning Commission and Hearing Official Deliberations – discussion of the proposal including testimony and evidence addressing the applicable approval criteria
- ☐ Motion to approve as presented, approve with modifications, or deny the applications based on the findings of fact contained in the staff reports, oral and written testimony, and all other evidence submitted into the record

BUSINESS FROM THE PLANNING COMMISSION

BUSINESS FROM THE DEVELOPMENT AND PUBLIC WORKS DEPARTMENT

ADJOURNMENT

Springfield Planning Commission  
PC Work and Regular Session  
Tuesday August 17, 2021

Planning Commissioners: Chair Sophie McGinley, Vice-Chair Andy Landen, Grace Bergen, Michael Koivula, Kuri Gill, Matt Salazar, and Andrew Buck

Absent: None

Council Liaison: Councilor Pitts - excused absence

Staff: Tom Boyatt, Community Development Director; Sandy Belson, Interim Planning Manager; Brenda Jones, Planning Commission Assistant; Kristina Kraaz, Assistant City Attorney; Mark Rust, Interim Planning Supervisor

**Item 1: Development Code Update Project – Housing Amendments**

Mark Rust, Senior Planner

Kristina Kraaz, City Attorney read a brief statement regarding conflicts of interest.

Potential Conflicts of Interest:

- McGinley - Does not own any property therefore has no potential conflict of interest.
- Landen - Potential conflict of interest because he owns property in Springfield.
- Koivula - Potential conflict of interest because he owns property in Springfield.
- Gill - Potential conflict of interest because she owns property in Springfield.
- Bergen - Potential conflict of interest because she owns property in Springfield and is a practicing Real Estate Agent in Springfield as well.
- Salazar - Has two potential conflicts of interest: 1) that he owns residential property in Springfield, and 2) works for a real estate developer that develops in Springfield.
- Buck - Has two potential conflicts of interest: 1) owns property in Springfield and, 2) professionally sells insurance for residential property owners in Springfield.

At this meeting staff will present draft code language. The code sections presented to the PC are essentially the same as the public review drafts, however staff has included track changes and comments for discussion purposes. These code sections will be revised and finalized to develop a public hearing draft based on the community feedback received during the community engagement. This will be an opportunity for the Planning Commission to provide input and ask questions.

Mark Rust, Senior Planner presented the Development Code and Update Project staff report to the Planning Commission. Tonight, Mark started where the Commission left off on August 3, 2021, Section 4.2.100 Infrastructure and 4.3-100 Standards- Transportation.

**Adjourned 7:01**



## REGULAR SESSION- 7:02 p.m.

Planning Commissioners: Chair Sophie McGinley, Vice-Chair Andy Landen, Grace Bergen, Michael Koivula, Kuri Gill, Matt Salazar, and Andrew Buck

Absent: None

Council Liaison: Councilor Pitts- Excused Absence

Staff: Tom Boyatt, Community Development Director; Sandy Belson, Interim Comprehensive Planning Manager; Brenda Jones, Planning Commission Assistant; Kristina Kraaz, Assistant City Attorney; Mark Rust, Interim Planning Supervisor; Andy Limbird, Senior Planner; Katie Carrol

Springfield Hearing Official: Gary Darnielle

- Pledge of Allegiance - Led by Commissioner McGinley
- Adjustments to the Agenda - None
- Business from the Public – None
- Approval of Minutes
  - August 3, 2021 Work, Regular and CCI Sessions

*Commissioner Koivula noted that the CCI Session minutes needed to include the requested additions to the Citizen Involvement Strategy for the Updated Floodplain Overlay District: 1) provide notice of proposed changes to the Springfield Board of Realtors, the Lane County Homebuilders, and Environmental NGOs; provide a PSA to local news organizations; and to coordinate messaging with the City's Emergency Management Team. Commissioner Salazar motioned to approve August 3, 2021 for the Work, Regular and CCI Session Minutes as amended by Commissioner Koivula, seconded by Commissioner Gill. Roll Call for approval 6:0:1 absent*

- Commissioner McGinley - Aye
- Commissioner Landen - Aye
- Commissioner Gill - Aye
- Commissioner Bergen - abstain, was not in attendance
- Commissioner Buck - Aye
- Commissioner Salazar - Aye
- Commissioner Koivula - Aye

6:0:1 abstain Motion Carries

**Item 1: Request for Adoption of Remand Findings for SUB Electric Substation and Transmission Line, East End of East 22<sup>nd</sup> Avenue, Glenwood, Cases 811-19-000016-TYP2, 811-19-000084-TYP2 and 811-19-000085-TYP2.** Andy Limbird, Senior Planner

Hearing Official: Gary Darnielle Opens the Hearing.

Assistant Attorney Kristina Kraaz read the Quasi-Judicial Statement of Rights into the record.

- Chair McGinley asks the Planning Commissioners to disclose ex-parte contact/conflicts of interest or Independent Knowledge of the property: Commissioner

- McGinley - Virtually visited the site through Google maps.
- Landen - No ex-parte contact nor conflicts of interest.
- Koivula - No ex-parte contact, no conflicts of interest. He has additional knowledge based on driving by the site below on both Franklin Boulevard and I-5 Highway, he also visited the site on street view on Google Maps.
- Gill - No conflicts of interest and no ex-parte contact.
- Bergen - No conflict of interest and no ex-parte contact.
- Salazar - No conflicts of interest and no ex-parte contact.
- Buck - No conflicts of interest and no ex-parte contact.

Kristina asked Commissioner Koivula to disclose independent knowledge of the facts saying we need to have Commissioner Koivula disclose what that independent knowledge is to determine if it is information that is not already in the record. We may need to provide the applicant with an opportunity to respond to that information if it is not already in the record, so a disclosure of what the substance of that and how it is different than the information in the record would be helpful.

Commissioner Koivula disclosed that he drove both on Franklin Boulevard and I-5 Highway and viewed the site. He thinks that those views of the site are also provided in the record, those views are provided in photographs in the record. The East 22<sup>nd</sup> Avenue from Henderson Street on Street View in Google and he doesn't believe that is in the record currently so that would be independent knowledge.

- Hearing Official Gary Darnielle disclosed that he has no ex-parte contact, nor has he taken a site view of the property and has no actual or potential conflicts of interest.
- Staff Report -  
Andy Limbird, Senior Planner presented a summary of the site, the configuration of properties, the orientation of the site related to the City limits and the Urban Growth Boundary, and a PowerPoint Presentation.

There has not been any comment received in response to public notification of this meeting. There was mailed notification, as well as standard notification of the Planning Commission meeting. There has been no feedback from the Appellant nor any other adjacent residents or neighbors or prior commenters regarding the remand.

Kristina noted that she found a photo of the view from E. 22<sup>nd</sup> Avenue in the record.

*Chair McGinley moved to close the written record. Seconded by Commissioner Koivula.*

- McGinley - Aye
- Landen - Aye
- Koivula - Yes
- Gill - Aye
- Bergen - Aye
- Salazar - Aye
- Buck - Aye

7:0:0 Motion Passes

*Springfield Hearings Official Gary Darnielle closes the written record.*

- Kristina Kraaz reminded the Planning Commission that staff would like the opportunity to present the final staff report and findings after the Hearings Official has made his decision, that is assuming the Hearings Official will not be making his decision tonight at this meeting. Brenda has placed a placeholder for

September 8, 2021 (Wednesday) for the Planning Commission to discuss the Hearings Official Decision, then they can make their final decision.

- Gary Darnielle replied that it is his intention to have his written decision completed prior to the September 8, 2021 date.
- *Gary Darnielle Springfield Hearing Official Officially closes the record and the meeting before the Hearings Official. It was also discussed whether the Hearings Official needs to be in attendance at the September 8, 2021 Springfield Planning Commission meeting, it was decided that he did not need to attend.*

Report of Council Action - No report, Council on Summer Recess

#### Business from the Planning Commission

- Commissioner Landen attended the BPAC meeting - They discussed the BPAC Mission, and they discussed the five-year plan. BPAC - Bicycle Pedestrian Advisory Committee.
- Commissioner Koivula attended the SEDA - Springfield Economic Development Agency meeting. They discussed the "Request for Qualifications" for the Glenwood Riverfront Development. This is for the 9 acres that the City owns on the waterfront in Glenwood.
- Commissioner McGinley asked the Commissioners to talk about the Committees and groups that they are volunteering on to give the new Commissioners Salazar and Buck an idea of the groups that the Planning Commission volunteers on. The first meeting in 2022 we will re-visit these committees; this will be an opportunity for the new commissioners to volunteer.
- Commissioner Gill announced that the Oregon Main Street Conference will be virtual this year, October 6, 2021 through October 8, 2021. Registration opens this week. The program will be around Downtowns.

#### Business from the Development and Public Works Department

- Sandy reminded the Commissioners that if they would like to attend the Main Street Conference to let Brenda know, the Planning Commission has a small budget that could pay the registration fee.
- We have been so busy that we haven't been able to add this extra page to the SpringfieldOregonSpeaks that would have the Council Attendance Schedule for the Planning Commissioners. We could also add things like Conferences and Training Opportunities.
- Sandy also talked to the Commissioners about their meetings starting September 8, 2021 and how busy they have been and will continue to be with the Springfield Development Code starting its Public Hearings. This is all leading to the question of, what time would the Planning Commission like to start their Work Sessions 5:30 or 6:00? It was decided that 5:30 would work for September 8, 2021.

Meeting adjourned 8:05 P.M.

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**AGENDA ITEM SUMMARY**

**Meeting Date:** 8/3/2021  
**Meeting Type:** Work Session  
**Staff Contact/Dept.:** Mark Rust/DPW  
**Staff Phone No:** 541-726-3654  
**Estimated Time:** 60-90 minutes  
**Council Goals:** Encourage Economic Development and Revitalization through Community Partnerships

**SPRINGFIELD  
PLANNING COMMISSION**

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**ITEM TITLE:** DEVELOPMENT CODE UPDATE PROJECT – DRAFT CODE SECTIONS

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**ACTION REQUESTED:** Staff is asking the Planning Commission to provide input and ask questions on the draft code language for Phase 2 of the Development Code Update Project.

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**ISSUE STATEMENT:** The Purpose of the Development Code Update Project is to change the Springfield Development Code to support efficient, timely, and clear development review. The updated Development Code will support Springfield’s economic development priorities and will honor Springfield’s hometown feel now and in the future.

At this meeting staff will present draft code language. The code sections presented to the PC are essentially the same as the public review drafts however staff has included track changes and comments for discussion purposes. These code sections will be revised and finalized to develop a public hearing draft based on the community feedback received during the community engagement. This will be an opportunity for the Planning Commission to provide input and ask questions.

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**ATTACHMENTS:** Attachment 1: Draft of New Code 3.2.300 Commercial Zones  
Attachment 2: Draft of New Code 3.2.400 Industrial Zones  
Attachment 3-7: Draft Development Standards sections 4.2.100, 4.3.100, 4.4.100, 4.5.100, and 4.6.100

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**DISCUSSION:** **Background**  
Staff last presented to the Planning Commission on July 20, 2021 where we began reviewing the draft code sections. The code sections that were covered included the Procedures section, 5.1.100 and beginning to discuss the Industrial zone section, 3.2.400. These sections can be revisited if necessary, as additional code sections are reviewed.

**Discussion**

Staff has released the public review draft sections of development code, together with community engagement materials, for Phases 1 and 2 of the Development Code Update Project. These draft code sections need to be revised and finalized based on the community engagement prior to developing a public hearing draft later this year. Staff will continue presenting the draft code sections to the Planning Commission for discussion, input, and questions. There are areas of the code sections that still have unresolved questions or options associated with them that need input. Familiarizing the Planning Commission now with the draft code sections will facilitate an easier transition to the public hearing drafts.

**Next Steps**

Staff has launched the community outreach phase of the project. Staff has scheduled regular work sessions for the Planning Commission meeting through the summer to continue to discuss the multiple sections of draft code.

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**Section 3.2.300 – Commercial Districts  
(NC, CC, MRC, GO)**

**Subsections:**

- 3.2.305 Purpose and Applicability**
- 3.2.310 Use Category Determination**
- 3.2.315 Commercial Use Categories**
- 3.2.320 Permitted Uses**
- 3.2.325 Development Standards**

**3.2.305 Purpose and Applicability**

**(A) Purpose.** The purpose of the Commercial Districts is to:

- (1) Broaden, improve, and diversity the Springfield economy while maintaining or enhancing environmental quality and Springfield's natural heritage.
- (2) Strengthen and maintain strong, connected employment centers and economic corridors to support small, medium, and large businesses.
- (3) Establish, strengthen, and maintain viable commercial centers to improve the community's access to goods and services.
- (4) Make development decisions predictable and cost effective.

**(B) Applicability.** The provisions in this section apply to development in the Neighborhood Commercial (NC), Community Commercial (CC), Major Retail Commercial (MRC), and the General Office (GO) Districts. These districts are identified on the City's official Zoning Map. Properties designated within each district that contain additional standards must comply with the provisions of the applicable district, except as may be modified by this section. The districts serve different uses as described below.

**Commented [RM1]:** Check for naming consistency.

Land Use District	Location and Characteristics
Neighborhood Commercial (NC)	This district is intended to provide opportunities for sites to provide day to day commercial needs.
Community Commercial (CC)	This district is intended to provide opportunities for sites to provide for a wide range of retail sales, retail service, and professional office uses. This district is intended to include all existing strip commercial areas.
Major Retail Commercial (MRC)	This district is intended to provide opportunities for sites suitable for shopping centers.
General Office (GO)	This district is intended to provide opportunities for office uses as a transition, providing a buffer between residential districts and more intensive commercial development at the boundaries of a Community Commercial or Major Retail Commercial district.

**3.2.310 Use Category Determination**

**(A)** For the purpose of this Section 3.2.300, uses and activities are classified into use categories on the basis of common functional, product, or physical characteristics, as described below.

- (1) **Determination.** Uses are assigned to the category whose description most closely describes the nature of the primary use. Developments may have more than one primary use. Developments may also have one or more accessory uses.

When a use's category is not clearly identifiable, the Director determines the applicable use category through a Type 2 approval process. The Director will consider the following factors to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:

- (a) The description of the activity in relationship to the characteristics of each use category;
  - (b) The relative amount of site or floor space and equipment devoted to the activity;
  - (c) Relative amounts of sales from each activity;
  - (d) The customer type for each activity;
  - (e) The relative number of employees in each activity;
  - (f) Hours of operation;
  - (g) Building and site arrangement;
  - (h) Vehicles used with the activities;
  - (i) The relative number of vehicle trips generated by the activities;
  - (j) The signage for the proposed use(s) and activities;
  - (k) How the use advertises itself; and
  - (l) Whether the activities function independently of other activities on the site.
- (2) **Multiple uses.** When all of the primary uses of a development fall within one use category, then the development is assigned to that use category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.
- (3) **Determination of Similar Land Use.** Subject to prior submittal and approval of an application pursuant to Type 2 procedures, uses and development similar to uses and development in Table 3.3.320 may be allowed if found by the Director to be "clearly similar" to the uses and development allowed by Table 3.3.320. The applicant has the burden to provide sufficient information to allow the Director to make findings on the following criteria.

The Director must make findings that the proposed use is "clearly similar" based on the following criteria:

- (a) The use and development are consistent with the purpose of this section.
- (b) When compared with the uses and development permitted by Table 3.2.420, the use and development are similar to one or more of these uses and development based on an analysis of the:
  - (i) Goods or services traded from the site;
  - (ii) Bulk, size, and operating characteristics of the proposed use and development; and
  - (iii) Parking demand, customer types and traffic generation.

- (c) The use and development comply with the other applicable provisions of this Section.

Similar use determinations that are not "clearly similar" because they do not meet the standards above, must be made in conformance with the procedures in Springfield Development Code 5.11.100, Interpretations.

**Commented [RM2]:** Discuss the difference between these to options with Kristina and Jim D.

### 3.2.315 Commercial Use Categories

#### (A) Retail Sales and Service

The code provides for three types of Retail Sales and Service uses. The three types include automobile dependent uses; automobile oriented uses; and non-automobile dependent or oriented uses. The distinctions are specified below.

- (1) Automobile-dependent use. Uses where automobiles and/or other motor vehicles are served by the use and the use would not exist without them, such as vehicle repair, gas station, car wash, or auto and truck sales.
- (2) Automobile-oriented use. Uses where automobiles and/or other motor vehicles are an integral part of the use, such as drive-up, drive-in, and drive-through facilities.
- (3) Non-automobile dependent or oriented use. Retail Sales and Service uses that do not qualify as automobile dependent or automobile oriented.

#### (B) Eating and Drinking Establishment

- (1) Eating and Drinking Establishment uses include but are not limited to: restaurants, cafes, and similar types of land uses that prepare and serve edible goods for consumption by the customer including beverage service.

#### (C) Offices and Clinics

- (1) Office and clinic uses include but are not limited to: a wide range of business and professional offices; and medical clinics and offices. Examples of these uses include doctor, dentist, chiropractor, optometrist, research, processing, and laboratory facilities.

#### (D) Warehouse and Wholesale sales

- (1) Warehouse and Wholesale sales uses include the wholesale storage or movement of goods by a company for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Wholesale Sales refers to the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.

- (2) Examples of Warehouse and Wholesale sales uses include but are not limited to: regional distribution headquarters including storage, wholesale warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; wholesale distribution centers; truck/ freight terminals; bus barns; parcel delivery services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials. Additionally, wholesale sales includes sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.

(3) **Exceptions**

- (a) Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.
- (b) Uses that engage primarily in sales to the general public are classified as Retail Sales and Service.
- (c) Uses that engage in sales on a membership basis are classified as Retail Sales and Service.

(E) **Secondary Use**

- (1) Secondary Use means a use that is integrated with the primary use, is not stand alone, and is not permitted in the absence of a primary use.

(F) **Accessory Use**

- (1) Accessory Use means a use that is subordinate to the primary use.

**3.2.320 Permitted Uses**

- (A) The land uses listed in Table 3.2.420 are permitted in each of the applicable districts, subject to the provisions of this section.

Table 3.2.320 Permitted Uses					
Land Use	Commercial District				Special Use Standards
	NC	CC	MRC	GO	
<b><u>Commercial</u></b>					
Retail Sales and Service (non-automobile dependent/oriented)	P*	P	P	P*	Sec. 4.7.230 and 4.7.235
*Retail Sales and Service (automobile dependent)	N	P	P	N	See new section...
*Retail Sales and Service (automobile oriented)	N	P	P	N	See new section...
*Marijuana Business: marijuana retail outlet (recreational or medical)	N	P	P	N	Sec. 4.7.177
*Recreation Facilities	P	P	P	N	Sec. 4.7.205

**Commented [KK3]:** I think these are criteria instead of factors, because we wouldn't allow a use that doesn't comply with other applicable provisions of the chapter under (c), as long as (a) and (b) were met.

criteria = all must be met

factors = ambiguous about whether all apply or only one or more - so I would stay away from factors on its own (use language like "one or more of the following factors," or "the following factors, based on totality of the circumstances," that gives context on how to weigh factors.)

**Commented [KK4]:** Just flagging that we will need to change language in Glenwood prohibited uses to match this classification of Costco, etc., as "retail sales and services"

**Commented [RM5]:** Work on these? Both needed? Difference? Combine? Discuss with Jim D and Kristina K.

**Commented [MR6]:** See Section 4.7.115



<b>Table 3.2.320 Permitted Uses</b>					
Land Use	Commercial District				Special Use Standards
	NC	CC	MRC	GO	
Eating and Drinking Establishments (with drive-through)	P	P	P	N	
Eating and Drinking Establishments (without drive-through)	P	P	P	P*	Sec. 4.7.145
Offices and Clinics	P	P	P	P	
*Animal hospital, animal clinic, or kennel	N	P	N	N	Sec. 4.7.110
*Garden Supply or Feed Store	N	P	P*	N	Sec. 4.7.140
*Manufactured unit as a temporary construction office, security quarters, or general office.	P	P	P	P	Sec. 4.7.185 4.8.110, and 4.8.120
Manufactured home as a manufactured home sales office	P	P	P	N	Sec. 4.8.115
<b><u>Lodging</u></b>					
Hotels and motels	N	P	P	N	
*Bed and breakfast	P	P	N	N	Sec. 4.7.120
Hostel	P	P	N	N	
Emergency housing	N	P	N	N	
*RV park	N	P	N	N	Sec. 4.7.220
<b><u>Industrial</u></b>					
*Manufacture or assembly of goods or products to be sold on premises	N	P	N	N	Sec. 4.7.145
*Warehouse and Wholesale sales	N	P	N	N	Sec. 4.7.245
<b><u>Residential</u></b>					
*Residential uses in areas designated Mixed Use in: the Metro Plan; a Refinement plan; or in Mixed Use district in this code.	P	P	P	N	Sec. 4.7.210
Registered or Certified Family Child Care Home	P	P	P	P	
<b><u>Transportation Facilities</u></b>					
Dock, boat ramp, and marinas	N	D	N	N	
*Heliport or helistop	N	P	P	N	Sec. 4.7.240
*Transit Station	N	P	P	N	Sec. 4.7.240
Linear Park	P	P	P	P	
Bicycle paths and pedestrian trails	P	P	P	P	
<b><u>Other</u></b>					
Secondary Use (as defined)	P	D	D	P*	Sec. 4.7.145
Accessory Use (as defined)	P	P	P	P	
Agricultural cultivation of vacant land	N	P	P	N	

Commented [RM7]: Secondary uses?

Commented [RM8]: These need to be allowed as an outright permitted use in all residential and commercial zones? Specified in ORS 329A.440

Table 3.2.320 Permitted Uses					
Land Use	Commercial District				Special Use Standards
	NC	CC	MRC	GO	
<b><u>Public and Institutional</u></b>					
Private/Public Elementary and Middle Schools	D*	D*	N	N	Sec. 4.7.195 and 5.9.110
Branch educational facilities	P	P	P	N	
*Place of worship	P	P	P	P	Sec. 4.7.380
*Child Care Facilities	P	P	P	P	Sec. 4.7.125
Club (see definition 6.1.110)	P	P	P	N	
Hospital	P	P	P	N	
Community Service; includes Governmental Offices	P	P	P	P	
High impact public utility facilities	S	S	S	S	Sec. 4.7.160
Low impact public utility facilities	P	P	P	P	
Communication towers, including antennas and relay equipment	N	D	D	N	
*Wireless Telecommunications System (WTS) Facilities	See Sec. 4.3.145	See Sec. 4.3.145	See Sec. 4.3.145	See Sec. 4.3.145	Sec. 4.3.145

P=Permitted Use; D=Discretionary Use permit required; N=Not Allowed;

\*Permitted subject to Special Development Standards.

**Commented [MR9]:** See footnote (10) in CI zone. Add this language to Sec. 4.7.160? "If approved in a Conceptual Development Plan, or a Master Plan for the subject CI site, or included in an adopted Public Facilities Plan, high impact public facilities are subject only to Site Plan Review approval."

### 3.2.325 Development Standards

In addition to applicable provisions contained elsewhere in this code, the development standards listed in this section apply to all development in commercial districts. In cases of conflicts in this section between the general standards and the area-specific standards, the area-specific standards apply.

#### (A) Lot Area, Dimensions, and Coverage

The following Table 3.2.325 sets forth the commercial district lot area, lot dimension, and coverage standards.

<b>Table 3.2.325(A) Commercial District Lot Area, Dimension, and Coverage Standards</b>				
<b>Development Standard</b>	<b>NC</b>	<b>CC</b>	<b>MRC</b>	<b>GO</b>
Minimum lot/parcel size	6,000 square feet	6,000 square feet	6,000 square feet	6,000 square feet
Individual lease space size.	15,000 square feet maximum	N/A	N/A	N/A
Minimum frontage, see (1) below	50 feet	50 feet	50 feet	50 feet

<b>Table 3.2.325(A) Commercial District Lot Area, Dimension, and Coverage Standards</b>				
<b>Development Standard</b>	<b>NC</b>	<b>CC</b>	<b>MRC</b>	<b>GO</b>
Panhandle lot/parcel minimum frontage, both single and double panhandles	Not permitted	40 feet	Not permitted	Not permitted
Maximum lot/parcel coverage	35 percent	Limited only by requirements of others Sections of this Code		
Minimum landscaping	Perimeter and interior landscaping area combined coverage must not be less than 20% of the total development area.	Minimum landscaping area established by standards in other sections of this code.		
Maximum parking, loading, and vehicular circulation area coverage	45 percent	Lot/parcel coverage established by standards in other sections of this code.		

(1) The frontage standard does not apply when the following are met:

- (a) The lots/parcels have been approved as part of a Master Plan, Site Plan, Subdivision, or Partition application; and
- (b) Access has been guaranteed via a private street or driveway by an irrevocable joint use/access agreement as specified in Section 4.2.120(A).

**(B) Setbacks**

Setbacks provide separation between commercial and non-commercial uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. All developments must meet applicable fire and building code standards, which may require greater setbacks than those listed in this section (e.g., for combustible materials, etc.).

Required setbacks are measured from the special street setback in Section 4.2.105(N), where applicable.

The following setback standards apply to all structures, except as otherwise provided by this section.

**(1) Front yard building setback**

- (a) All commercial districts (NC, CC, MRC, and GO).
- (i) The minimum front yard building setback is 10 feet.

**(2) Parking, driveway, or outdoor storage setback**

- (a) Neighborhood Commercial. The minimum yard setback for parking, driveway, or outdoor storage is 7 feet from any property line.
- (b) Other commercial districts (CC, MRC, and GO). The minimum yard setback for parking, driveway, or outdoor storage is 5 feet from any property line.

**(3) Setback Exceptions**

- (a) There are no setbacks required for buildings in the Downtown Exception Area.
- (b) Architectural extensions may extend into any 5-foot or larger setback by no more than 2 feet.
- (c) Where a public utility easement (PUE) is larger than the required setback standard, no building, architectural extension, or above grade structure, except a fence, can be built upon or over that easement.

Table 3.2.325(B) summarizes the above setback standards, subject to the exceptions above.

<b>Table 3.2.325(B) Setback Standards</b>				
<b>Development Standard</b>	<b>NC</b>	<b>CC</b>	<b>MRC</b>	<b>GO</b>
Front setback for building	10 feet	10 feet	10 feet	10 feet
Setback for parking, driveway, or outdoor storage	7 feet	5 feet	5 feet	5 feet

**(C) Height**

- (1) The following building height standards are intended to promote land use compatibility and flexibility for commercial development at an appropriate community scale.
  - (a) Buildings and structures in the Neighborhood Commercial District are limited to the maximum height of 20 feet.
  - (b) Buildings and structures in the Community Commercial, Major Retail Commercial, and General Office Districts have no maximum height, except when abutting a residential district. When abutting a residential district the following height standards apply:
    - (i) The height of a structure must not exceed the height permitted in the adjacent R-1 or R-2 residential land use district for a distance of 50 feet.

**Commented [RM10]:** Keep or delete? This would be true even if we don't state it here.

**Commented [RM11R10]:** Kristina K comment  
This is much too broad and get into an area of private property relationships that we do not want to govern. This should be limited to whatever specific type of easement(s) make sense to the City to regulate – i.e. easements that are an alternative to minimum setbacks, PUEs, etc. Some easements may be private easements for access or sunlight or views, that the City may not want to enforce directly.

**Commented [RM12R10]:** See code section 3.4.265 note 4. Existing language needs to be changed elsewhere too.

(2) Incidental equipment, as defined in SDC 6.1.110 may exceed the height standard.

Table 3.2.325(C) summarizes the above height standards.

Table 3.2.325(C) Height Standards				
Development Standard	NC	CC	MRC	GO
Maximum Height	20 feet	No Maximum Height, except when abutting residential districts.  When directly abutting an R-1 or R-2 district, the height of a structure must not exceed the height permitted in the adjacent R-1 or R-2 residential land use district for a distance of 50 feet from the property line.		

**Section 3.2.400 – Industrial Districts  
(CI, LMI, HI, SHI)**

**Subsections:**

- 3.2.405 Purpose and Applicability**
- 3.2.410 Categorizing Land Uses**
- 3.2.415 Industrial Use Categories**
- 3.2.420 Permitted Uses**
- 3.2.425 Development Standards**
- 3.2.430 Campus Industrial District – Operational Performance Standards**
- 3.2.435 Campus Industrial District – Monitoring Uses**
- 3.2.440 Campus Industrial District – Status of Existing Uses**
- 3.2.445 Campus Industrial District – Conceptual Development Plans and Master Plans**
- 3.2.450 Campus Industrial District – Design Standards**
- 3.2.455 Business/Industrial Parks**

**Commented [MR1]:** Still need to add these sections.

**3.2.405 Purpose and Applicability**

**(A) Purpose.** The purpose of the Industrial Districts is to:

- (1) Broaden, improve, and diversity the Springfield economy while maintaining or enhancing environmental quality and Springfield's natural heritage.
- (2) Provide certainty, predictability, and flexibility in the development of industrial development.
- (3) Make development decisions predictable and cost effective.

**(B) Applicability.** This section applies to development in the Campus Industrial (CI), Light Medium Industrial (LMI), Heavy Industrial (HI), and the Special Heavy Industrial (SHI) Districts. These districts are identified on the City's official Zoning Map. Properties designated within each district that contain additional standards must comply with the provisions of the applicable district, except as may be modified by this section. The districts serve different uses as described below.

**Commented [RM2]:** Check for consistency

District	Location and Characteristics
Campus Industrial (CI)	This district is intended to provide opportunities for diversification of the local economy by offering prime sites in a campus environment for large-scale light manufacturing firms and research and development complexes emphasizing modern technology and employing skilled workers in family wage jobs. The term "campus" includes innovative building designs, enhanced landscapes, large open spaces, and substantial pedestrian amenities.
Light-Medium Industrial (LMI)	This district is intended to provide opportunities for the secondary processing of materials into components, the assembly of components into finished products, transportation, communication and utilities, wholesaling, and warehousing. The external impact from these uses is generally less than Heavy Industrial, and transportation needs are often met by truck.

	Activities are generally located indoors, although there may be some outdoor storage. This designation also can accommodate supporting offices and CI industrial uses.
Heavy Industrial (HI)	This district is intended to provide opportunities for the processing of large volumes of raw materials into refined materials and/or that have significant external impacts. Heavy Industrial transportation needs often include rail and truck. Less intensive industrial uses that are permitted in the LMI District are also permitted in this district.
Special Heavy Industrial (SHI)	This district is intended to provide opportunities to accommodate industrial developments that need large parcels, particularly those with rail access. Although the primary purpose of this district is to provide sites for heavy industries other industry is allowed.

### 3.2.410 Use Category Determination (Categorizing Land Uses???)

(A) For the purpose of Section 3.2.400, uses and activities are classified into use categories on the basis of common functional, product, or physical characteristics, as described below.

- (1) **Determination of Use Category.** Uses are assigned to the category whose description most closely describes the nature of the primary use. Developments may have more than one primary use. Developments may also have one or more accessory uses.

When a use's category is not clearly identifiable, the Director, through an administrative action, determines the applicable use category. The Director will consider the following factors to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:

- (a) The description of the activity in relationship to the characteristics of each use category;
  - (b) The relative amount of site or floor space and equipment devoted to the activity;
  - (c) Relative amounts of sales from each activity;
  - (d) The customer type for each activity;
  - (e) The relative number of employees in each activity;
  - (f) Hours of operation;
  - (g) Building and site arrangement;
  - (h) Vehicles used with the activities;
  - (i) The relative number of vehicle trips generated by the activities;
  - (j) The signage for the proposed use(s) and activities;
  - (k) How the use advertises itself; and
  - (l) Whether the activities function independently of other activities on the site.
- (2) **Multiple uses.** When all of the primary uses of a development fall within one use category, then the development is assigned to that use category. When the primary

**Commented [RM3]:** From KSK-The Springfield Comp Plan has a note that says zoning for areas designated SHI is LMI or SHI, but will be more specifically determined in a refinement plan or future comp plan update. The only place designated/zoned SHI in Springfield is the Jasper Natron area. I wonder whether it would make more sense to set apart the SHI district in the same way as the UHA-E area or CI areas, with its own discussion of its special status, rather than putting it in with the LMI and HI industrial zones?

**Commented [RM4]:** Rick S. likes better. From TAC conversation.

**Commented [KK5R4]:** I recommend matching the Commercial District language with whatever you do here

uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

- (3) **Determination of Similar Use Category.** Subject to prior submittal and approval of an application pursuant to Type II procedures, uses and development similar to those found in Table 3.2.420 may be allowed if found by the Director to be “clearly similar” to the uses and development allowed by Table 3.2.420. The applicant has the burden to provide sufficient information to allow the Director to make findings on the following criteria.

**Commented [RM6]:** Use, verses category above. From TAC.

The Director must make findings that the proposed use is “clearly similar” based on the following criteria:

- (a) The use and development are consistent with the purpose of this section.
- (b) When compared with the uses and development permitted by Table 3.2.420, the use and development are similar to one or more of these uses and development based on an analysis of the:
  - (i) Goods or services traded from the site;
  - (ii) Bulk, size, and operating characteristics of the proposed use and development; and
  - (iii) Parking demand, customer types, and traffic generation; and
- (c) The use and development comply with the other applicable provisions of this Section.

Uses that are not “clearly similar” because they do not meet the standards above, may be allowed as a new use, according to the procedures and standards in section 5.11.100, Interpretations.

**Commented [RM7]:** Discuss the difference between these two options with Kristina and Jim D. Which on would be better? Are they both needed? A type 1 verses a type 2 process?

### 3.2.415 Industrial Use Categories

- (A) **Industrial Use** – employment activities, including, but not limited to the use of land primarily for the manufacture, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution and transshipment, and research and development, that generate income from the production, processing, handling or distribution of goods and services, including goods and services in the traded sector as defined by ORS 285A.010.

**Commented [MR8]:** Check this reference. Needed?

#### (B) Heavy Manufacturing and Production

- (1) “Heavy Manufacturing and Production” refers to the manufacturing from raw materials, processing from raw materials, or assembly of goods. Natural, human-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.



- (2) Examples of Heavy Manufacturing and Production uses include but are not limited to: lumber mills, pulp and paper mills, and other wood products manufacturing; manufacturing and processing of metals or metal products including enameling and galvanizing; biotechnology; manufacturing or processing of chemical, rubber, leather, clay, bone, plastic, stone, concrete, glass materials, or related products; manufacturing or production of food and beverage or related products; manufacturing of textiles or apparel; woodworking, including cabinet makers; the production of energy; and paper products or other similar materials manufacturing or processing.

**(3) Exceptions**

- (a) Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service as found in section 3.2.300.
- (b) Manufacture and production of goods from composting organic material is classified as Waste-Related uses.
- (c) Warehouse, Freight Movement, and Distribution uses are classified under the Warehouse and Wholesale sales category.

Commented [RM9]: This needs work. Rework?

**(C) Light Manufacturing, Fabrication, and Repair**

- (1) "Light Manufacturing, Fabrication, and Repair" refers to the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, human-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
- (2) Examples of Light Manufacturing, Fabrication, and Repair uses include but are not limited to: manufacturing, fabrication, or repair of appliances, electronic equipment, furniture, signs, and similar goods; fabrication of metal or metal products; manufacturing, assembly, or repair of machinery, equipment, instruments, biotechnology; manufacturing of apparel or other finished goods made from canvas, cloth, fabrics, feathers, felt, leather, textiles, wool, yarn, or similar materials; finished woodworking and assembly, including cabinet makers; preparation of food and related products including catering establishments; breweries, distilleries, and wineries; media production facilities; and manufacturing of prefabricated or modular structures including manufactured homes and related components.

**(D) Industrial Service**

- (1) "Industrial Service" refers to the repair or servicing of business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

- (2) Examples of Industrial Service uses include but are not limited to: welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; storage of building materials; heavy truck servicing and repair; tire re-treading or recapping; building, heating, plumbing or electrical contractors; printing, publishing and lithography; recycling operations; janitorial and building maintenance services including exterminators; fuel oil distributors; solid fuel yards; research, development, and testing laboratories or facilities; technology development and support centers; industrial laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.

(3) **Exceptions**

- (a) Contractors and others who perform Industrial Services off-site are included in the office category, if equipment and materials are not stored at the site, and fabrication or similar work is not carried on at the site.
- (b) Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

(E) **Warehouse and Wholesale sales**

- (1) Warehouse and Wholesale sales includes the wholesale storage or movement of goods by a company for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. "Warehouse" refers to the storage of finished and unfinished products and materials within an entirely enclosed building. This use may include facilities for regional wholesale distribution, if permitted by the applicable land use district. "Wholesale Sales" refers to the sale, lease, or rental of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.

- (2) Examples of Warehouse and Wholesale sales uses include but are not limited to: regional distribution headquarters including storage, wholesale warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; wholesale distribution centers; truck/ freight terminals; bus barns; parcel delivery services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials. Additionally, wholesale sales includes sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.

(3) **Exceptions**

- (a) Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.

**Commented [RM10]:** Existing definition in 6.1. Also see new draft code section 3.2.415(E).

- (b) Uses that engage primarily in sales to the general public are classified as Retail Sales and Service as found in section 3.2.300.
- (c) Uses that engage in sales on a membership basis are classified as Retail Sales and Service as found in section 3.2.300.

**(F) Waste-Related**

- (1) "Waste-Related" includes uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include uses that receive hazardous wastes from others and are subject to the regulations of OAR 340-100, Hazardous Waste Management.
- (2) Examples of Waste Related uses include but are not limited to: sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, processing of waste, and hazardous-waste-collection sites.

**(3) Exceptions**

- (a) Disposal of clean fill, consisting of soil, rock, concrete, brick, building block, tile, or asphalt paving, which does not contain contaminants that could adversely impact public health and which does not contain putrescible waste, construction and demolition waste, or industrial solid waste, is not a Waste-Related use.
- (b) Sewer pipes that serve a development are considered a basic utility.
- (c) Recycling operations are not considered a Waste Related use. They are classified as an Industrial Service use.

- (G) **Corporate or Regional Headquarters** – means a building or portion of a building in which people are employed in the management or direction of a business consisting of one or more companies, or divisions or groups of companies. This use must be directly associated with and subordinate to a permitted use or a use allowed with a Discretionary Use Permit on the same site.

Corporate or Regional Headquarters may be permitted as part of a large-scale light-manufacturing use or located within a business park. Corporate or Regional Headquarters also may be a stand-alone use. The acreage comprising standalone Corporate or Regional Headquarters site must be applied to the 40 percent gross acre standard for business parks. Corporate or Regional Headquarters must have at least 20 or more employees at the time of occupancy.

**(H) Secondary Use**

- (1) Secondary Use means a use that is integrated with the primary use, is not stand alone, and is not permitted in the absence of a primary use.
- (2) Examples of secondary uses include but are not limited to: eating and drinking establishments; personal services such as hair stylists, beauty, fitness, spa, shoe

Commented [MR11]: Check. Needed?

Commented [MR12]: Modify existing def to this or keep existing in SDC 6.1.100? Remove employee density requirement?

Commented [RM13]: How defined? Phil F. from TAC. What is this intended to mean?

repair, dry cleaning, and tailors; child care facilities primarily serving employees; building maintenance services; industrial and professional equipment and supply stores; financial institutions including ATM's.

- (3) Retail, wholesale and service uses, either alone or in combination, cannot exceed 20 percent of the gross floor area of a building. These uses exclude any drive-through facility and must not primarily serve the general public. Except for ATMs, each use is limited to 2,500 square feet of gross floor area.
- (4) Child care facilities may exceed the 2,500 square foot standard in order to comply with size requirements.

#### (I) Accessory Use

- (1) Accessory Use means a use that is subordinate to the primary use.
- (2) Examples include but are not limited to: accessory structures; administrative professional or business offices; copying and photo developing; cafeteria serving employees; developed recreation area or pedestrian amenities serving the development area; storage yards or warehouses; parking lots and parking structures; truck fleet parking; repair and maintenance areas; docks; rail spur or rail lead line; heliports and helistops; and one dwelling unit per site.

**Commented [KK14]:** Current code requires accessory uses to be located within the same building as the primary use. Secondary uses, however, could be located in separate buildings within the same development area as long as they do not exceed 50% of total gross floor area on the development site, under current code - and as long as secondary uses aren't constructed first. (Not totally clear if that's what's intended by current code def. in 6.1-110 but how it's been applied).

#### 3.2.420 Permitted Uses

- (A) The land uses listed in Table 3.2.420 are permitted in each of the applicable districts, subject to the provisions of this section.

Table 3.2.420 Permitted Uses					
Land Use	Industrial District				Special Use Standards
	**CI	LMI	HI	*SHI	
<u><b>Industrial</b></u>					
Heavy Manufacturing and Production	N	D	P	P	
Light Manufacturing, Fabrication, and Repair	D	P	P	P	
Industrial Service	P	P	P	P	
*Warehouse and Wholesale sales	P	P	P	P	Sec. 4.7.245
Waste-Related	N	N	D	D	
Explosives or fireworks, manufacturing, warehouse, or distribution.	N	D	D	N	
Corporate Office/Headquarters	P(4)	P	P	P	Sec. 4.7.100
Outdoor storage directly related to an approved use	N	P	P	P	
Automobile wrecking, or towing service operations	N	N	D	N	
Industrial Park	N	P	P	P	
Business Park	P	N	N	N	

**Commented [MR15]:** Add new Section

<b>Table 3.2.420 Permitted Uses</b>					
Land Use	Industrial District				Special Use Standards
	**CI	LMI	HI	*SHI	
Slaughter house	N	N	D	N	
<b><u>Other</u></b>					
*Secondary Use (as defined)	P	D	D	D	Sec. 4.7.240
*Accessory Use (as defined)	P	P	P	P	Sec. 4.7.240
*Marijuana Production facility	N	N	P	P	Sec. 4.7.177
*Marijuana Processing facility	N	P	P	N	Sec. 4.7.177
*Marijuana Wholesale facility	N	P	P	N	Sec. 4.7.177
*Marijuana Retail outlet or sales, as primary or secondary use	N	N	N	N	Sec. 4.7.177
*Recreational Facilities	N	P	P	P	Sec. 4.7.205
Bicycle paths and pedestrian trails	P	P	P	P	
Linear Parks	P	P	P	P	
Agricultural cultivation of vacant land	P	P	P	P	
<b><u>Public and Institutional</u></b>					
*Education facilities (schools)	N	D*	N	N	Sec. 4.7.195
*High impact public utility facilities	D	P	P	P	Sec. 4.7.160
Low impact public utility facilities	P	P	P	P	
*Wireless Telecommunications System (WTS) Facilities	N	See Sec. 4.3-145	See Sec. 4.3-145	See Sec. 4.3-145	Sec. 4.3.145

P = Permitted Use; D=Discretionary Use permit required; N=Not Allowed;

\* Permitted subject to Special Development Standards; In the SMI District, the standard is found in Section 3.2.425(A)(1).

\*\* Uses in the CI District must meet the operational performance standards specified in Section 3.2.430

### 3.2.425 Development Standards

In addition to applicable provisions contained elsewhere in this code, the development standards listed in this section apply to all development in industrial districts. In cases of conflicts, standards specifically applicable in the industrial district apply. In cases of conflicts in this section between the general standards and the area-specific standards, the area-specific standards apply.

#### (A) Lot Area, Dimensions, and Coverage

The following Table 3.3.425 sets forth the industrial district lot area, lot dimension, and coverage standards.

**Commented [MR16]:** See footnote (10) in CI zone. Add this language to Sec. 4.7.160? "If approved in a Conceptual Development Plan, or a Master Plan for the subject CI site, or included in an adopted Public Facilities Plan, high impact public facilities are subject only to Site Plan Review approval."

<b>Table 3.2.425(A) Industrial District Lot Area, Dimension, and Coverage Standards</b>				
<b>Development Standard</b>	<b>CI</b>	<b>LMI</b>	<b>HI</b>	<b>SHI</b>
Minimum lot/parcel size	10,000 square feet	10,000 square feet	10,000 square feet	10,000 square feet see (1) below
Minimum frontage, see (2) below	75 feet	75 feet	75 feet	75 feet
Panhandle lot/parcel minimum frontage, both single and double panhandles	N/A	40 feet	40 feet	40 feet
Maximum lot/parcel coverage	Limited only by requirements of others Sections of this Code			

- (1) Until annexed to the City, the minimum lot/parcel size in the SHI District must be 40 acres and the minimum development area must be 10 acres.
- (2) The frontage standard does not apply when the following are met:
  - (a) The lots/parcels have been approved as part of a Master Plan, Site Plan, Subdivision, or Partition; and
  - (b) Access has been guaranteed via a private street or driveway by an irrevocable joint use/access agreement as specified in Section 4.2.120A.

**(B) Setbacks**

Setbacks provide separation between industrial and nonindustrial uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation. All developments must meet applicable fire and building code standards, which may require greater setbacks than those listed in this section (e.g., for combustible materials, etc.).

Required setbacks are measured from the special street setback in Section 4.2.105N, where applicable.

The following setback standards apply to all structures, except as otherwise provided by this section.

**(1) Front yard building setback**

- (a) Campus Industrial District.
  - (i) The minimum front yard building setback is 20 feet if abutting a local street.

(ii) The minimum front yard building setback is 30 feet if abutting a collector or arterial street.

(b) Light Medium Industrial District. The minimum front yard building setback is 10 feet.

(c) Heavy Industrial District. The minimum front yard building setback is 10 feet.

(d) Special Heavy Industrial District. The minimum front yard building setback is 10 feet.

**(2) Parking, driveway, or outdoor storage setback**

(a) Campus Industrial District. The minimum yard setback for parking, or driveway is 5 feet from any property line. In the CI district no outdoor storage is allowed.

(b) Light Medium Industrial District. The minimum yard setback for parking, driveway, or outdoor storage is 5 feet from any property line.

(c) Heavy Industrial District. The minimum yard setback for parking, driveway, or outdoor storage is 5 feet from any property line.

(d) Special Heavy Industrial District. The minimum yard setback for parking, driveway, or outdoor storage is 5 feet from any property line.

**(3) Other setbacks**

(a) Building Setback from a R-1, R-2, or R-3 residential district.

(i) Campus Industrial District. The minimum setback for a building from a residential district boundary is 50 feet.

(ii) Light Medium Industrial District. The minimum setback for a building from a residential district boundary is 10 feet.

(iii) Heavy Industrial District. The minimum setback for a building from a residential district boundary is 10 feet.

(iv) Special Heavy Industrial District. The minimum setback for a building from a residential district boundary is 10 feet.

(b) Building setback from a CI district.

(i) Campus Industrial District. NA.

(ii) Light Medium Industrial District. The minimum setback for a building from a CI district boundary is 10 feet.

Commented [KK17]: specify R-1, R-2 and R-3 residential districts? When it's broad, always leaves some confusion on how it applies to mixed use zones.

- (iii) Heavy Industrial District. The minimum setback for a building from a CI district boundary is 10 feet.
- (iv) Special Heavy Industrial District. The minimum setback for a building from a CI district boundary is 10 feet.
- (c) Building Setback within the CI District from other districts. The minimum setback for a building within the CI district from another nonresidential district boundary is 10 feet.
- (d) Building separation from other buildings within the CI District. Campus Industrial District. The minimum building separation between buildings in the CI district is 20 feet.
- (4) **Setback Exceptions & Special Circumstances**
  - (a) Where a public utility easement (PUE) is larger than the required setback standard, no building or above grade structure, except a fence, can be built upon or over that easement.
  - (b) CI District setback exceptions. Required building setbacks and separations may be reduced through the Site Plan Approval process without a variance when:
    - (i) The building design incorporates landscaped stormwater quality facilities within the setback area that also enhances pedestrian amenities and the campus environment;
    - (ii) Necessary to protect natural assets identified in the Gateway Refinement Plan or elsewhere in this Code;
    - (iii) Necessary to preserve existing healthy mature trees;
    - (iv) Necessary to accommodate handicapped access requirements; or
    - (v) Legally created lots/parcels do not meet the minimum lot/parcel size.

Commented [KK19R18]: Yes because it reads as though there is no setback

Commented [MR18]: Delete?

Commented [KK20]: Some of these are not setbacks to exceptions but instead additional setback requirements

Commented [RM21]: Keep or delete? this would be true even if we don't state it here.

Commented [KK22R21]: I think you keep because this adds to the available enforcement mechanisms: PUE restrictions that are only stated on the plat arguably aren't enforceable in muni court. This language would allow us to use code enforcement process to cite building in the PUE instead of having to use circuit court for injunctive relief.

Table 3.2.425(B) summarizes the above setback standards.

<b>Table 3.2.425(B) Setback Standards</b>				
<b>Development Standard</b>	<b>CI</b>	<b>LMI</b>	<b>HI</b>	<b>SHI</b>
Front setback for building	20/30 feet	10 feet	10 feet	10 feet
Setback for parking, driveway, or outdoor storage	5 feet	5 feet	5 feet	5 feet
Building setback from residential district	50 feet	10 feet	10 feet	10 feet
Building setback from CI district	N/A	10 feet	10 feet	10 feet
Building setback within the CI district from other district	20 feet	N/A	N/A	N/A
Building separation from other buildings within CI district	20 feet	N/A	N/A	N/A

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**(C) Height**

- (1)** The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale.
  - (a)** Buildings and structures in the Campus Industrial District are limited to the maximum height of 45 feet.
  - (b)** Buildings and structures in the Light Medium Industrial, Heavy Industrial, and Special Heavy Industrial Districts have no maximum height, except when abutting a residential district. When abutting a residential district the following height standards apply:
    - (i)** The height of a structure must not exceed the height permitted in the adjacent residential land use district for a distance of 50 feet.
- (2)** Incidental equipment, as defined in SDC 6.1.110 may exceed the height standard.

Table 3.2.425(C) summarizes the above height standards.

<b>Table 3.2.425(C) Height Standards</b>				
<b>Development Standard</b>	<b>CI</b>	<b>LMI</b>	<b>HI</b>	<b>SHI</b>
Maximum Height	45 feet	No Maximum Height, except when abutting residential districts (see below)		
Industrial District abuts an R-1 or R-2 District	N/A	The height of a structure must not exceed the height permitted in the adjacent residential land use district for a distance of 50 feet from the property line.		

**ADD TO SPECIAL USE STANDARD SECTION AND CI LAND USE DISTRICT STANDARDS**

- (4)** Corporate headquarters, regional headquarters, and administrative offices may be permitted as part of a large-scale light-manufacturing use or located within a business park. Corporate and regional headquarters may also stand alone. The acreage comprising stand alone corporate or regional headquarters site must be applied to the 40 percent gross acre standard for business parks specified in Note (2), above. Corporate and regional headquarters must have at least 20 or more employees at the time of occupancy.

**[NOTE]** All of the additional language of SDC 3.2-424 – 3.2-450 as applicable to the CI District specific development standards and Business/Industrial Park standards will be included below unchanged except for formatting and minor editing for consistency.

From footnote 9 under use table. Include in CI specific development standards.

(9) Warehousing is permitted only as a secondary use in the following circumstances:

- (a) For the storage and regional wholesale distribution of products manufactured in the CI District;
- (b) For products used in testing, design, technical training or experimental product research and development in the CI District; and/or
- (c) In conjunction with permitted office-commercial uses in the CI District.
- (d) The secondary use status of warehousing is typically determined by a square footage standard which is less than 50 percent of the gross floor area of the primary use. In the CI District, the number of employees at the time of occupancy may also be used to determine secondary use standards status. In this case, the primary use must have 20 or more employees and the warehousing use must have fewer employees than the primary use. If the employee standard is met, the warehousing use may have more square footage than the primary use.

## Section 4.2.100 Infrastructure Standards—Transportation

### Subsections:

- 4.2.105 Public Streets
- 4.2.110 Private Streets
- 4.2.120 Site Access and Driveway Standards
- 4.2.125 Intersections
- 4.2.130 Vision Clearance Area
- 4.2.135 Sidewalks
- 4.2.140 Street Trees
- 4.2.145 Lighting Standards
- 4.2.150 Multi-Use Paths
- 4.2.160 Accessways

### 4.2.105 Public Streets

#### (A) General Provisions

- (1) All public streets and alleys must be improved as specified in this Code and must be dedicated through the approval of a subdivision plat or by acceptance of a deed approved by the City.
- (2) Functional Classification of Streets. The City's street system consists of streets that are classified as Major and Minor Arterial streets, Major and Minor Collector streets, Local streets and Alleys, consistent with the Springfield Transportation System Plan (Figure 2) and the *Federally Designated Roadway Functional Classification* map, contained in the Regional Transportation Plan. Local Streets include all streets not classified as Arterial or Collector streets.
- (3) New connections to arterials and state highways must be consistent with any designated access management category.

(B) An applicant may be required to prepare a Traffic Impact Study (TIS) to identify potential traffic impacts from proposed development and needed mitigation measures. A TIS is required if any of the following criteria are met:

- (1) Peak Hour Threshold. If a change in land use or intensification of an existing use generates 100 or more trips during any peak hour as determined by procedures contained in the most recent edition of the Institute of Transportation Engineers *Trip Generation Manual*, a TIS must be performed by a registered professional engineer.
- (2) Average Daily Traffic Threshold. If a change in land use or intensification of an existing use generates 1,000 or more trips per day as determined by procedures contained in the most recent edition of the Institute of Transportation Engineers *Trip Generation Manual*, a TIS must be performed by a registered professional engineer.

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(3) Variance and Known Issues Threshold. The Director may determine that a TIS is necessary to support a request for a Variance from the transportation provisions of this code or where traffic safety, street capacity, future planned facility, or multimodal concerns may be associated with the proposed development.

(4) The nature and extent of the TIS scope is determined by the Director based upon a trip distribution and assignment prepared by the Applicant. At a minimum, locations impacted by more than 20 trips during the identified peak hour must be included in the trip distribution and assignment.

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(5) The Director may modify TIS requirements consistent with applicable local and regional transportation system plans and the intent of this Code when existing conditions make their strict application impractical or inconsistent with accepted site planning or transportation planning principles.

(C) Minimum street curb-to-curb widths and minimum street right-of-way widths are as specified in Table 4.2.1, unless otherwise indicated in the Springfield Transportation System Plan, an applicable Refinement Plan, Plan District, Master Plan, Conceptual Development Plan, or the adopted bicycle and pedestrian plan; where necessary to achieve right-of-way and street alignment; or as needed to meet site-specific engineering standards, including but not limited to requirements for multi-way boulevard and/or modern roundabout designs. Example street layouts meeting minimum street standards are provided in Figures 4.2.B through 4.2.V for illustrative purposes only. These Figures are intended to demonstrate potential street configurations that meet the requirements.

**Table 4.2.1  
Minimum Street Right-of-Way and Curb-to-Curb Standards**

Fig. No.	Street Classification	Right-of-Way (1)	Curb-to-Curb Width (1)	Travel Lanes	Travel Lanes Width	Turn Lane Width (2)	Bikeways (3)	Planting Strip and Curb (4)	Sidewalk
4.2 B-D	Major Arterial (5)	100'/92'/84'	76'/69'/60'	4	12'	14' where required	6' both sides	5'	7' both sides
4.2 E-G	Minor Arterial (5)	76'/68'/60'	52'/44'/36'	2	12'	14' where required	6' both sides	5'	7' both sides
4.2 H-J	Major Collector	72'/64'/56'	52'/44'/36'	2	12'	14' where required	6' both sides	5'	5' both sides
4.2 K-M	Minor Collector – Non-Residential Districts (6)	70'/62'/54'	50'/42'/34'	2	11'	13' where required	6' both sides	5'	5' both sides
4.2 N-P	Minor Collector – Residential Districts (6)	58'/50'/42'	38'/30'/22'	2	11'	13' where required	N/A	5'	5' both sides
4.2 Q-S	Local Street <15 percent slope (7)	57'/49'/41'	36'/28'/20'	2	10'	N/A	Not required	5'	5' both sides
4.2 T-V	Local Street ≥15 percent slope (7)	48'/40'/32'	36'/28'/20'	2	10'	N/A	Not required	6" curbs only	5' both sides

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Fig. No.	Street Classification	Right-of-Way (1)	Curb-to-Curb Width (1)	Travel Lanes	Travel Lanes Width	Turn Lane Width (2)	Bikeways (3)	Planting Strip and Curb (4)	Sidewalk
	Cul-de-sac Bulb	83' diameter	70' diameter	N/A	N/A	N/A	N/A	5' around bulb	5' around bulb
	Alley	20'	No curbs, 18' paving width	N/A	N/A		N/A	Not required	Not required

- (1) Minimum right-of-way widths and curb-to-curb widths are listed in this order: Streets with parking on both sides of street/Streets with parking on one side of street/Streets with no on-street parking. Where indicated, parking width is eight feet per side of street. Minimum right-of-way widths and curb-to-curb widths listed above do not include additional right-of-way width and curb-to-curb width required to accommodate a center turn lane or center median.
- (2) When a center turn lane or center median is required to address a significant volume of left-turn traffic or other safety or site-specific engineering concerns, additional right-of-way width and curb-to-curb width is required to accommodate the turn lane and/or center median. Width of the turn lane will be not less than the standard provided in Table 4.2.1 above.
- (3) Bike lanes on one-way streets must be on the right side of the street, except in the case where a left-side bike lane would cause fewer conflicts, and people riding bicycles can return to the right safely.
- (4) The planting strip and curb includes four and a half foot planting strip and six inch curb on both sides of the street, unless otherwise indicated in Table 4.2.1.
- (5) Arterial streets that are Oregon Department of Transportation (ODOT) facilities are not subject to the standards in Table 4.2.1, but must meet ODOT design standards.
- (6) Residential land use districts are those listed in SDC 3.2.200. All other land use districts are non-residential for the purposes of Table 4.2.1. Where opposite sides of the street are zoned with residential and non-residential uses, the non-residential standards apply.
- (7) Slope is the average slope of the development area per the calculation in SDC 3.3.520(A). Minimum right-of-way width for local streets includes six inches behind the sidewalk for property pins.

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#### (D) Street Network Standards—General Criteria

- (1) **Collector and Arterial Streets.** Subject to the standards of this code, the location of collector streets and arterial streets must comply with the Transportation System Plan, including the Conceptual Street Map.
- (2) **Local Streets.** The local street network, which includes pedestrian accessways and multiuse paths, must meet the following standards:
  - (a) The local street network must efficiently and safely accommodate all modes of travel including pedestrians, bicyclists, and emergency service vehicles.
  - (b) The local street network must not create excessive travel lengths, particularly for pedestrians and cyclists.
  - (c) Streets must be interconnected to provide for the efficient provision of public and private utilities.
  - (d) Streets must provide connections to and from Neighborhood Activity Centers and other areas that attract high levels of pedestrian and bicycle traffic, or alternative

bicycle or pedestrian facilities must provide connections where street connections are not practical.

- (e) The alignment of local streets must minimize impacts to waterways and wetlands, and must follow slope contours where possible.
- (f) The alignment of local streets must enhance the efficiency of the regional collector and arterial street system by balancing traffic volumes on local streets to promote optimum dispersal.
- (g) The local street network must provide logical and efficient extensions of the public street system to adjoining properties.

### (3) Dead-End Streets

- (a) Dead-end streets must terminate in a cul-de-sac bulb, "hammerhead," or other design that provides adequate vehicular turn-around areas, Public Works access, and pedestrian and bicycle connections as approved by the Director and the Fire Marshal. When development generates additional vehicular trips on an existing dead-end street without a turnaround area, the development must include a turnaround area on the dead-end street that meets the requirements of this subsection.
- (b) A dead-end street, excluding the bulb or other approved vehicular turn-around area, must have a minimum length of 65 feet and must have a maximum length of 400 feet as measured from the nearest curb line of the intersecting street. The right-of-way and paving requirements for cul-de-sac bulbs and other approved vehicular turn-around areas are as specified in Table 4.2.1 of this Code, the Oregon Fire Code, the Development & Public Works Standard Construction Specifications, and the *Engineering Design Standards and Procedures Manual*.

Where streets that are planned to be through streets are partially constructed during phased development, temporary dead-end streets with temporary vehicular turn-around that meet the requirements for a dead-end fire apparatus access road will be permitted with a maximum length of 600 feet as measured from the nearest curb line of the intersecting street.

### (4) Block Length and Block Perimeter

- (a) Block perimeter for all street classifications must not exceed the following maximums, except as provided or exempted elsewhere in this Code or in an applicable Refinement Plan or Plan District:
  - (i) 1,400 feet in Mixed-Use Districts consistent with standards in *SDC* 3.2.625(E);
  - (ii) 2,600 feet in industrial *and use* districts;

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(iii) 2,400 feet for multiple unit housing development subject to SDC 4.7.380 or 4.7.390; and

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(iv) 1,600 feet in other land use districts.

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(b) Block length must not exceed:

(i) 600 feet for local street not in industrial zones or that do not serve industrial non-conforming or the maximum block length established in an applicable Refinement Plan or Plan District, whichever is less;

(ii) 800 feet for multiple unit housing development subject to SDC 4.7.380 or 4.7.390 or the maximum block length established in an applicable Refinement Plan or Plan District, whichever is less;

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(iii) 1,000 feet for local streets in industrial zones or that serve industrial non-conforming uses or the maximum block length established in an applicable adopted Refinement Plan or Plan District, whichever is less.

(c) The Director may authorize a block length or block perimeter that exceeds the applicable maximum specified in this Section. In authorizing a block length or block perimeter that exceeds the above maximum lengths, the Director may establish requirements for interim street connectivity and/or pedestrian accessways consistent with standards in SDC 4.2.160. Where the extension of a public street would create a block length or block perimeter that exceeds the applicable maximum, the block length and block perimeter must be as close as possible to the applicable maximum. The Director will authorize an exception only if the applicant/developer demonstrates that the existence of any of the following conditions justifies the exception:

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(i) Physical conditions that cannot be mitigated necessitate a block length or block perimeter that is longer than the applicable maximum. These conditions may include topography or the existence of physical features, including, but not limited to: wetlands, ponds, streams, channels, rivers, lakes, steep grades, or a resource under protection by State or Federal law; or

(ii) Buildings or other existing development on adjacent lands, including previously subdivided but vacant lots or parcels that physically necessitate a block length or block perimeter that is longer than the applicable maximum, considering the potential for redevelopment; or

(iii) Industrial development areas greater than 25 acres pursuant to an adopted Master Plan.

(E) **Street Network Standards—Needed Housing.** The development of needed housing, as defined in ORS 197.303, must meet the following street network standards, unless the applicant elects review under the general criteria in SDC 4.2.105(D).

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(1) **Collector and Arterial Streets.** Subject to the standards of this Code, the location of collector and arterial streets must comply with the Transportation System Plan, including the Conceptual Street Map.

(2) **Local Streets.** The local street network must meet the following standards:

(a) New local streets, pedestrian accessways, and multiuse paths within a development area must connect to all existing or planned local streets, accessways, and multiuse paths, respectively, including truncated or "stub" streets, accessways, or multiuse paths that abut the development area. For the purposes of this Section, a planned street, accessway, or multiuse path means unimproved dedicated right-of-way; a street or multiuse path adopted in the Transportation System Plan; or a street, accessway, or multiuse path shown in an approved Master Plan, Site Plan, Conceptual Development Plan, or Subdivision Plan.

(b) Where there is an existing or planned local street or multiuse path within ¼ mile of the outer boundary of the development area, a new local street or multiuse path must extend to the outer boundary lines of the development area in alignment with the centerline of existing or planned street or multiuse path. The new street or multiuse path and existing or planned street or multiuse path are in alignment if the angle between the projection of the centerlines of both streets is not less than 170 degrees or more than 190 degrees.

(c) Local streets spaced no greater than 600 feet apart from centerline to centerline must extend to all undeveloped or underdeveloped land that is adjacent to the development area, zoned or designated for residential or mixed use, and ~~five~~ contiguous gross acres or larger. For the purposes of this Section, "underdeveloped" means lots and parcels that are developed at less than half the minimum residential density required in the underlying ~~land use~~ district.

(d) The number of new local street intersections with major collector or arterial streets that provide ingress or egress to the development area must be the smallest number necessary to ensure that not more than 100 dwelling units are attributed to any one intersection with a major collector or arterial street, including via existing local streets that intersect major collector or arterial streets outside the development area. A dwelling unit is attributed to the intersection of a local street and major collector or arterial street that has the smallest travel distance from the centerline of the street at the midpoint of the dwelling unit's frontage to the centerline of the street at the boundary line of the development area.

(e) ~~Street, accessway, and multiuse path connections to adjacent property under SDC 4.2.105(E)(2)(a) through (2)(d) above are not required where the following barriers physically prevent their construction: railroad right-of-way, limited access highway or freeway right-of-way, existing development, streets that would be unable to meet the slope standards specified in SDC 3.3.525, natural resource protection areas listed in SDC 4.3.117(B), or Historic Landmark Sites or~~

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Structures established on the Historic Landmark Inventory according to SDC 3.3.920.

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- (f) Developments must provide fire apparatus access roads as required by and in compliance with the Oregon Fire Code.

**(3) Cul-de-Sacs and Dead-End Streets.** New and existing dead-end streets and cul-de-sacs must meet the standards for dead-end fire apparatus access roads in the Oregon Fire Code and the following standards:

- (a) Cul-de-sacs and dead-end streets that are not planned to be through streets are permitted only when physical barriers prevent the construction of through streets or stubbed streets that meet the local street network standards in SDC 4.2.105(E)(2), or the block length and block perimeter standards in SDC 4.2.105(E)(6). Physical barriers are railroad right-of-way, limited access highway or freeway rights-of-way, existing development, streets that would be unable to meet the slope standards specified in SDC 3.3.525, natural resource protection areas listed in SDC 4.3.117(B), or Historic Landmark Sites or Structures established on the Historic Landmark Inventory according to SDC 3.3.920.

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- (b) All cul-de-sacs and dead-end streets, including stubbed streets required under SDC 4.2.105(E)(2)(a) through (2)(c) above, must meet the length standards in SDC 4.2.105(D)(3)(b).

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- (c) A cul-de-sac or dead-end street that is not a stubbed street must include one or more pedestrian accessways or multiuse path connections from the cul-de-sac or dead-end street to an existing or planned street, accessway, or multiuse path when the cul-de-sac or dead end street is within  $\frac{1}{4}$  mile of a Neighborhood Activity Center, as measured in a straight line from the nearest outer boundary of the Neighborhood Activity Center to the centerline of the dead-end street at its terminus or the center point of the cul-de-sac. The accessway or multiuse path must be located in a manner that would shorten the walking and biking distance from the cul-de-sac or dead-end street to the Neighborhood Activity Center as compared to the shortest walking or biking distance without the connection.

An accessway or multiuse path is not required where physical barriers listed under SDC 4.2.105(E)(3)(a) above prevent construction of any accessway or multiuse path under this section, or when no accessway or multiuse path would decrease the walking or biking distance from the cul-de-sac or dead-end street to the Neighborhood Activity Center.

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**(4) Block Length and Block Perimeter**

- (a) Block perimeter for all local and minor collector streets must not exceed the following maximums:

- (i) 1,400 feet in Mixed-Use Districts, consistent with standards in SDC 3.2.625(E);
  - (ii) 2,400 feet for multiple unit housing development subject to SDC 4.7.380 or 4.7.390; and
  - (iii) 1,600 feet for all other development and in all other land use districts.
- (b) Block length for local streets must not exceed:
- (i) 800 feet for multiple unit housing development in residential land use districts; and
  - (ii) 600 feet for all residential development other than multiple unit housing development in all land use districts.
- (5) **Maximum Street Grades.** Street grades must not exceed 8% on major and minor arterial streets, 10% on major and minor collector streets, and 12% on local streets.
- (6) **Intersections of Streets and Alleys**
- (a) **Angles.** Streets and alleys must intersect one another at an angle as close to a right angle (i.e., 90 degrees) as possible. Street intersections must have a minimum intersection angle of 80 degrees. All legs of an intersection must meet the above standard for at least 100 feet from the point of intersection of the street centerlines. No more than two streets may intersect at any location (i.e., not creating more than a four-legged intersection) unless at a roundabout.
  - (b) **Intersection Offsets.** Intersections must be offset at least 100 feet on a local street, 200 feet on a minor collector street, and 400 feet on a major collector or arterial street, or the safe stopping sight distance as determined by the AASHTO publication "A Policy on Geometric Design of Highways and Streets," whichever is greater. Offset distance must be measured from the curb or edge of pavement or, where there is no curb, to the closest curb or edge of pavement of the next offset street.

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#### (F) Medians

- (1) **General.** A raised median physically deters vehicles from crossing or entering a median area by way of a raised curb or concrete barrier. Raised medians help avoid crashes caused by crossover traffic, reduce headlight glare distraction, prevent traffic turning left from through lanes, provide refuge for pedestrians crossing the street, and remove turning traffic from through lanes, thereby maintaining efficient and safe traffic flow. Median design and installation must follow the standards in the Manual on Uniform Traffic Control Devices and AASHTO's "A Policy on Geometric Design of Highways and Streets."
- (2) **Raised Median Width and Size**

(a) In addition to the minimum street curb-to-curb and right-of-way standards specified in SDC 4.2.105(C), extra right-of-way width for medians may be required through a land use decision process, to address known safety issues or fulfill safety and operational needs as specified in this Code or identified in an engineering study.

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**(b) Elongated Median**

(i) An elongated median intended to deter turning movements must be a minimum of four feet wide and no less than 150 square feet in area. Where a raised median is required on a facility with an existing median area between opposing travel lanes, the new raised median must be the same width as the existing median area minus the distance from the edge line striping required in the Manual on Uniform Traffic Control Devices.

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Alternatively, in special circumstances where the necessary right-of-way cannot be provided or obtained, medians intended to deter turning movements may be as narrow as two feet wide as approved by the Director through a land use decision process.

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(ii) An elongated median intended as a pedestrian refuge must be a minimum of eight feet wide, and no less than 150 square feet in area. Alternatively, in special circumstances where the necessary right-of-way cannot be provided or obtained, pedestrian refuge medians may be as narrow as six feet wide as approved by the Director through a land use decision process.

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**(3) Length of a Raised Median**

(a) Where medians are required to prohibit turns into a specific access, the median must fully cover the access location plus an additional 20 feet on either end. Modifications to median length given site specific needs may be approved by the Director.

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(b) The length of raised medians not intended for pedestrian refuge is determined based on the storage length requirements of a turn lane as determined in a TIS, or based on safety and operational needs of the street first and access second.

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**(G) Additional Right-of-Way and Street Improvements**

(1) Whenever an existing street of inadequate width is abutting or within a development area requiring Development Approval, dedication of additional right-of-way is required. Whenever street dedication results in right-of-way that does not connect with the City street system, a deed restriction must be recorded with the Lane County Deeds and Records stating that the property will not be built upon until a fully improved street is constructed to serve the property, and connect with the City street system.

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(2) Whenever a proposed land division or development will increase traffic on the City street system and the development site has unimproved street frontage, that street

frontage must be fully improved to City specifications in accordance with the following criteria:

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(a) When fully improved street right-of-way abuts the property line of the subject property, street improvements must be constructed across the entire property frontage.

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(b) When there is a fully improved partial-width street opposite the frontage of the subject property, street improvements must be constructed across the entire property frontage to provide a full-width street.

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(c) Where property has frontage on unpaved street right-of-way, or where unpaved street right-of-way extends to a side property boundary, the minimum level of street improvements necessary to provide for the safe and efficient movement of vehicles and pedestrians from/to the proposed development must be constructed.

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(d) Where there is multiple unit housing, commercial, or industrial development at the intersection of a fully improved street and an unimproved street, if access is taken from the unimproved street, the unimproved street frontage must be improved.

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(i) In all other cases of unimproved streets, an Improvement Agreement will be required as a condition of Development Approval, postponing improvements until the time that a City street improvement project is initiated.

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(ii) Siting accessory structures or other structures not occupied by humans, or changes of use which do not increase parking requirements are not be considered development which increases traffic on the City street system; full street improvement or an Improvement Agreement will not be required.

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(3) An approved performance bond or suitable substitute in a sufficient amount to ensure the completion of all required improvements, including the installation of sidewalks and accessways is required prior to occupancy or Final Plat approval when necessary to ensure compliance with a development agreement.

(4) Partial-width streets are be permitted only if both of the following approval criteria are met:

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(a) There is inadequate right-of-way to install a full-width street improvement without changing street alignments; and

(b) The partial-width street is adequate to carry anticipated traffic loads until adjacent properties are developed and the street is fully improved.

(5) If the developer bears the full cost of dedicating the necessary right-of-way for and/or constructing partial-width street improvements, the developer may retain a reserve strip subject to the following terms and conditions:

- (a) The retention of this strip does not constitute either an express or implied agreement by the City:
  - (i) To require an abutting property owner to take access to the street across the reserve strip;
  - (ii) To withhold approval of development and building on abutting property unless the abutting property owner takes access to the street across the reserve strip;
  - (iii) That it will not or cannot prohibit access from abutting properties to the street across the reserve strip.

- (b) Abutting property owners may purchase access rights across the reserve strip by paying to the developer a prorated share of the developer's costs of the fully improved street. The developer must submit actual development costs to the City within six months following street construction. The cost of purchasing access rights across the reserve strip must include the actual construction cost per lineal foot, plus inflation, at a rate not to exceed five percent per year. It is not be the City's responsibility to record legal documents.

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- (H) Where a development would result in the need to improve a railroad crossing, or an approach to a railroad crossing, the developer must bear the cost for the permitting and improvements. When other property owners are benefited, other equitable means of cost distribution may be approved by the City.

#### (I) Traffic Control Devices

- (1) All traffic control signs, pavement markings, street name signs, and other traffic control devices must be in conformance with the U.S. Department of Transportation's Manual of Uniform Traffic Control Devices for Streets and Highways (including Oregon supplements), the Engineering Design Standards and Procedures Manual, the Development & Public Works Standard Construction Specifications, and this Code.

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- (2) Unless otherwise approved by the Director:

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- (a) The developer is responsible for providing and installing all traffic control devices and street name signs as necessary to support the proposed development.

- (b) Where a proposed street intersection will result in an immediate need for a traffic control device, the developer bears the cost for the improvements. When other property owners are benefited, other equitable means of cost distribution may be approved by the City.

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- (J) Bus turn out lanes must be consistent with current standards in the Engineering Design Standards and Procedures Manual.

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- (K) Street names are assigned as specified in the Springfield Municipal Code.

- (L) The Director may require a developer to install traffic calming measures, including, but not limited to, speed tables and mini-roundabouts, to address public safety considerations on roadways.

**(M) Special Street Setbacks**

- (1) A special street setback is established in the following circumstances:
- (a) A special street setback is established as provided in Table 4.2.1(A) wherever there is: (i) partially-improved or unimproved street or alley right-of-way of inadequate width abutting a property; (ii) right-of-way that terminates at a property line; or (iii) right-of-way that terminates at a T-intersection with a local street abutting the property line.
  - (b) A special street setback is established wherever future right-of-way is shown in the Springfield Transportation System Plan, a refinement plan, or on an adopted Master Plan, Site Plan, Conceptual Development Plan, Subdivision or Partition for the width of the street shown on said plan, or as provided in Table 4.2.1(A) if no width is specified.
- (2) Buildings are not permitted within the special street setback specified in this section. Any portion of a building lawfully established within a special street setback prior to adoption of this ordinance is considered a non-conforming building subject to SDC 5.8.100.
- (3) The special street setbacks provided in Table 4.2.1(A) are based on the functional classification of the street as shown in the Springfield Transportation System Plan, including the Conceptual Street Map. Where a street is not shown in the Springfield TSP, including the Conceptual Street Map, the special setback for local streets applies.
- (4) The special setback provided in Table 4.2.1(A) is measured from the centerline of the existing or future street right-of-way as follows:
- (a) Where partially-improved or unimproved right-of-way of inadequate width abuts a property line, the setback is measured from the location where the centerline would be if the street was fully improved.
  - (b) Where right-of-way terminates at the property line or at a T-intersection on only one side of a property, the centerline is the straight line continuation of the centerline of the abutting right-of-way until it reaches the property line on the opposing side.
  - (c) Where right-of-way terminates at the property boundary on two sides, the centerline is the straight line between the points where the right-of-way centerlines intersect the property lines on each side.

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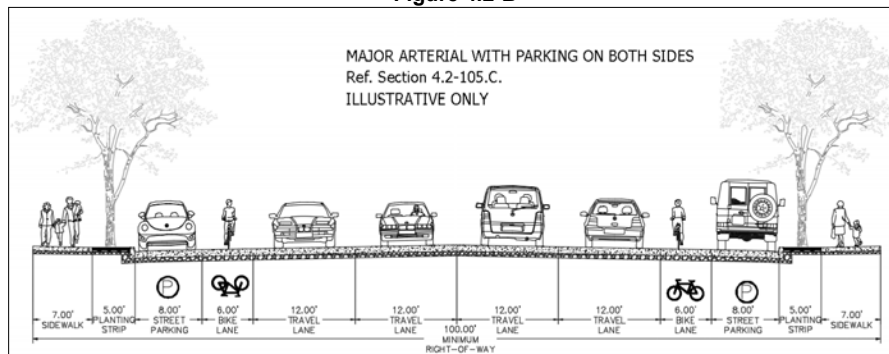
- (d) Where right-of-way terminates at the property line on one side and at a T-intersection on the other side, the centerline is the straight line from the right-of-way centerline intersection with the property line to the intersection of the existing street centerlines at the T-intersection.
  - (e) Where right-of-way terminates at T-intersections on two sides of a property, the centerline is the straight line between the intersections of the existing street centerlines at each T-intersection.
- (5) Other yard or building setbacks are in addition to the special setbacks required by this section. Those setback distances must be measured at right angles to the street centerline specified above.

**Table 4.2.1(A)**  
**Special Street Setbacks**

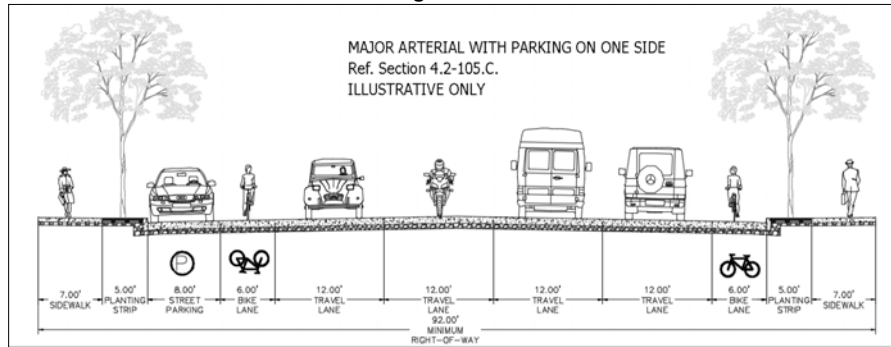
Street Classification	Setback Distance from the Centerline (1)
Major Arterial	50'
Minor Arterial	38'
Major Collector	36'
Minor Collector	35'
Local Street, <15 percent slope	28.5'
Local Street, ≥15 percent slope	28'
Alley	10'

- (1) Where fully improved right-of-way abuts the property line of the subject property, the setback distance is one-half of the width of the existing, fully improved right-of-way.

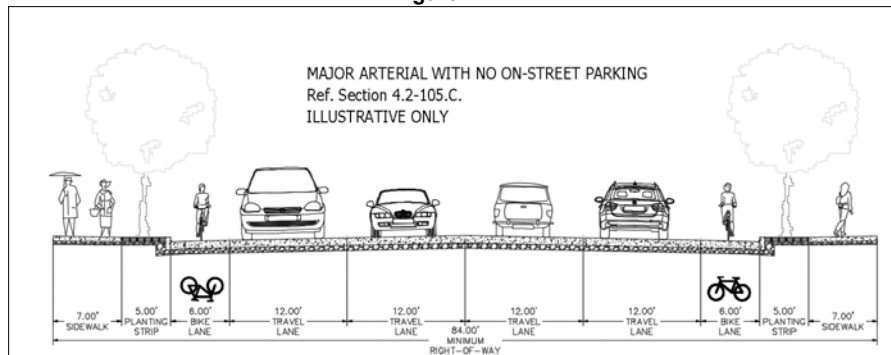
**Figure 4.2-B**



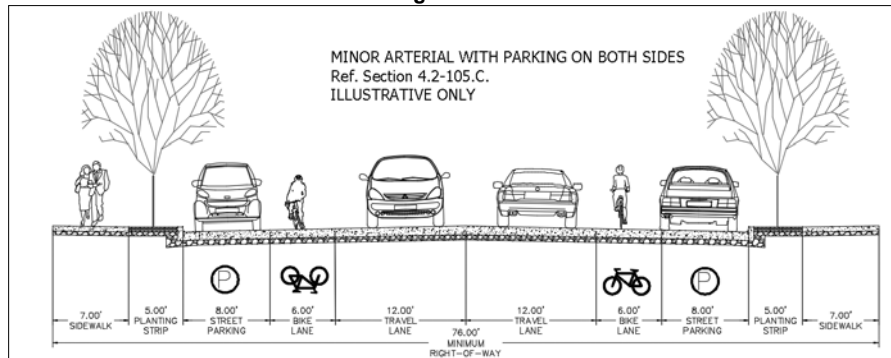
**Figure 4.2-C**



**Figure 4.2-D**

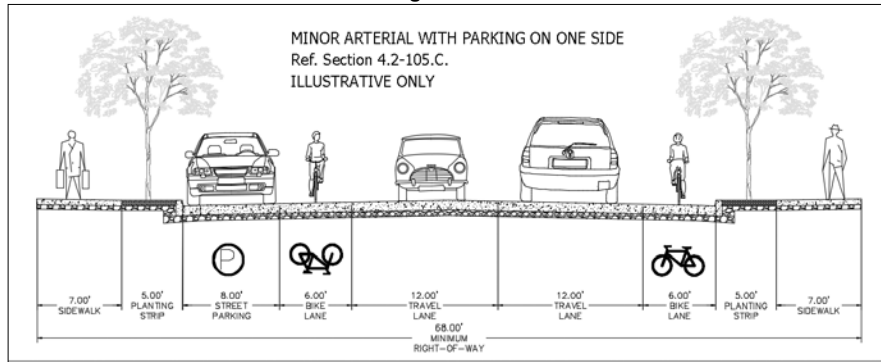


**Figure 4.2-E**

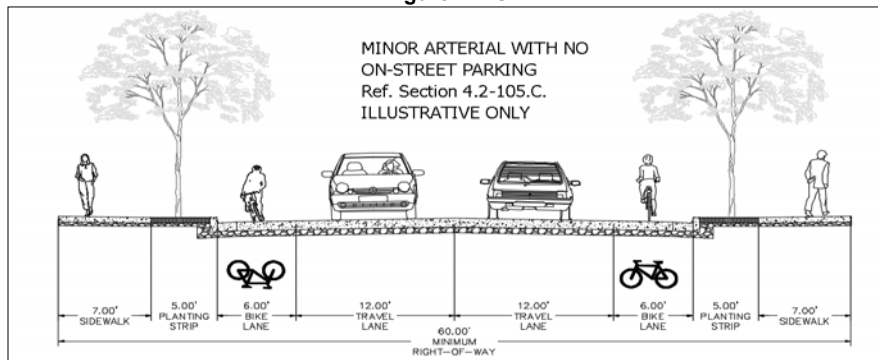




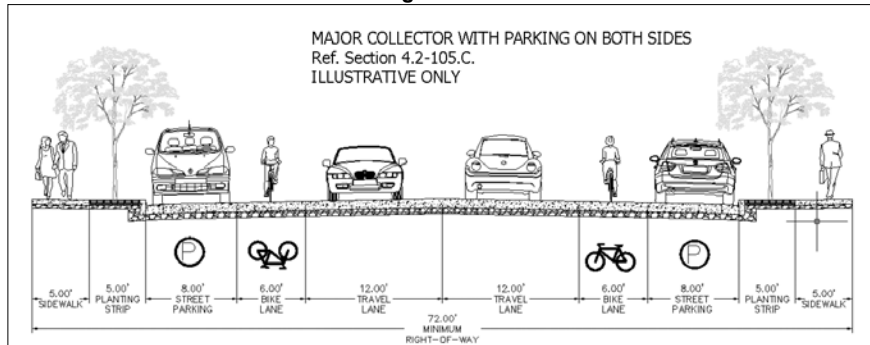
**Figure 4.2-F**



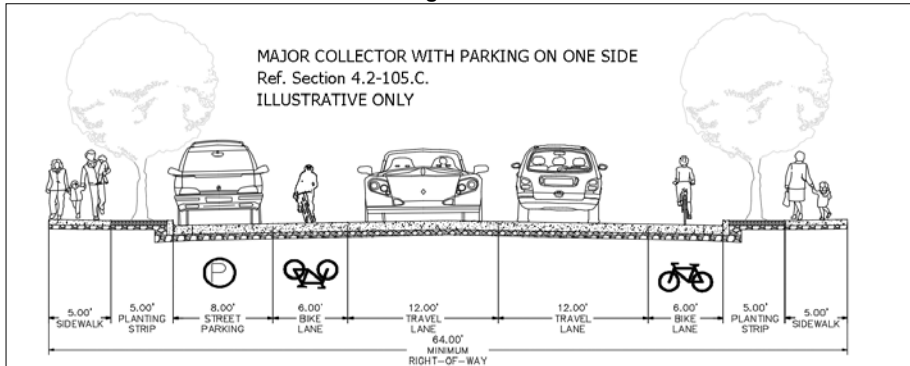
**Figure 4.2-G**



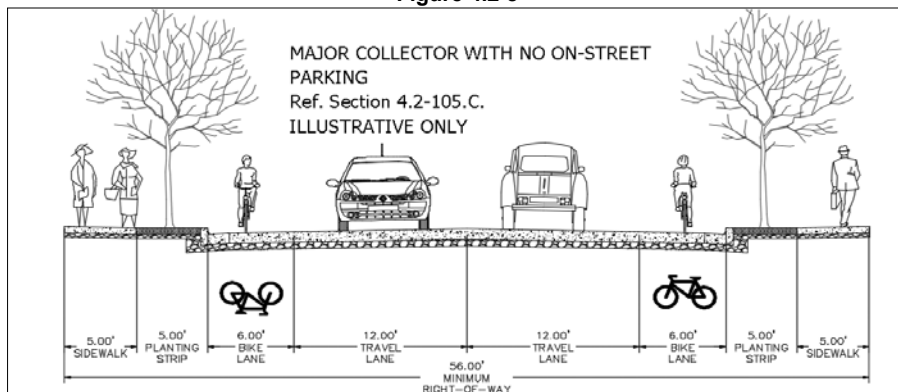
**Figure 4.2-H**



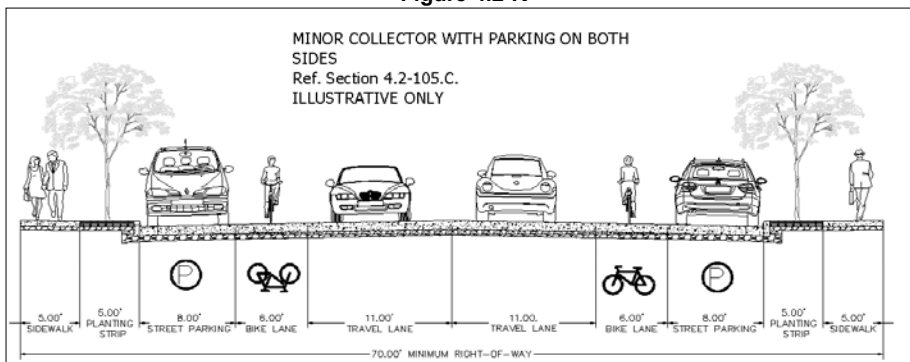
**Figure 4.2-I**



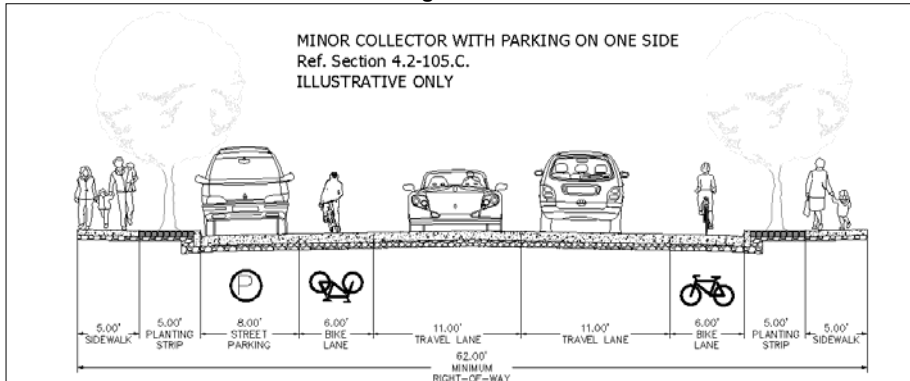
**Figure 4.2-J**



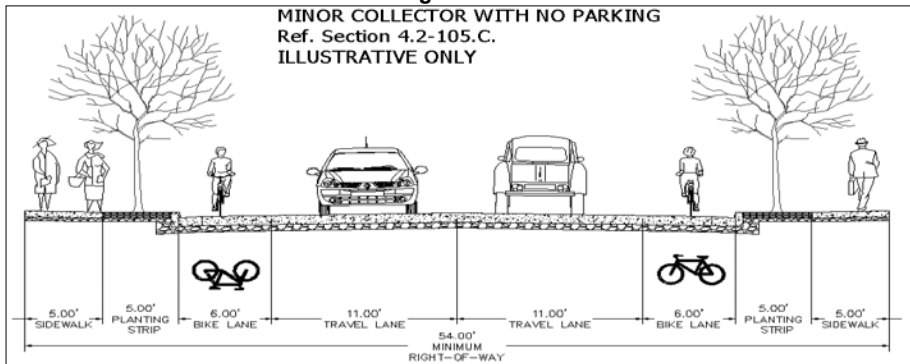
**Figure 4.2-K**



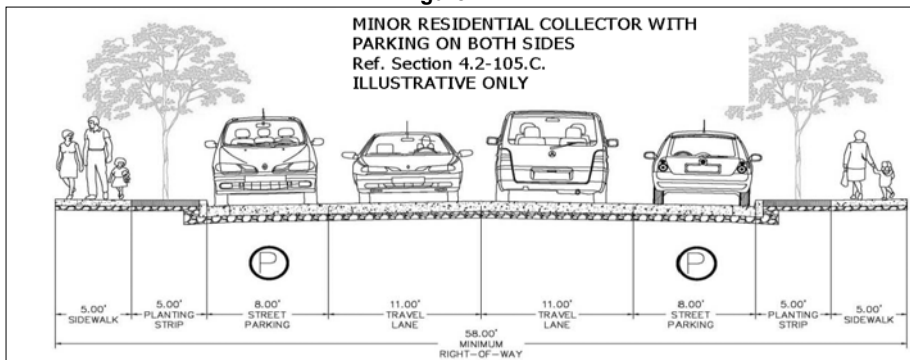
**Figure 4.2-L**



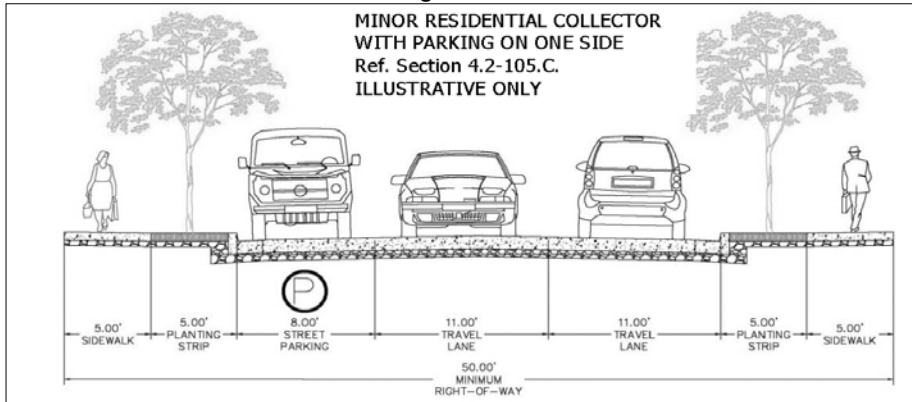
**Figure 4.2-M**



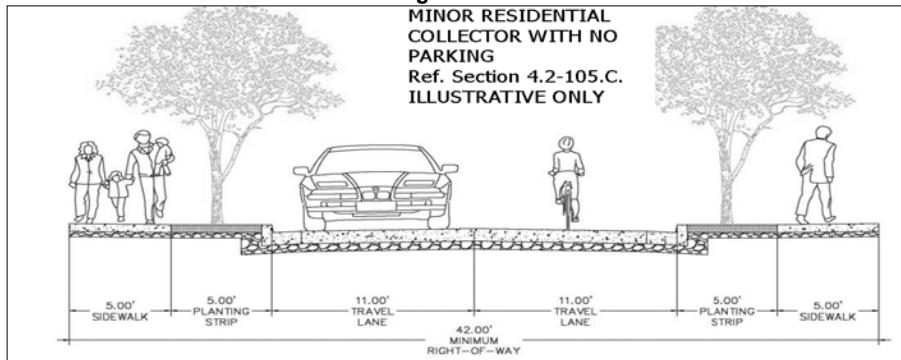
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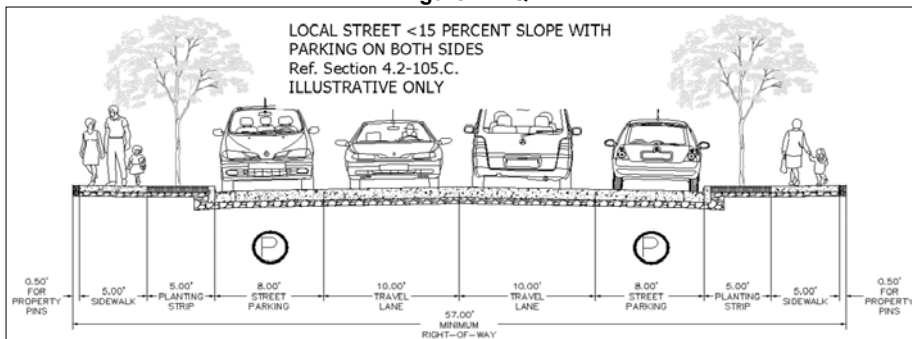
**Figure 4.2-O**



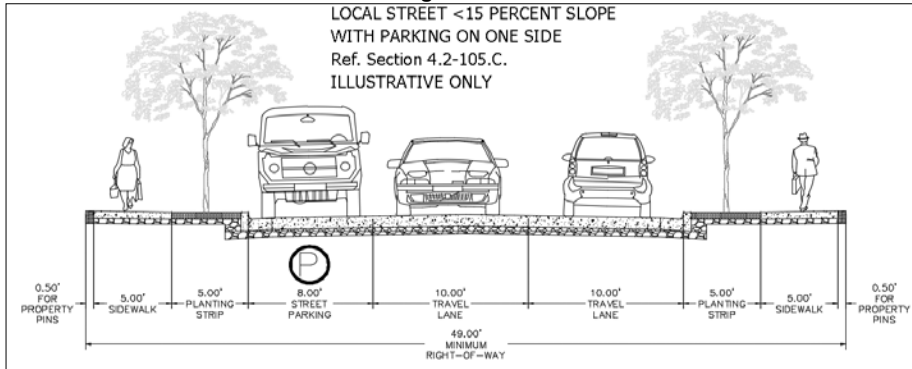
**Figure 4.2-P**



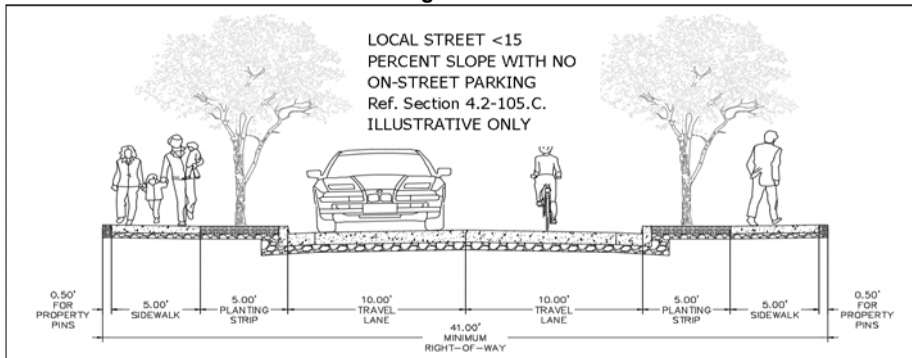
**Figure 4.2-Q**



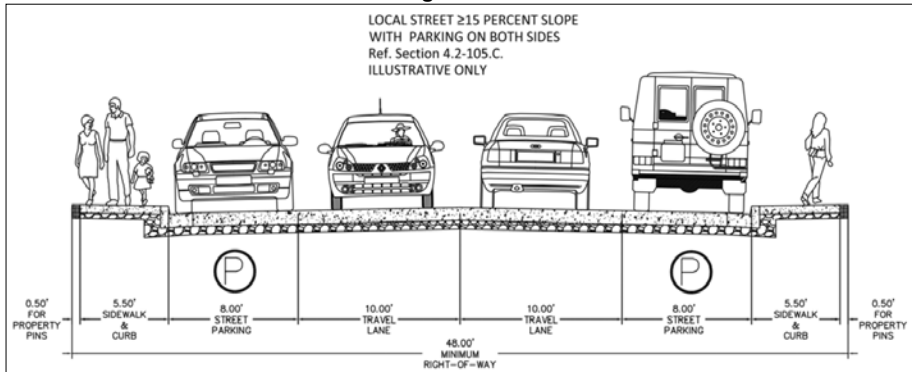
**Figure 4.2-R**



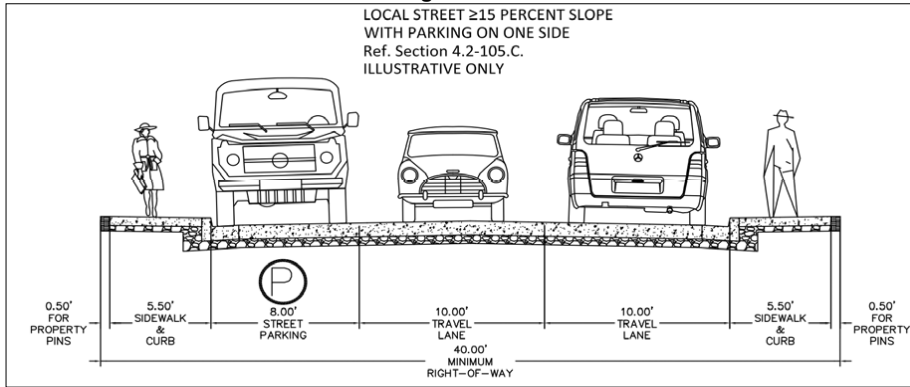
**Figure 4.2-S**



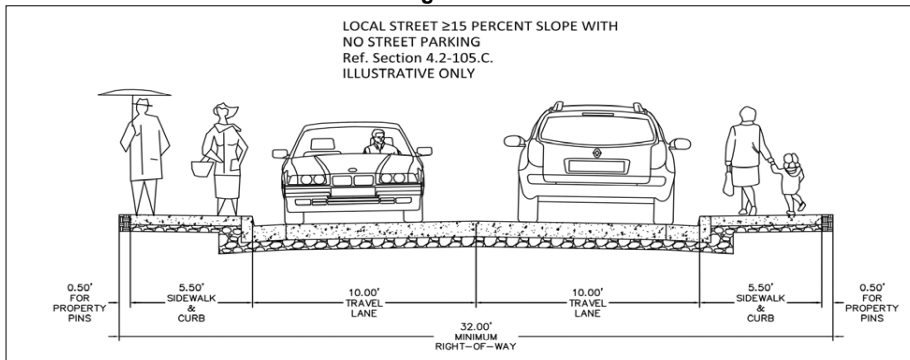
**Figure 4.2-T**



**Figure 4.2-U**



**Figure 4.2-V**



#### 4.2.110 Private Streets

- (A) Private streets are permitted within the development area of Manufactured Dwelling Parks, Multiple Unit Housing development, and singularly owned commercial and industrial developments.
- (B) Private street improvements must meet the driveway standards in SDC 4.2.120(C) and must be constructed as specified in the Engineering Design Standards and Procedures Manual and in the Development & Public Works Standard Construction Specifications.
- (C) The Approval Authority will require a Homeowner's Agreement or other legal assurances acceptable to the City Attorney for the continued maintenance of private streets.

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#### 4.2.120 Site Access and Driveway Standards

##### (A) Site Access and Driveways—General

- (1) All developed lots or parcels are entitled to one approved driveway access provided by either direct access to a:

(a) Public street or alley along the frontage of the property; or

(b) Private street that connects to the public street system. The private street must be constructed as specified in SDC 4.2.110 (private streets are not be permitted in lieu of public streets shown on the Springfield Transportation System Plan, including the Conceptual Street Map); or

(c) Public street by an irrevocable joint use/access easement serving the subject property that has been approved by the City Attorney, where:

(i) A private driveway is required in lieu of a panhandle driveway, as specified in SDC 3.2.220(B), or

(ii) Combined access for two or more lots/parcels is required to reduce the number of driveways along a street, as determined by the Director.

- (2) Driveway access to designated State Highways is subject to the provisions of this Section in addition to requirements of the Oregon Department of Transportation (ODOT). Where City and ODOT regulations conflict, the more restrictive regulations apply.

- (3) As determined by the Director, sites with abutting parking areas within the same land use district may be required to provide driveway connections or pedestrian connections internal to the sites and joint access agreements to provide efficient connectivity and preserve public street functions and capacity.

- (B) Driveways must take access from lower classification streets when development sites abut more than one street and streets are of differing classification as identified in the Springfield Transportation System Plan.

Driveway access to or from a higher classification street may be permitted if no reasonable alternative street access exists or where heavy use of local streets is in-appropriate due to traffic impacts in residential areas.

- (1) Where a proposed development abuts an existing or proposed arterial or collector street, the development design and off-street improvements must minimize the traffic conflicts.

- (2) Additional improvements or design modifications necessary to resolve identified transportation conflicts may be required on a case by case basis.

- (C) Driveways must be designed to allow safe and efficient vehicular ingress and egress as specified in SDC Tables 4.2.2 through 4.2.5 the City's *Engineering Design Standards and Procedures Manual*, and the Development & Public Works Standard Construction Specifications.

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Table 4.2.2

Driveway Design Specifications				
	1-Way Driveway Width	2-Way Driveway Width	Transition Width	Driveway Throat Depth
Land Use	Min./Max.	Min./Max.	Min./Max.	
Single- <del>Unit Dwellings</del> and Duplexes (3) (4)	12'/16'	12'/24' (1)	3'/3'	N.A.
Middle Housing (except duplexes)	See SDC 4.7.320-4.7.330			
Multiple Unit Housing		24'/35' (1)	5'/8'	18' (2)
Commercial/Public Land (4) (5)	12'/18'	24'/35' (1)	8'/N.A.	18' (2)
Industrial (6)	12'/18'	24'/35' (1)	8'/N.A.	18' (2)

- (1) Driveway widths and throat depths may be varied if no other reasonable alternative exists to accommodate on-site development needs and traffic safety is not impaired.
- (2) Measured from the face of curb to the first stall.
- (3) A driveway serving a single-~~unit dwelling~~ or duplex dwelling must be paved from the edge of existing street pavement to the property line and for a distance of at least 18 feet from the property line into the property when abutting a paved street; these driveways may be gravel surfaced for the remainder of their length. A residential driveway abutting an unimproved gravel street may have a gravel surface until the abutting street is paved. Permeable pavement is allowed on a residential driveway consistent with standards in the City's *Engineering Design Standards and Procedures Manual*.
- (4) Off-street vehicle parking is restricted to approved driveways and parking lots, and is not otherwise allowed between the street and primary building, consistent with Springfield Municipal Code Section 5.002(11).
- (5) Driveways for commercial uses must be paved for their entire length.
- (6) Driveways for industrial uses must be paved at least up to any employee or customer parking areas.

Table 4.2.3

Curb Return Driveway Design Specifications					
Land Use	Driveway Width (1)		Radius of Curb (2)		Driveway Throat Depth Minimum (3)
	Min.	Max.	Min.	Max.	
Single- <del>Unit Dwellings</del> and Duplexes	N.A.	N.A.	N.A.	N.A.	N.A.
Middle Housing (except duplexes)	See SDC 4.7.320-4.7.330				
Multiple Unit Housing	24 feet	30 feet	10 feet	20 feet	60 feet
Commercial/Public Land	24 feet	35 feet	15 feet	35 feet	60 feet
Industrial	24 feet	35 feet	15 feet	35 feet	60 feet

- (1) Wider driveways may be permitted to accommodate traffic demands and/or to improve traffic safety.
- (2) Greater curb radii may be permitted where high volumes of large trucks are anticipated.
- (3) Measured from the face of the curb to the first stall or aisle.

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**Table 4.2.4**  
**Minimum Separations Between a Driveway and the Nearest**  
**Intersection Curb Return on the Same Side of the Street (1)**

Land Use	Street Type		
	Arterial	Collector	Local
Single-Unit Dwellings and Duplexes	200 feet	50 feet	30 feet
Middle Housing (except duplexes)			
Multiple Unit Housing	200 feet	100 feet	75 feet
Commercial/Public Land	200 feet	100 feet	75 feet
Industrial	200 feet	200 feet	150 feet

(1) Each category of street is considered separately. Distances may be reduced in the following circumstances:

- (a) Access is from a one-way street.
- (b) The driveway is marked for "right-in-right-out only."
- (c) The driveway is marked "exit only" and is designed to prevent left turns.
- (d) In cases where an existing lot or parcel and/or use make compliance with these specifications unreasonable, a new driveway or an existing driveway required to be relocated by this Code must be placed at the furthest point from the intersection curb return, considering both safety and internal circulation requirements of the development.

#### 4.2.125 Intersections

Intersections must be designed and constructed as specified in the *Engineering Design Standards and Procedures Manual* and the following requirements.

- (A) In order to minimize traffic conflicts and provide for efficient traffic signalization, intersections involving curb return driveways and streets, whether public or private, must be directly opposed, unless a Traffic Impact Study indicates that an offset intersection benefits public safety to a greater degree.
- (B) Streets must be laid out to intersect as nearly as possible at right angles. The angle of intersection between two intersecting streets must be at least 80 degrees. At intersections, each local street must be straight or have a radius greater than 400 feet for a distance of 100 feet from each intersection. At intersections, each collector or arterial street must be straight or have a radius greater than 600 feet for a distance of 100 feet from each intersection.

#### 4.2.130 Vision Clearance Area

- (A) All lots or parcels must maintain a Vision Clearance Area to provide sight distance for approaching traffic. Vision clearance areas must be shown on Site Plans for applicable land use applications.
  - (B) No screens, plantings, or other physical obstructions are permitted between two and a half and eight feet above the established height of the curb in the Vision Clearance Area.
- Items associated with utilities or publicly-owned structures—for example, poles, and signs, and existing street trees—may be permitted.

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- (C) The Vision Clearance Area must be in the shape of a triangle. Two sides of the triangle must be property lines or a property line and edge of driveway for a distance specified in this Subsection. Where the property lines or driveway edge have rounded corners, they are measured by extending them in a straight line to a point of intersection. The third side of the triangle is a line across the corner of the lot or parcel joining the non-intersecting ends of the other two sides. The following measurements establish the Vision Clearance Area:

Table 4.2-5

Type of Intersection	Measurement Along Each Property Line
Any Street	20 feet
Any Alley	15 feet
Any Driveway	10 feet

The Director may require that the Vision Clearance Area be increased to be consistent with the sight distance standards and requirements in the AASHTO Green Book when safety concerns warrant the increase.

#### 4.2.135 Sidewalks

- (A) Sidewalks and planter strips abutting public streets must be located wholly within the public street right-of-way. Alternatively the applicant may propose a design that does not meet this standard, subject to Director approval.
- (B) Sidewalks must be designed, constructed, replaced, or repaired as specified in the Engineering Design Standards and Procedures Manual, the Development & Public Works Standard Construction Specifications, and the Springfield Municipal Code.
- (C) Concrete sidewalks must be provided according to SDC 4.2.105(C), Table 4.2.1, and the following criteria:
- (1) Sidewalks must conform to the existing or planned street grades.
  - (2) Sidewalks must conform to current ADA standards.
  - (3) Sidewalks must be separated from the curb by the planting strip. Alternatively, sidewalks may be proposed to not meet this standard, when necessary for connectivity, safety, or to comply with street design requirements, subject to approval by the Director.
  - (4) New sidewalk width and type must be consistent with existing sidewalk design in the same block, but must physically transition to comply with current sidewalk standards. When replacing damaged sidewalk, new sidewalk must be located in the same position as the existing sidewalk.
  - (5) Facilities including, but not limited to, mail boxes, water meters, valves, junction boxes, manholes, utility poles, trees, benches, fire hydrants, signs, and bus stops must not be located within the sidewalk, and must be removed or relocated prior to the construction or reconstruction of the sidewalk. Alternatively, the City Engineer

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may approve an alternative design to this standard if at least five feet of unobstructed width on arterial class streets and four feet on all other streets will remain around the facility.

- (D) Planter strips are required as part of sidewalk construction. Planter strips must be at least four and a half feet wide (as measured from the back of curb to the edge of the sidewalk) and at least four and a half feet long. Planter strips must have approved landscaping consisting of street trees and ground cover allowed per the Engineering Design Standards and Procedures Manual. Tree wells set in concrete or sidewalk areas must be a minimum of four feet by four feet. Concrete, asphalt, or other impermeable pavement are not allowed to substitute for landscaping within planter strips.

Planter strips less than four and a half feet wide may be permitted when necessary for connectivity, safety, or to comply with street design requirements, subject to approval by the Director.

- (E) Maintenance of sidewalks is the continuing obligation of the abutting property owner.

#### 4.2.140 Street Trees

Street trees are those trees required within the public right-of-way. The primary purpose of street trees is to create a streetscape that benefits from the aesthetic and environmental qualities of an extensive tree canopy along the public street system. Street trees are attractive amenities that improve the appearance of the community, provide shade and visual interest, and enhance the pedestrian environment. Street trees also improve air quality, reduce stormwater runoff, and moderate the micro-climate impacts of heat absorbed by paved surfaces. Street trees may be located within a planter strip or within individual tree wells in a sidewalk, round-about, or median.

In order to meet street tree requirements where there is no planter strip and street trees cannot be planted within the public right-of-way, trees must be planted in the required front yard or street side yard setback of private property as specified in the applicable land use district.

- (A) **New Street Trees.** New street trees must be a minimum of two inches (dbh) caliper. New street trees must be selected from the City Street Tree List contained in Appendix 6A, Approved Street Tree List, in the Engineering Design Standards and Procedures Manual and installed as specified in Chapter 6 of the Engineering Design Standards and Procedures Manual.

#### (B) Existing Street Trees

- (1) **Street Tree Retention Standards.** Existing trees may meet the requirement for street trees (i.e., trees on the City Street Tree List specified in the Engineering and Design Standards and Procedures Manual with a minimum caliper of two inches) if there is no excavation or filling for proposed development within the dripline of the tree. Sidewalks of variable width, elevation, and direction may be used to save existing trees, subject to approval by the Director.

Existing street trees must be retained as specified in the Engineering Design Standards and Procedures Manual. Alternatively, existing street trees may be

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~~approved~~ for removal ~~through a land use decision~~ or in conjunction with a street construction project ~~based on the following street tree removal standards~~.

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## (2) Street Tree Removal Standards

(a) City removal of existing street trees within the public right-of-way is exempt from the tree felling regulations specified in ~~SDC 5.19.100~~.

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(b) Existing street trees on private property cannot be removed without ~~prior~~ authorization by the Director. Removal of ~~five~~ or more street trees on private property is subject to the tree felling standards specified in ~~SDC 5.19.100~~.

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(c) Existing street trees on private property must not be removed to accommodate additional or expanded driveways.

## (3) Street Tree Replacement Standards. Any street tree proposed to be removed ~~must~~ be replaced with a tree at least ~~two~~ inches in caliper.

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(a) It is the responsibility of the City to plant any replacement tree within the public right-of-way.

(b) It is the responsibility of the property owner to plant any replacement street tree on private property, either as a condition of a Tree Felling Permit or when the property owner removes a street tree on private property without the City's authorization. Any replacement street tree ~~must~~ meet the standards specified in Subsection (A), above.

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(c) Whenever the property owner removes a street tree within the public right-of-way without the City's authorization, that person is responsible for reimbursing the City for the full value of the removed tree, to include replanting and watering during the ~~two~~ year tree establishment period.

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## (C) Street Tree Maintenance Responsibility

(1) Maintenance of street trees in the public right-of-way ~~is~~ performed by the City.

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(2) Maintenance of street trees on private property ~~must~~ be performed by the property owner.

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(3) Removal of street trees on private or public property does not constitute maintenance. Any removal of street trees on private property is subject to ~~prior~~ approval by the City ~~as specified in SDC 4.2.140(B)(2)(b) above~~.

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### 4.2.145 Lighting Standards

Lighting design and placement for streets, paths, and accessways must conform to the following design standards and the Development & Public Works Standard Construction Specifications:

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(A) Lighting must be included with all new developments or redevelopment. Existing lighting must be upgraded to current standards with all new developments or redevelopment. The developer is responsible for lighting material and installation costs.

(B) Upon approval by the Director, a developer may install decorative lights, as may be permitted in this section and in the Development & Public Works Standard Construction Specifications.

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(C) Design Standards

(1) Lighting must comply with Illuminating Engineering Society, American National Standards Practice for Roadway Lighting – RP-8-14 and applicable National Electrical Safety Code (NESC) and National Electrical Code (NEC) standards.

(2) Intersections must be illuminated to a level equal to the sum of the average required illuminance of the two intersecting streets.

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(3) Mid-block crosswalks that are approved by the City Traffic Engineer must have two times the illumination required for the street.

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(4) Decorative poles with City-approved LED fixtures and lighting controls must be used on all streets within the Nodal Development Overlay District and where any refinement plan or plan district requires decorative lighting. Decorative poles may be used on streets, paths, and accessways in any other zone at the option of the developer as approved by the Director.

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(5) City-approved LED fixtures and lighting controls must be used when lighting is required along multi-use paths and accessways.

(6) Roadway style poles and “cobra head” fixtures with City-approved LED fixtures and lighting controls must be used along streets in all other locations.

(7) When roadway style poles are used on arterial and collector streets in any zone other than residential, they must be steel or aluminum. When roadway style poles are used on local and collector streets in residential zones, they must be fiberglass, steel, or aluminum.

(8) Where lot frontages are 80 feet or less, light poles must be located at property lines unless approved by the Director.

(9) The weak point illumination must not be less than 0.1 foot candles.

(10) Roadway style light poles set behind sidewalks must have eight foot arm length. Roadway style light poles set between curb and sidewalk or where no sidewalk exists must have six foot arm length.

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(11) Light pole handholes must be used instead of junction boxes. However, junction boxes for street lighting may be utilized for street crossings or where necessary to comply with electrical code standards cited above.

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## (12) Pole Height

- (a) Lights on arterial and collector streets outside of a residential zone must have a 35-foot fixture mounting height.
- (b) Lights on local streets with a curb-to-curb width of 28 feet or greater and collectors within residential zones must have a 30-foot fixture mounting height.
- (c) Lights on local streets with a curb-to-curb width of less than 28 feet must have a 20-foot fixture mounting height.
- (d) Decorative light poles must be 12 feet tall. Alternatively, 16-foot tall decorative poles may be used if approved by the Director when the required illumination levels cannot be achieved with 12-foot tall decorative poles.
- (e) Lighting on local streets must be installed on the same side of the street and on the side of the street first constructed. Alternatively, where necessary to be consistent with the existing lighting design and placement the Director may approve an alternative to this standard through a Type 2 process.
- (f) Light poles must not be placed on the outside of curves with less than a 1,000-foot radius.

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### 4.2.150 Multi-Use Paths

- (A) Development abutting an existing or proposed multi-use path identified in the Springfield Transportation System Plan (including the Conceptual Street Map), City-adopted bicycle and pedestrian plan, or the adopted Willamalane Park and Recreation District Comprehensive Plan must include provisions for the extension of the multi-use path through the development area by the dedication of public easements or rights-of-way. The developer bears the cost of multi-use path improvements.
- (B) Multi-use paths that are dedicated as right-of-way or in a public easement must conform to the Oregon Bicycle and Pedestrian Plan, the Oregon Bike and Pedestrian Design Guidelines, AASHTO guidelines, this Code, and the Engineering Design Standards and Procedures Manual.
- (C) The right-of-way or easement area for a multi-use path must include a minimum paved area of ten feet, a minimum clear zone of two feet on both sides of the path, and any additional width necessary to accommodate lighting required under this Section.
- (D) Where a multi-use path runs parallel and adjacent to a public street, the multi-use path must be separated from the edge of the street by a width of at least five feet or by a physical barrier that meets the standards in the Oregon Bike and Pedestrian Design Guidelines, AASHTO guidelines, or the National Association of City Transportation Officials Urban Bikeway Design Guide.

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- (E) Lighting for multi-use paths must be installed according to the standards in SDC 4.2.145. Lighting must not obstruct the paved surface or two foot clear area on either side. All lighting must be installed within the right-of-way or public easement area.

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#### 4.2.160 Accessways

- (A) Accessways allow pedestrians and bicyclists convenient linkages to adjacent streets, residential areas, neighborhood activity centers, industrial or commercial centers, transit facilities, parks, schools, open space, or trails and paths where no public street access exists. Accessways may also be used as a secondary emergency access. Accessways must be dedicated as public right-of-way during the development review process.

When site constraints preclude the ability to dedicate right-of-way without impacting setback requirements or other development standards, the Director may authorize dedication of a public easement or may otherwise modify the standards in this Section through a land use decision.

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- (B) Accessways must comply with the following design standards:

- (1) Where an accessway is proposed for only bicycle and/or pedestrian travel, the right-of-way must be 12 feet wide, with a ten foot wide paved surface of either asphalt concrete or Portland Cement concrete. Light standards may be installed within travel path, as long as a minimum eight foot wide clear path is maintained.

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- (2) Where an accessway is proposed as a secondary access for emergency vehicles or in combination with bicycle and/or pedestrian travel, the right-of-way must be a minimum of 24 feet wide; consisting of a 12-foot wide area paved with either asphalt concrete or Portland Cement concrete and two additional four foot wide areas on both sides that are turf block, grass-crete, or other similar permeable material approved by the Director on a base of gravel capable of supporting fire equipment weighing 80,000 pounds. Light standards must be installed outside the 20-foot travel path, but within the public right-of-way.

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Commented [RM15]: Through what process? Based on what?

- (3) Illumination for accessways must be installed in accordance with SDC 4.2.145.

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- (C) The Director may require improvements to existing unimproved accessways on properties abutting and adjacent to the property proposed to be developed. Where possible, the improvements to unimproved accessways must continue to the closest public street or developed accessway. The developer bears the cost of accessway improvements unless other property owners are benefited. In this case, other equitable means of cost distribution may be approved by the City. Where possible, accessways may also be employed to accommodate public utilities.

Commented [RM16]: Through what process? Based on what standards?

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## Section 4.3.100 Infrastructure Standards—Utilities

### Subsections:

- 4.3.105 Sanitary Sewers
- 4.3.110 Stormwater Management
- 4.3.115 Water Quality Protection
- 4.3.117 Natural Resource Protection Areas
- 4.3.120 Utility Provider Coordination
- 4.3.125 Underground Placement of Utilities
- 4.3.130 Water Service and Fire Protection
- 4.3.135 Major Electrical Power Transmission Lines
- 4.3.140 Public Easements
- 4.3.145 Wireless Telecommunications System (WTS) Facilities

### 4.3.105 Sanitary Sewer

- (A) All sanitary sewer design including supporting documentation must be prepared and stamped by an Oregon licensed Engineer.
- (B) Sanitary sewers must be installed to serve each new development within the city limits and to connect developments to existing sanitary sewer mains.
- (C) The sanitary sewer must be designed and constructed in conformance with Chapter 2 of the *Engineering Design Standards and Procedures Manual* (EDSPM).
- (D) The City Engineer must approve all sanitary sewer plans and proposed systems prior to development approval.
- (E) Proposed developments must provide dedication and improvements indicated in an adopted Capital Improvements Program or Public Facilities Plan. The developer must pay a proportional share of the cost according to adopted City Council policy.
- (F) For proposed developments in unincorporated urbanizable land, the Lane County Sanitarian must approve all septic system designs.

**Commented [RM1]:** Adopt this section of the EDSPM? Are all the standards there Clear and Objective?

**Commented [RM2]:** Prior to what development approval? If for a fourplex or cottage cluster development (middle housing) there will not be a land use decision, so in what form would approval of the sanitary sewer plans take?

**Commented [RM3]:** Is this specific enough? Use wastewater masterplan. PFSP????

**Commented [RM4]:** Should this be more specific?

### 4.3.110 Stormwater Management

- (A) Stormwater Management Regulations. By implementing the policies set forth in the currently approved Stormwater Management Plan, provide for the effective management of stormwater and drainage from the City into the groundwater and watercourses within the City and its urbanizing area; minimize demand on the City's stormwater management system, and alleviate future costs of treating the discharge; promote water quality; preserve groundwater and the vegetation and rivers it supports; reduce peak storm flows; minimize public and private losses due to flood conditions; and minimize stormwater discharge impacts on water quality and quantity and stream flow patterns, including peak and base flows in intermittent and perennial streams, within the McKenzie River and Willamette River watersheds.
- (B) Stormwater Management Improvements – General Standards

**Commented [RM5]:** Is this a purpose statement? Or approval criteria? Keep? Delete?

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(1) All stormwater management system design including supporting documentation must be prepared and stamped by an Oregon licensed Engineer.

(2) A stormwater management system must be installed to serve each new development within the city limits.

(3) The stormwater management system must be designed and constructed in conformance with Section (C) below.

(4) The stormwater management system must be separated from any sanitary sewer system.

(5) Identification of Water Quality Limited Watercourses. The Director must maintain a Water Quality Limited Watercourses (WQLW) Map on file in the Development Services Department, which designates certain watercourses and their direct tributaries within the City and its urbanizing area. The WQLW Map must contain watercourses recommended by the Director. Any revision to the WQLW Map must be approved by the City Council as an amendment to this Code. Those watercourses and their direct tributaries included on the WQLW Map have been found to warrant protective measures in support of the City's response to State and federal regulations regarding surface and subsurface discharging stormwater management systems by satisfying the following standard:

(a) Water Quality Limited Watercourses (WQLW): Waters of the State that meet one or more of the following standards:

- (i) Watercourse reaches, lying within the City and its urbanizing area, that are included by the State of Oregon Department of Environmental Quality (ODEQ) on its most recently adopted "303(d)" List of Impaired and Threatened Waterbodies.
- (ii) Watercourse reaches, lying within the City and its urbanizing area, with significant water quality impairment identified by water quality monitoring and sampling done in accordance with approved quality assurance/quality control (QA/QC) protocols.

(b) A direct tributary to a WQLW that satisfies the following standards:

- (i) Any watercourse that flows directly into a WQLW. However, watercourses that flow into the WQLW as a piped connection, where the pipe system extends more than 200 feet upstream of the connection point are not considered as flowing into a WQLW under this standard.

- (ii) Any watercourse that is a diversion from a WQLW and that discharges into either a WQLW or other direct tributary to a WQLW and where the

**Deleted:** The Approval Authority must grant development approval only where public and/or private stormwater management systems provisions have been made, consistent with the Standards of Chapter Stormwater Management Plan and the Engineering Design Standards and Procedures Manual....

**Deleted:** Surface water drainage patterns must be addressed on every Preliminary Site Plan, or Tentative Partition or Subdivision Plan.

**Deleted:** <#>Any development with a stormwater threshold management requirement of 1,000 square feet of impervious surface area is required to employ stormwater management practices consistent with the Springfield Engineering Design Standards and Procedures Manual, which minimize the amount and rate of surface water run-off into receiving streams. The following stormwater management practices may be required in order to relieve demand on the City's piped drainage system, alleviate future costs of treating the piped discharge, promote water quality, preserve groundwater and the vegetation and rivers it supports, and reduce peak storm flows:¶

¶ Temporary ponding of water;¶

¶ Permanent storage basins;¶

¶ Minimizing impervious surfaces;¶

¶ Emphasizing natural water percolation and natural drainageways;¶

¶ Preventing water flowing from the street in an uncontrolled fashion;¶

¶ Stabilizing natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion, as permitted/allowed by City, State and Federal regulations;¶

¶ On-site filtration or skimming of run-off, that will enter natural drainageways to maintain water quality;¶

¶ ... [1]  
**Commented [RM10]:** Does this make sense? Only recommended water courses?

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**Deleted:** **EXCEPTION:** Those watercourses that flow into the WQLW as a piped connection, where the pipe system extends more than 200 feet upstream of the connection point

water quality of the diverted flow at the discharge point has been degraded when compared with the water quality at the diversion point.

- (6) Protection of Riparian Area Functions. A developer is required to employ site design, landscaping, and drainage management practices to protect, preserve, and restore the riparian area functions of the reaches of those watercourses shown on the WQLW Map that are contained within or abut the lot/parcel upon which the proposed development is located. For the purposes of this Code, riparian area functions include, but are not limited to:

Commented [RM11]: What are these practices?

- (a) Maintaining temperature;
- (b) Maintaining channel stability;
- (c) Providing flood storage;
- (d) Providing groundwater recharge;
- (e) Removing sediments;
- (f) Reducing contaminants, for example: excess nutrients; oils and grease; metals; and fecal coliform;
- (g) Moderating stormwater flows; and
- (h) Providing fish and wildlife habitat.

### (C) Stormwater Management Capacity Requirements – Design Standards

- (1) Retain rainfall on-site utilizing structural stormwater controls that infiltrate, capture, and/or evapotranspire stormwater. The site performance standard of retaining rain fall on-site is met when 100% of the Numeric Stormwater Retention Requirement (NSRR) volume from the project site is routed to one or more structural stormwater controls with capacity to accommodate the stormwater runoff and will fully infiltrate (after any necessary treatment), evapotranspire, and/or be reused onsite without stormwater runoff discharging from the site. Evapotranspire and reuse can be used to meet the retention requirements but are not required prior to pursuing treatment or alternative compliance options discussed below. The NSRR volume is determined through one of the following methods.

- (a) Volume-based method (for example, the first inch of each storm event).

Commented [RM12]: These are examples. Do we set the standard? Or what is the set standard?

- (b) Storm event percentile-based method (for example, the 95<sup>th</sup> percentile storm event- 95% of the time the data is below this value).

Commented [RM13]: Example. What is the standard we must use? Or how is this determined?

- (c) Annual average runoff-based method (for example, 80% of annual average runoff).

Commented [RM14]: Example. Where do we get the number we must use?

(2) As an alternative to meeting the clear and objective standard in (1) above, at sites where 100% of the NSRR volume cannot be retained due to technical infeasibility and/or site constraints, the Step-Wise Alternative Compliance procedure outlined below may be followed. Technical infeasibility and/or site constraint factors may include, but is not limited to, shallow bedrock, high groundwater, groundwater contamination, soil instability, or a land use that is inconsistent with capture and infiltration of stormwater.

(a) Step-Wise Alternative Compliance – Treatment Standard

(i) For projects that are unable to fully meet the 100% of the NSRR, the remainder of the rainfall/runoff associated with this retention requirement must be treated prior to discharge with a structural stormwater control. This stormwater structural control must be designed to remove a defined percentage of total suspended solids and may include an upper and lower bound to their treatment requirement that reflect the practical limitation of an engineered control (e.g., 80% removal of TSS for typical effluent concentrations ranging from 100mg/L to 200 mg/L). The permit registrant should establish treatment requirements that target the equivalent water quality benefits as onsite retention of stormwater from new development or redevelopment sites using a model, such as a continuous simulation model or other evaluation tool. The use of treatment trains of structural post-construction stormwater controls should be used, and priority must be given to implementing green infrastructure before considering hardscaped structural stormwater controls for stormwater treatment. Detention ponds are not a sufficient stand-alone treatment method and must be combined with other structural stormwater controls. Treating the volume of water that would otherwise be retained under the NSRR satisfies the retention requirement.

**Commented [RM15]:** We need to figure out what these thresholds are.

(b) Step-Wise Alternative Compliance – Structural Stormwater Control Design and Specifications

(i) For sites that utilize the treatment option to satisfy the NSRR, the City of Eugene Stormwater Manual must be used for structural stormwater controls... the permit registrant must provide a description of all allowable structural stormwater controls including site-specific design requirements, design requirements that do not inhibit maintenance conditions where each control applies, and operation and maintenance standards for each control. The permit registrant must identify conditions where the implementation of green infrastructure or equivalent approaches may be inapplicable.

**Commented [RM16]:** Is this where we rely on Eugene Stormwater Manual?

(3) For any component of a stormwater system that will be part of the public system, the proposed development must be approved through a Type II or higher Land Use Decision process and meet the discretionary standards contained in Chapter 3, Stormwater Quality, and Chapter 4, Stormwater Capacity of the EDSPM.

(D) Stormwater Study Standards

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- (1) A complete Stormwater Study, as outlined below, must be submitted for all developments that generate public and/or private stormwater runoff from more than one acre of land or generate peak flows in excess of 0.5 cfs. Applications for developments or redevelopments that create 5,000 square feet of new impervious surface or modify an existing stormwater management system with a capacity of 0.5 cfs or greater must also include a complete Stormwater Study.

An Oregon licensed Engineer must prepare the complete Stormwater Study. All developments containing or adjacent to a floodplain, stream, wetland, natural resource area, or wellhead protection zone must include in the submitted Stormwater Study a review and report on the impact to those.

- (2) A Stormwater Study must include the following:

(a) A written narrative describing the proposed stormwater management system in detail, including connections to the public stormwater management system, a description addressing water quality measures (Best Management Practices) proposed, as well as any necessary capacity measures that may be required for development (i.e. – a detention pond) as determined by the Stormwater Study.

**Commented [RM17]:** Provide reference? Where or what are these standards?

**Commented [RM18]:** As determined in the study???

(b) A hydrological study map, that contains:

(i) The development site and adjacent areas that contribute in excess of 0.1 cfs from offsite flows, well defined, and an area beyond the development site of not less than 100 feet (or the area around beyond the development site to the extent of the contributing watershed area (this seems like overkill...)).

**Commented [RM19]:** Subjective. Any??? Or some threshold? Percentage or amount?

**Commented [MC20R19]:** we change this to any concentrated flow or sheet flow from more than 5000 sf (maybe the minimum lot size?-the size should definitely be up for more discussion) or in excess of 0.1 cfs.

(ii) Streets adjacent to or hydrologically connected to the development area, and street names;

(iii) Flow arrows in streets and ditches;

(iv) Contours or spot elevations for verification of direction of overland flow and pipe cover; Contour intervals on the study map must be as follows:

<u>Slope</u>	<u>Contour Interval</u>
<u>(%)</u>	<u>(Feet)</u>
-----	-----
0 - 10	2
11 - 25	5
> 25	10

(v) Drainage areas of all sub-basins (in acres);

(vi) Collection points (nodes) at downstream limits of all sub-basins;

- (vii) A profile of the stormwater management system showing invert elevations, maintenance access hole top and bottom elevations, existing utilities, and existing and finished ground line elevations;
- (viii) Existing and proposed stormwater pipes and channels with sizes and/or cross-sections included;
- (ix) Future pipes in the system, complete with proposed sizes, slopes, pipe cover, and flow line elevations at maintenance access holes;
- (x) North arrow, scale, company name and logo, designer name, contact information, and date;
- (xi) Environmentally sensitive areas (e.g. gullies, ravines, swales, wetlands, steep slopes, springs, creeks, etc.) For natural drainage features show direction of flow; and
- (xii) 100-year flood plain with flood elevations and 100-year flood way, as applicable.

(c) Hydrologic calculations to establish runoff volumes and peak flows (see analysis method requirements and design event in the Section (5) below 4.03.2).

(d) Hydraulic calculations to establish pipe size, flow velocity, and hydraulic grade line.

(3) Land use applications will not be required to provide engineering level details for on-site pipe profiles (showing invert elevations, maintenance access hole top and bottom elevations, pipe cover, etc.) as part of application, unless needed to resolve an underground utility conflict. However, these details must be required prior to final development approval.

#### (E) Stormwater Study Types

(1) A Small Site Stormwater Study is required when ALL of the following criteria are met:

(a) The proposed development is on a site that is less than five acres in size for a residential development, or is a commercial, industrial, or mixed-use development that is on a site that is one acre or less in size.

(b) The study area drains into an existing public stormwater management system with available capacity, as determined by testing performed by an Oregon licensed Engineer in conformance with the Eugene Stormwater Manual, for the peak flow based on the storm event frequency required under Section 4.03.4 Hydrologic Calculations.

(c) The study area does not contain or is not abutting to a floodplain, stream, wetland, natural resource area, or well head protection zone. Only locally

**Commented [RM21]:** How are study areas defined? By who? Based on what?

**Commented [MC22R21]:** It is generally the development area, if it is larger than just that area it would be shared commercial site like the mall that has drainage flowing across numerous tax lots all in the same shared area.

**Commented [RM23]:** What does "established" mean? Shown on master plan?

**Commented [MC24R23]:** i think the existing you put in here captures it.

**Commented [RM25]:** How is available capacity determined?

**Commented [MC26R25]:** using an infiltration test that is defined in the Eugene manual or done by a qualified engineer.

**Commented [KK27]:** This should be for the discretionary path only. The clear and objective path should require meeting one of the numerical standards in the new MS4 permit, without overflow.

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**Commented [RM29]:** Changed from adjacent to abutting. Both terms are defined in the definitions section.

**Commented [KK30]:** This needs to be better defined. Within how far is considered "adjacent"? What type of "stream, wetland, natural resource area" does this include? Only those that are locally-significant or on the WQWL map? Or all potential streams, wetlands, and natural resource areas? If the latter, will be very difficult to define this in a clear and objective manner.

significant resources that are on an adopted inventory or map, or resources that are adopted as part of the WQWL map are applicable under this standard.

(2) A Mid-Level Site Stormwater Study is required when the criteria for a Small Site Stormwater Study cannot be met and when ALL of the following criteria are met:

(a) The development area, including any hydraulically connected area on the same property, is less than 25 acres in size.

(b) The development area, including any hydraulically connected area on the same property, drains to an established public system within the city limits.

(c) The development area, including any hydraulically connected area on the same property, does not contain or is not adjacent to a floodplain, stream, wetland, natural resource area, or well head protection zone.

(3) A Full Site Stormwater Study is required when the criteria for a Small Site and Mid-Level Site Stormwater Study cannot be met and where ANY of the following conditions are met:

(a) The development area, including any hydraulically connected area on the same property, is greater than 25 acres in size.

(b) Developments that require creation of a new outfall and/or the stormwater from the new development will exceed the existing stormwater management system capacity.

(c) The development area, including any hydraulically connected area on the same property, contains or is adjacent to a floodplain, stream, wetland, or natural resource area.

(d) Any development that generates a peak flow in excess of 0.5 cfs, modifies an existing stormwater management system with a capacity of 0.5 cfs or greater, or is a redevelopment or new development that creates 5,000 square feet or more of new impervious area.

(F)

#### 4.3.115 Water Quality Protection

These regulations apply water quality protection to only those sites that require Minimum Development Standards Review as specified in SDC 5.15.100, Site Plan Review approval as specified in SDC 5.17.100, and Land Divisions (Partition Tentative Plan and Subdivision Tentative Plan) approval as specified in SDC 5.12.100. The following standards do not apply to single unit dwellings and duplexes in the R-1 District, unless as specified in SDC 4.3.115(A)(1). Existing buildings that are within the riparian areas specified in SDC 4.3.115(A)(1) and (2) are

Commented [RM31]: Added this clarifying language to try to make C and O.

Commented [KK32]: This language is already in the header for the full-site stormwater study.

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not considered non-conforming. SDC 4.3-115(A)(2)(a) and (b) provide additional protection from a non-conforming status.

(A) When addressing criterion (E) as specified in SDC 5.12.125, for Land Divisions, and SDC 5.17.125 for Site Plan Review to protect riparian areas along watercourses shown on the Water Quality Limited Watercourses (WQLW) Map, the following riparian area boundaries must be utilized:

- (1) Along all watercourses shown on the WQLW Map with average annual stream flow greater than 1,000 cubic feet per second (CFS), the riparian area boundary is 75 feet landward from the top of the bank. Existing native vegetative ground cover and trees must be preserved, conserved, and maintained between the ordinary low water line and the top of bank and 75 feet landward from the top of bank.

Within the Willamette Greenway, any change or intensification of use to a single unit dwelling or Middle Housing requires Site Plan Review as specified in SDC 3.3.315, through the Site Plan Review process, the Director may reduce the size of the required riparian area if there is a finding that the proposed development is in compliance with SDC 3.3.300, the Willamette Greenway Overlay District, SDC 3.2.280 and other applicable provisions of this Code.

- (2) Along all watercourses shown on the WQLW Map with average annual stream flow less than 1,000 CFS the riparian area boundary is 50 feet landward from the top of the bank. Existing native vegetative ground cover and trees must be preserved, conserved, and maintained both between the ordinary low water line and the top of bank and 50 feet landward from the top of bank.

(a) For all watercourses subject to Subsection 4.3.115(A)(2), other than the Mill Race or Cedar Creek, the 50-foot riparian area standard may be reduced to 35 feet, provided an equivalent amount and function of pervious land is established elsewhere on the property that utilizes water quality measures including, but not limited to: wetlands; bioswales; and additional trees, especially in parking areas, exclusive of otherwise required water quality measures and landscape areas. The applicant has the burden of proof to demonstrate, to the satisfaction of the Director, equivalency in relation to both the amount of pervious land (as specified above) and riparian area function (as specified in SDC 4.3.110(G)).

(b) An existing building within a riparian area is not considered a non-conforming use if destroyed by earthquake, flood or other natural disaster, or fire. In this case, the replacement building may be constructed within the same footprint as the existing building. If the building is within the Willamette Greenway, the standards in SDC 3.3.300, Willamette Greenway Overlay District apply.

- (3) Where a watercourse divides a lot/parcel and the existing riparian area along that watercourse is degraded in riparian function, the applicant may relocate the watercourse to another portion of the property as approved by the Director and applicable State or Federal agency.

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(4) If an expansion of the riparian area described in SDC 4.3.115(A)(1) and (2) occurs as a result of a Federal or State agency permit process, the applicant must:

(a) Resubmit the preliminary Site Plan for additional review, as specified in SDC 5.17.105;

(b) Submit a Site Plan Modification application, as specified in SDC 5.17.145; or

(c) Resubmit the Tentative Plan for additional review as specified in SDC 5.12.105.

(B) Permitted Uses in Riparian Areas. The following uses are permitted in riparian areas as long as they do not diminish riparian functions:

(1) The planting of trees and native vegetation to promote bank stability, enhance riparian areas, minimize erosion, preserve water quality and protect federally listed species. Trees may be clustered to allow the preservation of views; or to allow maintenance vehicles to approach City maintained stormwater facilities including detention basins, outfalls, culverts and similar stormwater facilities as may be permitted by the Engineering Design Standards and Procedures Manual.

(2) The felling of hazardous trees for safety reasons as specified in SDC 5.19.100, Tree Felling.

(3) Riparian area restoration and enhancement including the removal of invasive plant species, where necessary.

(4) Flood control structures, where necessary.

(5) Stormwater management systems and outfalls, as specified in the Engineering Design Standards and Procedures Manual or as required by other regulating authorities.

(6) Multi-use paths for pedestrian and/or bicycle use must be permitted, provided that the multi-use path drains away from the watercourse. Multi-use paths must be located along the outer edge of the required riparian area and away from the watercourse. The multi-use path must be located at the outermost edge of the 75-foot-wide Riparian Setback to the maximum extent practicable. Utilities may be extended within a multi-use path.

(7) Water-dependent or water-related uses between the Willamette River and the Greenway Setback Line as may be permitted in the Willamette Greenway Overlay District.

(8) Private driveways, public street crossings, bridges, and necessary culverts when there is no other vehicle access to the property. Crossings must be preferably at right angles to the watercourse. Public and private utilities must be permitted within the driveway, public street, or bridge right-of-way.

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- (9) Repair, replacement, or improvement of utility facilities as long as the riparian area is restored to its original condition.
- (10) Routine repair and maintenance of existing structures, streets, driveways, utilities, accessory uses and other similar facilities.
- (11) Other activities similar to those listed above that do not diminish riparian function. The Director must make the interpretations as specified in SDC 5.11.100.

(C) For protection of water quality and protection of riparian area functions as specified in SDC 4.3.110, the following standards apply:

- (1) Avoid development or redevelopment in the following circumstances:
  - (a) Unsuitable areas, including, but not limited to, unstable slopes, wetlands and riparian areas;
  - (b) Stream Crossings. Where crossings have to be provided, the impacts on water quality must be **minimized**; and
  - (c) Hardening or armoring of stream banks and shorelines.
- (2) Prevent:
  - (a) Stormwater discharge impacts to water quality and quantity; and
  - (b) Erosion and sediment run-off during and after construction.
- (3) Protect:
  - (a) Riparian areas, buffers, and functions around all watercourses; and
  - (b) Wetlands, wetland buffers and wetland functions.
- (4) Preserve the hydrologic capacity of any watercourses.
- (5) Utilize Native Vegetation in Riparian Areas. The required riparian area landscaping must be installed as part of the building permit process and may be bonded as specified in SDC 5.17.150.
- (6) Restore and enhance riparian areas that are degraded in riparian function.
- (7) In applying SDC 4.3.115(C)(1) through (6), riparian area protection, preservation, restoration, and enhancement measures must be applied as follows:
  - (a) For new development and redevelopment, existing riparian area functions must be protected and preserved. Degraded functions must be restored or enhanced through the full riparian area width, as specified in SDC 4.3.115(A)(1) and (2), and extending through the full frontage of the lot/parcel along the watercourse on the Water Quality Limited Watercourse (WQLW) Map.

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- (b) For additions and expansions on any portion of a lot/parcel, existing riparian area functions must be protected and preserved through the full riparian area width specified in SDC 4.3.115(A)(1) and (2), and extending through the full frontage of the lot/parcel along the watercourse on the WQLW Map.
- (c) For additions and expansions within 100 feet of a watercourse on the WQLW Map on a lot/parcel that has degraded riparian functions, the area for restoration or enhancement must be based upon the ratio of the impervious area of the addition or expansion to the existing building or impervious area on the lot/parcel. The restoration or enhancement must start at the top of bank of the watercourse and work landward.

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#### 4.3.117 Natural Resource Protection Areas

(A) The purpose of this Subsection is to protect identified natural resources in order to:

- (1) Implement the goals and policies of the Metro Plan;
- (2) Satisfy the requirements of Statewide Planning Goal 5;
- (3) Safeguard the City's locally significant wetland and riparian areas, especially the hydrologic and ecologic functions these areas provide for the community;
- (4) Safeguard fish and wildlife habitat;
- (5) Safeguard water quality and natural hydrology, to control erosion and sedimentation, and to reduce the adverse effects of flooding;
- (6) Safeguard the amenity values and educational opportunities for City's wetlands and riparian areas for the community; and
- (7) Improve and promote coordination among Federal, State, and local agencies regarding development activities near wetlands and riparian areas.

(B) This Subsection must apply to natural resource protection areas that include land within the wetland and/or the riparian resource boundary and the development setback area, specifically:

- (1) Locally significant protected wetlands, listed in the Springfield Local Wetland Inventory and shown on the Local Wetland Inventory Map.
  - (a) The City must determine which wetlands are locally significant through application of the Oregon Freshwater Wetland Assessment Methodology to the Local Wetland Inventory.
  - (b) Inventoried wetlands which are not deemed to be locally significant must not be subject to the development setbacks and other protections described in this Subsection, but must continue to be protected under permitting authority of applicable Federal and State agencies.

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- (c) During the application review process, if a property is found to contain a wetland that has not been inventoried, the applicable Federal and State agencies must be notified. Based upon the Federal and State agency review, both the Springfield Local Wetland Inventory and the Local Wetland Inventory Map may require amendment.
- (2) Locally significant protected riparian areas, listed in the Springfield Inventory of Natural Resource Sites and shown on the Natural Resources Inventory Map. The City has determined which riparian areas are significant in accordance with rules adopted by the Oregon Department of Land Conservation and Development (DLCD).
- (3) **EXCEPTIONS:** The protections described in this Subsection do not apply to:
  - (a) Properties that received development approval or were submitted for processing before December 28, 2005.
  - (b) Properties with approved wetland or riparian fill and mitigation plans, permits or other approved actions issued by the Oregon Department of State Lands (DSL) and or the US Army Corps of Engineers (COE) or other approving authority with jurisdiction over wetland and riparian resources.
  - (c) Sites shown on the City's WQLW Map that are already protected with 50-foot or 75-foot development setbacks in accordance with SDC 4.3.115.
- (4) Inventory map corrections: The Director may correct the location of a wetland or riparian boundary shown on the Local Wetland Inventory Map and/or the Natural Resources Inventory Map when it has been demonstrated by a property owner or applicant that a mapping error has occurred and the error has been verified by DSL. Wetland delineations verified by DSL must be used to automatically update and replace the City's Local Wetland Inventory mapping. No variance application is required for map corrections where approved delineations are provided.

**(C) Development Setbacks for Locally Significant Wetland and Riparian Areas.**

- (1) Development setbacks are the primary element of the City's protection program for locally significant wetland and riparian areas. Development setbacks are determined as follows:
  - (a) Locally significant wetlands on the Springfield Local Wetland Inventory which are not shown on the WQLW Map must be protected by a 25-foot wide development setback.
  - (b) Locally significant riparian areas identified on the Springfield Inventory of Natural Resource Sites which are not shown on the WQLW Map must be protected by a 25-foot wide development setback.
  - (c) Where a locally significant wetlands or riparian area is only partially shown on the WQLW Map, that portion which is not protected by the City's Stormwater

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Quality Management Program must be protected by a 25-foot wide development setback.

- (d) Development setbacks from locally significant wetland areas are measured from the delineated edge of the wetland as acknowledged by DSL.
- (e) Development setbacks from locally significant riparian areas are measured from the "top of bank" as defined in Chapter 6.
- (f) Where locally significant wetlands and riparian areas overlap, the development setback area is measured from the edge of the delineated wetland.

- (2) The Springfield Local Inventory Map and the Springfield Inventory of Natural Resource Sites Map must be used to provide a visual reference for locating known wetland and riparian areas, but must not be relied upon as the final authority for locating the actual boundaries of these areas. The final authority is a delineation required as specified in SDC 5.12.120(B) and/or 5.17.120(B) in order to locate the boundaries of the resource for the purpose of applying development setbacks or other protections described in this Section.

- (D) Site Plan Review as specified in SDC 5.17.100 is required for development in commercial, industrial, R-2, and R-3 land use districts where the multiple unit housing development is proposed within 150-feet of a locally significant wetland or riparian area.

Site Plan Review is not required for:

- (1) Single-unit dwellings and middle housing in the R-1 land use district. However, the natural resource protection standards of this Subsection apply to these single-unit dwellings and middle housing; and/or
- (2) Land divisions that comply with water quality protection standards specified in SDC 4.3.115.

- (E) Permitted Uses Within Locally Significant Wetland and Riparian Natural Resource Protection Areas.

- (1) The following uses and activities are permitted within a locally significant wetland or riparian natural resource protection area, including the development setback area, with no additional State or Federal permits:
  - (a) Any use, building or structure that lawfully existed as of December 28, 2005 is allowed to continue and required maintenance may occur.
  - (b) The maintenance and alteration of pre-existing ornamental landscaping must be permitted as long as no additional native vegetation is disturbed.
  - (c) These uses permitted in Subsections (a) and (b) above are not affected by any change in ownership of property.

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(2) The following uses and activities are permitted within a locally significant wetland or riparian natural resource protection area, including the development setback area, provided that any applicable Federal, State, or local permits are secured:

- (a) Wetland and or riparian restoration and rehabilitation activities.
- (b) Restoration and enhancement of native vegetation, including the addition of canopy trees.
- (c) Cutting and removal of trees that pose a hazard to life or property due to threat of falling.
- (d) Perimeter mowing and other cutting necessary for hazard prevention.
- (e) Removal of non-native vegetation, if replaced with native plant species at a density that prevents soil erosion and encourages the future dominance of the native vegetation.
- (f) Normal farm practices such as grazing, plowing, planting, cultivating, and harvesting that meet the following standard and limitations:
  - (i) The farm practices were in existence or occurring on the property as of December 28, 2005;
  - (ii) The farm practices are of no greater scope or intensity than the operations that were in existence as of the December 28, 2005; and
  - (iii) Normal farm practices do not include new or expanded structures, streets, or other facilities involving placement of fill material, excavation, or new drainage measures.
- (g) Maintenance of existing drainage ways, ditches, or other structures to maintain flows at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation and any spoils are placed in uplands.
- (h) Waterway restoration and rehabilitation activities such as channel widening, realignment to add meanders, bank grading, terracing, reconstruction of street crossings, or water flow improvements.
- (i) Maintenance and expansion of existing public drinking water facilities and the establishment of new public drinking water facilities. This includes essential and ancillary infrastructure and services needed for the operation of these drinking water facilities.
- (j) Replacement of a permanent, legal, non-conforming building or structure in existence as of December 28, 2005 with a building or structure on the same building footprint, if it does not disturb additional area, in accordance with the provisions of SDC 5.8.100, Non-Conforming Use. Access to and around the

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building footprint must be allowed as needed for the delivery of building materials and reconstruction, but this access must not cause unnecessary disturbance to vegetation within the resource protection area. Land within the resource protection area that is disturbed by reconstruction must be restored to its original condition.

- (k) Expansion of a permanent, legal, non-conforming building or structure in existence on December 28, 2005, if the expansion area is not within and does not disturb the locally significant wetland or riparian resource boundary, in accordance with the provisions of ~~SDC 5.8.100~~, **Non-Conforming Use**.

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- (l) Emergency stream bank stabilization to remedy immediate threats to life or property (Federal, State, or local emergency authorization may be needed for in-stream work).

- (m) Maintenance and repair of existing streets, including repaving and repair of existing bridges, and culverts, provided that these practices avoid sedimentation and other discharges into the locally significant wetland or riparian resource boundary.

- (n) Public multi-use paths, access ways, trails, boardwalks, picnic areas, or interpretive and educational displays and overlooks, including benches and outdoor furniture;

- (o) Construction of public and private transportation facilities, sewers, drainage ways, utilities, and other infrastructure which cannot be feasibly located outside of the locally significant wetland or riparian resource boundary, as determined by the Director. These facilities are subject to the development standards specified in Subsections ~~(k)~~ and ~~(l)~~ above.

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- (p) New fencing may be permitted by the Director where the applicant demonstrates that the following **standard** can be satisfied:

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- (i) The fencing must not affect the hydrology of the natural resource protection area;
- (ii) The fencing must not present an obstruction that would increase flood velocity or intensity;
- (iii) Fish habitat must not be adversely affected by the fencing;
- (iv) The fencing must be the minimum necessary to achieve the applicant's purpose; and
- (v) Applications for new fencing within a locally significant wetland or riparian resource boundary must contain a scale drawing that clearly depicts the resource boundary and the development area setback, where applicable.

(F) The following uses and activities must be permitted within the development setback area only, provided all required Federal, State, or local permits are secured:

- (1) Docks, boat shelters, piers, boat ramps, and similar water dependent uses;
- (2) Utilities including but not limited to water, wastewater, stormwater, electrical facilities, natural gas facilities, telecommunications, or other public improvements;
- (3) Streets or bridges where necessary for access or crossings;
- (4) Bioswales or similar water quality improvement projects;
- (5) Public multi-use paths, access ways, trails, picnic areas, or interpretive and educational displays and overlooks, including benches and outdoor furniture; and
- (6) Wetland and riparian restoration.

(G) The following uses and activities must be prohibited within a locally significant wetland or riparian natural resource protection area, including the development setback area, unless permitted elsewhere in this Code:

- (1) Placement of new structures or impervious surfaces;
- (2) Excavation, drainage, grading, fill, or removal of vegetation except for fire protection purposes or removing hazard trees;
- (3) Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the protected areas;
- (4) Disposal or temporary storage of refuse, yard debris, or other material;
- (5) Discharge or direct runoff of untreated stormwater; and
- (6) Uses not allowed in the list of permitted uses for the underlying zone.

(H) Conservation and Maintenance of Locally Significant Wetland and Riparian Areas and Development Area Setbacks. When approving applications for Land Divisions, Site Plans, Master Plans, Discretionary Use Permits, Variances, and Land and Drainage Alteration Permits or for development permits for properties containing all or a portion of a wetland or riparian area, the City must assure long term conservation and maintenance of the wetland or riparian area through one or more of the following methods:

- (1) The area must be protected in perpetuity by a conservation easement recorded on deeds and plats prescribing the conditions and restrictions specified in Subsections (E) through (G) above and any conditions imposed by State or Federal permits; or
- (2) The area must be protected in perpetuity through ownership and maintenance by a private nonprofit association through a conservation easement or through conditions, covenants, or restrictions (CC&Rs), prescribing the conditions and restrictions

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specified in Subsections (E) through (G) above and any conditions imposed by State or Federal permits; or

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- (3) The area must be transferred by deed to a willing public agency or private conservation organization with a recorded conservation easement prescribing the conditions and restrictions specified in Subsections (E) through (G) above and any conditions imposed by State or Federal permits.

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- (4) Other mechanisms for long-term protection and maintenance as deemed appropriate and acceptable by the Director. These mechanisms must be consistent with the purposes and requirements of this Section.

- (I) Notification and Coordination with State Agencies. The Director must notify DSL in writing of all applications to the City for development activities, including development applications, Building Permits, and other development proposals, that may affect any wetland or riparian areas identified in the Springfield Local Wetlands Inventory or the Springfield Inventory of Natural Resources Map. This applies to both locally significant and non-significant wetlands and riparian areas.

- (J) Development Setback Area Variances.

- (1) Variance applications for development setback areas require compliance with either the Major Variance standards specified in SDC 5.21.130 or the Minor Variance standards specified in SDC 5.21.125; and

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- (2) In the case of loss of use of the property, the following additional standards apply:

- (a) The application of the standards of this Section renders the property unbuildable;

- (b) The applicant has exhausted all other options available under mapping errors specified in Subsection (B)(4) above and the development area setback variance specified in Subsection (3) below;

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- (c) There must be no significant adverse impacts on water quality, erosion, or slope stability, or these impacts have been mitigated to the greatest extent possible; and

- (d) The loss of native vegetative cover must be minimized.

- (3) In the case of varying the development setback area, such as averaging the setback area width, the applicant must submit a plan demonstrating compliance with the additional standard:

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- (a) There must be equal or better protection of the wetland or riparian area to be ensured through restoration, enhancement, or similar means;

- (b) In the case of setback averaging, the required plan must show the proposed average setback width with measurements made at no greater than 50-foot intervals over the distance the property involved in the setback averaging; and

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- (c) In no case can the activities prohibited in Subsections (G)(1) through (G)(3), above occupy the locally significant riparian area or wetland or more than 50 percent of the development setback area.

(K) Transportation Facilities and Structures Development Standards. The following standards apply to transportation facilities and structures within wetland protection areas, including streets and driveways, bridges, bridge crossing support structures, culverts, and pedestrian and bike paths:

- (1) Wetland and riparian protection areas can be crossed only where there are no practicable alternatives to avoid the resource;
- (2) Transportation facilities and structures crossing wetland and riparian protection areas must be no wider than necessary to serve their intended purposes; and
- (3) Within buffer areas, new streets, driveways, and pedestrian and bike paths must be located or constructed so as not to alter the hydrology of the adjacent wetland or riparian corridor.

(L) Utility Development Standards. The following standards apply to permitted crossing, trenching, or boring for the purpose of developing a corridor for communication, energy, or other utility lines within or crossing properties within wetland or riparian protection areas:

- (1) Utility maintenance access roads in or crossing protected resources must meet applicable standards for transportation facilities and structures in protected resources as specified in Subsection (K), above; and
- (2) For underground utilities, the following additional standards apply:
  - (a) Boring under the waterway, directional drilling, or aerial crossing is preferable to trenching. If trenching is the only alternative, it must be conducted in a dry or dewatered area with stream flow diverted around the construction area to prevent turbidity;
  - (b) Common trenches, to the extent allowed by the Building Code, must be required in order to minimize disturbance of the protected resource;
  - (c) Materials removed or excavated during trenching, boring, or drilling must be deposited away from the protected resource, and either returned to the trench as back-fill, or if other material is to be used as back-fill in the trench, excess materials must be immediately removed from the protected resource and its associated buffer. Side-casting of removed material into a protected resource must not be permitted;
  - (d) Backfilling of trenches must utilize excavated soils from the site whenever possible. If other materials are used for backfill, they must not be of a pervious nature that would cause the trench to become a conduit for runoff or change the original hydrology of the protected wetland or riparian site;

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- (e) The ground elevation of a protected resource must not be altered as a result of utility trench construction or maintenance. The finished elevation must be the same as starting elevation; and
- (f) Topsoil and sod must be conserved during trench construction or maintenance, and replaced on top of the trench.
- (3) Hydraulic impacts on protected resources and removal of native vegetation must be minimized; and
- (4) Where feasible, crossings of wetland and riparian protection areas must be perpendicular to the protected area to minimize the impact.
- (M) Vegetation Management Standards. The following standards apply to vegetation in wetland and riparian protection areas:
  - (1) Vegetation removal, pruning, or mowing in a locally significant wetland or riparian boundary must be the minimum necessary and in no case substantially impair any resource functions and values. Vegetation removal, pruning, or mowing in the development area setback must be the minimum necessary. Removal, pruning, or mowing of vegetation is allowed if the applicant demonstrates one of the following:
    - (a) The action is necessary for the placement of a structure or other allowed use for which a Building Permit has been issued;
    - (b) The action is necessary for maintenance of an existing structure or transportation facility;
    - (c) The action is necessary for correction or prevention of a hazardous situation;
    - (d) The action is necessary for completion of a land survey;
    - (e) The action involves the maintenance of a landscaped area that existed prior to December 28, 2005;
    - (f) The action is part of an approved restoration, enhancement, mitigation, or erosion control plan, including, but not limited to, invasive or noxious species removal and replacement with native species, and wetland area restoration, mitigation, or enhancement; or
    - (g) The action is part of a landscape plan approved by the City, and any other appropriate agencies, in conjunction with a Building Permit that minimizes adverse impacts on protected resources.
  - (2) Planting is permitted in accordance with the following standards:
    - (a) The planting is part of an approved restoration, enhancement, mitigation, or erosion control plan;

- (b) The planting is part of a landscape plan using appropriate native plant species, and the plan is approved by the City in conjunction with approval of a Building Permit; or
- (c) The planting is to replace dead or damaged plants that were either part of a maintained landscape or part of the existing native plant community.

#### **4.3.120 Utility Provider Coordination**

- (A) All utility providers are responsible for coordinating utility installations with the City and the developer through the Development Review Committee or by separate written correspondence.
- (B) The developer is responsible for the design, installation and cost of utility lines and facilities to the satisfaction of the utility provider.

#### **4.3.125 Underground Placement of Utilities**

Whenever possible, all utility lines must be placed underground. However, overhead, and above ground facilities are permitted for the following:

- (A) Emergency and temporary installations undertaken by utility providers for a maximum of 30 days.
- (B) Electrical transmission lines and backbone distribution feeders that are consistent with the Metro Plan's Public Facilities and Services Plan. These lines act as a main source of supply to primary laterals and direct connected distribution transformers and primary loads.
- (C) Appurtenances and associated equipment, including, but not limited to: surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, connection boxes.
- (D) Structures without overhead wires, used exclusively for fire alarm boxes, streetlights, or municipal equipment installed with the approval of the City Engineer.
- (E) Power substations, pumping plants, and similar facilities necessary for transmission or distribution of utility services are permitted subject to compliance with zoning district regulations and the Metro Plan's Public Facilities and Services Plan. Required landscaping and screening must be approved by the Director under Type 2 procedures for all these facilities prior to any construction being started.
- (F) Public television transmitters and receivers.
- (G) Industrial developments requiring exceptionally large power supplies may request direct overhead power during the Site Plan Review process, without a Variance.
- (H) Existing non-backbone distribution feeders located on existing streets on developed or undeveloped land.

#### 4.3.130 Water Service and Fire Protection

- (A) Each development area must be provided with a water system having sufficiently sized mains and lesser lines to furnish an adequate water supply to the development with sufficient access for maintenance.
- (B) Fire hydrants and mains must be installed by the developer as required by the Fire Marshal and the utility provider.

#### 4.3.135 Major Electrical Power Transmission Lines

- (A) When necessary to increase the capacity of major electrical power transmission lines, utility providers must provide the increase by use of existing rights-of-way or easements.

##### EXCEPTIONS:

- (1) In the event that a utility provider determines that it cannot provide the increase by use of existing rights-of-way or easements, siting of major electrical power transmission lines is permitted as specified in the Metro Plan's Public Facilities and Services Plan.

- (2) Notwithstanding Subsections (A) and (A)(1) above, a utility provider may locate major electrical transmission lines along routes identified on Auxiliary Map Number I dated 1982 of the Metropolitan Area General Plan.

- (B) Applications for siting of new major electrical power transmission lines are exempt from the provisions of SDC 5.4.105(B)(2).

#### 4.3.140 Public Easements

- (A) Utility Easements. The applicant must make arrangements with the City and each utility provider for the dedication of utility easements necessary to fully service the development or land beyond the development area, as necessary. The minimum width for public utility easements adjacent to street rights-of-way is seven feet. The minimum width for all other public utility easements is seven feet. However, the utility provider or the Director may require a larger easement for major water mains, major electric power transmission lines, sanitary sewer lines, stormwater management systems or in any other situation to allow maintenance vehicles to set up and perform the required maintenance or to accommodate multiple utility lines. Where feasible, utility easements must be centered on a lot/parcel line.

- (B) Watercourse or Riparian Area Maintenance Easements. Where the Director has determined that a watercourse or riparian area will be part of the City's Stormwater Management System, a maintenance easement is required in order to maintain the functionality of these areas. For watercourses, the easement must be measured from either the top of the bank, ordinary high water mark or the delineated setback line. The easement must be a minimum of ten feet wide where no equipment is required for access or maintenance. The easement must be extended to a maximum of 25 feet wide to allow City maintenance vehicles to set up and perform the required maintenance.

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## Section 4.4.100 Landscaping, Screening, and Fence Standards

### Subsections:

#### 4.4.105 Landscaping

#### 4.4.110 Screening

#### 4.4.115 Fences

#### 4.4.105 Landscaping

- (A) These regulations ensure that new development complies with the landscaping provisions of this Code and any applicable Refinement Plans, Plan Districts, Master Plans, and Conceptual Development Plans; is adequately screened from less intensive development; considers the effects of vegetation on public facilities; retains significant clusters of natural trees and shrubs wherever possible; minimizes run-off; facilitates energy conservation and crime prevention; and improves the appearance of the City to create a desirable place to live and work.
- (B) Three types of landscaping may be required:
- (1) Landscaping standards for private property as specified in this Section and other Sections of this Code.
  - (2) Street trees in the public right-of-way as specified in Section 4.2.140.
  - (3) Curbside planter strips in the public right-of-way as specified in Section 4.2.135.
- (C) Materials and installation costs of required planting and irrigation, other than what is required by the Minimum Development Standards (Section 5.15.100), must not exceed ten percent of the value of the new development, including the cost of parking facilities.
- (D) The following areas of a lot/parcel must be landscaped, unless otherwise specified in this Code:
- (1) All required setback areas and any additional planting areas as specified in the appropriate zoning district.
  - (2) Parking lot planting areas required in this Section.
- (E) At least 65 percent of each required planting area must be covered with living plant materials within five years of the date of installation. The living plant materials must be distributed throughout the required planting area. The planting acceptable per 1,000 square feet of required planting area is as follows:

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Commented [RM2]: Clarify where this applies? All three applications? Under (B) above? Make more clear...

Commented [RM3]: Does this include all three areas as specified in (B) above? Make more clear. Could/should this apply to just (B)(1) above?

Doesn't apply to medians or planting strips. Look at section 4.2.135 for the standards for medians and planting strips. Check for consistency with MDS and 4.2.135.

(1) A minimum of two trees, not less than six feet in height, that are at least a two inch (dbh) caliper (at the time of planting, not including root ball); and

(2) Ten shrubs, five gallons or larger.

(3) Lawn and/or groundcover may be substituted for trees or shrubs, unless the trees or shrubbery are required for screening, when there are adequate provisions for ongoing maintenance.

These standards do not apply to single unit dwellings and middle housing in the R-1 District.

(F) Parking lot planting areas must include one canopy tree at least two inches (dbh) in caliper that meets City street tree standards as may be permitted by the *Engineering Design Standards and Procedures Manual* and at least four shrubs, five gallon or larger, for each 100 square feet of planting area. Shrubs that abut public right-of-way or that is placed in the interior of any parking lot must not exceed two and a half feet in height at maturity. Parking lot planting areas must include:

(1) Parking and driveway setback areas specified in the applicable land use district; and

(2) Five percent of the interior of a parking lot, exclusive of any required parking setbacks, if 24 or more parking spaces are located between the street side of a building and an arterial or collector street, and are visible from any street.

(3) See also Section 3.2.240D(8)(c) for multiple unit housing design standards.

(G) All new required planting areas must be provided with a permanent underground irrigation system. Areas planted with native species or plant communities are exempt from this standard.

(H) Landscaped setbacks abutting required screening on the same property are exempted from planting requirements if the area is not visible from any public right-of-way or adjacent property.

(I) **Planting Installation Standards**

(1) Existing landscaping to be retained must be provided with protection which will remain through the construction process. The plants to be saved and the method of protection must be noted on the Landscape Plan.

(2) Existing trees to be retained on private property must not have construction occur within the drip line, unless a landscape architect certifies that affected trees will have at least a 90 percent chance of survival over a five year period. Trees to be saved must be provided with protection around the drip line, and including kept free from

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Don't allow this substitution??? Delete. Agreed by Rick S.

Shouldn't be required??? Bruce Berg in TAC on 4/1/21...

Shouldn't be allowed for parking lot trees, and screening trees???

Phil F. commented. Leave in... allow the substitution in median or parking strip area but not on private property.

Provide some limitation??? Some limitation/percentage??

**Commented [RM5]:** How would we enforce these standards on middle housing in other R zones? Or should we?

**Commented [RM6]:** Drip system?? Is this considered "underground"? Comment from TAC meeting 4/8/21. Clarify that drip system is allowed as part of underground system???

trunk abrasion. The trees to be saved and the method of protection must be noted on the Landscape Plan.

- (3) The Landscape Plan must include specifications for topsoil, including depth and organic matter requirements, to ensure the health and vitality of required planting. Where planting areas have been excavated the replacement of topsoil must be provided for and indicated on the Landscape Plan. All waste material must be removed from required planting areas prior to the application of topsoil.
  - (a) Inspection may be made by the Director prior to planting to verify proper rough grade and installation of irrigation systems.
  - (b) Plant materials and soil preparation may be inspected prior to or in conjunction with the occupancy inspection to ensure that placement, quantity, size, and variety conform to the approved Planting Plan and the requirements of this Section. Nursery tags identifying variety and species must remain on plant specimens until the Final Building Inspection by the Building Official or the issuance of a Certificate of Occupancy.

#### **4.4.110 Screening**

- (A) Unless otherwise specified in this Code, screening is required:
  - (1) Where commercial and industrial districts abut residential districts and no approved screening exists;
  - (2) For outdoor mechanical devices and minor and major public facilities;
  - (3) For outdoor storage yards and areas in non-residential districts abutting residential districts along their common property line;
  - (4) For trash receptacles;
  - (5) For automobile wrecking and salvage yards; and
  - (6) For multi-unit housing developments.
- (B) Screening must be vegetative, earthen, and/or structural. Unless specified elsewhere in this Subsection, screening must be continuous to at least six feet above ground level. The following standards apply:
  - (1) **Vegetative Screening.** Evergreen shrubs must be planted to form a continuous hedge. When immediate screening is necessary, a sight-obscuring fence must be installed in place of, or in conjunction with the shrubs. The six-foot height standard specified in Subsection (B), above must occur within four years of planting.



For multiple unit housing development, the vegetative screening standards specified in Section 4.7.385(5) or 4.7.390 apply.

- (2) **Earthen Screening.** Earthen berms may be used to screen either visual or noise impacts. A berm must be combined with evergreen plantings or a fence to form an attractive sight and noise buffer. The maximum height of a berm is six feet along local streets and eight feet along collector and arterial streets or railroad rights-of-way. Alternatively, a different height is allowed if a licensed acoustical engineer determines a lower or higher height must be utilized. Height is measured from the base of the berm to the top of the berm and does not include additional fences or landscaping. The exterior face of the berm must be constructed as an earthen slope. The interior face of the berm may be constructed as an earthen slope or retained by a structure (wall or terrace) that meets the building code. The maximum slope is 1:3. The crest area must be a minimum of four feet wide. The slopes must be protected by trees, shrubs, and groundcover to prevent erosion. Berms must be irrigated as specified in Section 4.4.100. No part of a berm is allowed to encroach into an easement. The toe of a berm over three feet in height must be set back at least five feet from any property line, unless when abutting public right-of-way where the setback of the toe of the berm may be at a zero setback from the property line. Berms must not interfere with the drainage patterns of the property.
- (3) **Structural Screening.** A fence or masonry wall must be constructed to provide a 100 percent sight-obscurer screen.
- (a) No screen is allowed to exceed four feet in a residential district front yard setback, and all screening must comply with vision clearance requirements of Section 4.2.130.
- (b) Wherever a required screen in the form of a fence is adjacent to a residential or commercial district or an arterial or collector street, it must be made from a non-metallic material and be of a subtle color to blend with surrounding vegetation.
- (c) Any refuse container or disposal area which would otherwise be visible from a public street, customer or resident parking area, any public facility, adjacent property, or any residential district, must be screened from view as specified in Subsections (1) and (3), above. All refuse materials must be contained within the screened area. See also Section 3.2.240(D)(3)(b) for multiple unit housing design standards. This standard does not apply to single unit dwellings or middle housing.
- (d) When abutting a street, outdoor storage areas and storage yards must be screened with a five-foot planting strip between the storage and street as specified in Section 4.4.100.

**Commented [RM7]:** Delete? Not clear and objective for housing.

#### 4.4.115 Fences

Fences must not exceed the height standards in Table 4.4.1 and must be located as follows:

##### (A) General

- (1) In any land use, overlay, or plan district not specifically listed in Table 4.4.1, fence standards are determined based upon the use. For a residential use it will be the residential land use district standard, commercial use will require the commercial land use district standard, and an industrial use will require the industrial land use district standard.

In mixed use areas, fence standards will be determined by the base zone.

- (2) Fence height is measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height is measured from the top of the berm.
- (3) Fences must be permitted as specified in the screening standards in Section 4.4.110. Where permitted in the commercial, industrial, and the PLO Districts, outdoor storage of materials must be screened by a 100 percent sight obscuring fence when abutting residential districts along common property lines. Partial screening along rights-of-way and non-residential districts may be permitted when necessary for security reasons.

##### (B) Review procedure applicable to all land use, overlay, and plan districts.

- (1) A construction permit is required for fences over six feet in height.
- (2) Fences within the Willamette Greenway Setback area are reviewed under Discretionary Use procedure for fences as specified in Section 5.9.120 and as required in Section 3.3.225.

**Table 4.4.1**

<b>Base Height by Land Use District</b>					
<b>Yard Type</b>	<b>Residential</b>	<b>Commercial</b>	<b>Industrial</b>	<b>PLO</b>	<b>MS</b>
Front Yard(1)	6'(2)	6'	6'/ 8'(3)	6'	6'
Street Side Yard(4)	6'	6'	6'/ 8'(3)	6'	6'
Rear Yard	6'	6'	6'/8'(3)	6'	6'
Height Exceptions	8'/ 10'(5)	8'	8'(6)	8'	N/A
Vision Clearance Area(7)	2 ½'	2 ½'	2 ½'	2 ½'	2 ½'
Barbed/Razor Wire/Electric	Y(8)	Y(8)	Y(8)	Y/N(8)	N

Note: The numbers in the table above in parentheses refer to the numbered sections below under (C).

**Commented [RM8]:** Is there a better way to word this or regulate it?

**Commented [RM9]:** Still allow?

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**(C) Fence Standards**

- (1)** The fence must be located behind the front yard setback in all districts unless allowed in **(2)**.
- (2)** Fences may be allowed within the front yard setback as follows:
  - (a)** Four foot high unslatted chain link—this standard does not apply to multiple unit housing developments.
  - (b)** Three foot high sight obscuring fence.
- (3)** In the Campus Industrial District the base height standard is six feet. In all other industrial districts, the base height standard is eight feet.
- (4)** In the residential districts, a fence may be located along the property line. In all other districts, the fence must be located behind the street yard setback.
- (5)** Situations where the base fence height may be exceeded:
  - (a)** Eight feet in residential, commercial, and the PLO districts for public utility facilities, school yards, and playgrounds, provided that the fence is located behind the front yard and street side yard landscaped area and outside of the vision clearance area. Residential districts abutting these facilities, railroad tracks or residential property side and rear yards abutting streets with four or more travel lanes, may have fences of eight feet tall along common property lines and right-of-way.
  - (b)** Ten feet for residential properties abutting commercial or industrial districts along common property lines, and around permitted storage areas in residential districts. Yards of a single unit dwelling do not constitute permitted storage areas.
  - (c)** In residential districts, any fence located within a required setback, and which exceeds the allowable fence height for that setback by more than 20 percent, must be reviewed under Discretionary Use procedure for fences as specified in Section 5.9.100.
- (6)** Special standards in the Campus Industrial District:
  - (a)** No fencing must be permitted within 35 feet of a CI District perimeter or 20 feet of any development area perimeter or within interior lots/parcels of development areas.

A three feet maximum height decorative fence or masonry wall may be permitted as screening devices around parking lots.

(b) Chain link fences must be permitted only when combined with plantings of evergreen shrubs or climbing vines that will completely cover the fence(s) within five years of installation (as certified by a landscape architect or licensed nursery operator).

(c) Painted fences must match the building color scheme of the development area.

(7) No fence is allowed to exceed the two and a half foot height limitation within the vision clearance area as specified in Section 4.2.130.

(8) Barbed wire, razor wire, or electrified fencing is permitted atop a six-foot chain link fence. The total height of the fence and barbed wire must not exceed eight feet. These materials must not extend into the vertical plane of adjoining public sidewalks. Barbed wire or razor wire only fences are prohibited. Electrified fencing must be posted with warning signs every 24 feet.

(a) In the PLO District in the Downtown Exception Area and in the MUC, MUE, and MUR Districts, no barbed wire, razor wire, or electrified fences are permitted.

(b) In the residential districts, barb-wire and electrified fencing on lots/parcels less than 20,000 square feet, and razor wire on any lot/parcel, regardless of size, must be reviewed under Discretionary Use procedure as specified in Section 5.9.100, using the criteria specified in Subsection (C), below.

**Commented [RM10]:** Comment from TAC 4/8/21 Barb wire allowed in Residential? Should this still be allowed.

(D) Where Discretionary Use approval is required for fences, the following criteria of approval apply, in lieu of criteria specified in Section 5.9.120:

(1) The applicant has demonstrated a security problem exists at the site. The demonstration must include police reports, insurance claims paid, or affidavits from neighbors or tenants of the property corroborating the security problem;

(2) Demonstration that the placement of the fence will not present a hazard or risk to the general public or neighboring properties;

(3) Demonstration that the applicant has exhausted all other practical remedies to the demonstrated security problem; for example, sight obscuring screening, "unfriendly landscaping," lighting or alarms which might deter trespass on the subject property; or

(4) Demonstration that the property is subject to noise found to exceed acceptable noise levels prescribed in the Oregon Administrative Rule or the Federal Highway Administration Noise Abatement Criteria, as certified by an acoustical engineer;

- (5) The Planning Commission, based on the evidence presented, must approve, modify, or deny the request. The Planning Commission may further condition the request including, but not limited to imposition of the following conditions; establishing the extent of the site eligible for the fencing, establishing minimum and maximum height requirements, setbacks from all property lines, and requiring specific fencing materials.

## Section 4.5-100 On-Site Lighting Standards

### Subsections:

#### 4.5-105 Purpose and Applicability

#### 4.5-110 Illumination and Height

#### 4.5.105 Purpose and Applicability

- (A) On-site lighting standards are established to create a safe and secure environment during hours of darkness and reduce or prevent light pollution by minimizing glare.
- (B) Light fixtures subject to the standards in this section are outdoor artificial illuminating devices, outdoor fixtures, lamps, and other similar devices, permanently installed or portable, used for flood lighting, general illumination, or advertisement. Such devices include, but are not limited to, lights for:
- (1) Buildings and structures;
  - (2) Recreational areas;
  - (3) Parking lot and maneuvering areas;
  - (4) Landscape areas;
  - (5) Streets and street signs;
  - (6) Product display areas;
  - (7) Building overhangs and open canopies;
  - (8) Holiday celebrations;
  - (9) Construction lights.
- (C) The following light fixtures or uses are exempt from complying with the outdoor lighting standards of this section. These exemptions do not prevent the City from adoption of later ordinances that may address the retrofitting or removal of outdoor lighting fixtures.
- (1) All outdoor light fixtures lawfully installed and operating prior to the effective date of the ordinance codified in this section, and not prohibited by this section. This exemption does not apply if an existing light fixture is replaced. The addition of supplementary shielding and/or re-aiming of existing fixtures that shine direct illumination or visible glare beyond the property line where the fixture is installed are encouraged to help improve safety and quality of life.

Commented [RM1]: How/why is this section different from SDC 4.2.145? Which section applies to what?

Commented [RM2]: Make recommendation to PC from TAC to revise to require applicable to all housing...

Commented [LA3]: subjective terminology

Commented [RM4R3]: Since used in purpose statement ok?

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- (2) Residential low wattage lighting, as defined below, used for yards and driveways. These low wattage lights must not shine, glare, emit direct illumination, or cast a shadow onto adjacent property.
- (3) Commercial and industrial low wattage lighting used to highlight driveways and landscaping, or applied to a building providing they are properly aimed and shielded to not shine visible glare into the public right-of-way or onto adjacent or nearby properties.
- (4) Up-lighting intended to highlight part of a building or landscaping; provided, that the light distribution from the fixture is effectively contained by an overhanging architectural element or landscaping element and does not shine beyond the intended target including into the night sky. Such containment elements may include but are not limited to awnings, dense shrubs, or year-round dense evergreen tree canopies which will contain or limit illumination of the sky.
- (5) Correctional Institutions. Exterior lighting for correctional facilities must be shielded high-intensity discharge lighting except at the immediate entry area, in which case other lighting may be used that conforms to the intent of this section.
- (6) Low wattage lights used as decorations, such as holiday lights, for no more than 60 days in a calendar year are exempt from the requirements of this section.
- (7) Carnivals and fairs that require the use of temporary outdoor lighting fixtures are exempt except that permanent installations at dedicated sites must conform to the requirements of this section.
- (8) U.S. flags displayed by top-mounted lighting only. The illumination of all flags other than the U.S. flag must be extinguished at the end of public business hours or by 10:00 p.m., whichever is later.
- (9) Temporary lighting for television or movie film productions, roadway or utility construction or building construction not to exceed 60 days in any one location. Permanent installations at dedicated sites must conform to the requirements of this section.
- (10) All outdoor light fixtures used to highlight art features within a public right of way providing they are aimed and shielded to not shine visible glare into the public right-of-way or onto adjacent or nearby properties.
- (11) City street light standards and design criteria, which are regulated by SDC 4.2.145 and by the *Engineering Design Standards and Procedures Manual*.
- (12) Lighting necessary for emergency equipment and work conducted in the interests of law enforcement or for the safety, health, or welfare of the City; and

**Commented [KK5]:** Consider removing "decorative." Define by wattage and clear prohibited effects, otherwise not C&O for housing standards.

**Commented [GK6]:** Define low wattage? Is it different for commercial vs industrial?

**Commented [RM7R6]:** Defined below

**Commented [GK8R6]:** I see that now, wasn't to definitions yet.

**Commented [LA9]:** City

**Commented [GK10]:** What about state and federal? We may get them eventually.

**Commented [KK11]:** Consider removing holiday and just stating "decorative lights such as holiday lights," to include string lights put up for other reasons.

**Commented [KK12]:** Alternative is no more than 60 consecutive days, but that gives loophole of turning them off one night and then allowing them to be lit up the next under a new timeline.

**Commented [LA13]:** any one location? vicinity seems too ambiguous

**Commented [RM14]:** subjective... but wouldn't apply to housing so, ok?

**Commented [RM15R14]:** just say "aimed and shielded to not shine..."

**Commented [KK16R14]:** I like your edit.

**Commented [GK17]:** How would the flame at gateway fit into this code? It isn't shielded and is art related to transportation, maybe?

**Commented [RM18]:** Street lighting? Check on this.

**Commented [RM19]:** Check these standards and specs"

(13) Sign lighting and signs in general, which are regulated in the Springfield Municipal Code, 1997, Chapter 8.

(D) **Violations and Penalties.** For any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve or convert any lighting fixture, or cause the same to be done, contrary to or in violation of any provision of this section constitutes a violation of this Code. Each day a lighting fixture is in violation of this section constitutes a separate violation.

**Commented [KK20]:** Could consider ending at "violation." Our muni code is clear that violations of the development code are enforceable under the Civil Enforcement of Code Infractions section in chapter 5.

(E) **Definitions.** The following definitions apply to terms in this section:

- (1) End of business hours or end of business means (a) the end of normal or posted business hours when a business or institution is no longer open to serve customers or clients, and (b) the end of a shift or normal work hours when the majority of employees are gone from the business or institution.
- (2) Full cut-off means a light fixture designed and constructed so that light is directed down and no light is projected above the horizontal plane. [See illustrations below]
- (3) Glare means stray, unshielded light striking the eye that may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; or (d) reduction of visual performance.
- (4) High intensity discharge lamp lighting means high-pressure sodium, mercury vapor, metal halide, low-pressure sodium, induction, sulfur, xenon, and other similar lamps.
- (5) Installed means initial installation of outdoor lighting fixtures, poles, electrical wiring, and related mounting equipment following the effective date of the ordinance codified in this section. Projects with approved construction plans prior to effective date of the ordinance codified in this section are excluded from compliance with the ordinance in the initial installation only.
- (6) Low wattage lights means 12-volt direct current lights or individual lamps less than 0.25 watts each strung together within a translucent or transparent plastic cover.
- (7) Replacement means the installation of a new lighting fixture in place of an existing fixture, and/or the installation of a new lighting housing or head to an existing pole, bracket or wall, tree, or other structure. "Replacement" does not mean the changing of light bulbs or lamps in a fixture for the same or lower wattage bulbs.
- (8) Safety/Security. "Safety" means (a) sufficient lighting at building entrances, exits, walkways and parking areas to allow customers and employees to see any physical barriers and to be seen at all times as they access to vehicles and sidewalks, and (b) the use of full cut-off light fixtures above doors, at fire service stanchions, loading areas, and similar building access points.

**Commented [LA21]:** Should insert a definition for LED lighting



- (9) Shielding means an externally applied device such as a shroud or hood of metal, wood, opaque plastic or opaque painted glass so that light emitted by the fixture is directed downward below the horizontal plane onto the site and does not shine direct illumination or glare onto adjacent or nearby property.
- (10) Unshielded means light fixtures lacking any means to restrict the emitted light to below the horizontal plane or to shine or glare onto adjacent or nearby property.
- (11) Up lighting means a shielded light fixture usually installed on the ground or permanently mounted to an architectural element, tree, or other structure that has the light from the fixture directed in a contained distribution pattern above the horizontal plane to illuminate an adjacent or nearby building element, shrub, tree or other landscaping.



#### 4.5.110 Lighting Standards

(A) **Standards for Installation and Operation of Outdoor Lighting.** Except as exempt by subsection (C) of SDC 4.5.105 above, new outdoor lighting fixtures installed after [date of adoption], are subject to the standards below. No provision of this section is intended to preempt Springfield Municipal Code 8.200 et seq., Signs, or applicable State codes.

- (1) All outdoor lighting fixtures subject to this section must be designed as a full cut-off fixture or have a shielding method to direct light emissions down onto the site and not shine direct illumination or glare onto adjacent properties.
- (2) All lighting for roadways, roadway signs, intersections, and pedestrian ways must be designed or have an opaque shielding method to direct light emissions downward and below the horizontal plane of the fixture in the permanently installed position.
- (3) The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.

**Commented [LA22]:** is the Sign Code being incorporated into the Development Code? or is this a reference from another organization

**Commented [KK23R22]:** This isn't a sign code reference - our sign code is in SMC Chapter 8.

**Commented [RM24]:** Motion activated security light must not shine onto another property.... Word smith with KSK????

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- (4) The operation of searchlights for advertising or promotional purposes is prohibited.
- (5) Outdoor lights at designated Historic Sites or within Historic Neighborhoods that are consistent with the architectural style or era of the building or property must be consistent with the provisions of this section.
- (6) Businesses and institutions with outdoor lighting, such as parking lot lights, building lights, landscaping lights, and other similar exterior lighting features, are encouraged to extinguish such lights at the end of the working day, except for lights necessary for personal and building safety.
- (7) All outdoor lighting used for public or private sports stadiums, sports areas, recreation facilities, outdoor performance areas, and other similar outdoor facilities must be extinguished within an hour after conclusion of the final event of the day, except as exempted herein.
- (8) Externally affixed neon lighting is prohibited except in the following manner: As a trim element that surrounds windows, doors, or building edges; when located on building facades that face street frontages or internal driveways within commercial shopping complexes; such lighting must not be located more than 15 feet from finished grade and must not be used to define a building roofline; and such lighting must not include flashing, intermittent or rotating lights. Notwithstanding the provisions of this section, all neon lighting associated with signs must be in accordance with the provisions of Springfield Municipal Code 8.200 et seq, Signs.

- (9) The operation of outdoor lighting used for public or private sports stadiums, sports areas, recreation facilities, outdoor performance areas, and other similar outdoor facilities must not occur later than the conclusion of the final event of the day when maintenance such as field grooming, irrigation, cleaning, and other similar maintenance activities are required, to have the facility ready for operation the following morning. Lights during after-events maintenance must be kept at the minimum level practicable.

- (B) On-site lighting must be the minimum illumination necessary in compliance with the Illuminating Engineering Society of North America recommended practices for a given application, including parking areas and vehicle sales areas. All exterior light fixtures must be shielded or recessed so that direct glare and reflection are contained within the boundaries of the property, and directed downward and away from abutting properties; public rights-of-way; and riparian zones, wetlands, and other protected areas identified in this Code on the same property.

**(C) Height**

- (1) The height of a free standing exterior light fixture must not exceed 25 feet or the height of the principal permitted structure, whichever is less. In this case, height is

**Commented [GK25]:** These event lights should still be directed to not cast light outside the property. We had Hamlin adjust the lighting pattern to minimize spillover onto the adjacent ROW and natural areas.

**Commented [RM26]:** Matt Hilton comment from TAC. Re read to make sure it is worded ok.

**Commented [RM27]:** subjective. Specify a standard??? IES???

**Commented [KK28R27]:** Subjective is probably okay because this is a maintenance/enforcement issue and not a standard that applies to granting a ministerial permit. LUBA wouldn't take jurisdiction over an enforcement case anyway.

**Commented [RM29]:** What is Minimum necessary? How measured?

**Commented [RM30]:** Copy paste the standard from IES-Illuminating Engineering Society standard and cite if needed to justify, get from Michael, use "recommended practice" standard. Check Glenwood standard.

**Commented [RM31]:** Vehicle sales area call out??? Only in commercial zones.

**Commented [RM32]:** add stormwater facilities???

**Commented [CM33R32]:** I think some def warrant lighting for safety purposes.

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measured as the vertical distance between the paved surface or finished grade and the bottom of the light fixture.

Commented [LA34]: suggest adding finished grade or similar terminology because not all light fixtures are installed in parking lots or paved areas

- (2) The Director may allow an increase to the standard in Subsection (C)(1), above, through a Type 2 or Type 3 approval process when a determination is made that personal security is an issue, special security needs exist, or where vandalism or crime are possible. The Director may consider specific site characteristics, level of vehicle and pedestrian conflict, special security needs, and history or likelihood of crimes in making the determination. Any approved increase must be the minimum necessary to achieve the desired result.

Commented [RM35]: Should be (C)(1) 25 height limit.

- (3) The height of a free standing exterior light fixture within 50 feet of any residential district, riparian zone, or wetland must not exceed 12 feet.

- (4) The height restriction in Subsection (C)(1), above does not apply to lighting used to illuminate outdoor performance areas, sport and recreation facilities, and playfields, unless these light fixtures are located within 50 feet of a residential district, in which case (B)(3) above applies.

Commented [RM36]: C 1, see above.

## Section 4.6.100 Motor Vehicle Parking, Loading, and Bicycle Parking Standards

### Subsections:

- 4.6.105 Vehicle Parking—Purpose and Applicability
- 4.6.110 Motor Vehicle Parking—General
- 4.6.115 Motor Vehicle Parking—Parking Lot Design
- 4.6.120 Motor Vehicle Parking—Parking Lot Improvements
- 4.6.125 Motor Vehicle Parking—Parking Space Requirements
- 4.6.130 Loading Areas—Purpose and Applicability
- 4.6.135 Loading Areas—Facility Design and Improvements
- 4.6.140 Bicycle Parking—Purpose and Applicability
- 4.6.145 Bicycle Parking—Facility Design
- 4.6.150 Bicycle Parking—Facility Improvements
- 4.6.155 Bicycle Parking—Number of Spaces Required

### 4.6.105 Vehicle Parking—Purpose and Applicability

- (A) These regulations provide standards for the development of vehicle parking.
- (B) Unless exempted elsewhere in this Code, all development within the City and its urbanizable area must comply with the vehicle parking provisions of this Section.

### 4.6.110 Motor Vehicle Parking—General

- (A) Off-street parking spaces must be provided, consistent with requirements in SDC 4.6.125, Table 4.6.2, unless excepted as allowed herein, for:
  - (1) All new construction and expansion of multiple unit housing, commercial, industrial, and public and semi-public uses. If an existing development is expanded, new parking spaces must be provided in proportion to the increase only.
  - (2) Changes in use or the use category of an existing building or structure.
- (B) If parking has been provided to serve an existing use, the number of parking spaces cannot be reduced if the result would be fewer spaces than required by this Section, except as parking reductions are allowed below and under Special Provisions to Table 4.6.2.
- (C) Parking reductions under SDC 4.6-110(H) through (L) and Special Provisions to Table 4.6.2 must not reduce the number of ADA parking spaces required in accordance with the minimum parking in Table 4.6.2 or under SDC 4.6-110(M).
- (D) Required parking spaces must be available for the parking of passenger vehicles of residents, customers, patrons, visitors, and employees only, and must not be used for

**Commented [RM1]:** What does this mean? If an existing use has substandard parking, then spaces don't have to be added to bring the existing use into conformance? Should be more clear.

outdoor displays, storage of vehicles, equipment, or materials. Parking for company motor vehicles that remain on the premises overnight, or enclosures designed for the temporary collection of shopping carts, must be provided in addition to the number of parking spaces required by this Section.

- (E) Unless joint use of parking facilities is requested as may be permitted in Subsection (E) below, the total requirement for off-street parking spaces is the sum of the requirements for all uses. If the total number of required parking spaces results in a fraction, the fraction must be rounded up to the next whole number. Off-street parking facilities for one use must not be considered as providing parking facilities for any other use. Alternatively, the Director may approve joint use of parking facilities as may be permitted in Subsection (F), below.
- (F) The Director, upon application by all involved property owners, may authorize joint use of parking facilities, provided that:
- (1) The applicant demonstrates that there is no substantial conflict in the principal operating hours of the buildings or uses for which the joint use of parking facilities is proposed; and
  - (2) The parties concerned in the joint use of off-street parking facilities must provide evidence of agreement for the joint use by a legal instrument approved by the City Attorney. An agreement for joint use of parking facilities must provide for continuing maintenance of jointly used parking facilities;
  - (3) The agreement must be recorded at Lane County Deeds and Records at the applicant's expense.
- (G) When on-street parking is available directly abutting the property and there are no adopted plans to remove the on-street parking, parking spaces in a public right-of-way directly abutting the development area is allowed to be counted as fulfilling a part of the parking requirements for a development as follows: For each 18 feet of available on-street parking, there will be one space credit toward the required amount of off-street parking spaces. The developer is responsible for marking any on-street spaces.
- (H) Motor Vehicle Parking Space Reduction Credit for Additional Bicycle Parking. Additional bicycle parking beyond the minimum amount required in Table 4.6.3 that complies with the bike parking standards in SDC 4.6.145 and 4.6.150 may substitute up to 20 percent of off-street motor vehicle parking otherwise required in Table 4.6.2. For every two non-required bicycle parking spaces that meet the short- or long-term bicycle parking standards specified in Table 4.6.3, the motor vehicle parking requirement is reduced by one space. When existing parking converted to bicycle parking under this subsection results in surplus motor vehicle parking spaces, the surplus parking may be converted to another use in conformance with the requirements of this Code.

Commented [RM2]: Should this be changed?

Commented [RM3]: To what standards?

- (I) Motor Vehicle Parking Space Reduction Credit for Frequent Transit Corridors—Abutting Sites. Development sites abutting an existing or proposed Frequent Transit Corridor may request a reduction of up to 15 percent from minimum off-street motor vehicle parking required in Table 4.6.2.
- (J) Motor Vehicle Parking Space Reduction Credit for Frequent Transit Corridors—Nearby Sites. Development sites not abutting but within 1/4-mile of an existing or proposed Frequent Transit Corridor may request a reduction of up to 10 percent from minimum off-street motor vehicle parking required in Table 4.6.2.
- (K) Reduction Credit for ADA Improvements for Frequent Transit Corridors. Development sites abutting or within 1/4 mile of an existing or proposed Frequent Transit Corridor may receive a reduction of up to 10 percent from the minimum off-street motor vehicle parking required in Table 4.6.2 in exchange for contribution to the City for ADA improvements in the public right-of-way. The required contribution will be equal to the Base Curb Ramp Fee multiplied by each set of four parking spaces to be reduced, rounded up to the next whole number (e.g. one Base Curb Ramp Fee for one to four parking spaces reduced, double the Base Curb Ramp Fee for five to eight parking spaces reduced, etc.). The Base Curb Ramp Fee must be set by Council resolution and must be approximately the cost of constructing one ADA-compliant curb ramp. Nothing in this subsection waives or alters any requirement for a developer to construct or provide on-site or off-site ADA improvements.
- (L) Outside of the Downtown Exception Area and Glenwood Riverfront Mixed-Use Plan District, a cumulative maximum reduction of 20 percent of the minimum off-street parking required in Table 4.6.2 may be applied using the credits, allowances, and exceptions to minimum parking requirements established in this Code.
- (M) Right Size Parking Alternative—Minimum. The Approval Authority may authorize an alternative parking standard that is less than the minimum off-street parking standard in SDC 4.6.125, including reductions in excess of the cumulative maximum reduction specified in SDC 4.6.110(K) above. The alternative parking standard must be one of the following:
- (1) The average peak period parking demand identified for the use in the current version of the Institute of Transportation Engineers (ITE) Parking Manual, for the day(s) of the week with the highest parking demand; or
  - (2) The peak parking demand identified by the applicant and supported by information that a reasonable person would rely upon as determined by the Approval Authority. This information may include, but is not limited to, transportation demand management or a parking study for a similar development.
- (N) Right Size Parking Alternative—Maximum. The Approval Authority may authorize an alternative parking standard that is more than 125 percent of the minimum off-street parking standard in SDC 4.6.125. The alternative parking standard must be the peak parking

**Commented [RM4]:** What counts as "proposed"?

**Commented [RM5]:** See comment above. Should be more clear.

**Commented [RM6]:** same

demand identified by a parking generation study conducted according to the ITE Manual of Transportation Engineering Studies and prepared by a licensed engineer.

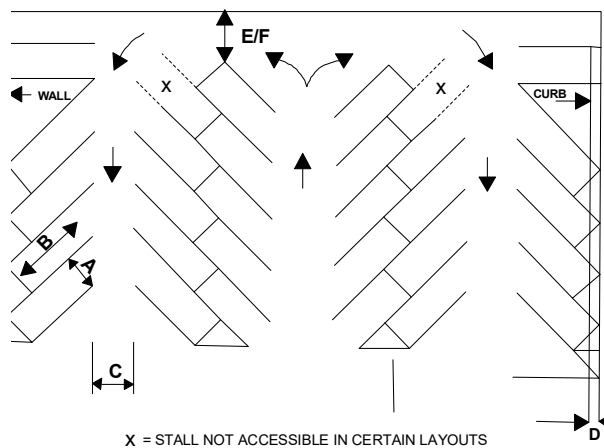
#### 4.6.115 Motor Vehicle Parking—Parking Lot Design

All off-street parking areas must comply with the following dimensional standards:

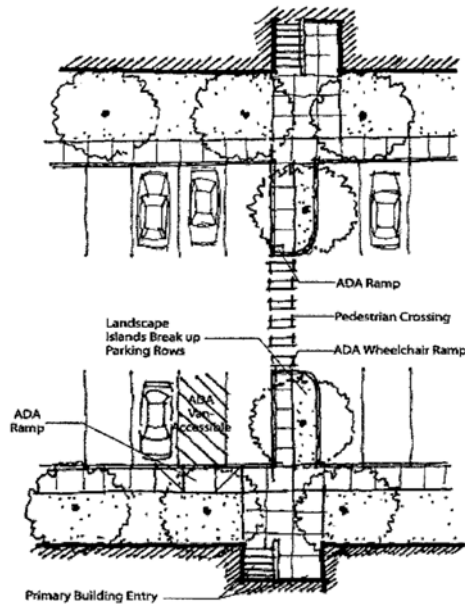
**Table 4.6.1**

Dimensional Feature (all dimensions in feet)	Diagram	Parking Angle			
		0	45	60	90
Stall width, standard	A	9.0	9.0	9.0	9.0
Stall width, compact	A	8.0	8.0	8.0	8.0
Stall length, standard	B	24.0	18.0	18.0	18.0
Stall length, compact	B	22.0	16.0	16.0	16.0
Aisle width between stall lines	C	12.0	12.0	16.0	24.0
Bumper overhang (typical)	D	0.0	1.5	1.8	2.0
Cross-aisle, 1-way	E	16.0	16.0	16.0	16.0
Cross-aisle, 2-way	F	24.0	24.0	24.0	24.0

**Figure 4.6-A**  
**Parking Lot Design**



**Figure 4.6.A  
Parking Lot Design**



#### 4.6.120 Motor Vehicle Parking—Parking Lot Improvements

All parking areas must conform to the setback, vision clearance, planting, and screening provisions of this Code and must be completed prior to occupancy. Required parking spaces must be improved as follows:

- (A) All parking lots, bays, and spaces must have a durable, dust free surfacing of Asphaltic concrete, Portland cement concrete, or other materials as approved by the City Engineer. Permeable pavement meeting standards in the *Engineering Design Standards and Procedures Manual* may be allowed by the City Engineer for parking areas and driveways. Parking lot surfacing must not encroach upon the public right-of-way.
- (B) Stormwater management system improvements must be provided to manage all on-site run-off. The stormwater management system improvements must provide for the on-site collection of stormwater to eliminate sheet flow onto sidewalks, public rights-of-way, and abutting private property. All stormwater management system improvements must meet the standards in SDC 4.3.110, and the *Engineering Design Standards and Procedures Manual*, Chapters 3 and 4.

Commented [RM7]: Not clear

Commented [RM8]: Based on what standards?



- (C) All parking spaces fronting a sidewalk, alley, street, landscaped area, or structure must be provided with a secured wheel bumper or linear curb not less than six inches in height to be set back from the front of the stall a minimum of two feet to allow for vehicle encroachment. Wheel bumpers must be a minimum of six feet in length. Curbs must be constructed in conformance with the Standard Construction Specifications.

Alternatively, the sidewalk or landscaped area may be widened two feet beyond the minimum dimension required to allow for vehicle encroachment. A curb not less than six inches in height must protect the widened sidewalks and planter areas.

- (D) Backing into the public right-of-way, other than alleys is prohibited. However, a parking areas of less than four spaces on a lot/parcel in a residential land use district may back into the public right-of-way.

- (E) All spaces must be permanently and clearly marked. Alternatively, the applicant may propose unmarked spaces if supported by a report stamped by an Oregon licensed Engineer indicating that that the spaces should not be marked for safety considerations. Old striping must not be visible after being replaced by new striping.

**Commented [RM9]:** When would this happen? Under what conditions?

- (F) Not more than 30 percent of the total parking spaces in a parking lot may be designated for compact cars. Alternatively, a greater percentage may be authorized by the Director if a report stamped by an Oregon licensed Engineer indicates that greater than 30 percent of the total parking spaces is appropriate for the use. All compact spaces must be signed and/or the space painted with the words "Compact Car Only."

**Commented [RM10]:** Consider allowing 100% compact??? Conversation from TAC 4/8/21. Allow 100% without study.

- (G) Parking Spaces for People with Disabilities.

- (1) Parking spaces for people with disabilities and accessible passenger loading zones that serve a particular building must be located as close as possible to a building entrance.

**Commented [RM11]:** Is there a spec for the sign or painting? Should we reference EDSPM or Construction specs?

- (2) The number and dimensions of parking spaces for people with disabilities must be as specified in Section 1106 of the Oregon Structural Specialty Code.

**Commented [RM12]:** Not clear? What about "as close as the closest non accessible space" or something more clear.

#### 4.6.125 Motor Vehicle Parking—Parking Space Requirements

- (A) Table 4.6.2 establishes minimum off-street parking standards according to use, which apply to that use in any land use district.
- (B) The minimum parking standard for any use not specified in Table 4.6.2 is the average peak period parking demand identified for that use in the current version of the ITE Parking Manual, for the day(s) of the week with the highest parking demand.

- (C) The maximum off-street parking standard for any use that is not a residential use is 125 percent of the minimum off-street parking standard. There is no maximum off-street parking standard for residential uses.
- (D) Parking standards established in Table 4.6.2 may be modified as provided in SDC 4.6.110.

**Table 4.6.2**

Use	Minimum Parking Standard
<b>Residential Uses</b>	
Single unit dwelling, detached	Two spaces for each dwelling, not including an accessory dwelling unit. One space for each dwelling when paved on street parking, in conformance with SDC 4.6.110(G) is available abutting the property and there are no adopted plans to remove the on-street parking.
Duplex	Two off-street parking spaces for each duplex.
Triplex	For lots or parcels of less than 3,000 square feet: one space total. For lots or parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces total. For lot or parcels greater than or equal to 5,000 square feet: three spaces total.
Fourplex	For lots or parcels of less than 3,000 square feet: one space total. For lots or parcels greater than or equal to 3,000 square feet and less than 5,000 square feet: two spaces total. For lots or parcels greater than or equal to 5,000 square feet and less than 7,000 square feet: three spaces total. For lot or parcels greater than or equal to 7,000 square feet: four spaces total.
Townhome (attached)	One space for each townhome dwelling unit
Cottage clusters	One space for each dwelling unit in a cottage cluster
Multiple unit housing	One space for each dwelling unit
Group care facilities	One quarter space for each bedroom or dwelling unit plus 1 per full time employee on the busiest shift.
Boarding and rooming houses (see SDC 4.7-215)	One half of an additional parking space for each boarding room in addition to any parking for a primary use.
<b>Commercial/Industrial Uses</b>	
Child care center	One space for each 350 square feet of gross area, plus one drop off space for each 700 square feet of gross floor area.
Hotel/motel or bed and breakfast facilities	One space plus one space for each guest room.

**Commented [RM13]:** Could just rely on 4.6.110(G) and delete this???

**Commented [RM14]:** These are the most that we can require in conformance with HB 2001. If we limit triplex and fourplex to the min. lot sizes of 5,000 and 7,000 then we can simplify these standards. If we allow them on lot sizes under 5 and 7k, then these would apply.

Use	Minimum Parking Standard
Eating and drinking establishments	One space for each 100 square feet of gross floor area.
Retail trade and services (including shopping centers)	One space for every 300 square feet of gross floor area.
Manufacture and assembly, and other primary industrial uses. Includes warehousing.	One space for each 1000 square feet of gross floor area
Warehouse commercial sales (including bulky merchandise)	One space for each 600 square feet of gross floor area.
<b>Public and Institutional Uses</b>	
Educational facilities	One space for each classroom, plus one for each 100 square feet of the largest public assembly area.
Public utility facility	None, unless utility vehicles will be parked overnight.
Recreational facilities, and religious, social and public institutions	One space for each 100 square feet of floor area in the primary assembly area and One for each 200 square feet of gross floor area for the remainder of the building.
Transportation facilities	One space for each 300 square feet of gross floor area not including vehicle storage areas.

Special Provisions.

- (A) Downtown Exception Area. Within the Downtown Exception Area, all lots/parcels and uses are exempt from the minimum off-street parking space requirements of this Section. However, if the Director determines there is a need for off-street parking, the Director may require an Institute of Transportation Engineering (ITE) Parking Generation Report to determine the off-street parking requirements.
- (B) Commercial Districts.
- (1) Parking lots in the Neighborhood Commercial (NC) District must be designed so that a landscaped separator is in between every seven spaces . A development in the NC district that requires more than 25 parking spaces must locate half of all the required spaces over 25 behind proposed buildings.
  - (2) Parking lots must be used exclusively for the parking of vehicles. However, parking spaces in excess of the number required by this Code may be used for temporary sales or display of merchandise where the activity does not create a hazard for automobile or pedestrian traffic or where otherwise allowed under this Code or the Springfield Municipal Code.
  - (3) A minimum of four off-street parking spaces is required for all sites in commercial zoning districts that require parking, unless reduced under SDC 4.6.110(M).
- (C) Light-Medium Industrial (LMI), Heavy Industrial (HI), and Special Heavy Industrial (SHI) Districts. In addition to reductions permitted in accordance with the provisions of SDC

4.6.110, parking spaces may be reduced in LMI, HI, or SHI land use districts on a one-for-one basis when the number of spaces required is more than the number of employees working on the busiest shift, provided that a landscaped area equal to the total number of spaces reduced must be held in reserve for future use.

**(D)** Campus Industrial (CI) District.

- (1)** To the greatest extent practicable, parking must be located behind buildings, internal to development or to the side of a building.

**EXCEPTIONS:**

- (a)** The number of required parking spaces for uses not shown in Table 4.6.2 must be determined based upon standards for similar uses.
- (b)** Parking spaces may be reduced on a one-for-one basis when the number of spaces required is more than the shift with the largest number of employees, provided that a landscaped area equal to the total number of spaces reduced is held in reserve for future use.
- (2)** An additional five percent of impermeable surface may be allowed in cases where all parking on a lot/parcel is screened by earthen berms with an average height of three feet (measured from the finished grade of the edge of the parking lot), sunken below grade an average depth of three feet (measured from the finished grade of the edge of the parking lot to the finished grade of the adjacent berm or landscaped area), or both.
- (3)** Truck parking for vehicles necessary for the operation of the facility may be located either:
- (a)** Within an enclosed building; or
- (b)** Outside of a building if the following standards are met and must:
- (i)** Be prohibited in all front and street-side yards;
- (ii)** Meet the building setback standards specified in SDC 3.2.420; and
- (iii)** Be screened as specified in SDC 3.2.445.

**(E)** Medical Services (MS) District. Motor vehicle parking standards are determined based upon standards for similar uses in Table 4.6.2 and upon the required Traffic Study.

(F) Public Land and Open Space District. Motor vehicle parking standards are determined based upon standards for similar uses in Table 4.6.2. Uses not listed require a Parking Study.

(G) Mixed Use Districts.

- (1) Nonresidential Requirements. Off-street surface parking must meet the minimum parking requirement for the various commercial and industrial uses in Table 4.6.2 unless reduced under applicable provisions in this Code.
- (2) Residential Requirements. Minimum off-street parking standards for residential uses must comply with the standards specified in Table 4.6.2 unless reduced under applicable provisions in this Code.

#### **4.6.130 Loading Areas—Purpose and Applicability**

- (A) These regulations provide standards for the development of loading areas.
- (B) Unless exempted elsewhere in this Code, all commercial and industrial development requiring loading areas must comply with the loading area provisions of this Section.

#### **4.6.135 Loading Areas—Facility Design and Improvements**

- (A) All necessary loading areas for commercial and industrial development must be located off-street and provided in addition to the required parking spaces.
- (B) Vehicles in the loading area must not protrude into a public right-of-way or sidewalk. When no other reasonable alternative exists, loading areas must be located so that vehicles are not required to back or maneuver in the public right-of-way or internal travel aisles.
- (C) The minimum sizes required for commercial and industrial loading areas are as follows:
- (1) Two hundred fifty square feet for buildings of 5,000 to 20,000 square feet of gross floor area.
  - (2) Five hundred square feet for buildings of 20,000 to 50,000 square feet of gross floor area.
  - (3) Seven hundred fifty square feet for buildings in excess of 50,000 square feet of gross floor area.
- (D) The required loading area must not be less than ten feet wide by 25 feet long and have an unobstructed height of 14 feet.

**Commented [RM15]:** Not sure this makes sense. Reword? Keep? Remove?

- (E) A school having a capacity greater than 25 students must have a driveway designed for the continuous forward flow of passenger vehicles for loading and unloading children.

#### **4.6.140 Bicycle Parking—Purpose and Applicability**

- (A) Safe and convenient bicycle parking is required in most land use districts and land use categories to encourage the use of bicycles as a mode of transportation. The required number of spaces is lower for uses that do not tend to attract bicycle riders and higher for those that do. Additionally, some bicycle parking is required on the basis of specifically encouraging employee, student or customer related bicycle use. The following standards ensure that bicycle parking is convenient to the cyclist in its location and provides sufficient security from theft and damage. Long-term bicycle parking space requirements accommodate employees, commuters, students, residents and other persons who expect to leave their bicycles for more than two hours. Short-term bicycle parking spaces accommodate visitors, customers, messengers, and other persons expected to depart within approximately two hours.
- (B) Unless exempted elsewhere in this Code, all development must comply with the bicycle parking provisions of this Section.

#### **4.6.145 Bicycle Parking—Facility Design**

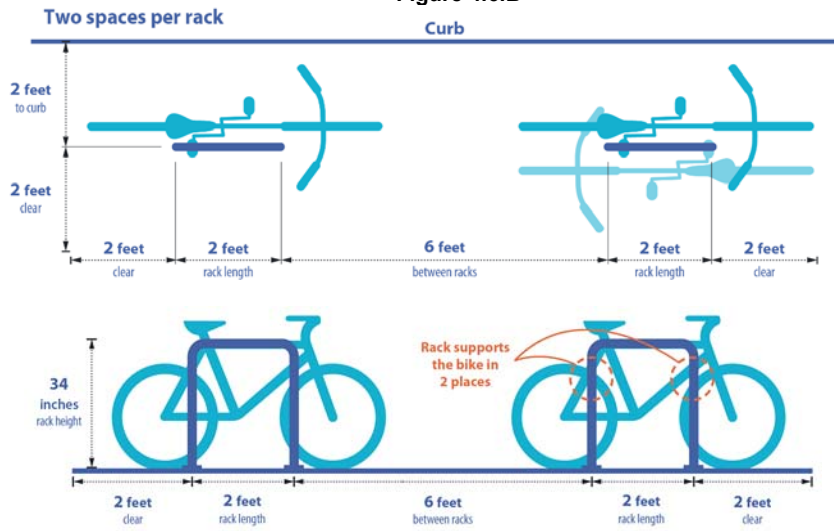
- (A) Required bicycle parking spaces and facilities must be a powder coated staple or inverted-U rack as shown in Figure 4.6.B. Alternatively, the required bicycle parking spaces must fulfill the criteria for quality bicycle parking, which are as follows:
- (1) Supports the bicycle frame in a stable position without damage to wheels, frames, or components and provides two points of contact;
  - (2) Allows locking of the frame and one or both wheels with a U-lock;
  - (3) Is securely anchored to the ground or to a structure;
  - (4) Resists cutting, rusting, bending, or deformation, both from natural causes and from human abuse;
  - (5) Powder coated or durable, non-scratching surface; and
  - (6) Works well for a variety of bicycle frame types (e.g., should work for step-through frame as well as diamond frame, children's bicycles as well as adult bicycles, recumbent as well as other styles of adaptive bicycles).
- (B) Required bicycle parking spaces and facilities must be constructed and installed in accordance with SDC 4.6.150 and Figures 4.6.B and 4.6.C. Bicycle parking must be provided at ground level unless an elevator with bicycle wayfinding signage directs users

**Commented [RM16]:** What determines if it is "clear" signage? To what standards?

to an approved bicycle storage area. Each required bicycle parking space must allow a bicycle to be placed in the space without removing another bicycle from another space.

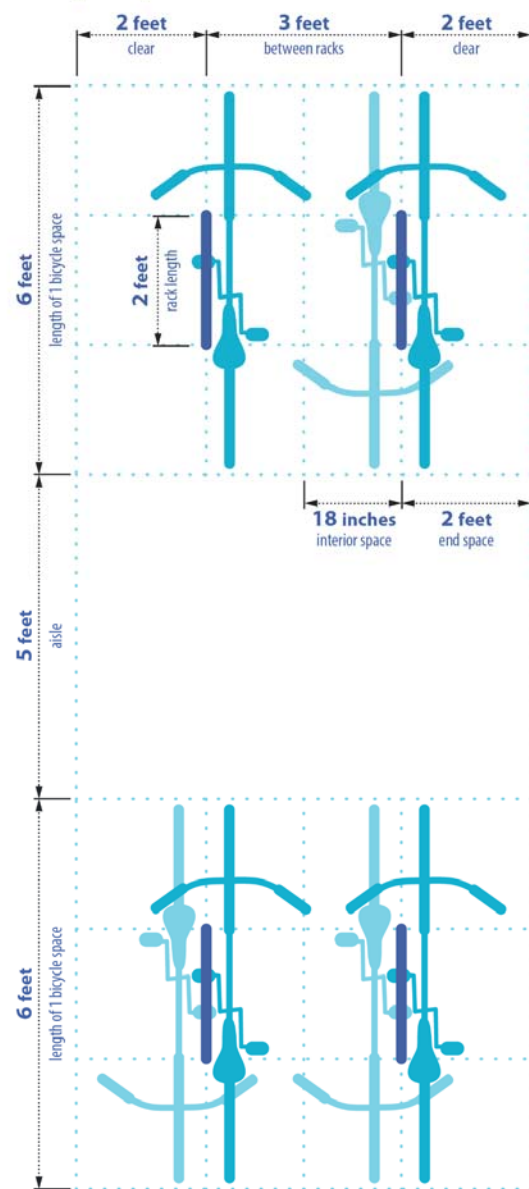
- (C) All required long-term bicycle parking spaces must be sheltered from precipitation, in conformance with (D)(3) below, and include lighting in conformance with the lighting standards in SDC 4.5.100.
- (D) Short-term bicycle parking must be sheltered as follows:
  - (1) If ten or fewer short-term bicycle parking spaces are required, no shelter is required for short-term bicycle parking.
  - (2) If more than ten short-term bicycle parking spaces are required, at least 50 percent of the short-term bicycle parking spaces in excess of ten must be sheltered.
  - (3) Shelters must have a minimum seven foot overhead clearance and must completely cover the bicycle parking rack and any bicycles that are parked in the way the rack was designed to be used.
- (E) Bicycle parking that accommodates oversized bicycles and alternative bicycle types must be provided as follows:
  - (1) Each oversized bicycle parking space must provide minimum clear area of four feet by eight feet as shown in Figure 4.6.C.
  - (2) At least ten percent of the long-term bicycle parking spaces for commercial uses and residential uses must be oversized bicycle parking spaces.
  - (3) At least ten percent of the short-term bicycle parking spaces for schools (elementary through high school) must be oversized bicycle parking spaces.

Figure 4.6.B





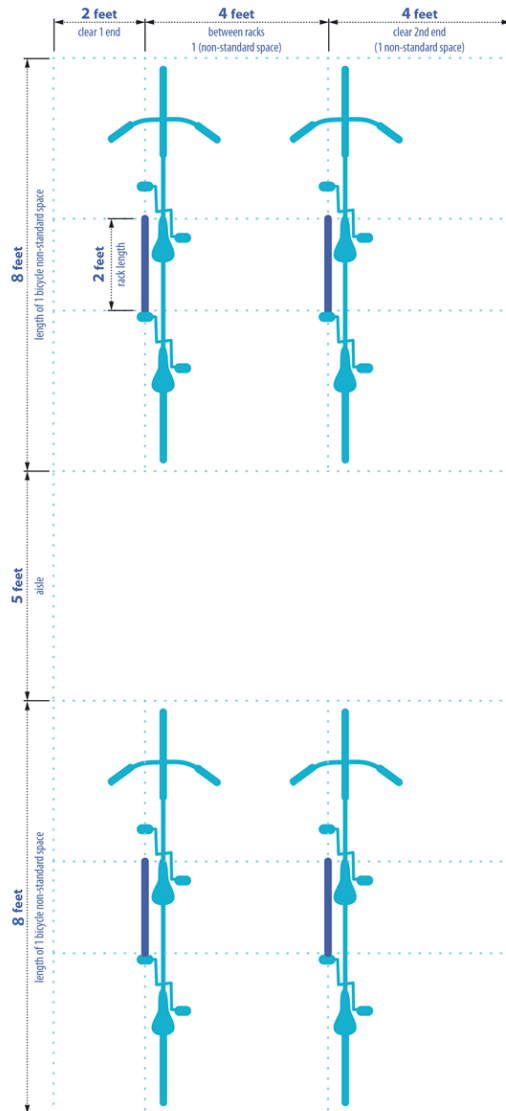
### Two spaces per rack



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Figure 4.6.C



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#### 4.6.150 Bicycle Parking—Facility Improvements

##### (A) Bicycle Parking Location and Security.

- (1) Bicycle parking racks, shelters, or lockers must be securely anchored to the ground or to a structure.
- (2) Exterior long-term bicycle parking must be located within 200 feet from the main building entrance, primary point of entry to the use, or employee entrance.
- (3) Exterior short-term bicycle parking must:
  - (a) Be located no further than 50 feet from the main building entrance or primary point of entry to the use, as determined by the City, but not further away than the closest on-site automobile parking space excluding designated accessible parking spaces, whichever distance is less; and
  - (b) Be clearly visible from the main building entrance or primary point of entry to the use.
- (4) Bicycle parking must be separated from motor vehicle parking by a barrier, curb, or sufficient distance to prevent damage to parked bicycles.
- (5) Where bicycle parking facilities are not directly visible and obvious from the public right-of-way, signs must be provided to direct bicyclists to the bicycle parking. Directions to sheltered facilities inside a structure may be signed or supplied by the employer, as appropriate. Short-term parking must be available to the general public.
- (6) Bicycle parking may be located inside a building on a floor, which has an outdoor entrance open for use, and which does not require stairs to access the space. Alternatively, the Director may allow, through a land use decision process, bicycle parking on upper stories within multi-story residential building when an elevator is provided.
- (7) In order for bicycle parking and bicycle racks to be located to avoid conflict with pedestrian movement and access, bicycle parking must be located outside of the public right of way and public or private sidewalk area. Paved access from bicycle parking spaces to the public right-of-way must be provided by at-grade or ramp access. Paved pedestrian access must be provided from the bicycle parking area to the building entrance. Alternatively, bicycle parking may be located in the public sidewalk or right-of-way where there is a minimum five feet between the parked bicycle and the storefront and does not conflict with pedestrian accessibility.
- (8) For multiple unit housing with required bike parking, requirements may be met through the provision of individual garages or storage units. For housing relying on a

Commented [RM17]: Not clear?

Commented [RM18]: Are there standards for ramp access? ADA accessible?

Commented [RM19]: What constitutes a conflict with pedestrian accessibility? What standards are used to determine this?

May 6, 2021

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common garage and without storage units, bicycle racks must be provided in the garage.

- (B) Employers with changing rooms and shower facilities or other additional amenities may be eligible for a ten percent reduction of Transportation System Development Charges if the Director determines that those facilities encourage bicycling or other active modes of transportation by employees or patrons.

#### 4.6.155 Bicycle Parking—Number of Spaces Required

- (A) The required minimum number of bicycle parking spaces for each principal use is four spaces, unless otherwise specified in Table 4.6.3. Additional bicycle parking spaces may be required at common use areas. When the number of required spaces results in a fractional number, the total number of required spaces will be rounded up to the next whole number. When application of the long- and short-term bicycle parking percentages results in a fractional number of long- and short-term spaces, the number of long-term spaces required will be rounded up to the next whole number; the remaining number of required spaces will be designated as short-term bicycle parking.
- (B) The following parking standards have been established according to use and apply to that use in any land use district.

**Commented [RM20]:** Based on what? Determined through a site plan review process?

**Table 4.6.3 Minimum Required Bicycle Parking Spaces**

Use Category	Specific Uses	Number of Required Spaces	Long- and Short-Term Bicycle Parking Percentages
<b>Residential</b>			
	Single unit dwelling & middle housing	Zero	N/A
	Multiple unit housing	One per dwelling unit	75% long-term 25% short-term
	Dormitories	One space per every three occupants	50% long-term 50% short-term
	Assisted care and day cares	One per five employees	75% long-term 25% short-term
	Other residential uses	One per dwelling unit	50% long-term 50% short-term
<b>Commercial</b>			
	General retail	One per 3,000 square feet of floor area	25% long-term 75% short-term
	Eating and drinking establishments	One per 600 square feet of floor area	25% long-term 75% short-term
	Service establishments	One per 2,000 square feet of floor area	25% long-term 75% short-term

Use Category	Specific Uses	Number of Required Spaces	Long- and Short-Term Bicycle Parking Percentages
	Art institution/gallery	One per 1,500 square feet of floor area	25% long-term 75% short-term
	Drive-through only establishments	Two for employee parking (minimum of four does not apply)	100% long-term
	Lodging	One per ten rentable rooms	75% long-term 25% short-term
	Office, including medical offices and clinics	Three quarters of a space per 5,000 square feet of floor area	75% long-term 25% short-term
	Industrial and wholesale	One quarter of a space per employee OR one per 4,000 square feet of floor area, whichever is less	75% long-term 25% short-term
<b>Institutional</b>			
	Government related uses	One per 3,000 square feet of floor area	25% long-term 75% short-term
	Schools (elementary through high school)	One per ten students based on planned capacity	25% long-term 75% short-term
	Parks and playgrounds	Eight per park or playground	100% short-term
	Recreation, amusement, and entertainment facilities	One per 1,000 square feet of floor area	25% long-term 75% short-term
	Universities/colleges	One per five full-time students	25% long-term 75% short-term
	Hospitals and medical centers	One per 3,000 square feet of floor area	75% long-term 25% short-term
	Religious institutions and places of worship	One per 20 seats or 40 feet of bench length (fixed seating) OR One per 500 square feet of floor area (no fixed seating)	100% short-term
<b>Transportation-Related</b>			
	Structured parking	Ten percent of the number of vehicle parking spaces provided	75% long-term 25% short-term
	Transit station	Ten percent of the number of vehicle parking spaces provided (if no vehicle parking is provided, the minimum of four applies)	50% long-term 50% short-term
	Transit park & ride	Ten percent of the number of vehicle parking spaces provided	50% long-term 50% short-term

<b>AGENDA ITEM SUMMARY</b>		<b>Meeting Date:</b>	9/8/2021
		<b>Meeting Type:</b>	Regular Meeting
		<b>Staff</b>	Katie Carroll and Sandy
		<b>Contact/Dept.:</b>	Belson/DPW
		<b>Staff Phone No:</b>	541-736-7135
		<b>Estimated Time:</b>	30 minutes
<b>SPRINGFIELD PLANNING COMMISSION</b>		<b>Council Goals:</b>	Mandate
<b>ITEM TITLE:</b>	FLOODPLAIN OVERLAY DISTRICT CODE UPDATES		
<b>ACTION REQUESTED:</b>	Hold a public hearing on the proposed changes to the Springfield Development Code (SDC) Sections 3.3-400 Floodplain Overlay District and Section 6.1-100 Definitions. After deliberations, make a recommendation to the City Council and Lane County Board of Commissioners who are the approval authorities for this decision.		
<b>ISSUE STATEMENT:</b>	<p>The City of Springfield participates in the National Flood Insurance Program (NFIP) and must adopt and enforce a floodplain management ordinance regulating development in the community's floodplain. The City must adopt an updated floodplain development ordinance to ensure ongoing compliance with current NFIP minimum standards.</p> <p>The City has proposed amendments to SDC Sections 3.3-400 and 6.1-100 which would incorporate federal requirements as shown in the State of Oregon Model Flood Hazard Management Ordinance (effective October 2020). Updating Springfield's Development Code to align with current federal requirements will allow the City to continue to participate in the NFIP.</p>		
<b>ATTACHMENTS:</b>	<p>ATT1 - Staff Report and Finding of Fact  ATT2 - Legislative Code Amendments to SDC 3.3-400 and SDC 6.1-100  ATT3 - Clean Version of Code Amendments  ATT4 – Draft Planning Commission Order and Recommendation  ATT5 – Draft City Council Ordinance  ATT6 – Map of Floodplain  ATT7 - FAQ Floodplain Updates  ATT8 - Key Changes  ATT9 – Presentation Slides</p>		
<b>DISCUSSION:</b>	<p>The proposed amendments will be reviewed as a Type IV Legislative Amendment to the Development Code. The Planning Commission will review the proposal during a public hearing on September 8, 2021. The Commission may decide if it should continue the public hearing or keep the record open to allow for additional public comment. The Commission could also decide to close the public hearing and written record and begin deliberations. The Commission will then make a recommendation to the City Council and Lane County Board of Commissioners.</p> <p>The Springfield City Council and Lane County Board of Commissioners will hold a joint work session and joint public hearing to review the Planning Commission's recommended amendments on December 13, 2021.</p>		

# **SPRINGFIELD PLANNING COMMISSION**

## **STAFF REPORT**

### **TYPE IV – LEGISLATIVE AMENDMENT TO THE SPRINGFIELD DEVELOPMENT CODE**

**CASE NUMBER:** 811-21-000210-TYP4

**HEARING DATE:** September 8, 2021

**REPORT DATE:** August 30, 2021

**PROJECT NAME:** Floodplain Overlay District Code Amendments

**AFFECTED AREA:** Properties within the Floodplain Overlay Zone

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#### **I. NATURE OF THE REQUEST**

The City of Springfield seeks approval of amendments to the Springfield Development Code (SDC) Sections 3.3-400 Floodplain Overlay District and 6.1-100 Definitions to incorporate federal requirements as shown in the State of Oregon Model Flood Hazard Management Ordinance (effective October 2020). Updating Springfield's Development Code to align with current federal requirements will allow the City to continue to participate in the National Flood Insurance Program (NFIP).

#### **II. BACKGROUND**

The City of Springfield participates in the NFIP which is run by the Federal Emergency Management Agency (FEMA). The objectives of the NFIP are to: (1) ensure that new buildings will be free from flood damage; (2) prevent new development from increasing flood damages on existing properties; and (3) ensure the natural and beneficial functions of the floodplain are maintained. NFIP was created by the U.S. Congress in 1968 to help minimize the costs of disaster relief and reduce the loss of life and property caused by flooding. Participation in the NFIP allows members of the Springfield community to access federally backed flood insurance. Flood insurance is required for federally backed loans to purchase or build structures located within the floodplain. Participation also ensures the City remains eligible for Federal disaster assistance in identified floodplain areas.

Participation in the NFIP requires communities to adopt and enforce a floodplain management ordinance that regulates development within their floodplain. SDC 3.3-400 includes the City of Springfield's regulating language. To ensure that a community is in compliance with FEMA requirements, a flood insurance coordinator periodically makes Community Assistance Visits (CAVs) to participating communities to evaluate their local floodplain management program in relation to the regulations that govern the NFIP. In Oregon, the Department of Land Conservation and Development (DLCD) conducts these visits on behalf of FEMA. The City of Springfield's most recent CAV visit resulted in the City being required to update its floodplain code provisions to meet current minimum standards for continued participation in the NFIP.

The City of Springfield entered into the NFIP in 1985. Floodplain regulations were adopted as Article 27 (Floodplain Special Purpose District) of the Comprehensive Zoning Code through Ordinance 5304 on September 3, 1985. The Springfield Development Code (SDC) was adopted by Ordinance 5326 on May 5, 1986, and the floodplain management regulations were included as Article 27. FEMA revised its floodplain management regulations after the SDC was adopted, which necessitated that the City adopt revised regulations consistent with FEMA provisions by April 1, 1987 in order remain eligible for continued participation in the NFIP. These updated regulations were adopted by Ordinance 5366 on March 16, 1987, which repealed Article 27 and replaced it with a revised Article 27. Ordinance 5366 also amended Article 2 (Definitions) to comply with required Federal definitions for the NFIP.

The floodplain management regulations of Article 27 were revised seven more times up through 1999; most amendments were very minor, such as changes to the dates of the regulating floodplain maps or cross-referencing other code sections. Ordinance 5858, adopted June 5, 1997, made specific amendments to the floodplain regulations to again bring the City into compliance with current NFIP requirements by adopting several additional provisions including permitting procedures, substantial damage inspections, and enforcement language. SDC was reformatted through Ordinance 6206, adopted September 17, 2007; this resulted in the Floodplain Overlay District being codified as Section 3.3-400 of the SDC. Staff is unaware of any amendments to Section 3.3-400 Floodplain Overlay District that have occurred since that time.

### **III. SITE INFORMATION**

Affected properties are those which are located within the City of Springfield's Floodplain Overlay District. This includes 938 tax lots. The Floodplain Overlay District encompasses areas within Springfield's Urban Growth Boundary (UGB) along the McKenzie and Willamette Rivers, as well as around other streams and channels within the City.

### **IV. PROCEDURAL REQUIREMENTS AND CITIZEN INVOLVEMENT**

Under SDC 5.6-110, amendments of the Development Code text are reviewed under a Type IV procedure as a legislative action. Type IV procedures, as defined in SDC 5.1-140, require a review and recommendation by the Planning Commission and adoption of ordinance by City Council. As the floodplain regulations apply outside the city limits, per the Urban Transition Agreement with Lane County, the Lane County Board must co-adopt the code amendments for them to apply outside the city limits. The Planning Director for the City of Springfield initiated the development code amendments on August 4, 2021 on behalf of the City of Springfield as is allowed under SDC 5.6-105 B.

In accordance with the City of Springfield Citizen Involvement Program, the Committee for Citizen Involvement (CCI) reviewed and approved a Citizen Engagement Strategy for this proposal on August 3, 2021. Per this strategy and other requirements (as noted) the City has completed the following:



- Submitted notice of the proposed amendments to the Department of Land Conservation and Development (DLCD) on August 4, 2021, 35 days in advance of the first evidentiary hearing as required by ORS 197.610(1) and OAR 660-018-0020.
- Mailed notice of the September 8, 2021 Planning Commission Hearing and December 13, 2021 City Council Joint Hearing with the Lane County Board of Commissioners to property owners who own property within the Floodplain Overlay District on August 18, 2021.
- Emailed notice of the proposed amendments to stakeholder groups per the Citizen Engagement Strategy on August 23, 2021.
- As required by SDC 5.1-140 C, provided agency referrals to the Development Review Committee regarding the proposed amendments via email on August 23, 2021 (Springfield Utility Board Water and Electric Division Directors, Northwest Natural, CenturyLink, Comcast, Rainbow Water and Fire District, Emerald People's Utility District, and Willamalane Park and Recreation).
- Published notice of the proposed amendments in the Register Guard on August 25, 2021 as required by SDC 5.1-140.
- Posted notice of the proposed amendments and the dates of the public hearings on the City of Springfield website which routinely posts public hearing notices.

As of the date of this staff report, there were multiple inquiries about the proposed code language and the location of the floodplain. However, no written comments were submitted in response to the information in the notices.

For this request, the Planning Commission shall make a recommendation to the Springfield City Council and Lane County Board of Commissioners which are the Approval Authorities for the final local decision (SDC 5.1-140 F.). Per the *Urban Transition Intergovernmental Agreement* and SDC 5.6-115 B., development code amendments which impact areas outside the City limits must be co-adopted by the Lane County Board of Commissioners in order to apply to urbanizable areas within the Springfield UGB. Decisions of the Springfield City Council and Lane County Board of Commissioners may be appealed to the Oregon Land Use Board of Appeals within 21 calendar days of the date the decision becomes final as specified in ORS 197.830 (SDC 5.1-140 G.).

## **V. APPROVAL CRITERIA & FINDINGS**

The request is subject to approval criteria in SDC 5.6-115, which covers adoption or amendment of refinement plans, plan districts and the development code. The following approval criteria are listed under SDC 5.6-115:

*A. In reaching a decision on the adoption or amendment of refinement plans and this Code's text, the City Council shall adopt findings that demonstrate conformance to the following:*

1. *The Metro Plan;*
2. *Applicable State statutes; and*
3. *Applicable State-wide Planning Goals and Administrative Rules.*

Findings showing that the proposed amendments to the development code meet the applicable criteria of approval appear in regular text below. Direct citations or summaries of criteria appear in *italics* and precede or are contained within the relevant findings.

### ***Conformance with the Metro Plan***

The *Eugene-Springfield Metropolitan Area General Plan* (Metro Plan) includes policy direction relevant to floodplain regulations. Per SDC 3.3-100, references for the Floodplain Overlay District are contained in the Environmental Resources Element of the Metro Plan. The following policies from the Natural Hazards subsection apply to this request:

*“C.30 Except as otherwise allowed according to Federal Emergency Management Agency (FEMA) regulations, development shall be prohibited in floodways if it could result in an increased flood level. The floodway is the channel of a river or other water course and the adjacent land area that must be reserved to discharge a one-percent-chance flood in any given year.”*

Finding 1: The amendments bring the City of Springfield’s floodplain regulations into compliance with current FEMA requirements for circumstances under which development is allowed in the floodway. This includes requirements applicable to garages and appurtenant (accessory) structures when proposed to be located within the floodway (SDC 3.3.430(B)(2)(a)(i) and 3.3.430(B)(3)(f)(i)).

Finding 2: The amended standards specifically require the City of Springfield to review all development permit applications to determine if development is proposed to be located in the floodway (SDC 3.3.425(C)(1)(c)). If so, the amended standards require the City to assure certain provisions are met as described in Findings 4-6.

Finding 3: Under the amendments, the City requires applicants to obtain a Conditional Letter of Map Revisions (CLOMR) from FEMA prior to issuing a floodplain development permit for development that proposes encroachment in the floodway which would increase the base flood elevation (the *flood level*) per SDC 3.3.425(C)(3)(c)(i)(aa). A CLOMR is FEMA’s comment on a proposed project that would affect hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of an existing floodway.

Finding 4: The standards prohibit fill, new construction, substantial improvements, and other development within the floodway unless an applicant obtains certification from a registered civil engineer demonstrating through specified studies that the proposed encroachment will not increase flood levels during a base flood, or the applicant has applied for and been approved for a CLOMR (SDC 3.3.430(B)(4)(a)(i)-(ii)).

Finding 5: The amendments remove an exception from the currently adopted standards which allows existing manufactured homes and other structures already in the floodway to be replaced if located in the same site and of the same size without certification. This exception is not compliant with current FEMA requirements.

Finding 6: The amendments maintain a higher standard that prohibits subdivision and partitioning of land for residential purposes if land is located entirely in the floodway (SDC 3.3.430(B)(4)(c)).

Finding 7: The standards maintain approval criteria prohibiting the City from issuing a variance within the floodway if any increase in flood levels during base flood discharge would result (SDC 3.3.440(C)(3)).

*“C.31 When development is allowed to occur in the floodway or floodway fringe, local regulations shall control such development in order to minimize the potential danger to life and property. Within the UGB, development should result in in-filling of partially developed land. Outside the UGB, areas affected by the floodway and floodway fringe shall be protected for their agricultural and sand and gravel resource values, their open space and recreational potential, and their value to water resources.”*

Finding 8: In this case “floodway fringe” is interpreted by the City to mean the floodplain. The Metro Plan defines floodplain as, *“The area adjoining a river, stream, or watercourse that is subject to 100-year flooding. A 100-year flood has a one-percent chance of occurring in any one year as a result of periods of higher-than-normal rainfall or stream flows, high winds, rapid snowmelt, natural stream blockages, tsunamis, or combination thereof.”*

Finding 9: The purpose of the Floodplain Overlay District is to control development in the floodplain, including the floodway, in such a way as to minimize potential danger to life and property. Bringing SDC 3.3-400’s provisions into compliance with current NFIP minimum requirements will allow the City to better protect areas within the floodplain from flood hazard. The amendments add or update standards which specify how development within the floodplain must be built. These standards, such as anchoring, elevation, floodproofing, and flood opening requirements, are intended to ensure development in the floodplain is better able to withstand the impacts of flooding to minimize the potential danger during a flood event.

Finding 10: The amendments do not prevent in-filling of partially developed land within the UGB, rather, they require that development be done in a specified manner and meet certain standards when done in the Floodplain Overlay District.

### ***Conformance with Applicable State Statutes***

*ORS 227.186 requires local governments to mail individual notice (‘Ballot Measure 56 Notice’) to real property owners of pending land use changes that could limit or prohibit previously allowed uses. This notice must be mailed at least 20 days but not more than 40 days before the first evidentiary hearing on the proposed ordinance changes.*

Finding 11: On August 18, 2021, the City mailed Ballot Measure 56 notice for the first hearing on September 8, 2021 to all owners of property within the Floodplain Overlay District, in compliance with ORS 227.186. This notice also included the date and time of the public hearing before the City Council and Board of County Commissioners.

*ORS 197.610 and OAR 660-018-0020 require local jurisdictions to submit proposed land use regulation changes to the Department of Land Conservation and Development.*

Finding 12: As noted in Section IV, the City provided notice of the proposed amendments to DLCD on August 4, 2021, 35 days in advance of the first evidentiary hearing in conformance with ORS 197.610(1) and OAR 660-018-0020.

*ORS 195.305 requires public entities to provide just compensation to property owners when enacting land use regulations that restrict the residential use of private real property or a farming or forest practice and that reduce the fair market value of the property.*

Finding 13: The amendments do restrict development under certain circumstances in the Floodplain Overlay District, but do not require compensation due to the restriction of real property because they satisfy two exceptions noted in that statute. First, the amendments satisfy the exception under ORS 197.305(3)(c), which provides that the requirement does not apply to land use regulations that “are required to comply with federal law.” The amendments are required by federal law to comply with the FEMA NFIP minimum standards for participation. Second, the amendments satisfy the exception under ORS 195.305(3)(b), which exempts payment of just compensation when the regulations “restrict or prohibit activities for the protection of public health and safety.” Flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, and other adverse effects on the public health, safety, and general welfare. The proposed amendments mitigate these adverse effects and therefore are necessary to protect public health and safety.

### ***Conformance with Applicable State-wide Planning Goals and Administrative Rules***

*Statewide Planning Goal 7- Areas Subject to Natural Disasters and Hazards: Requires local governments to protect people and property from natural hazards, including flooding. In part, it requires local governments to adopt comprehensive plans that reduce risk from natural hazards*

Finding 14: The Metro Plan contains a section entitled Natural Hazards which covers protection of life and property from natural hazards and disasters. Findings 1-10 detail how the amendments comply with the Metro Plan’s policies for reducing risk from flood hazard.

Finding 15: Goal 7 includes a “safe harbor” provision based on the implementation of the minimum requirements of the National Flood Insurance Program: “*Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.*” The amendments make changes to the SDC that are required to bring the City’s regulations into compliance with current minimum requirements for participation in the NFIP. The amendments are intended to align SDC 3.3-400 more closely with the state’s model floodplain ordinance, which has been approved by FEMA.

Finding 16: The Goal 7 Guidelines encourage local governments to consider additional provisions that go beyond the safe harbor approach: “*Local governments should consider measures that exceed the National Flood Insurance Program (NFIP)*”. The amendments retain all currently adopted higher standards.

Finding 17: The Goal 7 Guidelines also state, *“Local governments should give special attention to emergency access when considering development in identified hazard areas.”* The amendments retain adopted standards which require ingress and egress on streets for emergency vehicles and services during flood events, and also retain adopted standards which prohibit any new street from being at an elevation of less than one foot below the base flood height to ensure streets are drivable during a base flood event (SDC 3.3.430(A)(6)).

Finding 18: The Goal 7 Guidelines also state, *“When reviewing development requests in high hazard areas, local governments should require site-specific reports, appropriate for the level and type of hazard (e.g., hydrologic reports, geotechnical reports or other scientific or engineering reports) prepared by a licensed professional. Such reports should evaluate the risk to the site as well as the risk the proposed development may pose to other properties.”* The amendments remove an exception that allowed structures located within the floodplain to be replaced without a study if on the same site and of the same size. Removal of this exception now requires a site-specific report be generated for all development proposed in the floodway, which is a high hazard area. The amendments add a requirement to the Floodways section that requires hydrologic and hydraulic analyses be performed to ensure proposed encroachments in the floodway would not result in an increase in flood levels (SDC 3.3.430 (B)(4)(a)(i)). The amendments also add language to multiple sections specifying that information and certification must be provided by licensed professionals, such as in the provisions for Non-residential Construction where the language of “registered professional” is added (SDC 3.3.430 (B)(3)(c)(i)(ca)).

*Statewide Planning Goal 9- Economic Development: Requires local governments to maintain a working inventory of buildable lands suitable for economic growth and opportunity. In part, the comprehensive plan must, “Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies.”*

Finding 19: The amendments are more restrictive in terms of what development is allowed within the floodway; however, the City does not count areas within the floodway in its industrial or commercial lands inventory. Outside of the floodway within other areas of the Floodplain Overlay District, the amendments do not regulate if development can occur, but rather how development is done. These new regulations add specific standards for tanks (SDC 3.3.430 (A)(5); for electrical, mechanical, plumbing and other equipment (SDC 3.3.430 (A)(4)(a)); and require conformance with floodplain regulations when converting a building to a commercial or industrial use. These design requirements do not have a material effect on the size or type of development allowed. Thus, the amendments do not reduce the development potential of Springfield’s industrial or commercial land inventories in a manner inconsistent with Goal 9.

*Statewide Planning Goal 10- Housing: Requires local governments to inventory buildable lands that are suitable and available for residential use. Cities must develop plans “in a manner that insures the provision of appropriate types and amounts of land within urban growth boundaries.” The amount of land planned for residential development should be adequate for a 20-year supply.*

Finding 20: The amendments are more restrictive in terms of what development is allowed within the floodway; however, the City does not count areas within the floodway in its housing lands inventory. Outside of the floodway within other areas of the Floodplain Overlay District, the amendments do not regulate if development can occur, but rather how development is done. The new regulations add specific standards for electrical, mechanical, plumbing and other equipment (SDC 3.3.430 (A)(4)(a)); specifically require that a manufactured dwelling park greater than 5 acres in size establish a base flood elevation if it is not already known; affects the height at which a manufactured dwelling must be elevated (SDC 3.3.430 (A)(8)(b) and SDC 3.3.430 (b)(3)(d)); changes anchoring standards for manufactured dwellings (SDC 3.3.430 (A)(2) and 3.3.430 (B)(3)(d)); creates design requirements specific to garages and appurtenant structures (SDC 3.3.430 (B)(2) and SDC 3.3.430 (B)(3)(f)); and require conformance with floodplain regulations when converting a building to a residential use. These design requirements do not have a material effect on the density of residential development. Thus, the amendments do not reduce the development potential of Springfield's housing land inventories in a manner inconsistent with Goal 10.

*Statewide Planning Goal 12- Transportation: Requires jurisdictions to create a transportation system that supports a variety of transportation modes so as not to limit residents in the way they can access various aspects of their community. The Transportation Planning Rule (OAR 660-012-0060) implements Goal 12.*

Finding 21: OAR 660-012-0060 requires a local government to establish mitigation measures if an amendment to a land use regulation would “*significantly affect an existing or planned transportation facility.*” Subsections (1)(a)-(c) determine whether the requested land use regulations amendments significantly affect a transportation facility.

Finding 22: A land use regulation amendment “significantly affects” transportation under Subsection 1(a) if it “*Change[s] the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan).*” The amendments do not change any functional classification under OAR 66-012-0060(1)(a).

Finding 23: A land use regulation amendment “significantly affects” transportation under Subsection 1(b) if it “*Change[s] standards implementing a functional classification system.*” The amendments do not change the City's standards for implementing its functional classification system under OAR 66-012-0060(1)(b).

Finding 24: Under Subsection (1)(c), a land use regulation amendment “significantly affects” transportation if it results in (A) *types or levels of travel or access inconsistent with the functional classification of a transportation facility; (B) degrades the performance of a transportation facility such that it would not meet performance standards identified in the TSP or comprehensive plan; or (C) degrades the performance of a transportation facility that is otherwise projected to not meet the performance standards in the TSP or comprehensive plan.* To determine whether the amendments “significantly affect” a transportation facility within the meaning of (1)(c) a local government should compare the most traffic-generative use reasonably allowed in the current zone with the most traffic-generative use reasonably allowed in the new zone. The amendments to the Floodplain Overlay District do not change the underlying zoning districts or materially change the uses that are allowed outright, conditionally allowed, or

prohibited. Accordingly, the amendments do not change the most traffic-generative uses reasonably allowed on impacted properties and therefore do not result in any of the effects described under (A)-(C).

Finding 25: The amendments to the code will not “significantly affect” an existing or planned transportation facility under OAR 660-012-0060(1)(a), (b), or (c) and thus complies with OAR 660-012-0060 and Goal 12 requirements.

## **VI. CONCLUSION**

Based upon the evidence above and the criteria of SDC 5.6-115 for approving amendments to the Springfield Development Code, the text amendments to SDC 3.3-400 and SDC 6.1-100 are consistent with these criteria.

# Legislative Version of Proposed Amendments to the Springfield Development Code Section 3.3-400 Floodplain Overlay District to Incorporate Federal Requirements

Public Review Draft – August 30, 2021

## PROPOSED AMENDMENTS

Section 3.3-400 of the Springfield Development Code (SDC) has been re-organized to more closely match the structure of the Oregon Model Hazard Ordinance (version October 2020) that was developed to incorporate requirements of the Federal Emergency Management Agency. The proposed amendments are shown in legislative format (deleted text with strike-thru red font and new text with double underline red font). For ease of review, this legislative format does not show where code language was moved from one place to another. Commentary is shown in purple italics font, preceding the text to which it is referring.

An overview of the key changes proposed is available in a separate document titled “Floodplain Overlay District - Key Changes.”

*Commentary: The existing structure of Section 3.3-400 is shown in purple. A table of contents outlining the new structure of the Floodplain Overlay District section will be added (shown in red) to match the layout used in the upcoming Development Code updates. Throughout, numbering has also been formatted to match the upcoming Development Code updates.*

### **Section 3.3-400**      *Floodplain Overlay District*

*3.3-405      Purpose*  
*3.3-410      Applicability*  
*3.3-415      Review*  
*3.3-420      Development Standards*  
*3.3-425      Emergency Approval*  
*3.3-430      Variance Procedures*  
*3.3-435      Post-Flood Substantial Damage Procedures*  
*3.3-440      Periodic Floodplain Inspections and Enforcement Actions*  
*3.3-445      Land and Drainage Alteration Permits—Enforcement of Requirements and Penalties*

### **3.3.400**      **Floodplain Overlay District**

**3.3.405**      **Statutory Authority and Interpretation**  
**3.3.410**      **Purpose**  
**3.3.415**      **Definitions**  
**3.3.420**      **Applicability**  
**3.3.425**      **Administration**  
**3.3.430**      **Development Standards**  
**3.3.435**      **Floodplain Development Permits**  
**3.3.440**      **Variances**  
**3.3.445**      **Periodic Floodplain Inspection, Enforcement of Requirements and Penalties**



*Commentary: Creates new section on Statutory Authority and Interpretation that adds required language from model code.*

### **3.3.405 Statutory Authority and Interpretation**

#### **(A) Statutory Authorization.**

The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

#### **(B) Interpretation. In the interpretation and application of this Section, all provisions shall be:**

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

*Commentary: Matches language from model code by making minor changes to wording and adds (9) and (10). Adds language to (7) stating a purpose is also to inform potential buyers of approved variances in the floodplain.*

### **3.3.410 Purpose**

#### **3.3-405 Purpose**

~~(A).~~ The Floodplain (FP) Overlay District is established to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. The provisions of this Section are designed to:

~~(1).~~ Protect human life and health.

~~(2).~~ Minimize expenditure of public money on costly flood control projects.

~~(3).~~ Minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public.

~~(4).~~ Minimize prolonged business interruptions.

~~(5).~~ Minimize damage to public facilities and utilities, including, but not limited to: water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards.

~~(6).~~ Help maintain a stable tax base by providing for the sound use and development of ~~areas of special-flood hazard~~ areas so as to minimize ~~future-flood~~-blight areas caused by flooding.

~~(7).~~ ~~Provide information to~~Notify potential buyers ~~of that the property is in a special flood hazard area in areas of special flood hazard, and as applicable, notify potential buyers when development has been approved under a variance to the Floodplain Overlay District standards.~~

~~(8).~~ Minimize the threat to persons, property, and urban water quality from flooding, and inadequate or improper drainage resulting from uncontrolled development or redevelopment of land to include filling, grading, excavation, removal; earthwork construction including berms and dikes; stockpiling of materials; or other ~~Land and Drainage Alterations~~land and drainage alterations.

~~(9)~~ Notify those who occupy special flood hazard areas that they assume responsibility for their actions.

~~(10)~~ Participate in and maintain eligibility for flood insurance and disaster relief.

*Commentary: Matches language from model code by making minor changes to wording. Updates title of permit issued in floodplain to Floodplain Development Permit to clarify that it is a separate permit from the Land and Drainage Alteration Permit (LDAP).*

~~(B).~~ In order to accomplish the purpose, this Section includes methods and provisions for:

~~(1).~~ Restricting or prohibiting ~~uses-development~~ which ~~are-is~~ dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

~~(2).~~ Requiring that ~~uses-development~~ vulnerable to floods, including facilities which serve ~~such these~~ uses, be protected against flood damage at the time of initial construction.

~~(3).~~ Controlling the alteration of natural floodplains, stream channels, and protective barriers, which help accommodate or channel flood waters.

~~(4).~~ Controlling filling, grading, dredging, and other development, which may increase flood damage.

~~(5).~~ Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase special flood hazards in other areas.

~~(6).~~ Issuing a ~~Land and Drainage Alteration~~ Floodplain Development Permit.

*Commentary: Adds a definitions section. Defines terms as required or recommended by model code. Clarifies definitions in this Section apply to the Floodplain Overlay District. Definitions specific to the management of floodplains removed from SDC 6.1-110, as described below.*

### **3.3.415 Definitions**

For the purposes of the Floodplain Overlay District only, the following definitions apply. Where the definitions in this Section conflict with a definition provided in SDC 6.1-105 or SDC 6.1-110, the definition in this Section will prevail. Unless specifically defined below or in SDC 6.1-110, words or phrases used in this Floodplain Overlay District shall be interpreted so as to give them the meaning they have in common usage.

#### **A**

**Appeal.** A request for a review of the interpretation of any provision of this Section or a request for a variance.

**Area of shallow flooding.** A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard.** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

## **B**

**Base flood.** The flood having a one percent chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE).** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

**Building.** See "Structure."

## **D**

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

## **F**

### **Flood or Flooding.**

**(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:**

**(a) The overflow of inland or tidal waters.**

**(b) The unusual and rapid accumulation or runoff of surface waters from any source.**

**(c) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.**

**(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and**

unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation study.** See “Flood Insurance Study”.

**Flood Insurance Rate Map (FIRM).** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS).** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood proofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water, and sanitary facilities, structures, and their contents.

**Floodplain or flood prone area.** Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

**Floodplain administrator.** The community official designated by title to administer and enforce the floodplain management regulations.

**Floodplain management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain management regulations.** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance), and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

## **H**

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure.** Any structure that is:

**(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;**

**(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;**

**(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or**

**(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:**

**(a) By an approved state program as determined by the Secretary of the Interior or**

**(b) Directly by the Secretary of the Interior in states without approved programs.**

## **L**

**Letter of Map Change (LOMC).** Means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:

**(1) Conditional Letter of Map Amendment (CLOMA).** A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

**(2) Conditional Letter of Map Revision (CLOMR).** A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

**(3) Conditional Letter of Map Revision based on Fill (CLOMR-F).** A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

**(4) Letter of Map Amendment (LOMA).** An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.

**(5) Letter of Map Revision (LOMR).** A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that

affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LMOR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

**(6) Letter of Map Revision based on Fill (LOMR-F).** A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

**(7) PMR.** A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

**Lowest floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Section.

## **M**

**Manufactured dwelling.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

**Manufactured dwelling park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

**Mean sea level.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

## **N**

**New construction.** For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Springfield and includes any subsequent improvements to such structures.

## **R**

**Recreational vehicle.** A vehicle which is:

**(1) Built on a single chassis;**

**(2) 400 square feet or less when measured at the largest horizontal projection;**

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory floodway.** See "Floodway".

## **S**

**Special flood hazard area.** See "Area of special flood hazard" for this definition.

**Start of construction.** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

**Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."



## V

**Variance.** A grant of relief by the City of Springfield from the terms of a flood plain management regulation.

**Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

## W

**Water surface elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **3.3.420 Applicability**

#### **3.3-410 Applicability**

*Commentary: Adds clarifying language.*

~~(A.)~~ The FP Overlay District applies to all areas of special flood hazard within the Springfield urban growth boundary.

*Commentary: Adds required language from model code identifying FIRM panel numbers applicable to Springfield and physical location of flood maps.*

~~(B.)~~ The areas of special flood hazard are identified as follows:

~~(1.)~~ Those areas identified by the Federal Insurance Administration in scientific and engineering reports entitled "THE FLOOD INSURANCE STUDY (FIS) FOR THE CITY OF SPRINGFIELD, LANE COUNTY, OREGON", dated June 2, 1999 and any revision thereto, and "THE FLOOD INSURANCE STUDY FOR LANE COUNTY, OREGON, UNINCORPORATED AREAS," dated June 2, 1999 and any revisions thereto, with accompanying ~~Flood Insurance Maps;~~ Flood Insurance Rate Map (FIRM) panels 1133, 1134, 1135, 1141, 1142, 1144, 1153, 1154, 1158, 1161, 1162, 1165, 1166, 1167, and 1170 are hereby adopted by reference and declared to be a part of this Section. The FIS and FIRM panels are on file at the Development Center located in Springfield City Hall;

*Commentary: Makes wording changes to accurately reflect process for designation of additional flood hazard areas. These areas would be designated through a zoning process rather than by the City Engineer.*

~~(2.)~~ Areas of special flood hazard designated as within the FP Overlay district because they are by the City Engineer as-susceptible to inundation of water from any source where the above-referenced maps have not identified any special flood areas.

*Commentary: Makes minor wording additions as required to comply with model code.*

~~(C.)~~ The flood insurance studies and accompanying Flood Insurance Rate Maps specified above are ~~hereby~~ adopted by City Ordinance and filed with the City Engineer. These studies



and their accompanying maps shall form the basis for the administration and implementation of this Section.

~~(D-)~~ Warning and Disclaimer of Liability. The degree of flood protection required by this Section in the areas designated in Subsection ~~(B)~~, above is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This Section does not imply that land outside the areas of special flood hazards or uses permitted within these areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City of Springfield, ~~or~~ any officer or employee of the City, or the Federal Insurance Administrator, for any flood damages that may result from reliance on this Section or any administrative decision lawfully made under this Section.

*Commentary: Adds required language from model code.*

(E) Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Springfield administers and enforces the State of Oregon Specialty Codes, the City of Springfield does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this Section is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

*Commentary: Renames Section to better match model code layout and intent of language added to the Section.*

### **3.3.425 Administration**

### **3.3-415 Review**

*Commentary: Makes minor wording changes to clarify review process.*

~~(A-)~~ Floodplain Development proposals within the FP Overlay District ~~shall be~~ reviewed under Type ~~I-1~~ procedure found in SDC 5.1-125. (~~See Section SDC 4.3-145~~ for siting standards and review process for certain wireless telecommunications systems facilities). Floodplain Development approval within the FP Overlay District, and including a Land and Drainage Alteration Permit, ~~shall~~ must be obtained before construction or development begins within any area of special flood hazard established in ~~Section SDC 3.3-424(B)~~. Approval is required for all structures, manufactured homes and development as defined in this Code.

*Commentary: Adds language required by model code and identifies the job title within the City responsible for administering the floodplain management program.*

(B) Designation of the Floodplain Administrator. The Development and Public Works Director is hereby appointed to administer, implement, and enforce this Section by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

*Commentary: Adds Subsection (C) which is required language from model code and explains the City's duties in administering the floodplain management program. Deletes Subsection B, and moves bullets 1-10 under Subsection (1) Permit Review and rewords or deletes as described below to match required language from model code.*

~~B. Special Review Procedures. The Director shall administer this Section in consultation with the Building Official and the City Engineer. They shall:~~

(C) Duties and Responsibilities of the Floodplain Administrator. Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

(1) Permit Review. Review all development permit applications to determine that:

*Commentary: Subsections 1.-4. are reworded to match required model code language and renumbered to (a)-(c) and (e). Subsection (d) is required language from model code that is added and requires the City to determine if proposed development is located with an area of the floodplain where Base Flood Elevation (BFE) has been determined.*

~~(a) 1. Review all development applications to determine that t~~~~he application permit~~  
requirements of this Section have been satisfied;.

~~(b) 2. Review all development applications to determine that A~~~~all other required local,~~  
state, and federal permits have been obtained. necessary permits have been  
obtained from those Federal, State or local governmental agencies for which prior  
approval is required;

~~(c) 3. Review all development permit applications to determine if the proposal~~  
~~proposed development~~ is located in the floodway. If ~~the proposal is~~ located in the  
floodway, assure that the floodway provisions in SDC 3.3.430(B)(4) ~~encroachment~~  
~~provisions of Section 3.3.420C. are met; and.~~

~~(d) Review all development permit applications to determine if the proposed~~  
~~development is located in an area where Base Flood Elevation (BFE) data is~~  
~~available either through the Flood Insurance Study (FIS) or from another~~  
~~authoritative source. If BFE data is not available then ensure compliance with the~~  
~~provisions of SDC 3.3.430(A)(8); and~~

~~(e) Provide to the bBuilding eOfficials the Base Flood Elevation (BFE) applicable to~~  
~~any building requiring a development permit. 4. When base flood elevation data has~~  
~~not been provided as specified in Section SDC 3.3.4240(B)-(1), the Floodplain~~  
~~Administrator-City Engineer w~~~~shall~~ obtain, review and utilize any base flood  
elevation data and floodway data available from a Federal, State or other source in  
order to administer this Section.

*Commentary: Adds required language from model code which outlines responsibilities of the City in administering the floodplain regulations.*

~~(f) Review all development permit applications to determine if the proposed~~  
~~development qualifies as a substantial improvement as defined in SDC3.3.415.~~

~~(g) Review all development permit applications to determine if the proposed~~  
~~development activity is a watercourse alteration. If a watercourse alteration is~~  
~~proposed, ensure compliance with the provisions in SDC 3.3.430(A)(1)~~

~~(h) Review all development permit applications to determine if the proposed development activity includes the placement of fill or excavation.~~

*Commentary: Language deleted from this Subsection to match model code layout. Covered by Subsection (2)(a) of this Section 3.3.425(C).*

~~5. Where base flood elevation data is provided through the Flood Insurance Study or as specified in Subsection B.4., above, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;~~

*Commentary: Language deleted from this Subsection to match model code layout. Substantial Improvement requirements are covered by Section 3.3.425 (D).*

~~6. For all new or substantially improved flood-proofed structures:~~

- ~~a. Verify and record the actual elevation (in relation to mean sea level); and~~
- ~~b. Maintain the flood-proofing certifications required in Section 3.3-420B.2.a.iii.;~~

*Commentary: Language deleted from this Subsection to match model code layout. Covered by Subsection (2)(k) of this Section 3.3.425(C).*

~~7. Maintain for public inspection all records pertaining to the provisions of this Section;~~

*Commentary: Language deleted from this Subsection to match model code layout. Requirements covered by Subsection (3)(b) Watercourse Alterations of this Section 3.3.425(C). and Subsection (A)(1) of Section 3.3.430.*

~~8. Notify adjacent communities and the Division of State Lands prior to any alteration or relocation of a watercourse, and submit evidence of this notification to the Federal Insurance Administration;~~

~~9. Require that a program of periodic inspection and maintenance be provided with the altered or relocated portion of a watercourse so that the flood carrying capacity of the watercourse is not diminished; and~~

*Commentary: Language deleted from this Subsection as this is now done through a FEMA process (LOMA, LOMR).*

~~10. Make interpretation, where needed, as to exact location of the boundaries of areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). A person contesting the location of the boundary may appeal the interpretation as specified in Section 5.3-100.~~

*Commentary: Adds required language from model code. Subsection (2) clarifies the information related to floodplain management that the City must keep and make available for the public. Subsection (3) describes circumstances under which the City must provide information to other*

entities. This includes: requiring the City to notify the Federal Insurance Administrator when community boundaries change (e.g. annexation or urban growth boundary expansion), notify DLCD and relevant agencies and adjacent communities prior to altering a watercourse, providing information to the Federal Insurance Administrator when the base flood elevation changes.

(2) Information to be Obtained and Maintained. The following information shall be obtained and maintained, and shall be made available for public inspection as needed:

(a) Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with SDC 3.3.430(A)(8).

(b) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of SDC 3.3.430(B)(4) and SDC 3.3.425(C)(1)(b) are adhered to.

(c) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).

(d) Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.

(e) Maintain all Elevation Certificates (EC) submitted to the community:

(f) Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this Section and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with SDC 3.3.430(A)(8).

(g) Maintain all floodproofing certificates required under this Section:

(h) Record and maintain all variance actions, including justification for their issuance:

(i) Obtain and maintain all hydrologic and hydraulic analyses performed as required under SDC 3.3.430(B)(4).

(j) Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under SDC 3.3.425(D).

(k) Maintain for public inspection all records pertaining to the provisions of this Section.

(3) Requirement to Notify Other Entities and Submit New Technical Data.

(a) Community Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

(b) Watercourse Alterations. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

(i) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

(ii) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under SDC 3.3.425(C)(3)(c). Ensure compliance with all applicable requirements in SDC 3.3.425(C)(3)(c) and SDC 3.3.430(A)(1).

(c) Requirement to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this Section through the applicable FEMA Letter of Map Change (LOMC) process.

(i) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

(aa) Proposed floodway encroachments that increase the base flood elevation; and

(ba) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

(ii) An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

(iii) The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

(iv) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this Section and all applicable state and federal permits.

*Commentary: Moves Section 3.3-435 to Subsection (D) of this Section 3.3.425 and renames to better align with layout of model code. Subsection A. is reworded to match required language from model code. Changes require City to now make damage inspections for any event, natural or other causes, not just post-flood. Wording in Subsection C. is updated to accurately reflect timing of reporting damage. A determination of Substantial Improvement (which includes a determination of Substantial Damage) triggers requirements for the structure to be brought into compliance with current code requirements, including the development standards of Section 3.3.430. This means a property owner wishing to substantially improve a structure within the Floodplain Overlay District will need to comply with the floodplain development standards.*

**(D) Substantial Improvement and Substantial Damage Assessments and Determinations.**  
**3.3-435 Post-Flood Substantial Damage Procedures**

(1)A. Building inspectors from the Development ~~Services and Public Works~~ Department shall conduct Substantial Improvement (SI) (as defined in SDC 3.3.415) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with SDC 3.3.425(C)(2); and shall conduct Substantial Damage (SD) (as defined in SDC 3.3.415) assessments when structures are damaged due to a natural hazard event or other causes; and shall make SD determinations whenever structures within the special flood hazard area (as established in SDC 3.3.420(B)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.  
~~make post flood inspections immediately after a flood event to determine damage to structures by the flooding.~~

(2)B. A list of damaged structures, which are not in compliance with the provisions of this Section, ~~shall will~~ be reported to FEMA.

(3)C. The City ~~shall will~~ notify affected property owners ~~prior to when~~ submitting the damage report to FEMA.

**3.3.430 Development Standards**  
**3.3-420 Development Standards**

*Commentary: Minor wording changes to match model code language.*



~~(A.)~~ General Standards. In all ~~areas of~~ special flood hazard ~~areas~~ within the City and its urbanizable area, the following standards ~~apply~~shall be adhered to:

*Commentary: Adds required model code language. Some of this language was contained in 3.3-415 B.9.. If development alters or relocates a watercourse, requires that the flood carrying capacity not be diminished and requires that maintenance be provided to ensure this.*

(1) Alteration of Watercourse. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with SDC 3.3.425(C)(3)(b) and SDC 3.3.425(C)(3)(c).

*Commentary: Updates to comply with required model code language. These changes remove the use of two anchoring standards and removes anchoring requirements for manufactured homes from this Subsection. Anchoring requirements for manufactured homes are contained in 3.3.430(B)(3)(d) Manufactured Dwellings and have been updated to match required model code language and comply with current requirements.*

~~(2) 1.~~ Anchoring. All new construction, ~~manufactured homes~~ and substantial improvements ~~subject to less than 18 inches of flood water during a 100 year flood~~ shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. All manufactured dwellings shall be anchored per SDC 3.3.430(B)(3)(d) and shall be installed using methods and practices that minimize flood damage. Anchoring methods for manufactured homes may include, but are not limited to, use of over the top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). ~~If subject to 18 inches or more of flood water, or located in the floodway, manufactured homes, apart from manufactured homes in Mobile Home Parks and Subdivisions, shall be anchored to prevent flotation or lateral movement and the design shall be certified by an engineer or architect. Manufactured homes in an existing Mobile Home Park or Subdivision may use the ties to ground anchors and additional techniques specified above.~~

*Commentary: Minor revisions for consistency with model code language.*

(3) 2.—Construction Materials and Methods.

~~(a.)~~ All new construction and substantial improvements shall be constructed with ~~approved~~ materials and utility equipment resistant to flood damage.

~~(b.)~~ All new construction and substantial improvements shall be constructed using ~~approved~~ methods and practices that minimize flood damage.

*Commentary: Moves Subsection 2. c. to this Subsection. Renames 3. Utilities to (b) Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems and makes it a subsection of (4) Utilities to match model code layout. Under (a): adds duct systems, provides more specific requirements for how equipment must be designed and installed to resist flooding and more explicit requirements for where equipment must be elevated to. Requires equipment to meet these standards if replaced as part of a substantial improvement. Minor changes to wording in (b) to comply with required model code language.*

#### (4) Utilities and Equipment.

(a) Electrical, Mechanical, Plumbing, and Other Equipment. ~~e.~~ Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and air-conditioning equipment and other equipment and service facilities shall be ~~designed and/or otherwise~~ elevated at or above the base flood elevation or shall be designed and installed ~~located~~ to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this Section if replaced as part of a substantial improvement.

#### (b) ~~3.~~ Utilities Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems.

(i) ~~a.~~ All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; ~~;~~

(ii) ~~b.~~ New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; ~~and.~~

(iii) ~~c.~~ On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

*Commentary: Adds Subsection with required language from model code. Subsection covers specific development standards for tanks including anchoring requirements.*

#### (5) Tanks.

(a) Underground tanks shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

(b) Above-ground tanks shall be installed at or above the base flood elevation or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

*Commentary: Moves Subsection 3.3-420 B. 5. to this subsection to better align with new layout of Section 3.3.430 and makes minor updates to wording.*

#### (6) ~~5.~~ Streets.

(a) ~~.~~ Adequate provisions ~~shall~~ must be made for accessibility during a base flood to ensure ingress and egress for ordinary and emergency vehicles and services during potential future flooding.

(b) ~~.~~ No street or surface of any new street ~~shall~~ may be at an elevation of less than ~~4~~ one foot below the base flood height.



**(7)4.** Subdivision Proposals.

*Commentary: Adds language to comply with model code layout and required language. This language is similar to the standard contained in 3.3-420 A. 4. f..*

(a) All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data;

*Commentary: Changes formatting of a. and b. to match model code layout and wording of a.-c. to align with required model code language. Expands requirements to include other large developments, including manufactured dwelling parks.*

(b) ~~b.~~ All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

(i) ~~a.~~ All subdivision proposals shall ~~b~~Be consistent with the need to minimize flood damage;

(ii) ~~h~~Have public utilities and facilities such as, including, but not limited to: sewer, gas, electrical and water systems located, constructed, and maintained to minimize or eliminate flood damage;

(iii) ~~c.~~ All subdivision proposals shall ~~h~~Have adequate drainage provided to reduce exposure to flood hazards, damage; and

*Commentary: Minor wording changes to make terminology consistent with other Sections.*

(c) ~~d.~~ One hundred-yearBase flood elevation data shall must be provided and shown on final and subdivision plats. The boundaries of the 100-yearbase flood and floodway shall must be shown on the final subdivision plat;

(d) ~~e.~~ A permanent monument shall must be established and maintained on land subdivided, showing the elevation in feet above mean sea level. The location of the monument shall must be shown on the final partition map or subdivision plat;

*Commentary: Deleted to match model code. Language contained in Subsection (a) above.*

~~f. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be prepared by the applicant's engineer for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).~~

*Commentary: Subsection renamed to align with model code layout. Language added and deleted to comply with required model code language. Requires Base Flood Elevation to be determined for large-scale development in any A zone if there is not an established base flood elevation. Now requires development proposals within unnumbered A zones to be elevated a minimum of two feet if no base flood elevation data is available. Removes the exemption for manufactured homes in existing mobile home parks and subdivisions.*

~~(8)5.Review of Building PermitsUse of Other Base Flood Data.~~

~~(a) When Where~~ base flood elevation data ~~has not been provided in accordance with~~ SDC 3.3.420(B) the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer SDC 3.3.430. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of SDC 3.3.430(A)(7).

~~(b) Base Flood Elevations shall be determined for development proposals that are five acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within an unnumbered A zone shall be reasonably safe from flooding. is not available either through the Flood Insurance Study or from another authoritative source, applications for Building Permits including those for manufactured home placement shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall include without limitation the but not be limited to the use of historical data, high water marks, FEMA provided Base Level Engineering data, or photographs of past flooding, where available. When no base flood elevation data is available, the elevation requirement for development proposals within an unnumbered A zone is a minimum of two (2) feet above the highest adjacent grade to be reasonably safe from flooding. Failure to elevate at least 2-two feet above (the exterior) grade in these zones may result in higher insurance rates. This requirement does not apply to manufactured homes in existing Mobile Home Parks and Subdivisions.~~

*Commentary: Adds language required by model code. Requires structures that are partially located in the floodplain to comply with the Floodplain Overlay District standards, and requires structures located in multiple flood zones to comply with the more restrictive requirements.*

~~(9) Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:~~

~~(a) When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.~~

~~(b) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.~~

*Commentary: Makes changes to wording to comply with required model code language.*

~~(B.) Specific Standards. In all areas of special flood hazard flood zones within the City and its urbanizable area where base flood elevation data has been provided as specified in Sections 3.3-410A. and B. or 3.3-415B.4., the following provisions are required: specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in SDC 3.3.430(A).~~

*Commentary: Adds required model code language. Some of these standards for flood openings were applied to residential construction in 3.3-420 B. 1. B. i-iv.. The new required language*

*applies flood opening standards more broadly to all development with fully enclosed areas below the lowest floor.*

(1) Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

(a) Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters.

(b) Be used solely for parking, storage, or building access;

(c) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

(i) A minimum of two openings.

(ii) The total net area of non-engineered openings shall not be less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls.

(iii) The bottom of all openings shall be no higher than one foot above grade.

(iv) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas, and shall be accounted for in the determination of the net open area.

(v) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

*Commentary: Adds required language from model code. Subsection covers specific development standards for garages. Allows attached garages to be constructed below base flood elevation as long as certain standards are met including that the garage is only used for parking, building access, or storage. Clarifies that detached garages must follow standards for appurtenant structures as described in Section 3.3.430(B)(3)(f).*

(2) Garages.

(a) Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in flood zones, if the following requirements are met:

(i) If located within a floodway the proposed garage must comply with the requirements of SDC 3.3.430(B)(4).

(ii) The floors are at or above grade on not less than one side;

(iii) The garage is used solely for parking, building access, and/or storage;

(iv) The garage is constructed with flood openings in compliance with SDC 3.3.430(B)(1) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

(v) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;

(vi) The garage is constructed in compliance with the standards in SDC 3.3.430(A); and

(vii) The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(b) Detached garages must be constructed in compliance with the standards for appurtenant structures in SDC 3.3.430(B)(3)(f) or non-residential structures in SDC 3.3.430(B)(3)(c) depending on the square footage of the garage.

*Commentary: Adds required model code language.*

(3) For Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in SDC 3.3.430(A) the following specific standards shall apply in special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

*Commentary: Moves Section 3.3-420 D. to align with model code layout, renamed and language revised to comply with required model code language. Language now specifies zones in which the requirement applies and affirmatively prevents development in the floodplain unless the stated standard is met.*

(a) ~~D. Encroachment.~~ Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that ~~T~~the cumulative effect of ~~the~~any proposed development, when combined with all other existing and anticipated development, ~~sh~~will not increase the water surface elevation of the base flood more than ~~4~~one foot at any point within the community.

*Commentary: Subsection moved from 3.3-420 B. 1. to align with the model code layout. Wording changes made to align with required model code language and to delete flood opening requirements which are now contained in 3.3.430(B)(1). Adds that conversion of a building to residential use must elevation requirements.*

~~1.(b)~~ Residential Construction. ~~a.~~New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 4-one foot above the Bbase Fflood Eelevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in SDC 3.3.430(B)(1).

~~b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement shall either be certified by an engineer or architect or shall meet or exceed the following minimum criteria:~~

~~i. A minimum of 2 openings of equal size having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.~~

~~-~~

~~ii. The bottom of all openings shall be no higher than 1 foot above grade.~~

~~-~~

~~iii. Openings shall be located to allow unrestricted cross-flow of flood waters through the enclosed area from one side to the other.~~

~~-~~

~~iv. Openings may be equipped with screens, louvers, or other coverings or devices if certified by an engineer or architect, provided that they permit the automatic entry and exit of flood waters.~~

*Commentary: Subsection moved from 3.3-420 B. 2. and language revised to comply with model code layout and required language. Adds conversions nonresidential uses must comply with these standards. Adds requirement than certification be done by a registered professional.*

**(c)2.** Non-residential Construction.

**(i)a.** New construction, conversion to, and substantial improvement of any commercial, industrial or other nonresidential structure shall have ~~either~~ the lowest floor, including basement, elevated to ~~a level~~ at least 4-one foot above the base flood elevation (BFE); ~~or-Or~~ together with attendant utility and sanitary facilities ~~shall~~:

**(aa)i.** Be flood-proofed to 4-one foot above the base flood elevation level, so that the structure is watertight with walls substantially impermeable to the passage of water;

**(ba)ii.** Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

**(ca)iii.** Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this Subsection based on their development and/or review of the structural design, specifications, and plans. The-Such certifications shall be provided to the Floodplain Administrator as set forth in SDC 3.3.425(C)(2) Building Official as specified in Section 3-415B-6.b.

**(ii)b.** Nonresidential structures that are elevated, not flood-proofed, shall ~~meet~~ comply with the ~~same~~ standards for enclosed areas below the lowest floor in

~~SDC 3.3.430(B)(1), space below the lowest floor as specified in Subsection B.1.b., above.~~

~~(iii)c.~~ Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are 4-one foot below the flood-proofed level (e.g., a building ~~constructed~~ floodproofed to the base flood elevation level will be rated as 4-one foot below ~~that level~~).

*Commentary: Subsection moved from 3.3-420 B. 3., renamed, and language revised to comply with model code layout and required language. Requirements remove the two different standards that were in place for elevation and replace with one standard for all manufactured dwellings regardless of location. Requirements change how elevation from base flood elevation is measured for manufactured dwellings from lowest floor to bottom of longitudinal chassis frame and electrical crossover. Adds anchoring requirements specific to manufactured dwellings to this Subsection. Some of this language was previously contained in 3.3-420 A. 1. Removes c. regarding Recreational Vehicles to its own subsection to match model code layout.*

**(d)3.** Manufactured ~~Homes~~ Dwellings.

~~(i)a.~~ Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with SDC 3.3.420(B)(1); All manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation where the lowest floor of the manufactured home is elevated to a height of 1 foot above the base flood elevation:

~~i. On sites outside of a manufactured home park or subdivision;~~

~~ii. On sites in a new manufactured home park or subdivision;~~

~~iii. On sites in an expansion to an existing manufactured home park or subdivision; and~~

~~iv. On sites within an existing manufactured home park or subdivision and upon which manufactured homes have incurred substantial damage as the result of flood.~~

(ii) The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;

~~(iii)b.~~ All mManufactured homes dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and on sites in an existing manufactured home park or subdivision within Zones A1-30, AH or AE that are not subject to the provisions of Subsection a., above shall be elevated so that:



~~i. The lowest floor of the manufactured home is at or above the base flood elevation, or~~

~~ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.~~

(iv) Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

*Commentary: Creates new Subsection specific to recreational vehicles (RVs) to match model code layout. Language from 3.3-420 B. 3. c. moved and revised to comply with required language from model code. Changes further clarify what is considered temporary siting of an RV and requires that if an RV does not meet temporary siting requirements it must comply with the development standards for manufactured dwellings. Clarifies that RV's get a Floodplain Development Permit if not temporarily sited.*

~~(e) Recreational Vehicles.~~ Recreational vehicles placed on sites are required to: within Zones A1-30, AH or AE shall:

~~(i).~~ Be on the site for fewer than 180 consecutive days, and

~~(ii) Band be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or~~

~~(iii).~~ Satisfy Meet the review procedure requirements of Section SDC 3.3.430(B)(3)(d)-415, including the anchoring and elevation requirements for manufactured dwellings.

(iv) Obtain a Floodplain Development Permit per SDC 3.3.425

*Commentary: Adds Subsection with required language from model code. Subsection covers specific development standards for appurtenant structures. Requires certain development standards be met including limiting uses and size, requiring flood-resistant materials and design.*

(f) Appurtenant (Accessory) Structures. Relief from elevation or floodproofing requirements for residential and non-residential structures in flood zones may be granted for appurtenant structures that meet the following requirements:

(i) Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in SDC 3.3.430(B)(4).

(ii) Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

(iii) In compliance with FEMA's policy issued in 2021 for appurtenant (accessory) structures within special flood hazard areas, appurtenant structures are limited to one-story structures less than 600 square feet.

(iv) The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;

(v) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

(vi) The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in SDC 3.3.430(B)(1);

(vii) Appurtenant structures shall be located and constructed to have low damage potential;

(viii) Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with SDC 3.3.430(A)(5).

(ix) Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

*Commentary: Makes changes to comply with required model code language. Adds Subsection clarifying conditions under which a community may permit encroachment in the floodway resulting in an increase in base flood elevation. Removes an existing exception which is not compliant with current requirements.*

(4)C. Floodways. Located within ~~the areas of~~ special flood hazard area established in ~~Section SDC 3.3.420(B)-410A. and B.~~ are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood-waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a)1. Encroachments, including fill, new construction, substantial improvements, and other development is prohibited within the adopted regulatory floodway unless:

(i)-e Certification by ~~a registered professional civil engineer or architect~~ is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

(ii) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revisions (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations Section 65.12 are fulfilled.



~~EXCEPTION: Manufactured homes as well as other structures already in the floodway may be replaced if they are located in the same site and are the same size without the certification.~~

~~(b)2. If the requirements of Subsection SDC 3.3.430(B)(4)C.1., above are satisfied, all new construction, and substantial improvements, and other development shall comply with all other applicable special flood hazard reduction provisions of SDC Subsection 3.3.430-B., above.~~

~~(c)3. Subdivision and partitioning of land for residential purposes is prohibited if land is located entirely within the floodway.~~

*Commentary: Adds Subsection with language from model code that is required if a community has any shallow flooding areas (-designated as AH or AO) on their FEMA flood maps. Although Springfield does not currently have any areas designated as such, FEMA is updating the maps covering Springfield and may add AO or AH zones. Inclusion of this language allows the City to have provisions in place should FEMA designate areas of shallow flooding or should the City designate areas as such. Subsection covers specific development standards in areas of shallow flooding for development, including new construction, conversions, substantial improvements and RVs.*

(5) Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(a) Standards for AH Zones. Development within AH Zones must comply with the standards in SDC 3.3.430(A), SDC 3.3.430(B), and SDC 3.3.430(B)(5).

(b) Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirements in SDC 3.3.430(A) and SDC 3.3.430(B)(5):

(i) New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

(ii) New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

(aa) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or

(ba) Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in SDC 3.3.430(B)(3)(c)(i)(ca).

(iii) Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

(aa) Be on the site for fewer than 180 consecutive days, and

(ba) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(ca) Meet the elevation requirements of SDC 3.3.430(B)(5)(b)(i), and the anchoring and other requirements for manufactured dwellings of SDC 3.3.430(B)(3)(d).

(iv) In AO zones, new and substantially improved appurtenant structures must comply with the standards in SDC 3.3.430(B)(3)(f).

(v) In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in SDC 3.3.430(B)(1).

*Commentary: Adds section with required model code language. Makes clear that a Floodplain Development Permit must be obtained before any development-related activity begins, and describes the required elements of a permit application.*

### **3.3.435 Floodplain Development Permits**

(A) Floodplain Development Permit Required. A Floodplain Development Permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in SDC 3.3.420(B). The permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in SDC 3.3.415, including fill and other development activities.

(B) Application for Floodplain Development Permit. Application for a permit may be made on forms furnished by the Floodplain Administrator and includes plans drawn to scale showing the nature, location, dimensions, and elevations of the development area; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) In flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of SDC 3.3.425(C)(2).

(2) Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

(3) Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in SDC 3.3.430(B)(3)(c).

(4) Description of the extent to which any watercourse will be altered or relocated.

(5) Base Flood Elevation data for subdivision proposals or other development when required per SDC 3.3.425(C)(1) and SDC 3.3.430(A)(7).

(6) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

(7) The amount and location of any fill or excavation activities proposed.

*Commentary: Updates Section title to reflect model code layout and adds required model code language.*

### **3.3.440 Variances**

#### **3.3-430 Variance Procedures**

(A) The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

*Commentary: Makes minor wording changes to align with terminology to be used in the development code updates.*

(B)A. A Variance from the provisions of this Section, with respect to the provisions for special flood hazard reduction, ~~shall~~will be reviewed as a Type ~~III procedure~~3 decision as specified in ~~Section-SDC~~SDC 5.1-135.

*Commentary: Adds required model code language covering the conditions under which the City may grant a variance. (2) and (3) were covered by 3.3-430 E. and F. and were moved here and reworded to match model code.*

#### **(C) Conditions for Variance**

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, in conformance with the provisions of SDC 3.3.440(C)(3) and SDC 3.3.440(C)(5), and SDC 3.3.440(D). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

(2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

*Commentary: Adds required model code language. 3.3-430 B. 1.-3. and 9.-10. are covered by required model code language (c), 4.-5. are added to (a) as examples of good and sufficient cause.*

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause, such as, but not limited to, the facility necessitates a waterfront location, or there are no other alternative locations for the proposed use that are not subject to flooding or erosion damage;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

*Commentary: Adds required model code language. Allows the City to grant variances for new construction and substantial improvements if certain requirements are met.*

(5) Variances may be issued by a community for new construction and substantial improvements, and for other development necessary for the conduct of a functionally dependent use provided that the criteria of SDC 3.3.440(C)(2) – (4) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

*Commentary: Adds required model code language. Requires the City to provide certain disclaimers when a variance is granted and keep records of variances granted.*

(D) Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with SDC 3.3.425(C)(2).

*Commentary: Deletes approval criteria. The criteria below are either removed or covered by (4)(a)-(c) of the above subsection as noted.*

~~**B.**—The Approval Authority shall consider all technical evaluations, all relevant factors and standards specified elsewhere in this Section. A Variance shall be granted if the proposal is determined by the Approval Authority to meet each of the following criteria:~~

~~**1.**—There is no potential danger that materials may be swept onto other lands to the injury of others;~~

~~-~~

- ~~2. There is no potential danger to life and property due to flooding, debris or erosion damage;~~
- ~~3. There is no significant susceptibility of the proposed facility and its contents to flood damage and the effect of that damage on the individual owner;~~
- ~~4. The facility necessitates a waterfront location, where applicable;~~
- ~~5. There are no other alternative locations for the proposed use, which are not subject to flooding or erosion damage;~~
- ~~6. The proposed use is compatible with existing and anticipated development;~~
- ~~7. The proposed use is consistent with the Metro Plan and Floodplain management program for that area;~~
- ~~8. There is adequate and safe access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~9. There has been adequate consideration of expected heights, velocity, duration, rate of rise, sediment, debris transported by the floodwaters and the effects of wave action, if applicable, expected at the site; and~~
- ~~10. There are no substantial costs of providing governmental services during or after flood conditions, including maintenance and repair of public utilities and facilities, including, but not limited to: sewer, gas, electrical and water systems, and streets and bridges.~~

*Commentary: Makes language changes to update the process to be used for recording a variance to ensure it aligns with Lane County practice and expands requirement for this to be done to include a variance of any kind.*

~~(E)C.~~ Reasonable conditions may be established in connection with a Variance if necessary to comply with the purpose and requirements standards of this Section. If approved, n cases where a Variance is granted to allow residential construction with a lowest floor elevation below the required minimum elevation, or nonresidential flood-proofing below the required minimum elevation, the applicant shall must record a deed covenant that notice of variance with Lane County Deeds and Records. ~~the cost of flood insurance will be commensurable with the increased risk resulting from the reduced floor elevation flood-proofing.~~

*Commentary: Deletes language which is covered by the required definition for Substantial Improvement in Section 3.3.415(34)(b).*

~~D. Variances may be issued for the reconsideration, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to procedures specified in the remainder of this Section.~~

*Commentary: Deletes language which is covered by required model code language in Section 3.3.440 (C)(2)-(3).*

~~E. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.~~

~~F. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the special flood hazard, to afford relief.~~

*Commentary: Creates new Section combining 3.3-440 and 3.3-445 and making language edits to comply with required model code language.*

### **3.3.445-440 Periodic Floodplain Inspections, and Enforcement of Requirements and Penalties**

*Commentary: Updates to clarify departments and roles responsible for floodplain inspection, updates name of required permit, removes language that does not align with City practice.*

~~(A) Field staff from the Development Services Department and/or the Public Works Department shall will make periodic inspections of floodplain areas both within the city limits and outside the city limits, but within the City's urban services area UGB to establish that any activity involving the fill and/or removal of materials within the floodplain is being performed in compliance with an approved Floodplain Development Permit Land and Drainage Alteration Permit. The staff shall prepare a field report listing non-complying conditions to be delivered to the Director. Upon receipt of the a report listing non-complying conditions-, the Flood Plain AdministratorDirector shall will proceed with enforcement actions including, but not limited to: the issuance of a Stop Work Order; the issuance of a citation; and the commencement of civil legal proceedings.~~

### **3.3-445 Land and Drainage Alteration Permits—Enforcement of Requirements and Penalties**

*Commentary: Adds required model code language stating requirement to comply with the requirements of the Floodplain Overlay District and clearly stating the consequences of a violation.*

(B) All development within special flood hazard areas is subject to the terms of this Section and required to comply with its provisions and all other applicable regulations.

(C) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Section and other applicable regulations. Violations of the provisions of this Section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction subject to the applicable procedures and penalties for abatement and civil infractions in the Springfield Municipal Code (SMC). Nothing contained herein shall prevent the City of Springfield from taking such other lawful action as is necessary to prevent or remedy any violation, nor preclude the City from using any other remedies available by law.

*Commentary: Updates language to comply with required model code language and relevant enforcement procedures within the City. Updates name of permit required to reflect that the Floodplain Development Permit is the permit required in the floodplain.*



~~A. Within Springfield's city limits:~~

~~(1) Within City limits, 1.E~~ Enforcement of the provisions of this Section is through commencement of civil legal proceedings the applicable procedures for abatement and civil infractions as provided in the Springfield Municipal Court Code. ~~Violation of the provisions of this Section including the failure to obtain a Land and Drainage Alteration Permit and the failure to comply with the requirements of a Land and Drainage Alteration Permit shall be punished by a fine not exceeding \$250.00 or imprisonment, not exceeding 100 days, or both fine and imprisonment. Every day of the violation shall constitute a separate offense.~~

~~(2) Within the UGB (including within City limits), E~~ Enforcement of the provisions of this Section may also be through commencement of legal proceedings in Lane County Circuit Court. Upon determination that a violation has occurred, the court may:

~~(a)~~ Require the person responsible and/or the property owner to cease the violation of the provisions of this Section and bring the property into conformance with this Section;

~~(b)~~ Require the person responsible and/or the property owner to take action to return the property to its original condition before any work initiated without a Floodplain Development Land and Drainage Alteration Permit;

~~(c)~~ If the person responsible and/or the property owner does not return the property to its original condition within the prescribed time period, authorize the City to take whatever action is necessary to return the property to its original condition prior to the initiation of any work without a Land and Drainage Alteration Permit Floodplain Development Permit, or otherwise bring the property into conformance with the provisions of this Section;

~~(d)~~ Authorize the City to charge the costs for restoring the property to its original condition or for bringing the property into conformance with the provisions of this Section either against the property itself, the person responsible, or the property owner; and/or

~~(e)~~ Order the person responsible and/or the property owner to pay to the City its attorney fees and costs incurred in pursuing its civil legal remedies.

*Commentary: Delete language that is not applicable to enforcement of a Floodplain Development Permit. Existing code does not clearly explain the difference between a Floodplain Development Permit (which is required by the Development Code) and Land Drainage and Alteration Permit (which is required by the Municipal Code). Updated language in this Section 3.3.445 focuses on enforcement provisions for the Floodplain Development Permit which is within the City's jurisdiction to enforce, even outside of city limits.*

~~3. Enforcement of the provisions of this Section may also be through the use of nuisance abatement procedures of Sections 5.000 to 5.018 of the Springfield Municipal Code, 1997.~~

~~B. Beyond Springfield's city limits but within Springfield's urban services area. Enforcement of the provisions of this Section may also be through commencement of legal proceedings in Lane County Circuit Court. Upon determination that a violation has occurred, the court may:~~

- ~~1. Require the person responsible and/or the property owner to cease the violation of the provisions of this Section and bring the property into conformance with this Section;~~
- ~~2. Require the person responsible and/or the property owner to take action to return the property to its original condition before any work initiated without a Land and Drainage Alteration Permit;~~
- ~~3. If the person responsible and/or the property owner does not return the property to its original condition within the prescribed time period, authorize the City to take whatever action is necessary to return the property to its original condition prior to the initiation of any work without a Land and Drainage Alteration Permit, or otherwise bring the property into conformance with the provisions of this Section;~~
- ~~4. Authorize the City to charge the costs for restoring the property to its original condition or for bringing the property into conformance with the provisions of this Section either against the property itself, the person responsible, or the property owner; and/or~~
- ~~5. Order the person responsible and/or the property owner to pay to the City its attorney fees and costs incurred in pursuing its civil legal remedies.~~

*Commentary: This Subsection was deleted from 3.3-420 Development Standards B. 4.. The model code does not have any requirements specific to foundations as that is covered by Section 3.3.430 (B)(3)(d) and the Building Code.*

~~4. Foundations. Foundations for all new construction, substantial improvements and manufactured homes subject to 18 inches or less of flood water during a 100-year flood shall be as specified in the Springfield Building Safety Codes. Foundations for all new construction, substantial improvements and manufactured homes not in a Mobile Home Park or Subdivision subject to 18 inches or more of flood water during a 100-year flood or located within a designated floodway shall be certified by an engineer to meet the following foundation requirements:~~

- ~~a. Concrete footings sized for 1000 psf soil pressure unless data to substantiate the use of higher values are submitted;~~
- ~~b. Footings shall extend not less than 18 inches below the undisturbed natural grade or engineered fill and in no case less than the frost line depth; and~~
- ~~c. Reinforced concrete, reinforced masonry, or other suitably designed supporting systems to resist all vertical and lateral loads which may reasonably occur independently or combined.~~



*Commentary: This section was removed from the Floodplain Overlay District Section. SDC 5.1-110 B. covers emergency situations within the City.*

### **~~3.3-425 Emergency Approval~~**

~~Where there is an emergency, the Director may issue development approval, including a Land and Drainage Alteration Permit either orally or in writing:~~

~~**A.** If issued orally, written approval shall follow within 5 days setting forth the conditions of operation.~~

~~**B.** Emergency approval may be issued to protect existing shorelines or structures under immediate threat by flood or storm waters or for the prevention of channel changes that threaten immediate and significant loss of property.~~

~~**C.** A representative of the City may inspect the project site to verify that an emergency condition exists and that the emergency action will not adversely impact water resources.~~

~~**D.** Emergency approval shall be in effect for the time required to complete the authorized emergency action and shall not exceed 60 days.~~

~~**E.** Any emergency approval shall be circulated for public information within 10 days of issuance.~~

# Legislative Version of Proposed Amendments to the Springfield Development Code Section 6.1-110 Meaning of Specific Words and Terms to Remove Language Specific to Section 3.3.400 Floodplain Overlay District

Public Review Draft – September 1, 2021

## PROPOSED AMENDMENTS

The proposed amendments to the section are shown in legislative format (deleted text with strike-thru red font). Only definitions proposed to be changed or deleted are shown below. Commentary is shown in purple italics font.

*Commentary: The changes to the definitions in this chapter remove any of the specific language related to the floodplain. They also remove words that are only used in the Floodplain Overlay District Section. The required definitions for the Floodplain Overlay District are contained in the proposed amendments to Section 3.3-415 as shown above.*

**Building.** Any structure used or intended for sheltering any use or occupancy. ~~As used in Section 3.3-400 Floodplain Overlay District, the terms “building” and “structure” are synonymous, and are framed, erected, constructed or placed to stand temporarily or permanently on a tract of land. This definition specifically includes a mobile home, manufactured home and any accessories, and gas or liquid storage tanks principally above ground.~~

**Building Official.** The person responsible for the administration and enforcement of the Building Safety Codes; ~~the duly authorized representative of the Director responsible, in consultation with the City Engineer, for the interpretation of Section 3.3-400 Floodplain Overlay District.~~

**Development.** Any human-made change to improved or unimproved real estate, including, but not limited to, a change in use; construction, installation or change of a structure; subdivision and partition; establishment or termination of a right of access; storage of materials, equipment or vehicles on the land; drilling and site alteration due to land surface mining, filling, grading, dredging, paving, excavation or clearing of trees and vegetation. Agricultural uses (including agricultural structures), when otherwise permitted by the base zoning district, are exempt from this definition. ~~unless agricultural structures are placed within adopted special flood hazard zones. As used in Section 3.3-400, Floodplain Overlay District, any human-made change to improved or unimproved real estate located within the area of special flood hazard, including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations. As used in Section 3.4-280C., any activity within the Glenwood Riverfront portion of the WG Overlay District that would alter the elevation of the land; remove or destroy plant life; cause structures of any kind to be installed, erected, or removed; or result in a measurable change of any kind.~~

**Flood/Flooding.** ~~A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation of run-off of surface waters from any source.~~

**Flood, Base.** The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100 year flood.” Designation on maps always includes the letters A or V.

**Flood Hazard, Area of Special.** The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

**Flood Insurance Rate Map (FIRM).** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the applicable risk premium zones.

**Flood Insurance Study.** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

**Flooding, Area of Shallow.** A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and intermediate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that is reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that the enclosure is not built to render the structure in violation of the applicable non-elevation design requirements.

**Structure.** Anything constructed or built, any edifice or building or any kind or any piece of work artificially built up or composed of parts joined together in some definite manner. ~~As used in Section 3.3-400, Floodplain Overlay District, a walled or roofed building including a gas or liquid storage tank that is principally above ground.~~

# **Clean Version of Proposed Amendments to the Springfield Development Code Section 3.3-400 Floodplain Overlay District to Incorporate Federal Requirements**

Public Review Draft – August 30, 2021

## **PROPOSED AMENDMENTS**

Section 3.3-400 of the Springfield Development Code (SDC) has been re-organized to more closely match the structure of the Oregon Model Hazard Ordinance (version October 2020) that was developed to incorporate requirements of the Federal Emergency Management Agency. This document shows how the Floodplain Overlay District regulations would appear in the Springfield Development code if all proposed amendments are adopted.

A listing of key changes proposed is available as a separate document entitled “Floodplain Overlay District Key Changes.” Please see the legislative version of proposed code amendments for detailed explanations of the proposed changes to formatting and text.

### **3.3.400 Floodplain Overlay District**

<b>3.3.405</b>	<b>Statutory Authority and Interpretation</b>
<b>3.3.410</b>	<b>Purpose</b>
<b>3.3.415</b>	<b>Definitions</b>
<b>3.3.420</b>	<b>Applicability</b>
<b>3.3.425</b>	<b>Administration</b>
<b>3.3.430</b>	<b>Development Standards</b>
<b>3.3.435</b>	<b>Floodplain Development Permits</b>
<b>3.3.440</b>	<b>Variances</b>
<b>3.3.445</b>	<b>Periodic Floodplain Inspection, Enforcement of Requirements and Penalties</b>

### **3.3.405 Statutory Authority and Interpretation**

#### **(A) Statutory Authorization.**

The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

#### **(B) Interpretation.** In the interpretation and application of this Section, all provisions shall be:

- (1)** Considered as minimum requirements;
- (2)** Liberally construed in favor of the governing body; and
- (3)** Deemed neither to limit nor repeal any other powers granted under state statutes.

### **3.3.410 Purpose**

**(A)** The Floodplain (FP) Overlay District is established to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. The provisions of this Section are designed to:

- (1)** Protect human life and health.
- (2)** Minimize expenditure of public money on costly flood control projects.
- (3)** Minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public.
- (4)** Minimize prolonged business interruptions.
- (5)** Minimize damage to public facilities and utilities, including, but not limited to: water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazards.
- (6)** Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding.
- (7)** Notify potential buyers that the property is in a special flood hazard area, and as applicable, notify potential buyers when development has been approved under a variance to the Floodplain Overlay District standards.
- (8)** Minimize the threat to persons, property, and urban water quality from flooding, and inadequate or improper drainage resulting from uncontrolled development or redevelopment of land to include filling, grading, excavation, removal; earthwork construction including berms and dikes; stockpiling of materials; or other land and drainage alterations.
- (9)** Notify those who occupy special flood hazard areas that they assume responsibility for their actions.
- (10)** Participate in and maintain eligibility for flood insurance and disaster relief.

**(B)** In order to accomplish the purpose, this Section includes methods and provisions for:

- (1)** Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.
- (2)** Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3)** Controlling the alteration of natural floodplains, stream channels, and protective barriers, which help accommodate or channel flood waters.
- (4)** Controlling filling, grading, dredging, and other development, which may increase flood damage.

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters, or which may increase special flood hazards in other areas.

(6) Issuing a Floodplain Development Permit.

### 3.3.415 Definitions

For the purposes of the Floodplain Overlay District only, the following definitions apply. Where the definitions in this Section conflict with a definition provided in SDC 6.1-105 or SDC 6.1-110, the definition in this Section will prevail. Unless specifically defined below or in SDC 6.1-110, words or phrases used in this Floodplain Overlay District shall be interpreted so as to give them the meaning they have in common usage.

#### A

**Appeal.** A request for a review of the interpretation of any provision of this Section or a request for a variance.

**Area of shallow flooding.** A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard.** The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

#### B

**Base flood.** The flood having a one percent chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE).** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

**Building.** See "Structure."

#### D

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

## E

### **Flood or Flooding.**

**(1)** A general and temporary condition of partial or complete inundation of normally dry land areas from:

**(a)** The overflow of inland or tidal waters.

**(b)** The unusual and rapid accumulation or runoff of surface waters from any source.

**(c)** Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

**(2)** The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation study.** See "Flood Insurance Study".

**Flood Insurance Rate Map (FIRM).** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS).** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood proofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water, and sanitary facilities, structures, and their contents.

**Floodplain or flood prone area.** Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

**Floodplain administrator.** The community official designated by title to administer and enforce the floodplain management regulations.

**Floodplain management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain management regulations.** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance), and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

## **H**

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure.** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

## **L**

**Letter of Map Change (LOMC).** Means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. The following are categories of LOMCs:

- (1) **Conditional Letter of Map Amendment (CLOMA).** A CLOMA is FEMA's comment on a proposed structure or group of structures that would, upon construction, be located



on existing natural ground above the base (1-percent-annual-chance) flood elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

**(2) Conditional Letter of Map Revision (CLOMR).** A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

**(3) Conditional Letter of Map Revision based on Fill (CLOMR-F).** A CLOMR-F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

**(4) Letter of Map Amendment (LOMA).** An official amendment, by letter, to the Flood Insurance Rate Maps (FIRMs) based on technical data showing that an existing structure, parcel of land or portion of a parcel of land that is naturally high ground, (i.e., has not been elevated by fill) above the base flood, that was inadvertently included in the special flood hazard area.

**(5) Letter of Map Revision (LOMR).** A LOMR is FEMA's modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or FBFM, and sometimes the Flood Insurance Study (FIS) report, and, when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

**(6) Letter of Map Revision based on Fill (LOMR-F).** A LOMR-F is FEMA's modification of the special flood hazard area shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

**(7) PMR.** A PMR is FEMA's physical revision and republication of an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS) report. PMRs are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area.

**Lowest floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Section.

## **M**

**Manufactured dwelling.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

**Manufactured dwelling park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

**Mean sea level.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

## **N**

**New construction.** For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by the City of Springfield and includes any subsequent improvements to such structures.

## **R**

**Recreational vehicle.** A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory floodway.** See “Floodway”.

## **S**

**Special flood hazard area.** See “Area of special flood hazard” for this definition.

**Start of construction.** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

**Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

## V

**Variance.** A grant of relief by the City of Springfield from the terms of a flood plain management regulation.

**Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

## W

**Water surface elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **3.3.420 Applicability**

(A) The FP Overlay District applies to all areas of special flood hazard within the Springfield urban growth boundary.

(B) The areas of special flood hazard are identified as follows:

(1) Those areas identified by the Federal Insurance Administration in scientific and engineering reports entitled "THE FLOOD INSURANCE STUDY (FIS) FOR THE CITY OF SPRINGFIELD, LANE COUNTY, OREGON", dated June 2, 1999 and any revision thereto, and "THE FLOOD INSURANCE STUDY FOR LANE COUNTY, OREGON, UNINCORPORATED AREAS," dated June 2, 1999 and any revisions thereto, with accompanying Flood Insurance Rate Map (FIRM) panels 1133, 1134, 1135, 1141, 1142,

1144, 1153, 1154, 1158, 1161, 1162, 1165, 1166, 1167, and 1170 are hereby adopted by reference and declared to be a part of this Section. The FIS and FIRM panels are on file at the Development Center located in Springfield City Hall;

**(2)** Areas of special flood hazard designated as within the FP Overlay district because they are susceptible to inundation of water from any source where the above-referenced maps have not identified any special flood areas.

**(C)** The flood insurance studies and accompanying Flood Insurance Rate Maps specified above are adopted by City Ordinance and filed with the City Engineer. These studies and their accompanying maps shall form the basis for the administration and implementation of this Section.

**(D)** Warning and Disclaimer of Liability. The degree of flood protection required by this Section in the areas designated in Subsection (B), above is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This Section does not imply that land outside the areas of special flood hazards or uses permitted within these areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City of Springfield, any officer or employee of the City, or the Federal Insurance Administrator, for any flood damages that result from reliance on this Section or any administrative decision lawfully made under this Section.

**(E)** Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Springfield administers and enforces the State of Oregon Specialty Codes, the City of Springfield does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this Section is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

### **3.3.425 Administration**

**(A)** Floodplain development proposals within the FP Overlay District are reviewed under Type 1 procedure found in SDC 5.1-125. (See SDC 4.3-145 for siting standards and review process for certain wireless telecommunications systems facilities). Floodplain development approval within the FP Overlay District, and a Land and Drainage Alteration Permit, must be obtained before construction or development begins within any area of special flood hazard established in SDC 3.3.420(B). Approval is required for all structures, manufactured homes and development as defined in this Code.

**(B)** Designation of the Floodplain Administrator. The Development and Public Works Director is hereby appointed to administer, implement, and enforce this Section by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

**(C)** Duties and Responsibilities of the Floodplain Administrator. Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

**(1)** Permit Review. Review all development permit applications to determine that:

**(a)** The permit requirements of this Section have been satisfied.

- (b)** All other required local, state, and federal permits have been obtained.
- (c)** Review all development permit applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the floodway provisions in SDC 3.3.430(B)(4) are met; and
- (d)** Review all development permit applications to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of SDC 3.3.430(A)(8); and
- (e)** Provide to the Building Official the Base Flood Elevation (BFE) applicable to any building requiring a development permit. When base flood elevation data has not been provided as specified in SDC 3.3.420(B)(1), the Floodplain Administrator will obtain, review and utilize any base flood elevation data and floodway data available from a Federal, State or other source in order to administer this Section.
- (f)** Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in SDC 3.3.415.
- (g)** Review all development permit applications to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in SDC 3.3.430(A)(1)
- (h)** Review all development permit applications to determine if the proposed development activity includes the placement of fill or excavation.
- (2)** Information to be Obtained and Maintained. The following information shall be obtained and maintained, and shall be made available for public inspection as needed:

  - (a)** Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with SDC 3.3.430(A)(8).
  - (b)** Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of SDC 3.3.430(B)(4) and SDC 3.3.425(C)(1)(b) are adhered to.
  - (c)** Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
  - (d)** Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement)

prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.

**(e)** Maintain all Elevation Certificates (EC) submitted to the community;

**(f)** Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this Section and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with SDC 3.3.430(A)(8).

**(g)** Maintain all floodproofing certificates required under this Section;

**(h)** Record and maintain all variance actions, including justification for their issuance;

**(i)** Obtain and maintain all hydrologic and hydraulic analyses performed as required under SDC 3.3.430(B)(4).

**(j)** Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under SDC 3.3.425(D).

**(k)** Maintain for public inspection all records pertaining to the provisions of this Section.

**(3) Requirement to Notify Other Entities and Submit New Technical Data.**

**(a) Community Boundary Alterations.** The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

**(b) Watercourse Alterations.** Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

**(i)** A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

**(ii)** Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under SDC 3.3.425(C)(3)(c). Ensure compliance with all applicable requirements in SDC 3.3.425(C)(3)(c) and SDC 3.3.430(A)(1).

**(c) Requirement to Submit New Technical Data.** A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this Section through the applicable FEMA Letter of Map Change (LOMC) process.

**(i)** The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

**(aa)** Proposed floodway encroachments that increase the base flood elevation; and

**(ba)** Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

**(ii)** An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

**(iii)** The applicant shall be responsible for preparing all technical data to support CLOMR/LOMR applications and paying any processing or application fees associated with the CLOMR/LOMR.

**(iv)** The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this Section and all applicable state and federal permits.

**(D) Substantial Improvement and Substantial Damage Assessments and Determinations.**

**(1)** Building inspectors from the Development and Public Works Department shall conduct Substantial Improvement (SI) (as defined in SDC 3.3.415) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with SDC 3.3.425(C)(2); and shall conduct Substantial Damage (SD) (as defined in SDC 3.3.415) assessments when structures are damaged due to a natural hazard event or other causes; and shall make SD determinations whenever structures within the special flood hazard area (as established in SDC 3.3.420(B)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**(2).** A list of damaged structures, which are not in compliance with the provisions of this Section, will be reported to FEMA.

**(3)** The City will notify affected property owners when submitting the damage report to FEMA.

### **3.3.430 Development Standards**

**(A)** General Standards. In all special flood hazard areas within the City and its urbanizable area, the following standards shall be adhered to:

**(1)** Alteration of Watercourse. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with SDC 3.3.425(C)(3)(b) and SDC 3.3.425(C)(3)(c).

**(2)** Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. All manufactured dwellings shall be anchored per SDC 3.3.430(B)(3)(d).

**(3)** Construction Materials and Methods.

**(a)** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

**(b)** All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**(4)** Utilities and Equipment.

**(a)** Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood elevation or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this Section if replaced as part of a substantial improvement.

**(b)** Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems.

**(i)** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

**(ii)** New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.



**(iii)** On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

**(5) Tanks.**

**(a)** Underground tanks shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

**(b)** Above-ground tanks shall be installed at or above the base flood elevation or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

**(6) Streets.**

**(a)** Adequate provisions must be made for accessibility during a base flood to ensure ingress and egress for ordinary and emergency vehicles and services during potential future flooding.

**(b)** No street or surface of any new street may be at an elevation of less than one foot below the base flood height.

**(7) Subdivision Proposals.**

**(a)** All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data;

**(b)** All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

**(i)** Be consistent with the need to minimize flood damage;

**(ii)** Have public utilities and facilities such as sewer, gas, electrical and water systems located, constructed, and maintained to minimize or eliminate flood damage;

**(iii)** Have adequate drainage provided to reduce exposure to flood hazards.

**(c)** Base flood elevation data must be provided and shown on final and subdivision plats. The boundaries of the base flood and floodway must be shown on the final subdivision plat;

**(d)** A permanent monument must be established and maintained on land subdivided, showing the elevation in feet above mean sea level. The location of the monument must be shown on the final partition map or subdivision plat;

**(8) Use of Other Base Flood Data.**

**(a)** When base flood elevation data has not been provided in accordance with SDC 3.3.420(B) the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer SDC 3.3.430. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of SDC 3.3.430(A)(7).

**(b)** Base Flood Elevations shall be determined for development proposals that are five acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within an unnumbered A zone shall be reasonably safe from flooding. . The test of reasonableness includes without limitation the use of historical data, high water marks, FEMA provided Base Level Engineering data, or photographs of past flooding, where available. When no base flood elevation data is available, the elevation requirement for development proposals within an unnumbered A zone is a minimum of two (2) feet above the highest adjacent grade to be reasonably safe from flooding. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

**(9)** Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

**(a)** When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

**(b)** When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

**(B)** Specific Standards. In all flood zones within the City and its urbanizable area the following specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in SDC 3.3.430(A).

**(1)** Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

**(a)** Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters.

**(b)** Be used solely for parking, storage, or building access;

**(c)** Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

**(i)** A minimum of two openings,

**(ii)** The total net area of non-engineered openings shall not be less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls.

**(iii)** The bottom of all openings shall be no higher than one foot above grade.

**(iv)** Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas, and shall be accounted for in the determination of the net open area.

**(v)** All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

**(2)** Garages.

**(a)** Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in flood zones, if the following requirements are met:

**(i)** If located within a floodway the proposed garage must comply with the requirements of SDC 3.3.430(B)(4).

**(ii)** The floors are at or above grade on not less than one side;

**(iii)** The garage is used solely for parking, building access, and/or storage;

**(iv)** The garage is constructed with flood openings in compliance with SDC 3.3.430(B)(1) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

**(v)** The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;

**(vi)** The garage is constructed in compliance with the standards in SDC 3.3.430(A); and

**(vii)** The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

**(b)** Detached garages must be constructed in compliance with the standards for appurtenant structures in SDC 3.3.430(B)(3)(f) or non-residential structures in SDC 3.3.430(B)(3)(c) depending on the square footage of the garage.

**(3)** For Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in SDC 3.3.430(A) the following specific standards shall apply in special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

**(a) Before Regulatory Floodway.** In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**(b) Residential Construction.** New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the Base Flood Elevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in SDC 3.3.430(B)(1).

**(c) Non-residential Construction.**

**(i)** New construction, conversion to, and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation (BFE); Or together with attendant utility and sanitary facilities,:

**(aa)** Be floodproofed to one foot above the base flood elevation, so that the structure is watertight with walls substantially impermeable to the passage of water;

**(ba)** Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

**(ca)** Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this Subsection based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the Floodplain Administrator as set forth in SDC 3.3.425(C)(2).

**(ii)** Nonresidential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in SDC 3.3.430(B)(1).

**(iii)** Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood elevation will be rated as one foot below).

**(d) Manufactured Dwellings.**

**(i)** Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with SDC 3.3.420(B)(1);

**(ii)** The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;

**(iii)** Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and

**(iv)** Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

**(e)** Recreational Vehicles. Recreational vehicles placed on sites are required to:

**(i)** Be on the site for fewer than 180 consecutive days, and

**(ii)** Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

**(iii)** Meet the requirements of SDC 3.3.430(B)(3)(d), including the anchoring and elevation requirements for manufactured dwellings.

**(iv)** Obtain a Floodplain Development Permit per SDC 3.3.425

**(f)** Appurtenant (Accessory) Structures. Relief from elevation or floodproofing requirements for residential and non-residential structures in flood zones may be granted for appurtenant structures that meet the following requirements:

**(i)** Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in SDC 3.3.430(B)(4).

**(ii)** Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

**(iii)** In compliance with FEMA's policy issued in 2021 for appurtenant (accessory) structures within special flood hazard areas, appurtenant structures are limited to one-story structures less than 600 square feet.

**(iv)** The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;

**(v)** The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

**(vi)** The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in SDC 3.3.430(B)(1);

**(vii)** Appurtenant structures shall be located and constructed to have low damage potential;

**(viii)** Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with SDC 3.3.430(A)(5).

**(ix)** Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

**(4)** Floodways. Located within the special flood hazard area established in SDC 3.3.420(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

**(a)** Encroachments, including fill, new construction, substantial improvements, and other development is prohibited within the adopted regulatory floodway unless:

**(i)** Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

**(ii)** A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revisions (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations Section 65.12 are fulfilled.

**(b)** If the requirements of SDC 3.3.430(B)(4) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of SDC 3.3.430.

**(c)** Subdivision and partitioning of land for residential purposes is prohibited if land is located entirely within the floodway.

**(5)** Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

**(a)** Standards for AH Zones. Development within AH Zones must comply with the standards in SDC 3.3.430(A), SDC 3.3.430(B), and SDC 3.3.430(B)(5).

**(b)** Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirements in SDC 3.3.430(A) and SDC 3.3.430(B)(5):

**(i)** New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

**(ii)** New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

**(aa)** Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or

**(ba)** Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in SDC 3.3.430(B)(3)(c)(i)(ca).

**(iii)** Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

**(aa)** Be on the site for fewer than 180 consecutive days, and

**(ba)** Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

**(ca)** Meet the elevation requirements of SDC 3.3.430(B)(5)(b)(i), and the anchoring and other requirements for manufactured dwellings of SDC 3.3.430(B)(3)(d).

**(iv)** In AO zones, new and substantially improved appurtenant structures must comply with the standards in SDC 3.3.430(B)(3)(f).

**(v)** In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in SDC 3.3.430(B)(1).

### **3.3.435 Floodplain Development Permits**

**(A) Floodplain Development Permit Required.** A Floodplain Development Permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in SDC 3.3.420(B). The permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in SDC 3.3.415, including fill and other development activities.

**(B) Application for Floodplain Development Permit.** Application for a permit may be made on forms furnished by the Floodplain Administrator and includes plans drawn to scale showing the nature, location, dimensions, and elevations of the development area; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

**(1)** In flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of SDC 3.3.425(C)(2).

**(2)** Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

**(3)** Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in SDC 3.3.430(B)(3)(c).

**(4)** Description of the extent to which any watercourse will be altered or relocated.

**(5)** Base Flood Elevation data for subdivision proposals or other development when required per SDC 3.3.425(C)(1) and SDC 3.3.430(A)(7).

**(6)** Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

**(7)** The amount and location of any fill or excavation activities proposed.

### **3.3.440 Variances**

**(A)** The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

**(B)** A Variance from the provisions of this Section, with respect to the provisions for special flood hazard reduction, will be reviewed as a Type 3 decision as specified in SDC 5.1-135.

**(C) Conditions for Variance**

**(1)** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, in conformance with the provisions of SDC 3.3.440(C)(3) and SDC 3.3.440(C)(5), and SDC



3.3.440(D). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

**(2)** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**(3)** Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

**(4)** Variances shall only be issued upon:

**(a)** A showing of good and sufficient cause such as, but not limited to, the facility necessitates a waterfront location, or there are no other alternative locations for the proposed use that are not subject to flooding or erosion damage;

**(b)** A determination that failure to grant the variance would result in exceptional hardship to the applicant;

**(c)** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

**(5)** Variances may be issued by a community for new construction and substantial improvements, and for other development necessary for the conduct of a functionally dependent use provided that the criteria of SDC 3.3.440(C)(2) – (4) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**(D)** Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with SDC 3.3.425(C)(2).

**(E)** Reasonable conditions may be established in connection with a Variance if necessary to comply with the purpose and standards of this Section. If approved, the applicant must record a notice of variance with Lane County Deeds and Records.

### **3.3.445      Periodic Floodplain Inspections, Enforcement of Requirements and Penalties**

**(A)** The Development and Public Works Department will make periodic inspections of floodplain areas both within the city limits and outside the city limits, but within the City's UGB to establish that any activity involving the fill and/or removal of materials within the floodplain is being performed in compliance with an approved Floodplain Development Permit. Upon receipt of a report listing non-complying conditions, the Flood Plain Administrator will proceed with enforcement actions including, but not limited to: the issuance of a Stop Work Order; the issuance of a citation; and the commencement of civil legal proceedings.

**(B)** All development within special flood hazard areas is subject to the terms of this Section and required to comply with its provisions and all other applicable regulations.

**(C)** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Section and other applicable regulations. Violations of the provisions of this Section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction subject to the applicable procedures and penalties for abatement and civil infractions in the Springfield Municipal Code (SMC). Nothing contained herein shall prevent the City of Springfield from taking such other lawful action as is necessary to prevent or remedy any violation, nor preclude the City from using any other remedies available by law.

**(1)** Within City limits, enforcement of the provisions of this Section is through the applicable procedures for abatement and civil infractions as provided in the Springfield Municipal Code.

**(2)** Within the UGB (including within City limits), enforcement of the provisions of this Section may also be through commencement of legal proceedings in Lane County Circuit Court. Upon determination that a violation has occurred, the court may:

**(a)** Require the person responsible and/or the property owner to cease the violation of the provisions of this Section and bring the property into conformance with this Section;

**(b)** Require the person responsible and/or the property owner to take action to return the property to its original condition action before any work initiated without a Floodplain Development Permit;

**(c)** If the person responsible and/or the property owner does not return the property to its original condition within the prescribed time period, authorize the City to take whatever action is necessary to return the property to its original condition prior to the initiation of any work without a Floodplain Development Permit, or otherwise bring the property into conformance with the provisions of this Section;

**(d)** Authorize the City to charge the costs for restoring the property to its original condition or for bringing the property into conformance with the provisions of this Section either against the property itself, the person responsible, or the property owner; and/or

**(e)** Order the person responsible and/or the property owner to pay to the City its attorney fees and costs incurred in pursuing its civil legal remedies.

**Clean Version of**  
**Proposed Amendments to the Springfield Development Code**  
**Section 6.1-110 Meaning of Specific Words and Terms to Remove**  
**Language Specific to Section 3.3.400 Floodplain Overlay District**

Public Review Draft – September 1, 2021

**PROPOSED AMENDMENTS**

This document shows how the definitions in Section 6.1-110 proposed for amendment would appear in the Springfield Development code without the floodplain-specific language included. All floodplain-specific definitions are included in Section 3.3.400 which is the Floodplain Overlay District.

**Building.** Any structure used or intended for sheltering any use or occupancy.

**Building Official.** The person responsible for the administration and enforcement of the Building Safety Codes.

**Development.** Any human-made change to improved or unimproved real estate, including, but not limited to, a change in use; construction, installation or change of a structure; subdivision and partition; establishment or termination of a right of access; storage of materials, equipment or vehicles on the land; drilling and site alteration due to land surface mining, filling, grading, dredging, paving, excavation or clearing of trees and vegetation. Agricultural uses (including agricultural structures), when otherwise permitted by the base zoning district, are exempt from this definition. As used in Section 3.4-280C., any activity within the Glenwood Riverfront portion of the WG Overlay District that would alter the elevation of the land; remove or destroy plant life; cause structures of any kind to be installed, erected, or removed; or result in a measurable change of any kind.

**Structure.** Anything constructed or built, any edifice or building or any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

**BEFORE THE PLANNING COMMISSION OF SPRINGFIELD, OREGON  
ORDER AND RECOMMENDATION FOR:**

<b>AMENDMENT TO THE SPRINGFIELD DEVELOPMENT CODE</b>	] <b>811-21-000210-TYP4</b>
<b>3.3-400 FLOODPLAIN OVERLAY DISTRICT AND</b>	]
<b>6.1-100 DEFINITIONS</b>	]

**NATURE OF THE PROPOSAL**

Request that the Springfield Planning Commission forward a recommendation of approval to the Springfield City Council regarding amendments to the following sections of the Springfield Development Code as shown in Exhibit B in order to comply with minimum standards required to continue participation in the National Flood Insurance Program (NFIP):

Chapter 3 Land Use Districts:

- Section 3.2-400 Floodplain Overlay District

Chapter 6 Definitions

- Section 6.1-110 Meaning of Specific Words and Terms

Notice was sent to the Department of Land Conservation and Development on August 4, 2021, not less than 35 days prior to the first evidentiary hearing in compliance with OAR 660-018-0020.

Timely and sufficient notice of the public hearing has been provided, pursuant to ORS 227.186 and Springfield Development Code Section 5.2-115.

On September 8, 2021, the Springfield Planning Commission held a duly noticed public hearing on the proposed text amendments. The public hearing was conducted in accordance with Springfield Development Code Sections 5.2-120 through 5.2-145. After review of the staff report, evidence in the record, and public testimony, the Planning Commission determined that the code amendments meet the approval criteria.

**CONCLUSION**

On the basis of the Findings of Fact (Exhibit A) and evidence in the record, the proposed code amendments (Exhibit B) meet the approval criteria of Springfield Development Code Section 5.6-115.

**ORDER/RECOMMENDATION**

It is ORDERED by the Springfield Planning Commission that a RECOMMENDATION for approval of 811-21-000210-TYP4 be forwarded to the Springfield City Council for consideration at an upcoming public hearing.

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Planning Commission Chairperson

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Date

**ATTEST**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**CITY OF SPRINGFIELD, OREGON**  
**ORDINANCE NO. \_\_\_\_\_ (GENERAL)**

**AN ORDINANCE AMENDING THE SPRINGFIELD DEVELOPMENT CODE (SDC) SECTION 3.3-400 – FLOODPLAIN OVERLAY DISTRICT REGARDING REGULATION OF DEVELOPMENT WITHIN THE FLOODPLAIN; AMENDING SDC SECTION 6.1-100 – DEFINITIONS; ADOPTING SEVERABILITY AND ABROGATION CLAUSES.**

**WHEREAS**, the State of Oregon has in ORS 197.175 delegated responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry;

**WHEREAS**, the flood hazard areas of the City of Springfield are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare;

**WHEREAS**, these flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas; uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss;

**WHEREAS**, the City of Springfield participates in the National Flood Insurance Program (NFIP) administered by the Federal Emergency Management Agency (FEMA) and is thus required to adopt and enforce a floodplain management ordinance regulating development in the community's floodplain;

**WHEREAS**, the Springfield City Council adopted Ordinance No. 5366 on March 16, 1987 which repealed and replaced the adopted floodplain management regulations in Article 27 of the Springfield Development Code (SDC);

**WHEREAS**, the City Council subsequently amended the floodplain regulations seven times;

**WHEREAS**, the Springfield Development Code was reformatted through Ordinance 6206 adopted on September 17, 2007 which resulted in the Floodplain Overlay District being codified as Section 3.3-400 which contains the standards and regulations to be applied to development within the Floodplain Overlay District;

**WHEREAS**, the Oregon Department of Land Conservation and Development (DLCD), which is the designated NFIP coordinating agency for the state, completed an audit of Springfield's floodplain regulations which resulted in recommendations to update the City's floodplain management program to comply with FEMA's current minimum floodplain development standards contained in the Code of Federal Regulations Title 44, a requirement for participation in the NFIP;

**WHEREAS**, to bring the City into compliance with minimum requirements, it is necessary to amend SDC 3.3-400 regulating development in the Floodplain Overlay District so that it aligns with the State of

Oregon Model Flood Hazard Management ordinance produced by DLCD and approved by FEMA Region X, effective October 23, 2020;

**WHEREAS**, notice was sent to the Department of Land Conservation and Development on August 4, 2021, 35 days prior to the first evidentiary hearing as required under OAR 660-018-0040(8);

**WHEREAS**, on September 8, 2021 the Planning Commission held a duly noticed public hearing regarding this proposal, Planning File #811-21-000210-TYP4, and after review of the staff report, evidence in the record, and testimony of those who spoke at the public hearing, the Planning Commission;

**WHEREAS**, on December 13, 2021 the Springfield City Council and Lane County Board of Commissioners held a duly noticed joint public hearing regarding this proposal, Planning File #811-21-000210-TYP4, and after review of the Planning Commission recommendation, staff report, evidence in the record, and testimony of those who spoke at the public hearing, the Springfield City Council and Lane County Board of Commissioners;

**WHEREAS**, these regulations are adopted through the City of Springfield's broad home rule authority under the Chapter II of Springfield City Charter, which provides the following:

Section 4. Powers of the City. The City has all powers that the constitutions, statutes and common law of the United States and of the State of Oregon now or hereafter expressly or impliedly granted or allowed the City, as fully as though this Charter specifically enumerated each of those powers.

Section 5. Construction of Powers. In this Charter no specification of power is exclusive or restricts authority that the City would have if the power were not specified. The Charter shall be liberally construed, so that the City may exercise as fully as possible all powers possible for it under this Charter and under United States and Oregon law. A power of the City continues unless the grant of the power clearly indicates the contrary.

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF SPRINGFIELD ORDAINS AS FOLLOWS:

Section 1. The findings of fact set forth in **Exhibit A** are adopted.

Section 2. Sections 3.3-400 and 6.1-100 of the Springfield Development Code are amended as provided in **Exhibit B**, attached hereto and incorporated by reference.

Section 3. Savings Clause. Except as specifically amended herein, the Springfield Development Code shall continue in full force and effect.

Section 4. Severability Clause. This ordinance and the various parts thereof are hereby declared to be severable. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and said holding shall not affect the validity of the remaining portions of this Ordinance.

Section 5. Abrogation Clause. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 6. Effective date of Ordinance. This Ordinance will take effect as provided in Section 2.110 of the Springfield Municipal Code, or upon the date that an ordinance is enacted by the Lane County Board of Commissioners adopting the same amendments as described in Section 2 of this Ordinance, or upon acknowledgement of this Ordinance under ORS 197.625, whichever occurs last.

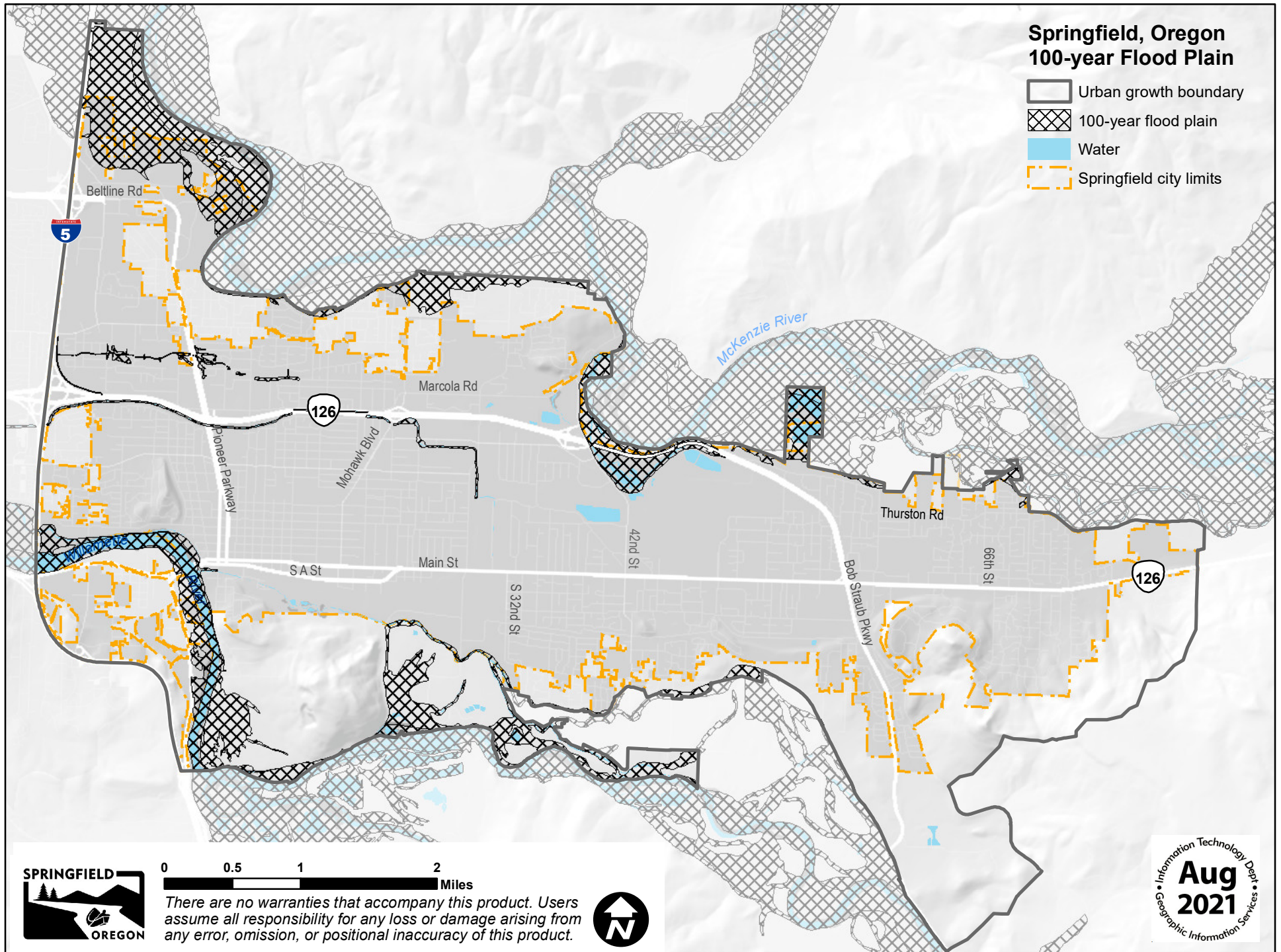
ADOPTED by the Common Council of the City of Springfield this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against.

APPROVED by the Mayor of the City of Springfield this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Recorder





## **Frequently Asked Questions (FAQ)**

### **Section 3.3-400 Floodplain Overlay District Updates**

#### **WHAT IS THE PURPOSE OF UPDATING THE FLOODPLAIN OVERLAY DISTRICT CODE?**

The City of Springfield participates in a program called the National Flood Insurance Program (NFIP). Participation in the NFIP allows members of the Springfield community to access federally backed flood insurance. Flood insurance is required for federally backed loans to purchase or build structures located within the floodplain. To be eligible for participation in the NFIP, the City must adopt and enforce a floodplain management ordinance that regulates development within the floodplain. Springfield Development Code (SDC) Section 3.3-400 Floodplain Overlay District contains Springfield's regulations for development within the floodplain.

It is time to update the Floodplain Overlay District section of the Development Code to ensure that it aligns with current Federal and State laws. Making the required updates will allow the City to continue participating in the NFIP, better protect lives from flood hazard, and reduce flood related property damage.

#### **WHAT IS THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP)?**

The National Flood Insurance Program (NFIP) is run by the Federal Emergency Management Agency (FEMA). The objectives of the NFIP are (1) to ensure that new buildings will be free from flood damage, (2) to prevent new development from increasing flood damages on existing properties, and (3) to ensure the natural and beneficial functions of the floodplain are maintained. The program was created by the U.S. Congress in 1968 to help minimize the rising costs of disaster relief and to reduce the loss of life and property caused by flooding. In addition to allowing community members to access federally backed flood insurance, participation in the NFIP ensures Springfield remains eligible for Federal disaster assistance in the event of a flood.

#### **WHAT IS THE BASIS FOR THE UPDATES TO THE CODE?**

City of Springfield staff have proposed updates to the Floodplain Overlay District code based on the State of Oregon Model Flood Hazard Management Ordinance (effective October 2020). This is a model code which the State developed to align with both Federal and State laws. The model ordinance was reviewed and approved by FEMA. Adoption of the model ordinance language will ensure the City of Springfield is in compliance with the standards required by FEMA for continued participation in the NFIP.

#### **HOW DOES THE CITY DETERMINE WHICH AREAS ARE IN THE FLOODPLAIN OVERLAY DISTRICT?**

FEMA conducts a Flood Insurance Study (FIS) to determine the flood hazards present in a community and uses this data to produce flood maps which detail the location of flood hazard

areas. Areas within Springfield designated by FEMA as flood hazard areas are within the floodplain and must follow the requirements of the Floodplain Overlay District. In addition, the City may zone as Floodplain Overlay other areas that are susceptible to inundation. A map of the areas covered by floodplain within the City of Springfield's Urban Growth Boundary (UGB) can be found on the reverse side of this FAQ. No changes are proposed to the Floodplain Overlay District boundaries at this time

## **HOW WILL THESE CHANGES AFFECT PROPERTY OWNERS?**

Many of the proposed code amendments are administrative changes and do not affect the type of development or the standards of development in the floodplain. The City has added requirements for property owners only when they are necessary to meet federal requirements to continue participation in the NFIP program.

The proposed code amendments would make the following key changes to Development Standards:

- Allow attached garages to be constructed below the base flood elevation when they meet certain standards
- Add standards for appurtenant (accessory) structures including detached garages
- Change how to measure the height above the ground when placing a manufactured dwelling, and change how the manufactured dwelling must be anchored
- No longer allow any structure, including a manufactured home, be replaced in the floodway with same size structure/home without first doing a study
- Require that new electrical, mechanical, plumbing and other equipment be installed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy
- Require that structures come into compliance with Development Standards when there is a conversion of the structure from one type to another
- Require (rather than just advise) that the lowest floor of proposed development be elevated at least two feet above grade in areas where the base flood elevation is unknown
- Apply standards/requirements for flood openings to many situations, not just residential development
- Specify that underground and above ground tanks be anchored
- Specify that structures partially located in the floodplain comply with the Development Standards

The proposed code amendments posted at [\*\*springfieldoregonspeaks.org\*\*](http://springfieldoregonspeaks.org) include commentary explaining the new language.

# FLOODPLAIN OVERLAY DISTRICT - KEY CHANGES

August 30, 2021

*This list identifies and explains the key substantive changes proposed for Springfield's Floodplain Overlay District which is one Section of the Springfield Development Code (SDC), 3.3-400. It may be helpful to use this document to review the proposed code language. Specific code references are included as appropriate.*

The package of proposed code amendments:

1. Organization of Code – Re-arranges subsections to better match the State's Model Floodplain Code layout.
2. Floodplain Development Permit - Names the permit issued for development in the floodplain a "Floodplain Development Permit" to clarify that this floodplain development permit is separate from a "Land Drainage and Alteration Permit". Requirements for a Land Drainage and Alteration Permit are in the Springfield Municipal Code. In most cases, an applicant would be required to obtain both permits (Floodplain Development Permit and a Land Drainage and Alteration Permit) for any development within the Floodplain Overlay District.
3. Definitions - Includes definitions specific to floodplain management in this Section of the Springfield Development Code (SDC) – see SDC 3.3.415. Because definitions are being included in this Section, the definitions in SDC 6.1-110 are modified to remove any definitions or portions of definitions specific to the floodplain.
4. State of Oregon Specialty Codes – Recognizes that the state's building codes have a role in establishing standards for the design and construction of buildings within the floodplain – see SDC 3.3.420 (E).
5. Duties and Responsibilities of the Floodplain Administrator – Clarifies and adds to the responsibilities of the floodplain administrator – see SDC 3.3.425 (C).
6. Information to be Obtained and Maintained and Shared – SDC 3.3-425 (C)(2) lists information the City is required to make available to the public and SDC 3.3-425 (C)(3) lists when new data is required and to whom to provide that information.
7. Substantial Damage – Requires the City to assess structures damaged in a natural hazard (not just a flood event) or other causes to determine if the structure is damaged to the extent that any repairs would be considered as "substantial improvements" and therefore required to comply with the Floodplain Development Standards. See SDC 3.3.425 (D) and the definition of "Substantial improvement" in Section 3.3.415.
8. Alteration of Watercourse – Explicitly requires that the flood carrying capacity of a watercourse be maintained – see SDC 3.3.430 (A)(1).
9. Standards for Manufactured Dwellings
  - Changes anchoring standards - see SDC 3.3.430 (A)(2) and 3.3.430 (B)(3)(d).

- Changes how to measure the height to which to place the manufactured dwelling – see SDC 3.3.430 (B)(3)(d).
10. Utilities – Requires that electrical, mechanical, plumbing, and other equipment must be designed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy if it is not installed above base flood elevation – see SDC 3.3.430 (A)(4)(a).
  11. Tanks – Adds specific standards for anchoring underground and above-ground tanks – see SDC 3.3.430 (A)(5).
  12. Manufactured Dwelling Parks – Specifically calls out that new Parks greater than 50 lots or 5 acres establish a base flood elevation and all new Parks be designed to minimize flood damage – see SDC 3.3.430 (A)(7).
  13. When No Base Flood Elevation Available – Requires rather than just recommends that development proposals elevate a minimum of two feet above the highest adjacent grade – see SDC 3.3.430 (A)(8)(b). Removes the exception for manufactured homes in existing Mobile Home Parks and Subdivisions so that when a manufactured dwelling is placed in an existing Mobile Home Park or Subdivision, it must also be elevated a minimum of two feet above the highest adjacent grade.
  14. Structures Located in Multiple or Partial Flood Zones – Specifies that structures that are partially located in the floodplain comply with the Floodplain Overlay District standards, and requires structures located in multiple flood zones to comply with the more restrictive requirements – see SDC 3.3.430 (A)(9).
  15. Flood Openings – Applies modified flood opening requirements broadly (not just for residential development) for fully enclosed areas below the lowest floor (excluding basements) – see SDC 3.3.430 (B)(1).
  16. Garages – Creates requirements specific to garages. Attached garages may be constructed with the garage floor slab below the base flood elevation if certain requirements are met. Detached garages must comply with standards for appurtenant (accessory) structures – see SDC 3.3.430 (B)(2).
  17. Conversion of Structure – Requires that when there is conversion from one type of structure to another (i.e. a non-residential structure to a residential one, or an accessory structure to a residential one), the building must be brought into compliance with floodplain requirements – see SDC 3.3.430 (B)(3)(b) and (B)(3)(c).
  18. Recreational Vehicles – Clarifies that recreational vehicles parked on a site for 180 days or more must obtain a Floodplain Development Permit and meet the anchoring and elevation requirements for manufactured dwellings – see SDC 3.3.430 (B)(3)(e)(iv).
  19. Appurtenant (Accessory) Structures – Creates requirements specific to appurtenant structures – see SDC 3.3.430 (B)(3)(f).
  20. Floodway – Allows encroachments into the floodway only with an approved Conditional Letter of Map Revision (CLOMR) and when the requirements for such revision are fulfilled – see SDC 3.3.430 (B)(4)(a). Manufactured homes and other structures already in the floodway may no longer be replaced by a structure of the

same size and placement unless an engineer has provided the required certification that the replacement will cause no increase in flood levels within the community.

21. Floodplain Development Permit – Makes clear that a Floodplain Development Permit must be obtained before any development-related activity begins, and describes the information required as part of the application – see SDC 3.3.435.
22. Variances – Reorganizes this subsection on Variances and streamlines the approval criteria – see SDC 3.3.440. Adds a lot size condition for a variance – see SDC 3.3.440 (C)(1). Requires the City provide the applicant notice that a variance increases risks to life and property – see SDC 3.3.440 (D). Requires that the variance be recorded with Lane County Deeds and Records as a notice of variance which is more appropriate than a deed covenant – see SDC 3.3.440 (E).
23. Enforcement – Clearly states that all development within special flood hazard areas must comply with requirements in the Floodplain Overlay District and the consequences of a violation – see SDC 3.3.445 (B) and 3.3.445 (C). Deletes language that is not applicable to the enforcement of a Floodplain Development Permit.
24. Foundations – Removes specific standards for foundation design which are already addressed in the State's building codes.

# **FLOODPLAIN OVERLAY DISTRICT**

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## **PROPOSED AMENDMENTS**

811-21-000210-TYP<sub>4</sub>

Springfield Planning  
Commission

9-8-2021



# Request

- Type IV legislative amendment to the Springfield Development Code
  - Section 3.3-400 Floodplain Overlay District
  - Section 6.1-100 Definitions
- Requires review and recommendation by the Planning Commission

# Background- National Flood Insurance Program

- Created by US Congress in 1968, administered by FEMA
- Objectives
  1. Ensure new buildings will be free from flood damage
  2. Prevent development from increasing flood damage on existing property
  3. Ensure natural and beneficial functions of floodplain are preserved
- Gives community access to federally-backed flood insurance
- Ensures Springfield is eligible for federal disaster relief



# Springfield Floodplain Regulation History

1985

- Springfield joined the NFIP

1986

- Springfield Development Code Adopted
- Included floodplain regulations

1987

- Floodplain regulations updated to comply with FEMA's minimum standards for NFIP participation

1999

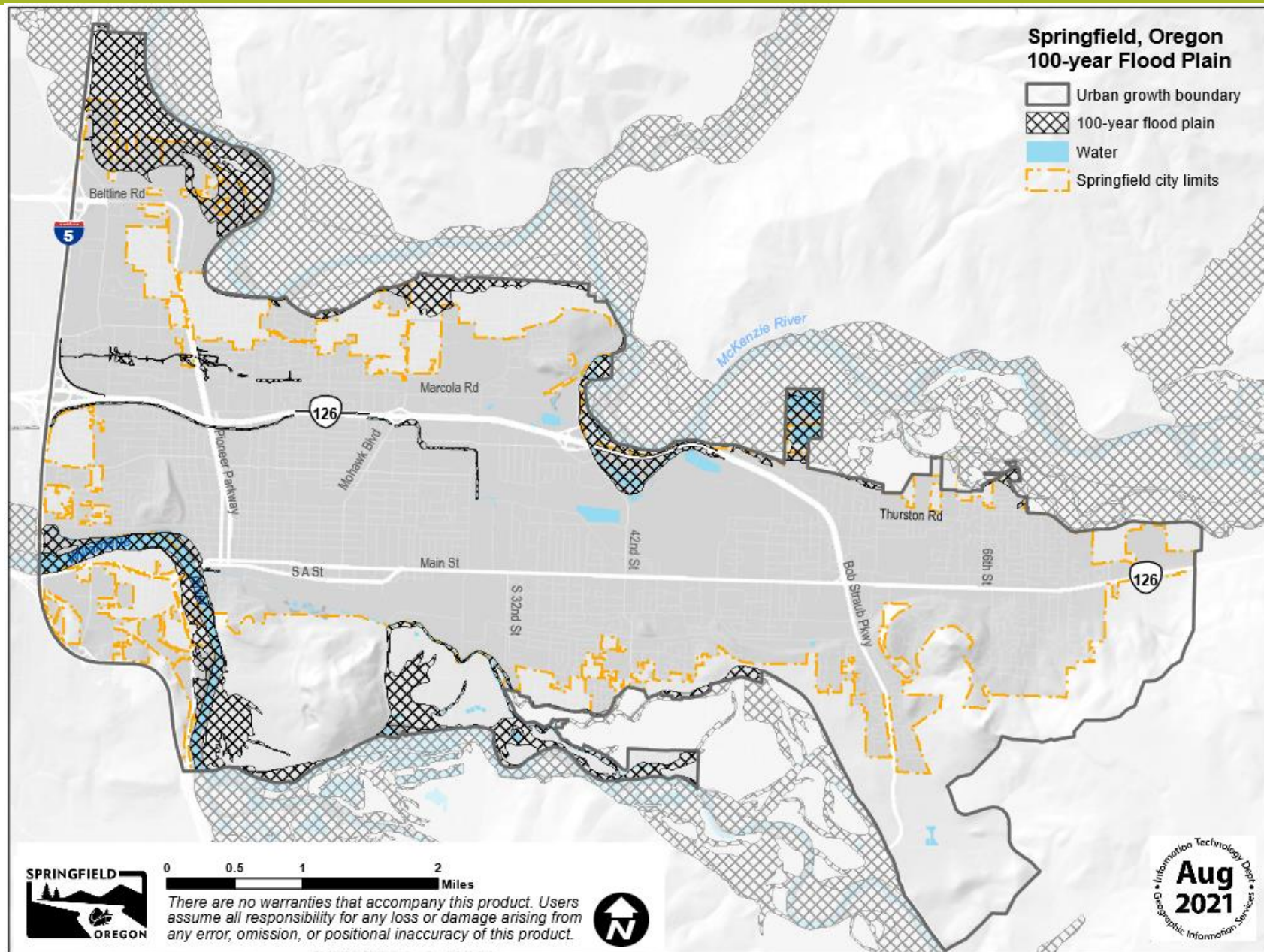
- 7 more amendments to floodplain regulations through 1999
- 1997- Substantive updates to comply with FEMA minimum standards for NFIP participation

2007

- Springfield Development Code reformatted
- Codified as SDC 3.3-400

Now

- Need to update floodplain regulations again to comply with minimum requirements for NFIP participation



# Overview of Proposed Amendments

- **No changes to:** FEMA floodplain maps, Floodplain Overlay District boundaries
- Applies to new construction and development, substantial improvements, conversions from residential to non-residential and vice versa
- Proposed amendments based on Oregon Model Flood Hazard Management Ordinance (effective October 2020)
  - Rearranges, rewords, adds sections
  - Moves definitions to 3.3-400
- Numbering and formatting changed

# KEY CHANGES PROPOSED

# Floodplain Development Permits

## 3.3.445 Periodic Floodplain Inspections, Enforcement of Requirements and Penalties

~~(A) Field staff from the~~ The Development ~~Services Department~~ and/or the Public Works Department ~~shall~~ will make periodic inspections of floodplain areas both within the city limits and outside the city limits, but within the City's ~~urban services area~~ UGB to establish that any activity involving the fill and/or removal of materials within the floodplain is being performed in compliance with an approved Floodplain Development Permit Land and Drainage Alteration Permit. ~~The staff shall prepare a field report listing non-complying conditions to be delivered to the Director.~~ Upon receipt of ~~the a~~ a report listing non-complying conditions, the Flood Plain Administrator ~~Director~~ shall will proceed with enforcement actions including, but not limited to the issuance of a Stop Work Order; the issuance of a citation; and the commencement of civil legal proceedings.

# Floodplain Administrator Duties

## **3.3.425 Administration**

(C) Duties and Responsibilities of the Floodplain Administrator

(1) Permit Review

(2) Information to be Obtained and Maintained

(3) Requirement to Notify Other Entities and Submit New Technical Data

# Substantial Damages

## 3.3.425 Administration

(D) Substantial Improvement and Substantial Damage Assessments and Determinations.  
~~3.3-435 Post-Flood Substantial Damage Procedures~~

~~(1)A.~~ Building inspectors from the Development ~~Services and Public Works~~ Department shall conduct Substantial Improvement (SI) (as defined in SDC 3.3.415) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with SDC 3.3.425(C)(2); and shall conduct Substantial Damage (SD) (as defined in SDC 3.3.415) assessments when structures are damaged due to a natural hazard event or other causes; and shall make SD determinations whenever structures within the special flood hazard area (as established in SDC 3.3.420(B)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.  
~~make post flood inspections immediately after a flood event to determine damage to structures by the flooding.~~

# Conversion of Structure

## 3.3.430 Development Standards

(B)(3) ~~4.(b)~~ Residential Construction. ~~a.~~ New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 4-one foot above the Base Flood Elevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in SDC 3.3.430(B)(1).

~~(c)2.~~ Non-residential Construction.

~~(j)a.~~ New construction, conversion to, and substantial improvement of any commercial, industrial or other nonresidential structure shall have ~~either~~ the lowest floor, including basement, elevated to ~~a level~~ at least 4-one foot above the base flood elevation (BFE); ~~or Or~~ together with attendant utility and sanitary facilities ~~shall~~:



# Manufactured Dwelling Standards

- Changes Anchoring Standards
  - Removes those specific to manufactured dwellings from general anchoring provisions and moves to Manufactured Dwellings 3.3.430(B)(3)(d)
  - Reduces to one standard
- Changes Measurement of Height for Manufactured Dwelling Placement
  - From lowest floor to longitudinal chassis (ii) and electrical crossover connections (iv)

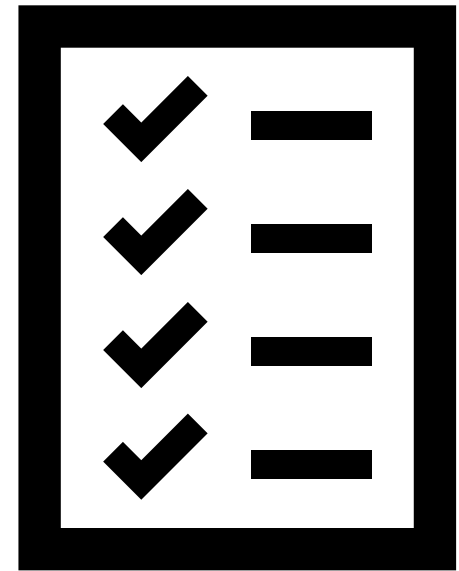
# Approval Criteria- SDC 5.6-115

“A. In reaching a decision on the adoption or amendment of refinement plans and this Code’s text, the City Council shall adopt findings that demonstrate conformance to the following:

1. The Metro Plan;
2. Applicable State statutes; and
3. Applicable Statewide Planning Goals and Administrative Rules.”

# Next Steps

- Planning Commission makes a recommendation
- City Council adopts by ordinance
- To apply outside city limits, Lane County Board of Commissioners must co-adopt
- Joint Work Session and Public Hearing  
December 13, 2021



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**AGENDA ITEM SUMMARY**

**Meeting Date:** 9/8/2021  
**Meeting Type:** Regular Meeting  
**Staff Contact/Dept.:** Andy Limbird, DPW  
Kristina Kraaz, CAO  
**Staff Phone No:** 541-726-3784  
**Estimated Time:** 10 Minutes  
**Council Goals:** Maintain and Improve Infrastructure  
and Facilities

**SPRINGFIELD  
PLANNING COMMISSION**

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<b>ITEM TITLE:</b>	REQUEST FOR ADOPTION OF REMAND FINDINGS FOR SUB ELECTRIC SUBSTATION AND TRANSMISSION LINE, EAST END OF EAST 22 <sup>ND</sup> AVENUE, GLENWOOD, CASES 811-19-000016-TYP2; 811-19-000084-TYP2 & 811-19-000085-TYP2.
<b>ACTION REQUESTED:</b>	Review evidence submitted into the record on remand, conduct deliberations and adopt findings to address remanded issues arising from the Land Use Board of Appeals decision for the Tree Felling Permit, Hillside Development Permit and Site Plan Review applications, and approve, approve with conditions, or deny the applications on remand.
<b>ISSUE STATEMENT:</b>	The Springfield Utility Board (SUB) and their legal counsel has submitted a request to proceed with review of the following cases on remand from the Oregon Land Use Board of Appeals: Cases 2019-092, 2019-094 & 2019-095.
<b>ATTACHMENTS:</b>	<ol style="list-style-type: none"><li>1. Hearings Official Decisions on Tree Felling Permit, Hillside Development and Site Plan Review</li><li>2. PC Final Order for LUBA Remand - Tree Felling Permit Exhibit A to Final Order - Amended Staff Report and Findings – Tree Felling Permit</li><li>3. PC Final Order for LUB Remand - Hillside Development Exhibit A to Final Order - Amended Staff Report and Findings – Hillside Development</li><li>4. PC Final Order for LUBA Remand – Site Plan Review Exhibit A to Final Order - Amended Staff Report and Findings – Site Plan Review</li></ol>
<b>DISCUSSION:</b>	<p>Prior to the regular meeting on August 17, 2021, the applicant prepared and submitted additional findings and technical analyses in support of the SUB substation and transmission line project in Glenwood. The project extends from a vacant parcel on the south side of East 22<sup>nd</sup> Avenue and runs approximately 1,600 feet in a southeasterly direction and generally parallel with the I-5 corridor to a connection point with existing transmission lines operated by the Eugene Water and Electric Board (EWEB).</p> <p>Staff provided an overview of the project, appeal proceedings, and issues subject to remand at the regular meeting held with the Springfield Hearings Official on August 17, 2021. The Planning Commission and Hearings Official closed the written record at the August 17, 2021 meeting.</p> <p>The Springfield Hearings Official conducted deliberations and has issued decisions upholding the Tree Felling Permit, Hillside Development Permit and Site Plan Review previously approved for the subject project (Attachment 1).</p> <p>The Planning Commission is requested to review the information submitted into the record on remand, and adopt final orders on the Tree Felling Permit, Hillside Development Permit and Site Plan Review applications based on the totality of the information.</p>

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**SPRINGFIELD HEARINGS OFFICIAL  
APPEAL OF A PLANNING DIRECTOR DECISION APPROVING  
A REQUEST FOR A TREE FELLING PERMIT**

**LUBA Remand Summary**

The Tree Felling Permit (Case Number 811-19-000016-TYP2) was approved with conditions on April 17, 2019. An appeal was timely filed on May 2, 2019, within 15 days of the decision according to SDC 5.3-115.B. The appeal was heard on June 18, 2019 and the public hearing was continued to September 4, 2019. The decision of the Planning Commission and Hearings Official was subsequently appealed to the Oregon Land Use Board of Appeals (LUBA). In its final opinion and order, LUBA upheld the prior approval and remanded the matter to the City for addressing five issues related to the Site Plan Review, Hillside Development Permit, and Tree Felling Permit for the project. Two of the remand issues directly pertain to the subject Tree Felling Permit.

Due to the need to reopen the written record for additional evidence regarding the remand issues, notice of the public meeting on August 17, 2021 was provided by mailout notification on July 27, 2021 to the property owners and occupants within 300 feet of the subject property, as required by SDC 5.1-130.B.

**Application History**

Tree Felling Permit Issued:	April 17, 2019
Appeal Decision Issued:	September 4, 2019
LUBA Remand Issued:	June 11, 2021
Remand Consideration Date:	August 17, 2021
Final Decision on Remand Issued:	August 26, 2021

**Appeal Deadline**

Any appeal of this decision must be filed on or before September 16, 2021, with the Oregon Land Use Board of Appeals.

**Statement of Criteria and Standards**

Section 5.19-125 Springfield Development Code (SDC)

**Facts Relied Upon**

1. The site proposed for tree felling comprises part of a wooded hillside that runs generally parallel with I-5 at the southern edge of Glenwood, and a scattering of native and planted ornamental trees within a previously disturbed industrial parcel. The overall project area is entirely within the Springfield Urban Growth Boundary (UGB) and consists of four

adjoining tax lots (Map 18-1.03-03-13, Tax Lot 101; Map 18-03-03-14, Tax Lots 1000 & 1100; and Map 18-03-04-40, Tax Lot 300). Of these properties, only Tax Lot 101 and a small portion of Tax Lot 1100 are inside the City limits. The property that is subject of this Planning Commission decision, hereinafter the “project area”, is limited to Tax Lot 101 and the western portion of Tax Lot 1100 that is inside the City limits. The subject properties are currently vacant and not assigned a street address (Assessor’s Map 18-03-03-13, Tax Lot 101 and Map 18-03-03-14, portion of Tax Lot 1100). Most of the area subject to tree felling is outside the City limits but inside the Springfield UGB. The portions of the project area outside the City limits, where about 244 trees are proposed for removal, are outside the jurisdiction of the Planning Commission for this appeal. The two properties within the City limits (Tax Lot 101 and a portion of Tax Lot 1100) are within the 1999 *Glenwood Refinement Plan* area and are zoned and designated for Light Medium Industrial (LMI) use. The applicant is proposing to extend an overhead electric transmission line from a connection point near the center of Tax Lot 300 along a generally northwesterly alignment across Tax Lot 1100 to a future substation site on Tax Lot 101. The applicant is requesting a tree felling permit for the removal of 272 trees from a planned electric substation site and transmission line corridor in Glenwood

2. On January 25, 2019, the applicant, Springfield Utility Board (SUB), submitted an application for approval of a tree removal permit on following tax lots: Map 18-03-03-13, Tax Lot 101; Map 18-03-03-12, Tax Lot 3701; Map 18-0303-14, Tax Lots 1000 and 1100; and Map 18-03-3-40, Tax Lot 300. The requested tree felling permit is in conjunction with a proposal to construct a new substation on tax lot 101 and to run transmission lines between the proposed new substation and a connection point near the center of tax lot 300. The northwestern two properties, tax lots 101 and 3701 are inside the Springfield City limits. The remaining three properties, tax lots 300, 1000, and 1100 are outside the City limits but inside the Springfield Urban Growth Boundary (UGB).
3. On August 17, 2021, the Springfield Hearings Official considered the reopened record in this matter to address the final remand in LUBA Nos. 2019-092/094/095/134. The record has been augmented with the submission of a new Director’s report in Case Number 811-19-000102-TYP2 regarding the Planning Director’s decision to conditionally approve a tree felling permit for the Springfield Utility Board’s (SUB) Electric Transmission Line and Substation project. The amended Director’s report contains the findings of the original staff report, presented to the Springfield Hearings Official on June 18, 2019, and additional findings addressing the substance of the LUBA remand. The Hearings Official hereby adopts the findings in the new Director’s report by reference.
4. On August 17, 2021, the Springfield Hearings Official considered the reopened record in this matter to address the final remand in LUBA Nos. 2019-092/094/095/134. The record has been augmented with the submission of a new Director’s report in Case Number 811-19-000084-TYP2 regarding the Planning Director’s decision to conditionally approve site plan review for the Springfield Utility Board’s (SUB) Electric Transmission Line and Substation project. The amended Director’s report contains the findings of the original staff report, presented to the Springfield Hearings Official on June 18, 2019, and

additional findings addressing the substance of the LUBA remand. The Hearings Official hereby adopts the findings in the new Director's report by reference except those explicitly and solely applicable to the Springfield Planning Commission.

### **Decision**

THE APPLICANT'S REQUEST FOR APPROVAL OF A TREE FELLING PERMIT (CASE # 811-19-000102) IS APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. Prior to initiating any tree felling, earth work, or construction activity within the project area (tax lots 1000, 1100, or 300), the applicant shall obtain a Land Drainage Alteration Permit (LDAP) as may be required to provide erosion and sediment control measures during tree removal activity and project construction. Initial required protection measures shall be installed and in place prior to commencement of any tree removal activity.
2. The applicant shall provide notification to the City of Springfield and all partner agencies involved in the project at least 5 days prior to initiating any tree felling activity on the site.
3. The applicant shall not initiate any tree felling, earth work, or construction activity within the project area until it has obtained final local approval of the Site Plan Review application (Case #811-19-000129-TYP3) and Hillside Development Permit (Case # 811-19-000128-TYP3) associated with the subject property.
4. The applicant shall not initiate any tree felling, earth work, or construction activity within the project area until it has obtained final local approval from the City of Springfield Planning Commission regarding the Tree Felling Permit for the properties within the City Limits of the City of Springfield (tax lots 101 and 3701).

### **Justification for the Decision**

In reviewing LUBA Case No. 2019-092, the Board upheld SUB's proposed clear zone as being consistent with the city's tree felling rules but remanded the case on the basis of several tree preservation issues. LUBA's decision affirmed the city's position that the city's tree felling standards governed the protection of significant clusters of trees but rejected the Hearing Official's reasoning that trees proposed to be removed are not "significant" because they must be removed to provide needed electrical service. LUBA required the City to "consider and explain" how significant clusters of trees and shrubs are protected under SDC 5.17-125(E). LUBA opinion at 39.

LUBA also held that the city's Glenwood landscaping standards of SDC 3.4-270(F)(5) required an "analysis of alternative [transmission] line alignments on the subject property" to ensure that the project "retains mature vegetation and healthy trees 'to the maximum extent practicable' on the two GEMU-zoned parcels in the project. LUBA opinion at 34. Thus, the clearing of healthy tree clusters on Tax Lots 1000 and 300 must meet the GEMU "maximum extent practicable" preservation standard as well as the utility interference standard in the tree felling regulations.

The remand requires SUB to select the most practicable location for the clear zone to best preserve healthy trees on those tax lots. Considering the tree preservation issues raised in the remand, SUB conducted a tree canopy evaluation of the properties impacted by the project. (Applicant's Exhibit C.) The inventory defined "significant trees" and identified significant tree clusters, which were generally defined as a group of five or more significant trees. The analysis then identified clusters on the basis of quality.

In addressing LUBA's remand, SUB also evaluated three alternative transmission line alignments. (Applicant's Exhibit D) The preferred alignment had the two transmission lines paralleling the Interstate along the south side of the property. A second alignment, Alternative 1, split the transmission lines, with one paralleling the northern perimeter of the property and another travelling roughly through the center of the property. A third alignment, Alternative 2, had both lines paralleling the northern perimeter of the property.

SUB next evaluated the three alternative transmission line alignments based upon their impact to the Glenwood Plan siting standards. (Applicant's Exhibit E) Alternative 1 was rejected because two separate 100-foot clear zones would have greater environmental and visual impact than the other two alternatives. This alternative would require the maximum amount of tree felling, including that of additional significant tree clusters.

Alternative 2 was also eliminated because it would increase tree felling in comparison to the preferred alignment. In specific, it would adversely impact a good quality cluster of young ash trees and another good quality mixed species cluster of trees. This alternative would also have a greater visual impact from the northeast because of the tree felling that would be needed from near the top of the slope above the existing rail line. That tree felling area would have been visible from McVay Highway.

After the remand, SUB conducted a closer analysis of the preferred route regarding trees that would be required to be felled. On the basis of this closer analysis, SUB has determined that an additional 15 trees located north of the existing transmission structure can be spared because they are not located within the clear zone and are not likely to grow into the clear zone except for certain branches that can be pruned. Further, the trees were determined to pose little risk of falling into lines because they are downslope for the transmission lines. Also, it was determined that trees that currently exist within the Interstate right-of-way would not be touched; allowing them to provide an interrupted view of the transmission lines from the Interstate.

### **Conclusion**

The above findings and conclusions cited from the application, Director's Decision, Applicant's response, City response, and response to LUBA remanded issues all demonstrate that the proposal meets the criteria of approval in SDC 5.19-125 for Tree Felling Permit Approval subject to the conditions cited herein and listed below. The amended staff report and findings in



support of the Tree Felling Permit (Case No. 811-19-000102-TYP3) supersedes the original Director's Decision approved as Case 811-19-000016-TYP2, and is hereby adopted as conditioned herein.

**Respectfully Submitted,**

A handwritten signature in cursive script, appearing to read "Gary Darnielle".

**Gary Darnielle**  
**Springfield Hearing Official**

**SPRINGFIELD HEARINGS OFFICIAL  
APPEAL OF A HILLSIDE DEVELOPMENT PERMIT APPROVAL FOR AN ACCESS  
ROAD AND TRANSMISSION LINE**

**LUBA Remand Summary**

The Springfield Utility Board (SUB) has proposed a substation and transmission line project that requires the issuance of a hillside development permit for the installation of transmission lines and an access road. The Hillside Development Permit (Case Number 811-19-000085-TYP2) was approved on May 17, 2019. The Hillside Development Permit was reviewed and issued concurrently with the tentative site plan submitted as Case 811-19-000084-TYP2, also on May 17, 2019. An appeal was timely filed on June 3, 2019, within 15 days of the decision according to SDC 5.3-115.B. The appeal was heard on June 15, 2019 and continued to September 4, 2019 at which time a decision was issued by the Planning Commission and Hearings Official. The decision of the Planning Commission and Hearings Official was subsequently appealed to the Oregon Land Use Board of Appeals (LUBA). In its final opinion and order, LUBA upheld the prior approval and remanded the matter to the City for addressing five issues related to the Site Plan Review, Hillside Development Permit, and Tree Felling Permit for the project. One of the remand issues directly pertains to the subject Hillside Development Permit.

Due to the need to reopen the written record for additional evidence regarding the remand issues, notice of the public meeting on August 17, 2021 was provided on July 27, 2021 to the property owners and occupants within 300 feet of the subject property, as required by SDC 5.1-130.B.

**Application History**

Tree Felling Permit Issued:	April 17, 2019
Appeal Decision Issued:	September 4, 2019
LUBA Remand Issued:	June 11, 2021
Remand Consideration Date:	August 17, 2021
Final Decision on Remand Issued:	August 26, 2021

**Appeal Deadline**

An appeal must be filed on or before September 16, 2021, to the Oregon Land Use Board of Appeals.

**Statement of Criteria and Standards**

Section 3.3-510 (SDC)

**Facts Relied Upon (Findings)**

1. The Hearings Official hears appeals of Type III Director's decisions outside the City limits but inside the City's Urban Growth Boundary (UGB). The Planning Commission hears appeals of Type III Director's decisions within the City limits. The subject property is located inside the UGB partially within City limits and partially outside City limits. Accordingly, this Type III decision is reviewed and approved jointly by the Planning Commission and Hearings Official. The Planning Commission has authority over the portion of the project affecting those properties that are annexed to the City (Tax Lot 101 and a portion of Tax Lot 1100), while the Hearings Official has authority over the portion of the project affecting the properties that are not yet annexed but are inside the Urban Growth Boundary (Tax Lots 300, 1000 & a portion of 1100).
2. The Applicant is the SUB Electric (SUB). The Applicant is requesting approval for construction of an electric transmission line, maintenance access road and electric substation on five adjoining vacant parcels along the southern edge of Glenwood. The proposed electric transmission line extends from an existing set of poles at the southern end of the project area and extends approximately 1,600 feet in a northwesterly direction to the substation site. In accordance with SDC 3.3-510, a Hillside Development Overlay District approval is required where any portion of the site development area is above 670 feet elevation and/or exceeds 15 percent slope. No portions of the property are at or above 670 feet elevation, but the proposed development affects slopes exceeding 15 percent and in some cases the slopes approach 50 percent. This permit affects proposed development on portions of Tax Lots 3701, 1100, 1000 and 300.

The subject development site is comprised of five adjoining tax lots on the southern edge of Glenwood between the I-5 freeway and the Central Oregon Pacific Railroad line. The proposed electric transmission line and maintenance access road is on a hillside location and the principal access is currently via a gated gravel driveway off the extension of East 22<sup>nd</sup> Avenue. The development site comprises approximately 29.8 acres in total area, although the extent of the proposed project impacts is much less than the gross land area. The project area is identified as Assessor's Map 18-03-03-12, Tax Lot 3701; Map 18-03-03-12, Tax Lot 101; Map 18-03-03-14, Tax Lots 1000 & 1100; and Map 18-03-03-40, Tax Lot 300. The tax lots comprising the project area are mostly vacant and not currently assigned municipal street addresses.

The proposed electric transmission line is to be extended through Tax Lots 300 and 1000 at the southern end of the project area. These lots are outside the City limits and are zoned and designated Employment Mixed-Use (GEMU) in accordance with the adopted Phase 1 *Glenwood Refinement Plan* (2012) and the Springfield Zoning Map. Tax Lots 300 and 1000 have the Urbanizable Fringe Overlay District (UF-10) applied. The proposed electric transmission line is to be extended in a northwesterly direction through Tax Lots 1100, 3701 and 101 to a substation on Tax Lot 101. Tax Lot 1100 is not within the City limits but Tax Lots 3701 and 101 are annexed to Springfield. All three of the lots are zoned and designated Light Medium Industrial (LMI) in accordance with these 1999 *Glenwood Refinement Plan*. Because it is outside the City limits, Tax Lot 1100 also

has the UF-10 District applied. Other properties in the vicinity of the project area are zoned and designated LMI and GEMU. To the west of the project “terminus” on Tax Lot 101, there are areas of Low Density Residential (LDR) zoning.

The proposed transmission line and substation are depicted on the adopted *Public Facilities and Services Plan* (PFSP) which is a refinement (functional) plan of the *Metro Plan*. In accordance with SDC 3.2-410, 3.3-815 and 4.7-160, high impact public facilities that are shown on the adopted PFSP are allowable in the LMI and GEMU Districts subject to Site Plan Review procedures and Special Development Standards. Approval of the applicant’s Tentative Site Plan, submitted under separate cover as Case 811-19-000084-TYP2 and incorporated herein by reference, is a pre-requisite to this Hillside Development Overlay District approval.

3. On August 17, 2021, the Springfield Hearings Official considered the reopened record in this matter to address the final remand in LUBA Nos. 2019-092/094/095/134. The record has been augmented with the submission of a new Director’s report in Case Number 811-19-000128-TYP3 regarding an amended hillside development permit, which relies upon an amended grading plan for the Springfield Utility Board’s (SUB) Electric Transmission Line and Substation project. The amended Director’s report contains the findings of the original staff report, presented to the Springfield Hearings Official on June 18, 2019, and additional findings addressing the substance of the LUBA remand. The reopened record also included a July 8, 2021 submission that included seven exhibits, including an amended grading plan for the access road and transmission poles. The Hearings Official hereby adopts the findings in the new Director’s report by reference.

### **Decision**

THE DIRECTOR’S APPROVAL OF A HILLSIDE DEVELOPMENT PERMIT FOR THE INSTALLATION OF TRANSMISSION LINES AND AN ACCESS ROAD FOR THE SPRINGFIELD UTILITY BOARD (JOURNAL 811-19-000128-TYP3) IS AFFIRMED.

### **Justification for the Decision**

The HD Overlay District is applied in residential zoning districts above 670 feet elevation or to development areas below 670 feet in elevation where any portion of the development area exceeds 15 percent slope. The HD Overlay District is reviewed under Type II procedure, submitted concurrently with the applicable application for a site plan review, property line adjustment, or a partition or subdivision tentative plan. In the present case, it was reviewed concurrently with site plan review. The remand is being reviewed under Type III procedure.

SDC 3.3-530 requires that certain reports are required where the buildable portion of the land to be developed exceeds 15 percent average slope. In that regard, a geotechnical report, a grading plan report and a vegetation and re-vegetation report are required. Two other reports may be required but are not applicable to a site plan review. First, SDC 3.3-530.D requires the Verification of Slope and Grade Percentage. This section requires that the verification occur prior to acceptance of a final plat. Only a subdivision or partition approval process requires final

plan approval and therefore this provision does not pertain to site plan review. Second, SDC 3.3-530.D requires a development plan report. The language of this provision addresses the creation of lots and parcels, building envelopes, driveway approaches, and the recording of covenants, conditions and restrictions with a subdivision plat and therefore also is limited to subdivision and partitioning approvals.

The requirement for a grading plan is associated with the City's Hillside Development Overlay rules at SDC 3.3-530. SUB originally submitted two grading plans in support of its Hillside Development Permit, one covering substation development on Tax Lot 101, and the other covering access road improvements. LUBA ruled that SUB's original submittals did not provide enough detail regarding the drainage patterns on the property and the effect of pole placement on drainage.

The applicant's amended grading plan, dated June 26, 2021, supersedes its July 9, 2019 Access Road Grading Plan Report. The amended plan provides contours of 5-foot intervals of the property and addresses the widening the existing gravel access road and extending it to the new utility infrastructure. The plan addresses existing drainage patterns and examines culvert and ditch capacities. All drainage channels will remain as-is except for the roadside ditch between Sta 2+50 and Sta.7+50, which will be relocated slightly south to accommodate road widening. Because the access road follows the existing terrain, cut and fill slopes will be minimal (less than 2 vertical feet), if any.

The drainage plan also examines the 20 transmission poles proposed by the applicant. The plan looks at pole installation in detail and notes that the installation will not require excavation or grading. After a pole is inserted into its hole, it will be backfilled to match existing grade. Exposed soil will be stabilized by mulch and seed with the area of disturbance per pole estimated to be about 10 square feet. Applicable erosion control standards require the exposed soils to be stabilized within 2 days during the wet season and within 7 days during the dry season. The grading plan demonstrates that the poles have been located away from any significant drainage feature.

### **Conclusion**

SUB has provided an amended grading plan in Exhibit B of its remand submittal. This amended grading plan provides all information required by SDC 3.3-530.B for both transmission pole placement and access road improvements, including the drainage details required by LUBA. SUB has thus demonstrated compliance with LUBA's remand order regarding SUB's grading plans. Therefore, the decision to conditionally approve the Hillside Development Permit in Case 811-19-000085-TYP2 and as amended and superseded by Case 811-19-000128-TYP3 (as modified by the applicant in response to the remand) is hereby upheld.

**Respectfully Submitted,**

  
**Gary Darnielle**  
**Springfield Hearing Official**

**SPRINGFIELD HEARINGS OFFICIAL  
APPEAL OF A PLANNING DIRECTOR DECISION APPROVING  
A REQUEST FOR A TENTATIVE SITE PLAN REVIEW**

**LUBA Remand Summary**

A tentative site plan review (Case Number 811-19-000084-TYP2) was approved with conditions on April 17, 2019. An appeal was timely filed on May 2, 2019, within 15 days of the decision according to SDC 5.3-115.B. The appeal was heard on June 18, 2019 and the public hearing was continued to September 4, 2019. The decision of the Planning Commission and Hearings Official was subsequently appealed to the Oregon Land Use Board of Appeals (LUBA). In its final opinion and order, LUBA upheld the prior approval and remanded the matter to the City for addressing five issues related to the Site Plan Review, Hillside Development Permit, and Tree Felling Permit for the project.

Due to the need to reopen the written record for additional evidence regarding the remand issues, notice of the public meeting on August 17, 2021 was provided by mailout notification on July 27, 2021 to the property owners and occupants within 300 feet of the subject property, as required by SDC 5.1-130.B.

**Application History**

Tree Felling Permit Issued:	April 17, 2019
Appeal Decision Issued:	September 4, 2019
LUBA Remand Issued:	June 11, 2021
Remand Consideration Date:	August 17, 2021
Final Decision on Remand Issued:	August 26, 2021

**Appeal Deadline**

Any appeal of this decision must be filed on or before September 16, 2021, with the Oregon Land Use Board of Appeals.

**Statement of Criteria and Standards**

Section 5.19-125 Springfield Development Code (SDC)

**Facts Relied Upon**

1. The applicant is proposing to construct a linear electric transmission line that extends from an existing three pole facility outside the City limits, a distance of approximately 1,600 feet, to two step-down poles near the edge of the I-5 right-of-way. Portions of the transmission line within Tax Lots 300 and 1000, and the eastern two-thirds of Tax lot 1100, are outside the City limits. The proposed step-down poles are inside the City

limits and they would feed the electrical lines into a ~57,800 ft<sup>2</sup> (approximately 1.36-acre) substation compound. The electrical substation is proposed to be constructed in the southern half of Tax Lot 101 and it would be accessed by a driveway extending from the East 22<sup>nd</sup> Avenue alignment. The applicant is also proposing to install perimeter fencing around the substation facilities; screening vegetation in the northern half of Tax Lot 101; and vegetated stormwater facilities to manage runoff from the site.

The overall project area is entirely within the Springfield Urban Growth Boundary (UGB) and consists of four adjoining tax lots (Map 18-03-03-13, Tax Lot 101; Map 18-03-03-14, Tax Lots 1000 & 1100; and Map 18-03-04-40, Tax Lot 300). Of these properties, only Tax Lot 101 and a small portion of Tax Lot 1100 are inside the City limits. The subject properties are currently vacant and not assigned a street address (Assessor's Map 18-03-03-13, Tax Lot 101 and Map 18-03-03-14, portion of Tax Lot 1100). The two properties within the City limits (Tax Lot 101 and a portion of Tax Lot 1100) are within the 1999 *Glenwood Refinement Plan* area and are zoned and designated for Light Medium Industrial (LMI) use. The applicant is proposing to extend an overhead electric transmission line from a connection point near the center of Tax Lot 300 along a generally northwesterly alignment across Tax Lot 1100 to a future substation site on Tax Lot 101. The applicant is requesting site plan review for a planned electric substation site and transmission line corridor in Glenwood.

Site plan review standards are found in Section 5.17-125 of the Springfield Development Code (SDC). The siting standards apply to the two southeastern-most parcels of the subject property, tax lots 1000 and 300, because these two parcels are within the boundary of the 2014 Glenwood plan. SUB evaluated its compliance with the Siting Standards in its original April 2019 Site Plan Review application narrative and supplemented this analysis during the local appeals that followed. This prior analysis did not compare SUB's chosen transmission line alignment to other potential alternatives that SUB has considered. LUBA's remand decision requires SUB to evaluate alternative alignments for purposes of tree preservation and SUB has chosen to reconsider the siting standards by comparing SUB's chosen alignment to the other alternatives that SUB has evaluated.

2. On August 17, 2021, the Springfield Hearings Official considered the reopened record in this matter to address the final remand in LUBA Nos. 2019-092/094/095/134. The record has been augmented with the submission of a new Director's report in Case Number 811-19-000084-TYP2 regarding the Planning Director's decision to conditionally approve site plan review for the Springfield Utility Board's (SUB) Electric Transmission Line and Substation project. The amended Director's report contains the findings of the original staff report, presented to the Springfield Hearings Official on June 18, 2019, and additional findings addressing the substance of the LUBA remand. The Hearings Official hereby adopts the findings in the new Director's report by reference except those explicitly and solely applicable to the Springfield Planning Commission.
3. On August 17, 2021, the Springfield Hearings Official considered the reopened record in this matter to address the final remand in LUBA Nos. 2019-092/094/095/134. The record

has been augmented with the submission of a new Director's report in Case Number 811-19-000084-TYP2 regarding the Planning Director's decision to conditionally approve a tree felling permit for the Springfield Utility Board's (SUB) Electric Transmission Line and Substation project. The amended Director's report contains the findings of the original staff report, presented to the Springfield Hearings Official on June 18, 2019, and additional findings addressing the substance of the LUBA remand. The Hearings Official hereby adopts the findings in the new Director's report by reference except those explicitly and solely applicable to the Springfield Planning Commission.

### **Decision**

THE APPLICANT'S REQUEST FOR APPROVAL OF SITE PLAN REVIEW (CASE # 811-19-000129 TYPE3) IS APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. Prior to approval of the Final Site Plan, the applicant shall execute and record a variable-width electric transmission line easement across Tax Lots 101 and 1100, as generally depicted on the tentative site plan, and provide evidence thereof to the City.
2. Prior to approval of the Final Site Plan, the applicant shall obtain a Hillside Development Permit for the project initiated as Site Plan Review in Case 811-19-000084-TYP2 and as amended and superseded by Case 811-19-000129-TYP3.
3. The property owner or their designee shall be responsible for ongoing and perpetual maintenance of any private stormwater facilities located outside the city limits to ensure they function as designed and intended, and to ensure protection of groundwater resources. Annual maintenance records shall be kept by the property owner or their designee and provided to the City for review upon reasonable request – normally within five business days.

### **Justification for the Decision**

In its decision, LUBA held that the city's Glenwood landscaping standards of SDC 3.4-270(F)(5) required an "analysis of alternative [transmission] line alignments on the subject property" to ensure that the project "retains mature vegetation and healthy trees 'to the maximum extent practicable' on the two GEMU-zoned parcels in the project. LUBA opinion at 34. While the Opponents presented arguments regarding the visual impact of the portion of the transmission line that was subject to the transmission line requirements of the siting standards (the portion on Tax Lots 1000 and 300), LUBA declined to address those arguments because the requirement of alternative transmission line alignments would likely cause the City to adopt new findings in regard to those siting standards.

Remand Finding 59.1 addresses the alternative transmission line alignments in regard to the associated siting standards of SDC Appendix C, Policies E.7, E.7.a, E.7.b, E.7.b.1-9, E.7.e, E.7.e.1 and E.7.e.2. Satisfaction of these criteria can be determined by an analysis of the applicant's evaluation of the tree canopy on the property (Applicant's Exhibit C), maps showing alternative transmission line alignments (Applicant's Exhibit D), and an analysis of how the siting standards of the Glenwood Plan apply to the different alignments (Applicant's Exhibit E).



Remand Findings 67.1 through 67.6 address how the preferred alternative transmission line route protects “significant clusters of trees and shrubs” and “retains mature vegetation and healthy trees ‘to the maximum extent practicable’” on the two GEMU-zoned parcels on the site. These findings support a conclusion that the preferred transmission line route best satisfies the site plan review criteria of SDC 5.17–125.E and the Glenwood landscaping standards of SDC 3.4–270.F.5.

SUB analyzed the property for the location of the best alignments of the transmission lines. Several options, such as following the rights of way of the Central Oregon Pacific Railroad and Newman Street and the right of way of Interstate 5 were evaluated and discarded. The former was found not to be feasible because the railroad line was adjacent to a steep slope and would require two hillside clearings. This option would have a significant visual impact on McVay Highway and would have a greater environmental impact due to the amount of clearing and grading that would be required. The use of the Interstate right-of-way was not approved by Oregon Department of Transportation (ODOT), which has jurisdiction over that facility. Given these limitations, the options were restricted in connecting the existing structure on Tax Lot 300 to the proposed substation on Tax Lot 101.

Within this geographical framework, SUB then developed a preferred alignment and two alternative alignments for analysis. Alternative 1, which included two separate transmission lines for redundancy purposes, was eliminated due to the greater amount of tree felling caused by having two separate 100-foot clear zones. I agree with SUB that this route would have a greater environmental and visual impact than the preferred route. Alternative 2, which was a double transmission line along a more northerly route than the preferred route, was measured against the inventory of tree canopy and was found to increase tree felling in comparison to the preferred alignment. This alternative would also have a greater visual impact from the northeast associated with the tree cutting.

In terms of visibility, the preferred transmission route avoids alignment along hillcrests and steep slopes. It also takes advantage of an existing large-scale cut into the northeast flank of Moon Mountain as the transmission lines are set into this cut, making them oblique to the Moon Mountain hillside. Trees within the I-5 right-of-way will be retained and will interrupt the view of the transmission lines from the freeway. The two alternative routes would create a greater tunnel effect than the preferred route. Finally, the preferred route is isolated from residential and public areas by the Interstate to the south and the rail line to the north.

### **Conclusion**

The above findings and conclusions cited from the application, the original Director’s Decision, applicant’s response, City response, final applicant rebuttal, supplementary materials including but not limited to acknowledged comprehensive plans, recorded agreements and easements, and correspondence from state agencies, and final applicant response to issues remanded by LUBA all demonstrate that the proposal meets the criteria of approval in SDC 5.17–125 for Site Plan Review subject to the conditions cited herein and listed below. The appellant’s assignments of error are denied and the decision to conditionally approve the Site Plan Review in Case 811-19–

000084-TYP2 and as amended and superseded by Case 811-19-000129-TYP3 (as modified by the applicant in response to the remand) is hereby upheld.

**Respectfully Submitted,**



**Gary Darnielle**  
**Springfield Hearing Official**

**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF SPRINGFIELD, OREGON**

<b>REMAND OF TYPE II DIRECTOR'S DECISION</b>	<b>+ CASE NO. 811-19-000102-TYP3</b>
<b>CONDITIONALLY APPROVING A TREE FELLING</b>	<b>+</b>
<b>PERMIT ON PROPERTY ZONED LIGHT MEDIUM</b>	<b>+ FINDINGS, CONCLUSIONS</b>
<b>INDUSTRIAL AND EMPLOYMENT MIXED-USE</b>	<b>+ AND FINAL ORDER</b>
<b>SPRINGFIELD UTILITY BOARD, APPLICANT</b>	<b>+</b>

**NATURE OF THE REMAND**

The City issued the applicant's Tree Felling Permit on April 17, 2019 as Case No. 811-19-000016-TYP2. The Type II decision was appealed on May 2, 2019 and designated as Case 811-19-000102-TYP3. The Planning Commission's final decision on the local appeal was issued September 4, 2019 and subsequently appealed to the Land Use Board of Appeals (LUBA). LUBA remanded the permit to the City by final opinion and order dated June 11, 2021. In response to the remand issues, the applicant has modified its application and provided additional evidence and argument in support of its application as modified.

The Tree Felling Permit applies to property that is partially within the incorporated City limits and partially outside the City limits but within the Springfield Urban Growth Boundary (UGB).

**CONCLUSION**

Supported by substantial evidence in the record, the amended Tree Felling Permit, Case No. 811-19-000102-TYP3 is consistent with the applicable Springfield Development Code Criteria of Approval and satisfactorily addresses the LUBA remand issues. Therefore, the Planning Commission upholds the conditional approval as issued on September 4, 2019 as modified in response to the remand issues, as noted in the Amended Staff Report and Findings attached hereto as Exhibit A. This general finding is supported by the specific findings of fact and conclusions set out in the Amended Staff Report and Findings, attached as Exhibit A and incorporated herein by reference.

**ORDER**

It is ORDERED by the Planning Commission of Springfield that the Tree Felling Permit issued on September 4, 2019 as Case No. 811-19-000102-TYP3 is AFFIRMED as modified in response to the remand issues. This ORDER was presented to and approved by the Planning Commission on September 8, 2021.

**APPEAL**

Pursuant to SDC Section 5.2-155 and 5.3-125, this decision is final unless appealed to the Oregon Land Use Board of Appeals as specified in ORS Chapter 197.

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Planning Commission Chairperson

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

# TYPE II TREE FELLING PERMIT AMENDED STAFF REPORT AND FINDINGS FOR REMAND



**Case Number:** 811-19-000102-TYP3

**Application Name:** Amended Type II Director's Decision to conditionally approve a Tree Felling Permit for the Springfield Utility Board (SUB) Electric Transmission Line and Substation project

**Nature of Application:** The applicant is requesting a tree felling permit for the removal of 272 trees from a planned electric substation site and transmission line corridor in Glenwood

**Project Location:** Generally parallel with and northeast of I-5 in Glenwood

**Zoning:** Light Medium Industrial (LMI) and Employment Mixed-Use (GEMU)

**Comprehensive Plan Designation:**  
LMI & GEMU



**Tree Felling Permit Issued:** April 17, 2019

**Appeal Decision Issued:** September 4, 2019

**LUBA Remand Issued:** June 11, 2021

**Final Decision on Remand Issued:** August 17, 2021

## APPELLANT AND RESPONDENT CONTACT INFORMATION

<b>Appellant:</b> William Sherlock on behalf of John & Brad Lerch and Café Mam Hutchinson Cox Attorneys 940 Willamette St., Suite 400 P.O. Box 10886 Eugene OR 97401	<b>Respondent:</b> Nick Amann Springfield Utility Board 1001 Main Street Springfield OR 97477	<b>Respondent's Counsel:</b> Mike Gelardi Gelardi Law PC P.O. Box 8529 Coburg OR 97408
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## CITY OF SPRINGFIELD'S DEVELOPMENT REVIEW TEAM

POSITION	REVIEW OF	NAME	PHONE
Project Manager	Planning	Andy Limbird	541-726-3784
Transportation Planning	Transportation	Michael Liebler	541-736-1034
Public Works Engineer	Utilities	Kyle Greene	541-726-5750
Public Works Engineer	Sanitary & Storm Sewer	Kyle Greene	541-726-5750
Deputy Fire Marshal	Fire and Life Safety	Eric Phillips-Meadow	541-726-2293
Building Official	Building	Chris Carpenter	541-744-4153

**Site Information:** The site proposed for tree felling comprises part of a wooded hillside that runs generally parallel with I-5 at the southern edge of Glenwood, and a scattering of native and planted ornamental trees within a previously disturbed industrial parcel. The overall project area is entirely within the Springfield Urban Growth Boundary (UGB) and consists of four adjoining tax lots (Map 18-03-03-13, Tax Lot 101; Map 18-03-03-14, Tax Lots 1000 & 1100; and Map 18-03-04-40, Tax Lot 300). Of these properties, only Tax Lot 101 and a small portion of Tax Lot 1100 are inside the City limits. The property that is subject of this Planning Commission decision, hereinafter the “project area”, is limited to Tax Lot 101 and the western portion of Tax Lot 1100 that is inside the City limits. The subject properties are currently vacant and not assigned a street address (Assessor’s Map 18-03-03-13, Tax Lot 101 and Map 18-03-03-14, portion of Tax Lot 1100). Most of the area subject to tree felling is outside the City limits but inside the Springfield UGB. The portions of the project area outside the City limits, where about 244 trees are proposed for removal, are outside the jurisdiction of the Planning Commission for this appeal. The two properties within the City limits (Tax Lot 101 and a portion of Tax Lot 1100) are within the 1999 *Glenwood Refinement Plan* area and are zoned and designated for Light Medium Industrial (LMI) use. The applicant is proposing to extend an overhead electric transmission line from a connection point near the center of Tax Lot 300 along a generally northwesterly alignment across Tax Lot 1100 to a future substation site on Tax Lot 101. The tree removal activities associated with the proposed electric system substation, access roads, and transmission line corridor that are within the Springfield Planning Commission’s jurisdiction are addressed herein.

**REVIEW PROCESS:** This amended Type II decision is reviewed under Type III procedures listed in Springfield Development Code (SDC) Section 5.1-130. The criteria of approval for the amended decision are the same as the underlying decision: the Tree Felling criteria in SDC 5.19-125. The Planning Commission’s decision is the final decision and is appealable to the Oregon Land Use Board of Appeals within 21 days of the decision.

**Procedural Finding:** The Tree Felling Permit (Case Number 811-19-000016-TYP2) was approved with conditions on April 17, 2019. An appeal was timely filed on May 2, 2019, within 15 days of the decision according to SDC 5.3-115.B. The appeal was heard on June 18, 2019 and the public hearing was continued to September 4, 2019. The decision of the Planning Commission and Hearings Official was subsequently appealed to the Oregon Land Use Board of Appeals (LUBA). In its final opinion and order, LUBA upheld the prior approval and remanded the matter to the City for addressing five issues related to the Site Plan Review, Hillside Development Permit, and Tree Felling Permit for the project. Two of the remand issues directly pertain to the subject Tree Felling Permit.

**Procedural Findings:** The Hearings Official hears appeals of Type II Director’s decisions for project areas outside the City limits but inside the City’s Urban Growth Boundary. The Planning Commission hears appeals of Type II Director’s decisions for project areas within the City limits. The subject property is located inside the Urban Growth Boundary partially within City limits and partially outside City limits. Accordingly, now that the matter has been remanded to the City it is being presented jointly to the Planning Commission and Hearings Official.

**Procedural Finding:** Due to the need to reopen the written record for additional evidence regarding the remand issues, notice of the public meeting on August 17, 2021 was provided by mailout notification on July 27, 2021 to the property owners and occupants within 300 feet of the subject property, as required by SDC 5.1-130.B.

### **CRITERIA FOR APPROVAL:**

Ref. Section 5.19-125 of the Springfield Development Code:

The Development & Public Works Director [in this case the Planning Commission and Hearings Official as the approving authority] in consultation with the Fire Chief shall approve, approve with conditions or deny the request based on the following standards.

- A. Whether the conditions of the trees with respect to disease, hazardous or unsafe conditions, danger of falling, proximity to existing structures or proposed construction, or interference with utility services or pedestrian or vehicular traffic safety warrants the proposed felling.**

*Applicant Submittal: “The requested tree felling is not requested due to the condition of the trees, but due to the proposed construction (the construction of the driveway, substation, access road, utility infrastructure and transmission line). Removal of the trees is necessary as the form and function of the substation and transmission line cannot co-exist with trees when the trees would be within the footprint of the substation or transmission line. Trees will be removed only as necessary. Along the perimeter of the transmission line easement, trees will be selective[ly] removed when deemed a danger to the overhead lines. Along the access road easement, trees will be removed only as necessary for safe access. A very large number of trees outside of the transmission line and access road easements [sic]. Trees will remain on the adjacent I-5 right-of-way, helping to screen highway traffic from the utility facility. Although topography prevents visibility of the utility facility from the north and east, there will nonetheless remain a great number of trees, some in dense stands between the new transmission line and adjacent property.”*

General Finding 1: The applicant has acquired the two properties within the City limits that are affected by the electric transmission line project, including the substation site. A Site Plan Review application has been submitted under separate cover (Case 811-18-000084-TYP2) for the electric substation. The Site Plan Review is also subject of appeal (Case 811-19-000129-TYP3). The affected properties are zoned and designated for industrial uses, but are not likely to further develop with intensive urban industrial uses once the major utility infrastructure is installed. The applicant is proposing to remove the trees to facilitate installation and operation of the transmission line and electric substation. Trees will be left intact on both sides of the transmission line corridor and in the vicinity of the substation because they are not within the identified construction footprint, and do not pose an obstruction or potential threat to ongoing operation of the facility.

General Finding 2: Although it is not expected that many underground utility lines cross the area, there are utility installations in the vicinity that could be affected by the project. The applicant is advised to call for utility locates (or confirm the absence of utilities) within the project area prior to initiating any work on the site.

General Finding 3: The applicant’s July 16, 2019 rebuttal statement submitted into the record summarizes SUB’s compliance with multiple alternative pathways for tree felling approval. The appellant reiterates their prior arguments that SUB’s tree felling and planting plans are insufficiently detailed to justify SUB’s Tree Felling Permit. The appellant is incorrect on both the relevant facts and the law. First, the appellant incorrectly claims that SUB’s plans do not depict the individual trees that will be retained on the site. The applicant’s original transmission line planting plan, submitted with SUB’s permit application, shows trees to be retained with cloud-shaped lines. The applicant’s July 2, 2019 package includes this same document with retained trees colored green to better highlight these trees. Neither the submittal requirements in SDC 5.19-115 nor the approval criteria in SDC 5.19-125 require a permit applicant to specifically identify individual trees that that applicant does not propose to remove. Moreover, in the case of densely wooded areas this could prove to be particularly onerous.

General Finding 4: The appellant alleges that not all trees proposed for removal need to be removed. The applicant has met its burden of proof to show that all of the trees proposed to be removed must be removed for construction and/or safe operation of SUB’s proposed utility facilities. Although the appellant does not specify the trees they believe do not need to be removed, it appears that appellants are referring to trees that must be removed for improvement of SUB’s proposed access road. This road is necessary for construction and maintenance of SUB’s transmission line.

General Finding 5: The appellant states that lack of a recorded access easement demonstrates that the application does not comply with the criteria of approval in SDC 5.19-125.A. Nothing in that criterion requires the “proposed construction” or “utility services” to have recorded legal easements. However, legal access to the properties proposed for development is a submittal requirement for all development applications, including tree felling permits, under SDC 5.4-105.B.2. As originally conditioned, this application meets that requirement. Four of the five properties subject to the tree removal are held under common ownership by the applicant, including Tax Lot 1000. Therefore, the applicant does not have to demonstrate that they have an easement for access to Tax Lot 1000.

General Finding 6: The applicant has identified 28 trees proposed for removal on Tax Lot 101 and the portion of Tax Lot 1100 within the City limits. The trees identified for removal pursuant to the Tree Felling Permit are within the footprint of the substation compound and along the linear alignment of the transmission lines. Those trees that are located east of the City limits line (about 244 of the 272 trees identified for removal) are not within the jurisdiction of the Planning Commission for this appeal. Trees within the electric transmission line corridor must be removed because such a tree could strike the transmission lines if it fell due to windthrow, other natural processes, or natural mortality. In light of recent weather events, including the snowfall in late February that downed power lines throughout the County, the applicant is proposing to create a suitable buffer space around the transmission lines to minimize the potential for damage due to tree fall. The applicant has submitted industry best practices information into the record regarding transmission line corridor clear zones. The applicant is also proposing to remove trees where project impacts would likely cause damage or undercutting of tree roots leading to eventual mortality. As noted in the applicant's supporting materials, a 100-foot buffer on either side of the transmission line is a reasonable distance to safeguard against this risk. The applicant has demonstrated that the condition of the trees warrants the proposed felling, with respect to proximity to existing structures or proposed construction or interference with the applicant's proposed utility services. Therefore, this criterion of approval has been met.

*Appellant's Assignment of Error #1: The permit approves the removal of close to 300 trees on the subject property. However, the application does not provide evidence that removal of the vast majority of these trees is warranted in this case. The application concedes that felling is not warranted by the condition of any of the trees onsite. Application, p. 7. Instead, the applicant is proposing to remove the trees because they are incompatible with the development "footprint" of the substation and transmission lines, and that several additional trees are required to be removed along the route of an access easement. However, the applicant did not provide evidence to support its contention. The proposal includes the removal of at least 120 trees that are not in the footprint of the substation, transmission lines, or the proposed access. As the applicant has not demonstrated that proximity to proposed construction warrants removal of these trees, the decision of approval should be overturned.*

*Appellant's Assignment of Error #2: Moreover, the decision approves the removal of several trees on Tax Lots 300 and 1000 in conjunction with the improvement of an access easement, but the applicant has failed to demonstrate the existence of the easement. The decision erroneously approves felling of trees to facilitate this unauthorized access.*

Finding - Response to Assignments of Error #1 and #2: Tree removal is needed in this case to prevent interference with needed utility service and avoid hazards associated with trees near SUB's proposed transmission line and substation. Appellant's assertions regarding the scope of appropriate tree removal are incorrect for the following reasons:

- SUB's development plan leaves most of the trees on the property intact. The Site Assessment of Existing Conditions plan sheet submitted with SUB's Tree Felling Application (L2.0) shows the overall area of the proposed substation and transmission line project. With a light clouded symbol, the plan shows the wooded areas of the property. Within the proposed substation, transmission line and access road areas, individual trees are identified by species, size and condition. The plan shows that there are significant areas of the site where existing trees will remain.
- The Staff Report provided an excellent graphic of the felling area and remaining tree area. This illustration shows just how much of the existing treed area will remain. The yellow highlight on the project site air photo illustrates area of tree felling. The non-highlighted portion of the air photo illustrates the extensive area of remaining trees.
- The "footprint" of the project includes not merely the transmission line poles and lines, but a clear zone corridor associated with maintaining the safety, integrity and operation of the electrical transmission facility. It is an industry best practice to maintain such clear zones. The risk of nearby trees falling onto the poles or lines is unacceptable from the perspective of fire safety and maintaining the function of an essential public utility.
- SUB's proposed access road minimizes tree removal and other environmental impacts by utilizing an existing path on the property created by the prior property owner.



- SUB walked, drove, surveyed and mapped the location of the proposed access road.
- SUB utilized criteria including width, cross slope, gradient, bearing strength as well as the results of two geotechnical analyses: [o]ne regarding slope stability and the other regarding seismic hazard.
- SUB delineated this proposed access easement across Tax Lots 3701, 1100 and 1000. The adjacent map illustrates this effort. [Map shown on Page 3 of 11 of Applicant response to assignments of error.]
- With the acquisition of the property, the proposed easement is no longer needed, but the alignment illustrated by the proposed “access easement” survey is still the proposed access road.

Remand Finding 6.1: LUBA’s decision requires the City to address two related issues concerning tree preservation on the project site. LUBA’s direction to the City on these issues is informed by other decisions in LUBA’s opinion (see applicant’s remand submittal, Exhibit G), namely LUBA’s decision to uphold SUB’s proposed 100-foot clear zone as consistent with the City’s tree felling rules. SUB’s remand evidence provided as Attachment 5 to the August 17, 2021 meeting packet addresses the tree preservation issues raised by LUBA in a comprehensive manner by inventorying tree canopy throughout the project area and evaluating the effect of various potential transmission line alignments on this canopy. The issue of transmission line alignment alternatives and how it addresses the utility siting standards in Glenwood is addressed in the amended Site Plan Review staff report and findings.

Remand Finding 6.2: As LUBA explained, the City’s utility interference standard requires only that interference with utility service “warrants” tree felling (ref. SDC 5.19-125). SUB has gone beyond this requirement by demonstrating that SUB’s selected route preserves trees clusters (significant or not) better than potential alternative routes on and near the project area (see below and Amended Staff Report and Findings for Site Plan Review).

Remand Finding 6.3: LUBA’s opinion suggests that SUB should also consider whether alternative “treatments” of trees are practicable to increase tree retention on the two GEMU-zoned parcels. The record in this case demonstrates that a 100-foot clear zone around the transmission line is necessary to ensure the safety of the transmission line and that trimming of trees is not an appropriate substitute for the clear zone. Monitoring and trimming of trees as a means of increasing tree retention are not feasible measures, due to fire risk and other public safety hazards associated with the presence of trees near the transmission lines. As described above, preservation of an additional 15 trees north of the existing transmission structure is practicable because these trees are not within the 100-foot clear zone and are not likely to grow into the clear zone except for certain branches that are feasible to trim. The trees pose little risk of falling into the lines because they are downslope from the transmission lines. This alternative treatment is not practicable for the other trees that SUB plans to remove because the trees pose a risk of falling onto the lines due to their size and location upslope of the lines.

Conclusion: The applicant has satisfied criterion A. Assignments of error #1 and #2 are denied.

**B. Whether the proposed felling is consistent with State standards, Metro Plan policies and City Ordinances and provisions affecting the environmental quality of the area, including but not limited to, the protection of nearby trees and windbreaks; wildlife; erosion, soil retention and stability; volume of surface runoff and water quality of streams; scenic quality; and geological sites.**

Applicant Submittal: *“The proposed felling is consistent with State standards, Metro Plan policies, and City ordinances. The environmental quality of the site and surrounding area will not be significantly impacted by the tree removal. The removal of trees will not affect erosion, soil retention, and stability. Volume of surface runoff and water quality of streams will not be impacted by the removal of the trees. Large numbers of trees, many in thick wood stands, will remain. As noted above, some 35% of the substation site and better than 88% of the transmission site will remain as is.”*

General Finding 7: The Springfield Development Code (SDC) is the primary implementing ordinance for environmental protection policies contained in the *Eugene-Springfield Metropolitan Area General Plan (Metro*



Plan). SDC Article 5.19-100 - Tree Felling Standards generally implements environmental protection policies of the *Metro Plan* for the subject property.

General Finding 8: The area subject to the tree felling request is inside the Urban Growth Boundary (UGB) but is mostly outside the current City limits. Only Tax Lot 101 – the proposed electric substation site – and the adjoining property to the east (portion of Tax Lot 1100) are currently inside the City limits. Therefore, the Planning Commission’s jurisdiction is limited to a fraction of the overall project area and trees proposed for removal. The subject trees are predominantly evergreen and deciduous varieties that are common to the Willamette Valley, including Douglas-fir, Oregon ash, black cottonwood, and big leaf maple. A smaller component of the trees proposed for removal includes some native and non-native deciduous and evergreen trees found primarily on Tax Lot 101 such as Oregon oak, madrone, ponderosa pine, pear, and willow.

General Finding 9: The trees proposed for removal are within an urban industrial and employment mixed-use district and are not classified as commercial timber, although the trees could have some market value. Therefore, a permit from the Oregon Department of Forestry (ODF) is not specifically required for the work inside the City’s UGB.

General Finding 10: Removal of the trees from the subject property should not have a long-term adverse effect on the surrounding physical and visual environment because:

- a) The applicant will be using the existing access roads to the extent practicable in order to minimize the number of trees required for removal outside of the transmission line corridor;
- b) The proposed tree felling will retain large, intact stands of trees along the hillside thereby contributing to protection against windthrow and maintaining a visual buffer along the southern edge of Glenwood;
- c) Installation and operation of the overhead transmission line won’t create significant barriers to terrestrial and avian wildlife movements along the hillside;
- d) The applicant will be required to obtain erosion and sediment control permits – and to install and maintain any necessary measures to prevent such erosion – prior to initiating any tree removal or construction work in the project area;
- e) The area subject to tree removal for the transmission line are to be revegetated and not further developed with extensive impervious surfaces, thereby retaining the existing drainage patterns and providing for soil absorption of rainfall and runoff;
- f) The proposed tree felling area is geographically and visually separated from existing residential development to the south and west;
- g) The proposed tree felling area is a hillside that is located between two existing, linear transportation corridors (Interstate 5 and the Central Oregon Pacific Railroad line) and it is not identified as a critical habitat area;
- h) The applicant is proposing to only remove the trees that are identified as lying within the substation footprint area and transmission line corridor, while leaving the remaining trees that lie outside the project zone; and
- i) The trees are not uncommon or specimen varieties that warrant special protection measures.

General Finding 11: During the reopened written record from August 6 to 13, 2019 the appellant introduced recent evidence they developed for their Site Plan Review and Hillside Development appeals (Cases 811-19-000128-TYP3 and 811-19-000129-TYP3) to argue that SUB’s plans do not sufficiently address slope stability and erosion prevention. In this Tree Felling Permit appeal, the applicant has explained that it will minimize erosion by leaving tree stumps in place and improving the existing access road in order to minimize new construction and transportation of logs across the ground surface. The Tree Felling appeal record also contains geotechnical studies commissioned by the applicant that show conclusively that slopes and hillside areas are safe for SUB’s proposed construction. Most of the sloping and hillside areas, excepting the western edge of Tax Lot 1100, are outside the City limits and therefore not within the Planning Commission’s jurisdiction for this appeal.

General Finding 12: The Director’s Decision originally issued for the Tree Felling Permit requires the applicant to obtain a Land Drainage and Alteration Permit (“LDAP”) before commencing tree felling activities. The LDAP will require erosion control measures and establishment of erosion-controlling vegetation in disturbed areas. The

tree felling record therefore demonstrates SUB's compliance with applicable criteria regarding erosion control and slope stability. This condition has been retained herein as Condition 1 below.

General Finding 13: During the reopened written record on August 13, 2019, the appellant raised additional issues regarding the presence of watercourses on the property. The watercourses in question are outside the City limits and therefore outside the jurisdiction of the Planning Commission.

General Finding 14: The criterion of approval under SDC 5.19-125.B requires only that the applicant show that the proposed felling is consistent with "State standards, *Metro Plan* policies and City Ordinances and provisions affecting the environmental quality of the area." State standards, *Metro Plan* policies, and City ordinances that are not "affecting the environmental quality of the area" are not criteria of approval under this section. Assignment of Error #3 is not related to policies or provisions under this criterion of approval because it does not identify any applicable *Metro Plan* policies that are "affecting the environmental quality of the area." Furthermore, the Assignment of Error #3 does not otherwise identify any conflict between this application and the *Metro Plan*. The provisions of the adopted *Public Facilities and Services Plan* (PFSP), which is a refinement plan of the *Metro Plan*, allow for flexibility in location, design, and alignment of key public utility lines and installations with the intent to ensure that conceptual alignments shown on metro-wide plans do not preclude site-specific variations in these alignments due to land ownership, topographic, engineering, or geopolitical constraints.

General Finding 15: It is notable that most of the planned transmission line alignment is outside the City limits and therefore mostly outside the jurisdiction of the Planning Commission for this appeal. The alignment of the proposed electric transmission line is depicted in Project 17A (Alvey to Glenwood to Springfield), adopted into the PFSP by Ordinance 6341 on September 8, 2015. Project 17A (Alvey to Glenwood to Springfield) is depicted on Map 4 of the PFSP as generally parallel with the I-5 corridor, which is consistent with the proposed alignment. Note 2 on Map 4 states, "The general locations of facilities are shown on this map. Exact locations are determined through local processes." The comments cite the following language in Finding #19 adopted in support of Ordinance 6341 and urge that language to be applied as a criteria of approval: "The transmission lines [in Project 17A] will take advantage of existing freeway, street and railroad right of ways [sic] in Glenwood to minimize visual impacts of the planned facilities." However, Finding #19 further states that, "The intent of the PFSP is to show the general location of planned facilities. Design level details are not intended to be provided in the PFSP[.]" Furthermore, Finding #19 was adopted as a factual finding in support of the PFSP amendment, and is not part of the PFSP nor a criterion of approval for this application.

General Finding 16: There are no specific restrictions in the PFSP or any plan or code provisions that preclude installation of the electric transmission lines and substation on property owned in fee simple by, or within easements granted to, SUB and EWEB (local utility providers) as opposed to transportation rights-of-way owned and operated by the Oregon Department of Transportation and/or Union Pacific Railroad. SUB Electric did evaluate the potential of using existing rights-of-way for the transmission lines, including the adjacent I-5 freeway corridor and the Central Oregon Pacific Railroad line. For the I-5 freeway, ODOT provided a response to SUB Electric in September, 2018 advising that longitudinal (i.e. parallel with highway travel lanes) utility lines are precluded from installation within the highway right-of-way unless there are extreme hardship circumstances. Horizontal (i.e. perpendicular) crossings are allowable, and SUB does in fact have a crossing of the I-5 right-of-way near the southern edge of the project area. According to ODOT, the section of I-5 that abuts the project area is planned for future lane widening to create three northbound lanes between the 30<sup>th</sup> Avenue onramp and the Glenwood Boulevard off-ramp. This future widening will necessitate removal of any obstructions within the highway right-of-way and access control areas, which could include utility transmission lines. Therefore, routing the transmission line along the edge of, or within, the I-5 right-of-way was not seen as a viable option. SUB Electric also examined the railroad right-of-way that runs along the northern edge of Tax Lots 300, 1000, 1100 and 3701, and generally parallel with a segment of Newman Street. It is notable that only a very short segment of the railroad tracks abut the City limits line along the northern edge of Tax Lot 1100. The railroad tracks are located right at the base of the hillside and there is minimal room available within the railroad right-of-way for any type of co-located overhead facilities, especially an electric transmission line, without severe interference with the hillside and railroad operations and safety. Because of the constraints associated with the railroad right-of-way, this corridor was also not seen as a viable option. The preferred option ended up being the route along

the edge of the hillside, within properties owned by utility providers, which is presented for review and approval herein.

General Finding 17: As discussed above, the criterion of approval under SDC 5.19-125.B only requires consistency with provisions “affecting the environmental quality of the area.” Assignment of Error #4 is not relevant to this criterion of approval. Furthermore, aspects of this assignment of error that pertain to parcels outside the City limits, such as Tax Lots 300 and 1000 are not within the Planning Commission’s jurisdiction over this appeal.

General Finding 18: The cited section (SDC 3.4-270.F.5) pertains to the Phase I Glenwood Refinement Plan area only, so its application is limited to Tax Lots 300 and 1000. These parcels are outside the City limits and are therefore outside the jurisdiction of the Planning Commission for this appeal. It is notable that, irrespective of the trees’ locations inside or outside the City limits, the appellant has not identified the “over 120 trees which are not necessary for the construction” as stated in their submittals.

General Finding 19: The project area is located on a hillside and upland, not in a riparian area. SDC 4.3-115.B applies only to riparian areas identified under SDC 4.3-115.A, which does not include the subject property. Therefore, SDC 4.3-115.B is not an applicable criterion of approval.

General Finding 20: The applicant prepared and submitted a Slope Stability Review in Tree Felling Areas report prepared by Foundation Engineering Inc. in December, 2018. The report was provided as part of the Hillside Development Permit application submitted under separate cover as Case 811-19-000085-TYP2. The Planning Commission has accepted the findings and recommendations of the applicant’s Geotechnical Engineer relative to the tree removal activities and related project construction.

General Finding 21: For the above reasons, the criteria of approval under SDC 5.19-125.B have been met subject to Condition 1 below. The appellant has not identified any applicable State standards, *Metro Plan* policies, or City ordinances and provisions that affect the environmental quality of the area that conflict with the application.

**CONDITION OF APPROVAL 1: Prior to initiating any tree felling, earth work, or construction activity within the project area inside the City limits (i.e. Tax Lot 101 and a portion of Tax Lot 1100), the applicant shall obtain a Land Drainage Alteration Permit (LDAP) as may be required to provide erosion and sediment control measures during tree removal activity and project construction. Initial required protection measures shall be installed and in place prior to commencement of any tree removal activity.**

*Appellant’s Assignment of Error #3: The approval violates the acknowledged Metro Plan. In 2015, the City of Springfield adopted an amendment to the Eugene-Springfield Metropolitan Area Public Facilities and Services Plan, in part, to alter the location of the proposed Glenwood Substation. As part of that process, concerns were raised by area residents about the location of transmission lines. The Springfield Utility Board staff confirmed at that time that proposed transmission lines would use existing public rights-of-way to site the transmission lines. To the north, these lines would be routed along Henderson Avenue before turning east along the Union Pacific Railroad corridor. To the south, the lines would be routed in the existing Interstate 5 right-of-way. In fact, Finding 19 of the City’s adopted findings in support of the amendment confirms:*

*“The location of the planned Glenwood Substation and the associated transmission lines is shown generally on the PFSP maps as intended. The location of the Substation is outside of the Phase I boundary for the Glenwood Refinement Plan. The transmission lines will take advantage of existing freeway, state and railroad right of ways in Glenwood to minimize visual impacts of the planned facilities.”*

*Ordinance 6341, Exhibit F, p.15 (Emphasis added). The proposed felling is inconsistent with the Metro Plan because the felling is for the purposes of routing transmission lines outside of the “existing freeway...right of ways in Glenwood” and contrary to plan.*

*Appellant’s Assignment of Error #4: The approval also violates the applicable zoning for the subject property, because it is for the purposes of facilitating the siting of a high impact transmission line on Tax Lots 300 and*

1000, where such lines are not permitted by the Employment Mixed Use (Glenwood) zoning district. SDC 3.4-250 only permits low-impact facilities, described as: “wastewater, storm water management; electricity and water to serve individual homes and businesses.” The proposed high voltage transmission lines are not limited to serving “individual homes and businesses.” They are “high impact facilities” that are not allowed in the zone. Accordingly, the proposed felling is not consistent with City Ordinances and the decision should be overturned.

Appellant’s Assignment of Error #5: The approval also violates SDC 3.4-270(F)(5), which requires that trees “be retained to the maximum extent practicable” for erosion control and other purposes. The proposed tree removal would authorize the removal of over 120 trees which are not necessary for the construction of the substation, road or transmission lines. Many of these trees are located on steep slopes on Tax Lots 300 and 1000. Accordingly, this provision is violated.

Appellant’s Assignment of Error #6: In addition, the decision violates SDC 4.3-115(B) which limits the removal of trees within riparian areas to only those “hazard trees” specified in Section 5.19-100. As noted, the applicant has conceded that felling is not being proposed based on the condition of any of the trees at issue. Accordingly, the proposed removal violates SDC 4.3-115(B).

Appellant’s Assignment of Error #7: The applicant asserts, but does not establish that the “removal of trees will not affect erosion, soil retention, and stability.” Application, p. 7. However, it provides no evidence to substantiate this claim. As the applicant does not carry its burden of proof, the decision of approval should be overturned.

Finding - Response to Assignments of Error #3 – #7: Springfield Utility Board responds to the appellant’s assertions as follows:

- In regards to the Public Facilities and Services Plan, the cited Finding 19 in the appellant’s statement contains two sentences deserving of clarifying context and meaning.
  - The first is “*The location of the planned Glenwood Substation and the associated transmission lines is shown generally on the PFSP maps as intended.*” (Emphasis added.) It is a long standing understanding that the Eugene-Springfield Metropolitan Area General Plan is a generalized planning document and is not tax lot (nor right-of-way) specific document. The same is true for the Metro Plan’s metropolitan-level refinement plans, such as the Public Facilities and Services Plan. The adjacent excerpt from the Public Facilities and Services Plan regarding the Glenwood substation and transmission line clearly illustrates the generalized nature of metro-level planning documents.
  - The second is “*The transmission lines will take advantage of existing freeway, state and railroad right of ways in Glenwood to minimize visual impacts of the planned facilities.*” This is indeed precisely what SUB has done. The proposed transmission line has taken advantage of the existing Interstate-5 right-of-way. The proposed line is adjacent to and runs parallel to the freeway. The Public Facilities and Services Plan does not require the transmission line to be within the right of way, and the Oregon Department of Transportation determined that there is not sufficient area inside of the Interstate 5 right of way to safely accommodate SUB’s transmission line in the right of way.
- Tax lots 1000, [most of] 1100 and 300 lots are not in the city limits. Tax Lots 1000 and 300 have a base zone of Glenwood Employment Mixed-Use and an overlay zone of Urbanizable Fringe (UF-10). The UF-10 overlay specifically allows “high impact facilities, subject to SDC 4.7-160.” See table in SDC 3.3-815. SDC 4.7-160 states that high-impact facilities are permitted in residential, commercial and industrial districts where designated in the public facilities plan. Per SDC 3.2-605(B), a Mixed-Use Employment zone includes all three of those zoning categories – residential, commercial and industrial. The proposed transmission line and substation has been designated in the Public Facilities and Services Plan. Therefore, the Urbanizable Fringe zone permits the proposed transmission line facility. The City has explained this in its 5/17 approval of the site plan for SUB’s proposed substation and transmission line and we request that this decision be included in the record in this case for the purpose of including this explanation.
- Regarding SDC 3.4-270(F)(5), the appellant again asserts that the proposed tree removal authorizes the removal of over 120 trees not necessary for the construction of the facility. Again, the trees included in the approved tree felling permit are necessary for the safety, integrity and operation of the overhead

transmission line. It is a best practice in the industry to include a clear zone to minimize the risk of trees falling onto the poles and transmission line.

- With respect to concerns for erosion control, Condition of Approval No. 1 of the Tree Felling Permit approval requires the applicant to obtain a Land and Drainage Alteration Permit (LDAP). LDAP includes not only erosion prevention measures but the establishment of erosion-controlling vegetation in disturbed areas.
- As for disturbed areas, the applicant intends to cut and remove trees but it will not be removing the stumps or root systems. Thus disturbance to the existing ground will be minimal. Again, where there is disturbance, native, drought-tolerant grasses will be planted. Regarding SDC 4.3-115(B), these rules allow utility-related facilities in the riparian area as long as the facilities do not impede riparian function. These rules are relevant here because Tax Lot 1100 contains a “Water Quality Limited Water Course”—a tributary to the Glenwood Slough.
  - As far as the proposed transmission line project is concerned, there is a single point of intersection between the project and the water course. It is where the prior property owner’s existing access path crosses the water course.
  - SUB’s proposed access road will follow this existing access path. There will be no new crossing of the watercourse.
  - At this location there is only one tree proposed for removal. It is some 15-20 feet from the waterway. Again, the tree will be removed but the stump and root system will remain. Thus, ground disturbance will be minimal. And the seeding of native grasses will follow.
  - Given these facts, SUB’s proposal is consistent with SDC 4.3-115(B) for the following reasons:
    - (B)(2) permits the felling of trees for safety reasons. Leaving this particular tree would pose the risk of falling or otherwise inhibiting access to the transmission line.
    - (B)(8) permits private driveways (in this case an access road) when there is no other vehicle access to the property.
    - (B)(9) permits the repair, replacement or improvement of utility facilities. This access road is an essential component of the proposed facility. It is necessary in order to reach and therefore repair or otherwise maintain the transmission lines.
- Given this all of the above, the applicant has satisfied Criterion B.

Remand Finding 21.1: The City’s site plan review criteria require that “significant clusters of trees and shrubs...be protected as specified in this Code or in State or Federal law.” SDC 5.17-125.E (emphasis added). LUBA’s decision affirms that the City’s “tree felling standards govern protection of significant clusters of trees.” As noted above, LUBA also upheld the scope of SUB’s proposed tree felling as consistent with the City’s tree felling criteria. However, LUBA required the City to “consider and explain” how significant clusters of trees and shrubs are protected under SDC 5.17-125.E. To address this issue, additional findings have been added to the Amended Staff Report and Findings for the Site Plan Review application.

Remand Finding 21.2: Separately, LUBA held that the City’s Glenwood landscaping standards at SDC 3.4-270.F.5 require an “analysis of alternative [transmission] line alignments on the subject property” to ensure that the site “retains mature vegetation and healthy trees ‘to the maximum extent practicable’” on the two GEMU-zoned parcels of the project area. Together these holdings indicate that the City’s “significant clusters” site plan review standard incorporates an additional requirement for tree clearing on the two GEMU-zoned parcels of the site (Tax Lots 1000 and 300) beyond the tree felling standards that apply to the overall project area. Specifically, clearing of healthy tree clusters on Tax Lots 1000 and 300 must meet the GEMU “maximum extent practicable” preservation standard as well as the utility interference standard in the tree felling rules. Because LUBA upheld SUB’s proposed 100-foot clear zone as consistent with the tree felling rules, LUBA’s decision means that SUB must select the practicable location for this clear zone on the site that best preserves healthy trees on Tax Lots 1000 and 300. To address this issue, SUB prepared and submitted an alternatives analysis (see applicant’s remand submittal, Exhibit D) that is also evaluated in the Amended Staff Report and Findings for the Site Plan Review application.

Remand Finding 21.3: The SDC does not define “significant tree cluster.” For purposes of inventorying tree canopy, SUB utilized definitions that were recently proposed by the City of Eugene for that city’s tree

preservation standards. These Eugene definitions, which are included in the tree canopy evaluation materials in Exhibit C of the applicant's remand submittal, define a "significant tree cluster" as a group of five or more living trees of at least eight inches in diameter at breast height with overlapping branches. SUB's working definition of "significant tree cluster" (further broken out into "good," "fair," and "poor" quality) is expansive enough to capture all tree clusters that could be considered "significant" under a reasonable interpretation of the term. "Good" quality clusters were identified based upon moderate to low plant density, primarily non-invasive groundcover, even branching, and an upright trunk (tree is not leaning); "fair" quality tree clusters were those with moderate to dense planting; a mix of invasive and non-invasive groundcover; some broken or uneven branching and that may include moderate lean to the trunk; "poor" quality tree clusters had a high density planting, primarily invasive understory, broken or uneven branching, and trees or trunks with significant lean.

Remand Finding 21.4: SUB's tree canopy evaluation makes clear that SUB's proposed transmission line alignment best preserves trees on the site of all potential alternatives, regardless of which clusters are deemed "significant." Specifically, the selected route generally avoids the large clusters of trees along the northern and southern boundaries of the project area by crossing the open meadow on Tax Lot 1100. It also entirely avoids all trees within "good" quality clusters and the vast majority of trees in "fair" quality clusters throughout the site. Both practicable alternative routes on the site involve substantially more tree cutting, including felling of trees within a good quality cluster near the northern border of the project area. (See applicant's remand submittal, Exhibit D).

Remand Finding 21.5: Although the record shows that alignments in the railroad right of way and the I-5 right-of-way are not practicable, these theoretical alignments would also require more tree felling than the selected route. An alignment along the railroad line north of the project area would require two hillside clearings. First, clearing would be needed of a fair quality cluster from the top of the hill on Tax Lot 300 where the transmission structure is located to the railroad right-of-way at the base of the hill. A second hillside clearing would be needed further north to bring the line up the hillside through a fair or good quality cluster to connect to the substation on Tax Lot 101. (See applicant's remand submittal, Exhibit C, pages TF1 and TF2). An alignment in the I-5 right-of-way would require tree clearing in two larger fair quality tree clusters on the south end of the project area along a steep hillside. (See applicant's remand submittal, Exhibit C, pages TF2-TF4). SUB's selected transmission route therefore exceeds the requirement to preserve significant clusters of trees as required by the City's tree felling rules.

Remand Finding 21.6: SUB's selected route also complies with the Glenwood landscaping standard of retaining mature vegetation and healthy trees to the maximum extent practicable on Tax Lots 1000 and 300 because it preserves more healthy trees on these parcels than any practicable alternative route. Both alternative routes on the site that are practicable involve a northern alignment that would require clearing of a substantial portion of a good quality tree cluster on Tax Lot 1000, as well as a larger portion of the adjacent poor quality clusters on Tax Lots 1000 and 300. SUB has also refined its tree felling plan to preserve a group of additional trees north of the existing transmission structure on Tax Lot 300 that are within a larger fair quality cluster. After further review since the City's 2019 approval of SUB's tree felling plan, SUB has concluded that trimming rather than felling these trees is sufficient to ensure safety of the transmission facilities. This additional tree preservation further demonstrates that SUB's plans retain healthy trees to the maximum extent practicable in the GEMU zone.

Conclusion: Subject to Condition of Approval #1, the applicant has satisfied criterion B. Assignments of error #3 – 7 are denied.

**C. Whether it is necessary to remove trees in order to construct proposed improvements as specified in an approved development plan, grading permits and construction drawings.**

Applicant Submittal: *"It is necessary to remove trees to construct the proposed development. An accompanying Site Plan Review application and plan set document tree removal as well as areas of trees to remain."*

General Finding 22: The applicant has submitted Site Plan Review and Hillside Development applications for the proposed electric substation and related appurtenances under separate cover (Cases 811-19-000084-TYP2

and 811-19-000085-TYP2). The Director's Decisions for these applications were issued on May 17, 2019 and appealed on June 3, 2019. Issuance of this Tree Felling Permit is not dependent upon (but is informed by) the associated Site Plan Review and Hillside Development applications initiated by Cases 811-19-000084-TYP2 and 811-19-000085-TYP2 and adjudicated by appeal cases 811-19-000128-TYP3 (Hillside Development Permit) and 811-19-000129-TYP3 (Site Plan Review). Therefore, the tree felling action is being reviewed independent of the proposed utility facilities and subject to Criterion D (below).

General Finding 23: If required, a Land Drainage Alteration Permit (LDAP) obtained from the City will address other activities such as root grubbing, grading for access roads and staging areas, and other construction activities that follow removal of trees from the site.

General Finding 24: The Director's decision to issue the Tree Felling Permit in Case 811-19-000016-TYP2 acknowledges that the applicant did not have an approved development plan at the time of permit issuance. For this reason, staff identified that Criterion D (below) was applicable to the Tree Felling Permit and is so reflected in the staff report and decision issued as Case 811-19-000016-TYP2. Criterion C of the Director's decision indicates that grading and erosion/sediment control permits can be obtained outside of the land use approval process and, in any event, are likely applicable to the proposed project work. The erosion and sediment control permitting process is universal to all grading and excavation activities within the City of Springfield, including those not associated with land use decisions.

General Finding 25: Since the issuance of the Director's decision on April 17, 2019, the applicant has obtained tentative site plan approval pursuant to the Director's decision in Case 811-19-000084-TYP2. Even if tentative site plan approval had not been issued, the Tree Felling Permit complies with the alternative criteria of approval under Criterion D (below) for projects where no development plan has been approved.

General Finding 26: Finally, as noted in the response to Assignment of Error #5 above, as depicted on the tree removal plans, the applicant's requested tree removal is not limited to the exact project footprint for the substation, access road, and transmission line. The applicant is well within their rights to propose tree removal within areas that could pose a hazard to existing or planned infrastructure – especially large, mature conifers that are within 100 feet on either side of the planned transmission lines and substation. As evidenced by local weather events in February, 2019, overhead electrical transmission lines are particularly vulnerable to impacts from downed trees. For this reason, the applicant is providing additional buffering and setback from potential windthrow or natural toppling of trees that would potentially impact the transmission lines.

General Finding 27: The criterion of approval in SDC 5.19-125.C is not applicable to this application, because it meets the alternative criteria of approval under SDC 5.19-125.D, below. Alternatively, if Criterion D was not met, the application would comply with SDC 5.19-125.C at the time of the appeal hearing, because Tentative Site Plan approval was granted by Case 811-19-000084-TYP2.

General Finding 28: For the reasons described below, however, SUB does not rely solely on its site plan approval to demonstrate compliance with the criteria applicable to the Tree Felling Permit. SUB's proposed tree felling is consistent with City standards even in the absence of an approved development plan.

*Appellant's Assignment of Error #8: The decision errs in concluding that it is necessary to remove the trees in order to construct proposed improvements as specified in an approved development plan. The applicant has no approved development plan. Moreover, its tentative plans reflect that removal of more than 120 trees are not necessary to construct the proposed improvements. Accordingly, the decision of approval is in error, and we respectfully request that the same be overturned.*

Finding - Response to Assignment of Error #8: SUB's proposed tree removal is necessary to permit SUB's proposed substation and transmission line. The development plan for these facilities has now been approved by the City under Case Number 811-19-000084-TYP2. The trees shown on the Tree Felling Permit plans are located within the transmission line corridor and are necessary for removal to provide for the safety, integrity and operation of the electric facility. Thus, the applicant has satisfied Criterion C.



Conclusion: This applicant has satisfied criterion C. Assignment of error #8 is denied.

**D. In the event that no Development Plan has been approved by the City, felling of trees will be permitted on a limited basis consistent with the preservation of the site's future development potential as prescribed in the Metro Plan and City development regulations, and consistent with the following criteria:**

- 1. Wooded areas associated with natural drainageways and water areas shall be retained to preserve riparian habitat and to minimize erosion;**
- 2. Wooded areas that will likely provide attractive on-site views to occupants of future developments shall be retained;**
- 3. Wooded areas along ridge lines and hilltops shall be retained for their scenic and wildlife value;**
- 4. Wooded areas along property lines shall be retained to serve as buffers from adjacent properties;**
- 5. Trees shall be retained in sufficiently large areas and dense stands so as to ensure against windthrow; and**
- 6. Large-scale clear-cuts of developable areas shall be avoided to retain the wooded character of future building sites, and so preserve housing and design options for future City residents.**

Applicant Submittal: *“Approval of this tree felling permit is contingent on approval of the concurrent Site Plan Review and Hillside Development Overlay applications.”*

General Finding 29: The application is consistent with the criterion of approval under SDC 5.19-125.D which requires felling of trees “on a limited basis consistent with the preservation of the site’s future development potential as described in the *Metro Plan* and City development regulations[.]” As previously noted under Assignment of Error #1 (above), the proposed tree felling is limited to areas necessary for the proposed development of the substation, access road, and transmission line, including a reasonable 100-foot buffer on either side of the transmission line for protection from windthrow and downed trees. The applicant submitted industry best practices information for safe operation of high voltage transmission lines that substantiates this 100-foot clear zone. As previously noted in the response to Assignment of Error #4 (above), the installation of high voltage transmission lines is allowable in accordance with the adopted *Public Facilities and Services Plan* – a refinement plan to the *Metro Plan* – and provisions of the Springfield Development Code (SDC 3.2-400 and 3.3-800). The subject project is identified in the PFSP as Project 17A–Alvey to Glenwood to Springfield. Because the proposed development is allowable on the tax lots that comprise the project area, the City does not have to consider any further development on the site; the proposed transmission line and substation is the extent of development proposed and approved for these properties. Should additional or further development be proposed in the future – on all or part of the area covered by the Tree Felling Permit – it would be subject to applicable land use processes including but not limited to tree removal, hillside development, wetland fill/removal and site plan review.

General Finding 30: Assignment of Error #10 (below) does not identify the manner in which the application fails to meet the criteria of approval in SDC 5.19-125.D. The Director’s decision issued on April 17, 2019 as Case 811-19-000016-TYP2 is tailored to the specific development (i.e. transmission lines and substation) proposed within the project area – a project area that is owned outright by local utility providers. Similar projects elsewhere in the City and Metro area, including electrical and water facilities, typically exclude any other types of potentially conflicting land uses within the operational area. Nevertheless, the Tree Felling Permit (Case 811-19-000016-TYP2) and associated Site Plan Review (811-19-000084-TYP2) and Hillside Development Permit (811-19-000085-TYP2) in no way preclude further development on any or all of the subject properties, provided the necessary land use approvals are obtained. The application therefore does not conflict with this criterion.



General Finding 31: The proposed tree felling area is uphill and well removed from the Willamette River and its main tributaries. There is a mapped tributary to the Glenwood Slough that runs through Tax Lot 1100 as generally depicted on the applicant's tree felling plan and a surface drainage ditch running generally parallel with and about 100 feet east of the mapped tributary. Both of these watercourse features are outside the City limits and therefore not within the jurisdiction of the Planning Commission for this appeal.

General Finding 32: There is a wetland feature on Tax Lot 101 that is identified on the City's Water Quality Limited Watercourses map, but it is not classified as a nationally or locally significant wetland within the project area. There are no intact, native tree stands or wooded areas associated with the wetland feature on Tax Lot 101 so it is not classified as a "riparian area" for the purposes of this review. Nevertheless, the applicant is obtaining a wetland fill/removal permit for the project work on Tax Lot 101. Condition 10 of the Site Plan Review approval issued as Case 811-19-000084-TYP2 requires the applicant to obtain a wetland fill/removal permit prior to initiating construction activities on Tax Lot 101.

General Finding 33: There is a mapped tributary channel of the Glenwood Slough on the hillside and some of the drainage channel has been artificially channelized and directed into pipes and culverts by the actions of previous landowners without development approval. This feature is outside the City limits and therefore outside the jurisdiction of the Planning Commission for this appeal. The subject application therefore is consistent with Criterion D.1.

General Finding 34: The appellant correctly points out that the current zoning for the properties that comprise the project area could allow for additional uses in the future. However, at this point, the properties inside the City limits are owned by a utility provider and there is no indication that any other types of facilities or improvements are planned for this area. The proposed felling is limited to only the areas necessary for the current proposed development, as discussed in the City response to Assignment of Error #1 (above). There are no provisions of the Director's decision to conditionally approve the Tree Felling Permit (Case 811-19-000016-TYP2) or associated Site Plan Review (Case 811-19-000084-TYP2) and Hillside Development Permit (811-19-000085-TYP2) that preclude further or future development of Tax Lots 101 and 1100. The application therefore is consistent with Criterion D.2.

General Finding 35: The project site is within existing industrial zoning, and currently there are no occupied structures within the bounds of the tree felling area within Tax Lot 101 and the western edge of Tax Lot 1100. Upon construction of an electric transmission line and substation on the property, should this occur, there won't be any residents or regularly occupied structures within the affected area. Therefore, Criterion D.2 has been met.

General Finding 36: The proposed felling is not along a ridgeline or hilltop, and therefore does not conflict with the criterion of approval in subsection D.3. The Springfield Development Code does not define "ridgeline" or "hilltop." As used in the *Metro Plan*, a ridgeline is a "prominent topographic feature" (page III-E-3), as opposed to a minor localized topographical feature. "Hilltop" is not defined in the Springfield Development code nor is the term used in the *Metro Plan*, but taken in context with the word "ridgeline" in SDC 5.19-125.D.3 also means a prominent topographic feature. The "ridgeline" and "hilltop" referred to in the appellant's assignment of error are localized topographic features that have been isolated and made more conspicuous by the significant road cut associated with the adjoining I-5 freeway; they are not prominent topographical features that fall under the scope of this criterion of approval. The freeway is immediately west and south of the tree removal area and it does not run on a ridgeline or hilltop. If not for the intervening freeway, the hillside subject to the tree felling would continue upward, uninterrupted, to the west. The true "hilltop" (a topographic feature locally referred to as "Moon Mountain") is at least 1,700 linear feet to the west within the City of Eugene where the elevation rises significantly higher than the subject site. Because the areas of high elevation on the subject property are artificially created and localized topographic features, they do not represent true "hilltops" or "ridgelines" that are major topographic features identified in the *Metro Plan*. For this reason, the application is consistent with this criterion of approval.

General Finding 37: The area proposed for tree felling is along a hillside and the hilltop area is actually located across I-5 to the west on the Eugene side. The proposed tree felling will remove a narrow band of trees along

the western edge of Tax Lot 1100 to accommodate the overhead transmission line, but trees to the south along the I-5 right-of-way and along the sloping areas within the western edge of Tax Lot 1100 that is within the City limits will be retained. Upon installation of the transmission line and substation, should this occur, the remaining tree stands – and the gap created by the transmission line – will remain accessible by terrestrial and avian wildlife. Therefore, Criterion D.3 has been met.

General Finding 38: Criterion D.4 applies to property lines separating the development areas from “adjacent properties”; it is not applicable to property lines that are internal to the development area. There is no requirement to provide buffering or separation between two similarly-zoned, non-residential properties that are within the project area. For this reason, the application is consistent with this criterion of approval.

General Finding 39: Much of the proposed tree felling will be occurring close to and generally paralleling the edge of the I-5 right-of-way. Therefore, there are no developed properties *per se* that will require a buffer of tree cover to be retained along the southern edge of the project area. Tree stands inside the City limits will be retained along the northern and southern edges of the project area where it abuts the hillside area above the railroad tracks and the I-5 freeway. Therefore, Criterion D.4 has been met.

General Finding 40: The staff decision includes findings that criterion of approval D.5 is met (see Director’s Decision Finding D.5). The record in this matter includes substantial evidence that the trees to be retained on the property will be protected against windthrow and in sufficiently dense stands. And, in the unlikely event that the trees are not retained in sufficiently dense stands or windthrow does occur, the impacts would be entirely contained within the applicant’s property and transmission line easement and would not affect third party property owners. Furthermore, the potential for windfall and impacts to proposed improvements are the key reason for the applicant requesting tree removal within the 100-foot buffer area beyond the specific project footprint area.

General Finding 41: The proposed tree felling will retain large, intact stands of trees along the hillside – particularly at lower elevations of the site where trees will not be as exposed to windthrow. Therefore, Criterion D.5 has been met.

General Finding 42: The subject site is not zoned or designated for residential use. Nevertheless, tree stands will be retained within the properties that comprise the project area and will offer buffering, screening, and vegetative backdrop for the proposed electric substation and transmission line and any future development along the corridor, should this occur. This includes existing trees that are being retained along the western edge of Tax Lot 101 which is identified for construction of the electric substation. Therefore, Criterion D.6 has been met.

*Appellant’s Assignment of Error #9: The decision errs in failing to account for the site’s future development potential as specified in the Metro Plan and City development regulations. As noted, the proposed installation of high voltage transmission lines is not permitted in either the Metro Plan or the applicable zoning.*

*Appellant’s Assignment of Error #10: In addition, the applicant and decision improperly discount any future development potential of the property apart from the proposed substation and transmission lines.*

*Appellant’s Assignment of Error #11: The application proposes tree felling within a Locally Significant Wetland and a tributary of the Glenwood Slough. The application violates this criteria [sic], and the decision of approval should be overturned on this basis.*

*Appellant’s Assignment of Error #12: The decision erroneously concludes that once the “electric transmission line and substation on the property [are constructed] there won’t be any residents or regularly occupied structures within the affected area.” However, this assumption is based on unapproved development permits, and the unsupported assumption that no other use will be made of the nearly 30 acres of property involved in the application. The subject property is zoned for a variety of light manufacturing uses, as well as offices, hospitals, commercial, educational and other secondary uses. See SDC 3.2-410 & 3.4-250. As neither the application nor the decision account for the impacts to the views of these future developments, the decision should be overturned.*

Appellant's Assignment of Error #13: *The proposed felling would occur on a ridgeline and hilltop on Tax Lots 300 and 1000. The decision incorrectly relies on trees at lower elevations along I-5 and Oregon Pacific Railroad tracks to justify the removal of these trees. As the decision fails to retain these wooded areas for their scenic and wildlife value, it is erroneous and should be overturned.*

Appellant's Assignment of Error #14: *The proposed felling would largely eliminate an existing treed buffer along the property line between Tax Lots 300 and 1000. As the decision fails to retain this buffer it is erroneous and should be overturned.*

Appellant's Assignment of Error #15: *The application does not provide evidence demonstrating that the trees retained will be in sufficiently large areas and dense stands to ensure against windthrow. The applicant did not meet is [sic] burden of evidence on this issue, and the decision approval is in error, and we respectfully request that the same be overturned.*

Finding - Response to Assignments of Error #9 – 15: SUB responds to the appellant's assertions as follows:

- In terms of the appellant's assertion that the proposed installation of high voltage line is not permitted by the Metro Plan or the applicable zoning, the applicant points to its testimony in B above. The transmission line facility is in the Public Facilities and Services Plan, an adopted refinement plan to the Metro Plan, and is permitted in the light medium industrial zone of Tax Lots 101, 3701 and 1100 as well as in the Urbanizable Fringe of Tax Lots 1000 and 300.
- In terms of the sub-criteria **D.1** through **D.6**, the City of Springfield has already found that the application is in compliance with these standards. The applicant offers the following:
  - **D.1.** There is one drainage area and one water area on the property. The impact to the drainage area is explained above. The one crossing is existing and only one tree (but not the stump or root system) will be removed within the setback area. The water area is the wetland on Tax Lot 101 where the substation will be constructed. As explained elsewhere this is already a highly-disturbed wetland – having been graded by the previous property owner for reasons not fully known. Even here there are only four trees planned for removal while eight trees in the wetland are planned to remain. As this standard “wooded areas”, the removal of a single tree in the setback area associated with the drainageway and of four trees in a non-wooded wetland do not rise to the level of impacting a wooded area.
  - **D.2.** This standard is in regards to attractive on-site views of wooded areas by future occupants. To be clear, there are no occupants on the property today and there will not be any occupants in the future.
  - **D.3.** As staff said, the transmission line corridor is along a hillside. It is not a hilltop nor is it a ridgeline. The existing slope of the hillside is the result of the development of Interstate 5 and is not a natural feature of the landscape. Following tree removal, trees to the southwest will still remain along I-5 and trees to the north and northeast on the hillside adjacent to the rail road will still remain. Wildlife will still have free access through and within the property.
  - **D.4.** Wooded areas along property lines will still remain to serve as buffers from adjacent properties. As noted above and shown in the photo, existing trees will still remain along the I-5 corridor, along the railroad property, as well as to the southeast and the northwest.
  - **D.5.** This standard calls for trees to be left in sufficiently large and dense stands to ensure against windthrow. Windthrow most typically affects trees newly exposed to a solitary condition. This is not a condition resulting from this action because SUB's plan leaves a large number of trees intact and does not leave isolated trees in locations vulnerable to windthrow.
  - **D.6.** This standard discouraged large-scale clear-cuts to retain the wooded character of future building sites. This property is not an area planned or zoned for housing. There will be no future building sites or future residents.
- This information here documents that the applicant has satisfied Criterion D.

Conclusion: The applicant has satisfied criterion D. Assignments of error #9 – 15 are denied.

**E. Whether the applicant's proposed replanting of new trees or vegetation is an adequate substitute for the trees to be felled.**

Applicant Submittal: *“The proposed development setback areas should not be disturbed so setback landscaping is satisfied with the existing vegetation. Interior to the substation site, there will be some disturbed areas as the substation, on-site driveway, utility infrastructure and transmission line is constructed. These areas will be planted with approved vegetation in the stormwater treatment facilities and with grasses that are drought resistant and don’t need irrigation in other areas. The stormwater treatment facility planning includes trees.”*

General Finding 43: The applicant’s tree felling narrative indicates that replanting of the transmission line corridor with native, non-irrigated grasses, shrubs and forbs will help to stabilize the hillside and prevent erosion and sedimentation issues.

General Finding 44: The nature of the transmission line corridor and substation requires that tall vegetation is excluded from the area to maintain safe clearance from overhead lines. Therefore, revegetation of the affected area will be limited to grasses, groundcover plants, shrubs, and trees with a low growth form.

General Finding 45: In their submittal made during the reopened written record on August 13, 2019, the appellant raises a new issue regarding alleged use of the pesticide glyphosate on the applicant’s property. Although the appellant is correct that the grading plan submitted by the applicant on July 2, 2019 does contain a note about glyphosate, this grading plan is part of SUB’s Site Plan Review application and pesticide use has not otherwise been discussed in the Tree Felling Permit appeal. There are no approval criteria that prohibit or otherwise regulate SUB’s use of glyphosate on the property.

General Finding 46: The original Director’s Decision includes findings that demonstrate compliance with the criterion of approval in SDC 5.19-125.E. These findings remain applicable and are retained herein as General Findings 43 and 44 (above). The replanting of grasses and forbs is the only viable option to maintain natural vegetation within portions of the project area because of the need to keep the transmission line corridor free of conflicting trees. Unlike other types of industrial development that would be allowable on Tax Lots 101 and 1100, the project actually has a very small footprint on the ground surface despite requiring a clear overstory to eliminate conflicts with the transmission line. There are no specific requirements in the Tree Felling criteria requiring a one-for-one tree replacement strategy or implementation of some form of carbon uptake mechanism to compensate for trees to be removed. Given the proposed development of the property for a substation and transmission line, the applicant’s proposed replanting of new trees and vegetation is “an adequate substitute.” Therefore, this criterion of approval is met.

*Appellant’s Assignment of Error #16: The decision errs in concluding that the proposed replanting of grasses on the subject property is an adequate substitute for the trees felled. The application provides no evidence that the grasses proposed are an adequate substitute in terms of natural function, habitat, carbon sequestration, shallow erosion, aesthetics or buffering. Accordingly, the applicant has not met its burden, and we respectfully request that the decision of approval be overturned.*

Finding - Response to Assignment of Error #16: Springfield Utility Board responds to the appellant’s assertions as follows:

- Substation. The proposal includes both the removal of existing trees and the planting of new trees on and around the substation site. Of the 46 existing trees on the substation site (Tax Lot 101), 19 are to be removed and 27 are to remain. Of the 19 trees proposed for removal, 21 new trees will be planted. Therefore the replanting of new trees on the substation site is more than adequate.
- Transmission Line. The proposal includes the removal of 253 trees on the transmission line tax lots. No new trees are proposed. Where the site will be impacted, native, drought-tolerant grasses will be planted. To understand that removing 253 trees is not that great an amount, note that of the transmission line’s 23.35 acres, only 2.70 acres are being impacted. That’s the area encompassed by the transmission line corridor

and access road. That leaves 20.65 acres untouched, including the trees thereon. That's 88.4% of the transmission line site untouched.

- With tree replacement on the substation site at more than 100% of tree removal and with over 88% of the transmission line site not disturbed, the applicant's proposed replanting of trees and other vegetation (the proposed native grasses) is a completely adequate response to the tree felling.
- Given this, it is demonstrated that the applicant has satisfied Criterion E.

Conclusion: The applicant has satisfied criterion E. Assignment of error #16 is denied.

**F. Whether slash left on the property poses significant fire hazard or liability to the City.**

Applicant Submittal: *"All trees and slash will be removed from the site within 72 hours. No slash or other fire hazard posing liability to the City will result from the proposed removal of the trees."*

General Finding 47: Where necessary, removal of slash reduces fire hazards and prevents debris and sediment from being deposited into drainage courses or conveyed downhill to adjacent properties and transportation facilities.

General Finding 48: The applicant's proposal to cut and remove the trees, woody material and debris from the project area should significantly reduce the fire hazard liability on the site.

General Finding 49: The applicant will need to physically remove the trees, slash, and woody debris from the project area because burning of slash piles cannot be done within the Springfield City limits. There are recycling and wood processing facilities nearby that should be able to accept the trees and woody debris generated by the proposed tree felling activity.

General Finding 50: Tax Lots 1000 and 300 are outside City limits and therefore outside the jurisdiction of the Planning Commission for this appeal. To the extent that Assignment of Error #17 affects Tax Lots 101 and 1100, the applicant has obtained ownership of Tax Lots 101 and 1100 as detailed in the response to Assignment of Error #2. Therefore, right of access to the project area has been established and this criterion has been met.

*Appellant's Assignment of Error #17: The decision errs in concluding that slash left of [sic] the property will be appropriately disposed of, where the majority of cutting will take place on property – Tax Lots 300 and 1000 – for which no right of access has been established. Accordingly, this determination is in error and we respectfully request that the decision be overturned.*

Finding - Response to Assignment of Error #17: Springfield Utility Board responds to the appellant's assertions as follows:

- As the applicant stated above in its response to Criterion A, adequate access has been established to Tax Lots 1000 and 300.
- Given this, the applicant has satisfied Criterion F.

Conclusion: The applicant has satisfied criterion F. Assignment of error #17 is denied.

**G. Whether the felling is consistent with the guidelines specified in the Field Guide to Oregon Forestry Practices Rules published by the State of Oregon, Department of Forestry, as they apply to the northwest Oregon region.**

Applicant Submittal: *"The proposed tree felling is consistent with the specified guidelines. The Oregon Department of Forestry, through its Community and Urban Forestry program, advocates for selecting appropriate tree species based on site conditions, avoiding invading exotic species, and reforesting the urban environment. As discussed above, the applicant is proposing practical replacement plantings that are compatible with the scale of the proposed development. Therefore, the Oregon Department of Forestry objectives have been met by this tree felling proposal."*

General Finding 51: Forestry practices in the State of Oregon are governed by the State *Forest Practices Act*. The Field Guide to Oregon Forestry Practices Rule provides safety and other guidelines for compliance with the *Forest Practices Act* during timber harvest operations. The guidelines are standards in the industry and are generally followed during all operations performed by licensed and bonded logging contractors.

General Finding 52: The site that is subject to the tree felling request is within the Springfield City limits. The tree felling activity can be conducted within the identified project area without the requirement for a commercial timber permit.

General Finding 53: The project is designed and intended to accommodate major public utility infrastructure by removing trees from the subject area. The affected properties are zoned and designated for industrial activities, not for public open space, parks or natural area preservation. For these reasons, the proposed tree removal does not rise to the level of a regulated timber harvest or commercial logging operation and the activity is governed by the applicable provisions of the *Springfield Development Code*. The applicant has committed to obtaining necessary permits from the City and other local agencies, and following State forestry guidelines for safe operations and fire prevention during the removal of trees, slash and debris approved under this permit.

General Finding 54: The criterion of approval in SDC 5.19-125.G is out of date and no longer an applicable criterion of approval as written. It requires the felling “to be consistent with the guidelines specified in the Field Guide to Oregon Forestry Practices Rules published by the State of Oregon, Department of Forestry, as they apply to the northwest Oregon region.” The specific publication “Field Guide to Oregon Forestry Practices Rules” was last published in 1980 and no longer “appl[ies] to the northwest Oregon region.” The Field Guide has been superseded by other requirements and rules published by the Department of Forestry. This tree felling permit is not subject to Department of Forestry rules and requirements – although it is advisable to do so – because the proposed tree removal is inside the City limits and is not a commercial timber harvest. Therefore, this criterion of approval is not applicable.

*Appellant’s Assignment of Error #18: The decision errs in concluding that the proposed tree felling conforms to the Field Guide to Oregon Forestry Practices Rules. The application does not address these guidelines, and the decision does not demonstrate compliance with the applicable standards. Accordingly, the decision should be overturned on this basis as well.*

Finding - Response to Assignment of Error #18: The referenced *Field Guide* provides safety and other guidelines for timber harvesting. The guidelines are standards followed by licensed and bonded logging contractors. The proposed tree removal does not rise to the level of a regulated timber harvest or commercial logging operation and the proposed tree felling is governed by the applicable provisions of the *Springfield Development Code*. SUB will be contracting with a licensed and bonded contractor to carry out the tree felling, and this contractor will follow the field guide guidelines. It is natural to do so in order to remain licensed and bonded. SUB has therefore satisfied Criterion G.

Conclusion: The applicant has satisfied criterion G. Assignment of error #18 is denied.

**H. Whether transportation of equipment to and equipment and trees from the site can be accomplished without a major disturbance to nearby residents.**

Applicant Submittal: “Construction access to the site will be from East 22<sup>nd</sup> Avenue and will pass through an industrial neighborhood. Tree felling activities will take place between the hours of 8:00 am and 5:00 pm Monday through Saturday, and will be of limited duration. Therefore, transportation of equipment and trees from the site will be accomplished without major disturbances to nearby property in compliance with this criterion.”

General Finding 55: The applicant’s tree removal plan indicates that trees will be cut and hauled offsite via existing public roads. The primary public access from East 22<sup>nd</sup> Avenue is close to the local and regional

transportation network at Glenwood Boulevard and I-5, and it represents a preferred route to access the relatively undeveloped project area.

General Finding 56: The existing and proposed access roads will be used to access the entire project area, which extends beyond the City limits into the UGB. There is only one practical point of access from the site due to topography and adjacent transportation corridors (i.e. access is not afforded from the I-5 right-of-way or the Central Oregon Pacific Railroad line). All of the truck trips will use the same haul route and access the regional transportation network via East 22<sup>nd</sup> Avenue and Glenwood Boulevard. The applicant has scheduled work during normal business hours such that it will not create a disturbance to nearby residents along East 22<sup>nd</sup> Avenue.

General Finding 57: The project site is directly accessible from Glenwood Boulevard and the I-5 corridor, which provides for quick access to local and regional sawmills and composting facilities for wood waste and debris. The site's location allows for trucks and equipment to access the local and regional truck routes and, if necessary, for trees, slash and debris to be taken to a suitable disposal facility.

General Finding 58: The criterion of approval in SDC 5.19-125.H does not require access to the development area to be along fully improved streets. The segment of East 22<sup>nd</sup> Avenue extending from Glenwood Boulevard to the edge of Tax Lot 101 (where it becomes a private shared driveway with access easement) is classified as a local road. West of the intersection with Henderson Avenue, East 22<sup>nd</sup> Avenue is developed as an industrial street with striped centerline, striped shoulders, and guardrails. East of the intersection with Henderson Avenue the street is not improved with striping. In the vicinity of the project area, East 22<sup>nd</sup> Avenue contains a mix of uses including manufacturing facilities, equipment and vehicle storage compounds, residential dwellings, and vacant industrial lots. There is no requirement for a street to be improved with curb, gutter, and sidewalk to be used by trucks – in fact, many industrial streets within the City do not have these improvements. The full length of the street between Glenwood Boulevard and Tax Lot 101 serves other industrial properties in the vicinity, including properties that are zoned and designated for light medium industrial uses but have residential dwellings currently on the site. There is existing and ongoing truck traffic accessing the Cafeto Coffee manufacturing facility on Tax Lot 3701 (immediately across the street to the north from the project site), and truck traffic regularly and frequently accessing other businesses in the immediate vicinity including Pape Machinery off East 22<sup>nd</sup> Avenue and Farwest Steel off Henderson Avenue. Therefore, the short-term truck traffic associated with the proposed tree felling is not conspicuously different to be considered a “major disturbance” to nearby residents in a predominantly industrial area of Glenwood. Therefore, the application meets this criterion of approval.

**CONDITION OF APPROVAL 2: The applicant shall provide notification to the City of Springfield and all partner agencies involved in the project at least 5 days prior to initiating any tree felling activity on the site.**

*Appellant's Assignment of Error #19: The application states that “[c]onstruction access to the site will be from East 22<sup>nd</sup> Avenue and will pass through an industrial neighborhood.” Application, p. 8. In reality, the application is proposing to route log trucks through a residential neighborhood along East 22<sup>nd</sup> Avenue, despite the fact that the street is not improved to City standards with sidewalks, curb and gutter, etc. The decision does not address the impacts of these additional truck trips on area residents, and the decision should be overturned on this basis as well.*

**Finding - Response to Assignment of Error #19:** Springfield Utility Board responds to the appellant's assertions as follows:

- As Springfield staff have said, trees will be hauled off of the site via East 22<sup>nd</sup> Avenue.
  - East 22<sup>nd</sup> Avenue is the only point of access to the property.
  - It is a short distance to regional transportation facilities, including Glenwood Boulevard and Interstate-5.
  - The applicant has scheduled this activity to occur during normal business hours such that it will not create a disturbance to nearby residents.
- Given this, as well as the information above regarding using licensed and bonded contractors, and as Springfield staff have said, the applicant has satisfied Criterion H.

**Conclusion:** The applicant has satisfied criterion H. Assignment of error #19 is denied.

**CONCLUSION:**

The above findings and conclusions cited from the application, Director's Decision, Applicant's response, City response, and response to LUBA remanded issues all demonstrate that the proposal meets the criteria of approval in SDC 5.19-125 for Tree Felling Permit Approval subject to the conditions cited herein and listed below. The amended staff report and findings in support of the Tree Felling Permit (Case No. 811-19-000102-TYP3) supersedes the original Director's Decision approved as Case 811-19-000016-TYP2, and is hereby adopted as conditioned herein.

**CONDITION OF APPROVAL 1:** Prior to initiating any tree felling, earth work, or construction activity within the project area inside the City limits (i.e. Tax Lot 101 and a portion of Tax Lot 1100), the applicant shall obtain a Land Drainage Alteration Permit (LDAP) as may be required to provide erosion and sediment control measures during tree removal activity and project construction. Initial required protection measures shall be installed and in place prior to commencement of any tree removal activity.

**CONDITION OF APPROVAL 2:** The applicant shall provide notification to the City of Springfield and all partner agencies involved in the project at least 5 days prior to initiating any tree felling activity on the site.



**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF SPRINGFIELD, OREGON**

**REMAND OF TYPE II DIRECTOR'S DECISION  
CONDITIONALLY APPROVING A HILLSIDE  
DEVELOPMENT PERMIT ON PROPERTY ZONED  
LIGHT MEDIUM INDUSTRIAL AND EMPLOYMENT  
MIXED-USE, SPRINGFIELD UTILITY BOARD,  
APPLICANT**

**+ CASE NO. 811-19-000128-TYP3  
+  
+  
+ FINDINGS, CONCLUSIONS  
+ AND FINAL ORDER  
+**

**NATURE OF THE REMAND**

The applicant is responding to remand issues arising from a LUBA opinion and final order issued on November 20, 2020. The applicant's Hillside Development Permit was issued on May 17, 2019 as Case No. 811-19-000085-TYP2. An appeal of the Type II decision was timely filed on June 3, 2019 with the appropriate fee and designated as Case 811-19-000128-TYP3. The Hillside Development Permit applies to property that is partially within the incorporated City limits and partially outside the City limits but within the Springfield Urban Growth Boundary (UGB). As a result of the appeal the subject action has been elevated to a Type III decision. In accordance with Springfield Development Code (SDC) Section 5.3-110.A.1&2, the Planning Commission and Hearings Official shall jointly review and approve a Type III Director's Decision where the project extends across both incorporated and unincorporated territory within the Springfield UGB.

**CONCLUSION**

Supported by substantial evidence in the record, the amended Hillside Development Permit, Case No. 811-19-000128-TYP3 is consistent with the applicable Springfield Development Code Criteria of Approval and satisfactorily addresses the LUBA remand issues. Therefore, the Planning Commission upholds the conditional approval as issued on September 4, 2019 as modified in response to the remand issues, as noted in the Amended Staff Report and Findings attached hereto as Exhibit A. This general finding is supported by the specific findings of fact and conclusions set out in the Amended Staff Report and Findings, attached as Exhibit A and incorporated herein by reference.

**ORDER**

It is ORDERED by the Planning Commission of Springfield that the Hillside Development Permit issued on September 4, 2019 as Case No. 811-19-000128-TYP3 is AFFIRMED as modified in response to the remand issues. This ORDER was presented to and approved by the Planning Commission on September 8, 2021.

**APPEAL**

Pursuant to SDC Section 5.2-155 and 5.3-125, this decision is final unless appealed to the Oregon Land Use Board of Appeals as specified in ORS Chapter 197.

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Planning Commission Chairperson

AYES:  
NOES:  
ABSENT:  
ABSTAIN:



# TYPE II HILLSIDE DEVELOPMENT OVERLAY, AMENDED STAFF REPORT AND FINDINGS FOR REMAND

**Case Number:** 811-19-000128-TYP3

**Application Name:** Amended Type II Director's Decision to allow for hillside development associated with the Springfield Utility Board (SUB) Electric substation and transmission line project

**Nature of Application:** The applicant is requesting the issuance of a hillside development permit for the installation of transmission lines and an access road

**Project Location:** Vacant Parcels Identified as Map 18-03-03-13, TL 101; Map 18-03-03-12, TL 3701; Map 18-03-03-14, TL 1000 & 1100; and Map 18-03-03-40, TL 300

**Zoning:** Light Medium Industrial (LMI) And Employment Mixed-Use (GEMU)



**Comprehensive Plan Designation:** LMI (1999 *Glenwood Refinement Plan*) and GEMU (2014 *Glenwood Refinement Plan*)

**Hillside Development Permit Issued:** May 17, 2019

**Appeal Hearing:** July 16, 2019

**LUBA Remand Issued:** June 11, 2021

**Final Decision Issued:** August 17, 2021

## APPELLANT AND RESPONDENT CONTACT INFORMATION

<b>Appellant:</b>	<b>Respondent:</b>	<b>Respondent's Counsel:</b>
William Sherlock on behalf of Royal Blue Organics Hutchinson Cox Attorneys 940 Willamette St., Suite 400 Eugene OR 97401	Nick Amann SUB Electric 1001 Main Street Springfield OR 97477	Mike Gelardi Gelardi Law PC P.O. Box 8529 Coburg OR 97408

## CITY OF SPRINGFIELD'S DEVELOPMENT REVIEW TEAM

<b>POSITION</b>	<b>REVIEW OF</b>	<b>NAME</b>	<b>PHONE</b>
Project Manager	Planning	Andy Limbird	541-726-3784
Transportation Planning Engineer	Transportation	Michael Liebler	541-736-1034
Public Works Engineer	Utilities	Clayton McEachern	541-736-1036
Public Works Engineer	Sanitary & Storm Sewer	Clayton McEachern	541-736-1036
Deputy Fire Marshal	Fire and Life Safety	Eric Phillips-Meadow	541-726-2293
Building Official	Building	Chris Carpenter	541-744-4153

**Site Information:** The subject development site is comprised of five adjoining tax lots on the southern edge of Glenwood between the I-5 freeway and the Central Oregon Pacific Railroad line (Assessor's Map 18-03-03-13, Tax Lot 101; Map 18-03-03-12, TL 3701; Map 18-03-03-14, Tax Lots 1000 & 1100; and Map 18-03-03-40, TL 300). The project area is entirely within the Springfield Urban Growth Boundary (UGB), and Tax Lot 101 and a portion of Tax Lot 1100 are inside the City limits. The property that is subject of this decision, hereinafter the "project area", is limited to Tax Lot 101 and the western portion of Tax Lot 1100 that is inside the City limits. Currently, there is no developed driveway access onto Tax Lot 101 although it abuts a paved private driveway extending eastward from East 22<sup>nd</sup> Avenue. The principal access to Tax Lot 1100 is currently via a gated gravel driveway off the extension of East 22<sup>nd</sup> Avenue. The overall project area comprises approximately 29.8 acres in total area, although the extent of the project area within the City limits is about 8.2 acres. The tax lots comprising the project area are currently vacant and not assigned municipal street addresses.

The proposed electric transmission line extends from a connection point within Tax Lot 300 about 1,600 feet southeast of the subject site and runs generally northwest and parallel with the I-5 freeway across four contiguous tax lots. The transmission line is to terminate at a new electric substation to be constructed on Tax Lot 101. However, only Tax Lot 101 and a portion of Tax Lot 1100 are currently inside the City limits and therefore subject of this decision. Furthermore, because of the topography and the alignment of the transmission line and gravel access road, only a very small portion of the sloping, hillside areas potentially impacted by the project actually lie within the City limits (i.e. the western edge of Tax Lot 1100).

Tax Lots 101 and 1100 are zoned and designated Light Medium Industrial (LMI) in accordance with the 1999 *Glenwood Refinement Plan*. Because most of Tax Lot 1100 is outside the City limits, it also has the UF-10 District applied. Other properties in the vicinity of the project area are zoned and designated LMI and Glenwood Employment Mixed-Use (GEMU). To the west of the project "terminus" on Tax Lot 101, there are areas of Low Density Residential (LDR) zoning.

The proposed transmission line and substation are depicted on the adopted *Public Facilities and Services Plan* (PFSP) which is a refinement plan of the *Metro Plan*. In accordance with SDC 3.2-410, 3.3-815 and 4.7-160, high impact public facilities that are shown on the adopted PFSP are allowable in the LMI District subject to Site Plan Review procedures and Special Development Standards. Approval of the applicant's Tentative Site Plan, submitted under separate cover as Case 811-19-000084-TYP2 and upheld on appeal as Case 811-19-000129-TYP2 (incorporated herein by reference), is a pre-requisite to this Hillside Development Overlay District approval.

**REVIEW PROCESS:** This Type II decision is reviewed under Type III procedures listed in Springfield Development Code (SDC) Section 5.1-130. The required reports for the approval of a Hillside Development Permit are the same as the underlying decision, which are the required reports listed in SDC 3.3-530. The Planning Commission and Hearings Official's decisions are the final decisions and are appealable to the Oregon Land Use Board of Appeals within 21 days of the decision.

**Procedural Finding:** The Hillside Development Permit (Case Number 811-19-000085-TYP2) was approved on May 17, 2019. The Hillside Development Permit was reviewed and issued concurrently with the tentative site plan submitted as Case 811-19-000084-TYP2, also on May 17, 2019. An appeal was timely filed on June 3, 2019, within 15 days of the decision according to SDC 5.3-115.B. The appeal was heard on June 15, 2019 and continued to September 4, 2019 at which time a decision was issued by the Planning Commission and Hearings Official. The decision of the Planning Commission and Hearings Official was subsequently appealed to the Oregon Land Use Board of Appeals (LUBA). In its final opinion and order, LUBA upheld the prior approval and remanded the matter to the City for addressing five issues related to the Site Plan Review, Hillside Development Permit, and Tree Felling Permit for the project. One of the remand issues directly pertains to the subject Hillside Development Permit.

**Procedural Finding:** The Hearings Official hears appeals of Type III Director's decisions outside the City limits but inside the City's Urban Growth Boundary (UGB). The Planning Commission hears appeals of Type III Director's decisions within the City limits. The subject property is located inside the UGB partially within City limits and partially outside City limits. Accordingly, this Type III decision is reviewed and approved jointly by the Planning Commission and Hearings Official. The Planning Commission has authority over the portion of the project affecting

those properties that are annexed to the City (Tax Lot 101 and a portion of Tax Lot 1100), while the Hearings Official has authority over the portion of the project affecting the properties that are not yet annexed but are inside the Urban Growth Boundary (Tax Lots 300, 1000 & a portion of 1100).

**Procedural Finding:** Due to the need to reopen the written record for additional evidence regarding the remand issues, notice of the public meeting on August 17, 2021 was provided on July 27, 2021 to the property owners and occupants within 300 feet of the subject property, as required by SDC 5.1-130.B.

**Procedural Finding:** The appellant has identified 16 assignments of error which are addressed herein and are enumerated in sequential order of presentation in the appellant's submittal. The assignments of error have been inserted under the applicable criteria of approval as set out in the report below.

**Remand Finding:** The applicant has provided supplemental information in response to a remand issue for the Hillside Development Permit arising from the LUBA remand issued on June 11, 2021.

### **PURPOSE OF HILLSIDE DEVELOPMENT OVERLAY APPROVAL:**

SDC 3.3-500, Hillside Development Overlay District states, "the Hillside Development (HD) Overlay District is established to ensure that development in hillside areas: minimizes the potential for earth movement and resultant hazards to life and property; protects water quality by minimizing soil erosion and siltation; retains and protects natural vegetation, natural water features and drainageways, scenic quality and open space by minimizing vegetation removal in sloped areas; assures the compatibility of new development with surrounding areas; encourages site and building design that is consistent with the natural topography in order to minimize the cost of providing public infrastructure; provides for adequate access for emergency services; and otherwise protects the public health and safety."

### **SDC 3.3-510 – Applicability**

General Finding 1: The City's hillside development regulations intended to ensure that residential land divisions result in lots that can be safely developed with homes. *See* SDC 3.3-520. These rules therefore have limited applicability to the proposed development. That said, the City's hillside development rules require the applicant to perform certain studies that include recommendations to ensure safe construction.

General Finding 2: The Hillside Development Overlay District is applied in residential zoning districts above 670 feet elevation or in other zoning districts to development areas below 670 feet in elevation where any portion of the development area exceeds 15 percent slope as determined using the slope calculation described in SDC 3.3-520.A.

General Finding 3: The portion of the proposed project area inside the City limits is zoned Light Medium Industrial in accordance with the Springfield Zoning Map. No portions of the site intersect the 670-foot elevation contour.

General Finding 4: Portions of the project area within the City limits have slopes exceeding 15 percent, although this area is limited to the extreme western edge of Tax Lot 1100. Tax Lot 101 does not have sloping areas that trigger the Hillside Development permitting requirements. The project impacts to sloping areas inside the City limits are limited to tree removal for the transmission line where it crosses the boundary between Tax Lots 1100 and 101, and an existing gravel access road that crosses a portion of Tax Lot 1100 and runs eastward.

**Appellant's Submittal:** Appellant did not provide comment on this section of the Hillside Development Overlay District.

**Conclusion:** The proposed project qualifies as a Hillside Development Overlay District development.

### **SDC 3.3-520 – Development Density and Options**

- A. For the purpose of calculating the allowed number of dwelling units in the development area below 670 feet in elevation, the “average slope” as defined below may be used:**
- B. The developer has 2 options for the development of steeply sloped land. Option “A” is designed to correlate minimum lot/parcel sizes to the average slope of the development area. Option “B” is designed to allow for a density transfer bonus to stimulate development on those portions of the development area where the slope of the land is less than 15 percent. A combination of Options “A” and “B” may be used.**

General Finding 5: The developer has two options for the development of steeply sloping land, including correlating minimum lot sizes to the average slope of the development area, or allowing for density transfer to portions of the property that are less than 15 percent slope.

General Finding 6: The proposed development is not a residential housing project. Therefore, lot sizing and density transfer options are not applicable.

Appellant’s Submittal: Appellant did not provide comment on this section of the Hillside Development Overlay District.

Conclusion: The proposed project is not a residential development and does not qualify for development density transfer or lot sizing modification. Therefore, this standard is not applicable.

### **SDC 3.3-525 – Street Grade Standards**

General Finding 7: Streets shall be contoured in hillside areas to minimize environmental and scenic disruption. Additionally, street grades shall be maintained below 12 percent wherever possible; below 15 percent for stretches longer than 200 feet; and shall not exceed 18 percent grade in any circumstance.

General Finding 8: Primary access to the site is via an existing, private driveway off the extension of East 22<sup>nd</sup> Avenue. The applicant is proposing to modify an existing gravel driveway to serve as the construction and maintenance access road for the transmission line. However, the applicant is not proposing to modify the alignment of the adjacent public streets or to construct new public streets to serve the development site. Therefore, this standard is not applicable.

Appellant’s Submittal: Appellant did not provide comment on this section of the Hillside Development Overlay District.

Conclusion: The proposed project does not involve public street construction. Therefore, this standard is not applicable.

### **SDC 3.3-530 – Reports Required**

**Where the buildable portion of the land to be developed exceeds 15 percent average slope, the following reports are required and their conclusions applied in order to prevent or mitigate possible hazards to life and property and adverse impacts on the natural environment, consistent with the purpose of this Section. The applicant shall fund peer review of the reports as deemed necessary by the City Engineer.**

- A. Geotechnical Report. This report shall include data regarding the geology of the site, the nature, distribution, and strength of existing soils, conclusions and recommendations for grading procedures, design criteria for corrective measures, and options and recommendations to maintain soil and slope stability and minimize erosion of the site to be developed in a manner imposing the minimum variance from the natural conditions. Where geologic conditions of the site indicate that a hazard may exist,**



**the report shall show that the proposed Subdivision or Partition shall result in lots/parcels that are suitable for development. The investigation and report shall be prepared by a civil engineer/geologist or a geotechnical engineer.**

General Finding 9: Where the buildable portion of a site exceeds 15 percent average slope, the following reports are required and their conclusions applied in order to prevent or mitigate possible hazards to life and property and adverse impacts on the natural environment: geotechnical report, grading plan report, vegetation and re-vegetation report, verification of slope and grade percentages, and development plan report. The applicant shall fund the peer review of any reports if deemed necessary by the City Engineer.

General Finding 10: The applicant has submitted a Geotechnical Investigation and Seismic Hazard Study prepared by Foundation Engineering Inc. (September, 2018). The supplementary Slope Stability Review in Tree Felling Areas dated December, 2018 outlines the site geology and describes the observed surface conditions and evidence (or lack of evidence) of slope instability within the project area. The reports also provide recommendations for slope stabilization for the areas proposed for tree felling and the maintenance access road. The Geotechnical Engineer did not determine the presence of any significant geologic or seismic hazards within the project area, and it is expected that the hillside will be geologically stable for the proposed project.

General Finding 11: In response to the appellant's argument that the geotechnical analysis and grading plans are inadequate, and in response to the appellant's geotechnical report prepared by Geosciences Inc., SUB has submitted supplemental information from Foundation Engineering Inc. dated August 5, 2019. The supplemental analysis reaffirms the applicant's original findings and conclusions that there is minimal geotechnical risk associated with the project, particularly in the areas within the City limits along the western edge of Tax Lot 1100.

General Finding 12: The applicant has commissioned all required studies, including geotechnical analysis, grading plans, revegetation plans and a development plan and these studies meet the requirements of SDC 3.3-530.

General Finding 13: The appellant has provided competing information about slope stability on the property and recommendations for further study. None of the issues raised by the appellant in their arguments identify the sloping area along the western edge of Tax Lot 1100 or the portion of gravel access road also within the western edge of Tax Lot 1100 as being a potential hazard area.

General Finding 14: SDC 3.3-530 does not require the applicant to follow the recommendations in the appellant's submitted letters from Geosciences Inc. If the City believes that an applicant's reports are inadequate, SDC 3.3-530 allows the City to require peer review of the applicant's reports. City staff did not do so in this case. The appellant's commentary was prepared by Geoscience Inc. therefore is not peer review authorized by SDC 3.3-530. The record reflects that SUB's geotechnical engineer did nevertheless consider Geoscience's commentary and explain why this commentary is inaccurate (see August 5, 2019 letter from Foundation Engineering Inc.).

Appellant's Assignment of Error #1: *"As acknowledged in the Decision, the 'proposed development affects slopes exceeding 15 percent and in some cases the slopes approach 50 percent.' Decision, p.2. As such, each of the reports specified in 3.3-530 'are required and their conclusions applied in order to prevent or mitigate possible hazards to life and property and adverse impacts on the natural environment.' As the applicant failed to conform to these minimum requirements, the Decision of approval is in error and reversal of the Decision is warranted."*

Appellant's Assignment of Error #2: *"The applicant fails to provide a geotechnical report conforming to these requirements. As highlighted in our initial comments, subsurface exploration of the property – test pits and boreholes – was limited almost exclusively to the 'substation site' on lot 101. The applicant provided no subsurface testing on the remaining lots 1307 [sic], 1100 and 1000 that it proposed to be crossed by the applicant's access road and transmission lines, and no data on the 'nature, distribution and strength of the existing soils' on these properties. In addition, the applicant's report does not address the requirement that the*

site 'be developed in a manner imposing the minimum variance from the natural conditions.' The Decision fails to account for the applicant's failure to provide the required study of the site. Instead it attempts to justify the defects in the application by suggesting that geotechnical analysis is not required for roads or transmission lines:

*'The proposed alignment of the maintenance access road follows an existing driveway that has already been installed on Tax Lots 3701, 1100, 1000 (and possibly Tax Lot 300) by the previous landowner. The applicant is proposing to reconfigure and regrade portions of the existing road to serve as the construction and maintenance access for the project. Finally, the applicant is not proposing any foundations within the hillside area. Unlike lattice-style transmission towers that require a footing or concrete foundation, the applicant is proposing to use monopoles that will be augured directly into the ground surface, similar to placing a fence post in the ground. The design of the proposed transmission line minimizes the disturbance of the ground surface to the circumference of the monopole. **An extensive area of leveling and compaction for a poured footing is not required for the transmission poles so they do not trigger the requirement for building permits and associated geotechnical analysis.**' (Emphasis added).*

The Decision is wrong on both the facts and the law. Factually, the decisions [sic] statements related to both the road and the transmission towers are not supported by substantial evidence in the whole record. With regard to 'maintenance access road', the Decision is simply incorrect in stating that the property is developed with 'an existing road.' As noted in the applicant's own 'Slope Stability Review in Tree Felling Areas', the property has an existing 'path' supported by 'modest cuts and fills'. Photographs provided with the same report depict a meandering and rough cut trail, which may be wide enough for a single car, and which may be graveled in some places, but which is largely overgrown in others. This fairly modest path is a far cry from the 18-foot wide 'Glenwood Access Road' that the applicant is proposing, and the attempt to equate the two in the Decision is unwarranted. In addition, the Decision makes wholly unjustified assumptions concerning the nature of the transmission line facilities on the subject property. The Decision's statements concerning the nature of the poles proposed for installation or the manner of their installation is not based on any evidence in the record and is subject to reversal on that basis."

Appellant's Assignment of Error #3: "As set forth below, the applicant refused to provide a 'development plan report' and provides no information regarding the poles or towers, guying, equipment or other site improvements associated with the proposed lines. Moreover, even if the Decision assumptions were correct, the City has not been provided with the required geotechnical information regarding the geology or soil types, strength or distributions relevant to the proposed transmission line improvements, nor design criteria for corrective measures or recommendations to maintain slope stability during and after construction of these facilities. As this analysis is not provided in the report, the Decision cannot fully evaluate the hazards posed by the project or rely on the limited recommendations provided for other aspects of the project. The Decision also misinterprets the applicable law in equating the lack of foundations for the access roads or poles with a lack of required analysis. The geotechnical report standards are not expressly or impliedly limited to structures or improvements with foundations. As set forth above, the requirement for a geotechnical report is triggered whenever a 'buildable area' has a slope in excess of 15 percent. The geotechnical standards focus on the buildable portion of the property, rather than the type of development being proposed. Hence, contrary to the Decision's emphasis on foundations, the City's geotechnical standards are not limited to a particular type of development. As the Decision improperly construes the applicable law, we respectfully request reversal on this basis as well."

Finding - Response to Assignment of Error #1: The appellant has failed to disclose in this initial statement exactly which of the required reports are missing. Because this information is not forthcoming in Assignment of Error #1, the City cannot ascertain the validity of this allegation.

Finding - Response to Assignment of Error #2: The submittal includes all necessary elements for the City to conclude that a minimal to negligible geotechnical risk can be attributed to the proposed installation of transmission line poles on moderately to steeply sloping terrain along the planned alignment shown on the applicant's plans. The same minimal risk exists for use of the existing gravel road and extension of said road to serve as the maintenance access for this project. Additionally, the applicant's geotechnical engineer has confirmed that no existing or anticipated geotechnical issues are identified along the planned transmission line

alignment after conducting intrusive testing and walking the site. The City does not require a specific number or location of boreholes and test pits for preparation of a geotechnical report, and therefore defers to the findings and conclusions of the geotechnical specialist who prepared the report. Most geotechnical reports submitted to the City are done in support of occupied structures that go through the Building Permitting process, especially residential dwellings and large commercial/industrial buildings. None of the transmission line structures (or the access road) within the hillside area will require structural building permits so the geotechnical information serves to inform the level of risk associated with constructing and operating these improvements (i.e. very low). The intrusive investigation is primarily for the benefit of the electric substation site, which is planned for level to gently sloping land – and which will require Building Permits for its various elements including footings and utility connections.

Finding - Response to Assignment of Error #3: The applicant provided a development plan in the accompanying Site Plan Review application which is cross-referenced and co-dependent upon the subject Hillside Development Permit. Staff was also advised of the specific nature and location of the planned electric transmission line through ongoing discussions with SUB Electric project representatives. Early on in the process SUB Electric pointed to the existing overhead power lines that cross I-5 and run parallel with the 30<sup>th</sup> Avenue frontage road as being a reasonable approximation of how the planned transmission lines will appear in terms of design and height. In the current example, two parallel transmission lines with paired poles will be routed through the project area instead of a single series of poles along the 30<sup>th</sup> Avenue frontage road. In any event, the City's evaluation of the submitted materials resulted in the City agreeing with the findings and conclusions of the supporting reports and information: that minimal geotechnical risk exists for the applicant to modify the existing gravel road to serve as a maintenance access and to install a series of paired transmission line poles along the hillside between the connection point on Tax Lot 300 and the planned substation on Tax Lot 101. Because there are no occupied structures associated with the planned development on the hillside, and there are no occupied structures immediately below the project area (thereby minimizing the hazard to the public) the City determined that the Hillside Development Permit requirements have been met.

Conclusion: This applicant has satisfied Subsection A. Assignments of error #1–3 are denied.

**B. Grading Plan Report. This plan shall include the following information:**

- 1. Existing and proposed details and contours (5-foot intervals) of property;**
- 2. Details of terrain and area drainage;**
- 3. Location of any existing buildings or structures on the property where the work is to be performed, the location of any existing buildings or structures on land of adjacent owners which are within 100 feet of the property or which may be affected by the proposed grading operations, and proposed or approximate locations of structures relative to adjacent topography;**
- 4. The direction of drainage flow and the approximate grade of all streets with the final determination to be made as specified in Subsection D., below;**
- 5. Limiting dimensions, elevations, or finished contours to be achieved by the grading, including all cut and fill slopes, proposed drainage channels, and related construction;**
- 6. Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs, and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing drainage areas, the complete drainage network, including outfall lines and natural drainageways which may be affected by the proposed development, and the estimated run-off of the area served by the drains;**
- 7. A schedule showing when each phase of the project will be completed, including the total area of soil surface which is to be disturbed during each stage, and estimated starting and completion dates; the schedule shall be drawn up to limit to the shortest possible period the time that soil is exposed and unprotected. In no event shall the existing “natural” vegetative ground cover be destroyed, removed, or disturbed more than 15 days prior to grading or construction of required improvements. Within 15 days of grading or other pre-development activity that removes or significantly disturbs ground cover vegetation, exposed soil shall either be built upon (i.e., covered with gravel, a slab foundation or other construction), landscaped (i.e., seeded or planted with ground cover) or otherwise protected; and**



**8. The Grading Plan shall be prepared by a civil engineer.**

Appellant's Assignment of Error #4: *"The applicant's January 25, 2019 grading plan report is limited to the electrical substation on tax lot 101. It does not provide information concerning impacts to the majority of the property, and is inadequate to demonstrate compliance with 3.3-530(B). In fact, the Decision finds that the portion of the project covered by the grading plan is 'outside of the Hillside Development area.' Decision, p.6. Accordingly, we respectfully request that Decision be reversed."*

Appellant's Assignment of Error #5: *"The Decision appears to rely on a future 'Land Drainage Alteration Permit' to supply some or all of the missing information. However, the Decision does not impose a condition requiring an LDAP permit, and the same are not required all [sic] development projects. Moreover, the standards for the LDAP permit are not the same as the grading plan standards, and do not incorporate public review provisions. Accordingly, it is improper for the City to attempt to defer the required grading plan analysis to the LDAP process. The applicant's grading plan report is limited to the '6.48-acre site' where the substation is proposed to be located. As the Decision notes, this plan is not responsive to the requirements of the Hillside Development Ordinance. The Decision also relies on sheets C1 and C2, as well as on an exhibit that was ostensibly submitted by the applicant on May 16, 2019. However, sheet C1 'Grading and Stormwater Plan' provided with the tentative plans is limited to tax lot 101. A second 'C1' cover sheet is provided as an Exhibit B to the Foundation Engineering, Inc. study but does not provide the required information. The sheet C2 to which the Decision refers provides information only for a few isolated segments of the access road and is not sufficient to meet these criteria. The later materials referenced are not a part of the application materials, were not submitted until after referral to the public, and were not made available to the public as part of the planning file. Accordingly, the Decision approving the Hillside Development permit is erroneous and should be reversed."*

Appellant's Assignment of Error #6: *"The applicant's grading plan report is limited to the portions of tax lot 101 that are not within the Hillside Development Overlay. Accordingly, the Decision is not based on substantial evidence in the whole record and the approval should be reversed."*

Appellant's Assignment of Error #7: *"The applicant's grading plan report is limited to the portions of tax lot 101, that are not within the Hillside Development Overlay. Accordingly, the Decision is not based on substantial evidence in the whole record and the approval should be reversed."*

Appellant's Assignment of Error #8: *"The applicant's grading plan report is limited to the portions of tax lot 101, that are not within the Hillside Development Overlay. Accordingly, the Decision is not based on substantial evidence in the whole record and the approval should be reversed."*

Appellant's Assignment of Error #9: *"The applicant's grading plan report is limited to the portions of tax lot 101, that are not within the Hillside Development Overlay. Accordingly, the Decision is not based on substantial evidence in the whole record and the approval should be reversed."*

Appellant's Assignment of Error #10: *"The applicant's grading plan report is limited to the portions of tax lot 101, that are not within the Hillside Development Overlay. Accordingly, the Decision is not based on substantial evidence in the whole record and the approval should be reversed."*

Appellant's Assignment of Error #11: *"The applicant's grading plan report is limited to the portions of tax lot 101, that are not within the Hillside Development Overlay. Accordingly, the Decision is not based on substantial evidence in the whole record and the approval should be reversed."*

Appellant's Assignment of Error #12: *"The applicant has not provided a Grading Plan for the proposed grading within the Hillside Development Overlay that has been prepared by a civil engineer. Accordingly, this application does not conform to this standard either, and the approval should be reversed on this basis as well."*

Finding - Response to Assignments of Error #4 & #6-12: The applicant has submitted a Grading and Drainage Plan prepared by Branch Engineering Inc. for the proposed substation compound and gated access driveway on

Tax Lot 101. The electric substation site is not within the Hillside Development area. Although the applicant provided a detailed grading and drainage plan for this portion of the project area that is referenced herein, the electric substation site (Tax Lot 101) is not subject to Hillside Development permitting.

Finding - Response to Assignment of Error #5: A detailed grading plan for the maintenance access road that illustrates the existing and proposed contours was prepared by a professional engineer and submitted to the City on May 17, 2019. The hillside area of the maintenance access road is outside the City limits and therefore outside the jurisdiction of the Planning Commission for this appeal. However, to the extent that the Hillside Permit requirements apply to the maintenance access road inside City limits, the grading plan meets the requirements in SDC 3.3-530.B.

Remand Finding 14.1: The requirement for a grading plan is associated with the City's Hillside Development Overlay rules at SDC 3.3-530. As described above, SUB originally submitted two grading plans in support of its Hillside Development Permit, one covering substation development on Tax Lot 101, and the other covering access road improvements. LUBA ruled that SUB's original submittals did not provide enough detail regarding the drainage patterns on the property and the effect of pole placement on drainage. SUB has provided an amended grading plan in Exhibit B of the applicant's remand submittal. This amended grading plan provides all information required by SDC 3.3-530.B for both transmission pole placement and access road improvements, including the drainage details required by LUBA. SUB has thus demonstrated compliance with LUBA's remand order regarding SUB's grading plans.

Conclusion: This applicant has satisfied Subsection B. Assignments of error #4-12 are denied.

**C. Vegetation and Re-Vegetation Report. This report shall be as specified in Section 5.19-120, if tree felling is proposed.**

General Finding 15: The applicant has submitted a Vegetation and Re-Vegetation Report prepared by Schirmer Satre Group for the proposed tree felling areas and transmission line corridor. Additionally, the applicant has submitted a Tree Felling Permit under separate cover for the removal of trees from the project area (Case 811-19-000016-TYP2). The Tree Felling Permit was issued on April 17, 2019 subject to conditions as outlined in the staff report and decision. An appeal of the Tree Felling Permit was submitted on May 2, 2019 as Case 811-19-000102-TYP3.

General Finding 16: The applicant is proposing to use a native seed mix for disturbed areas, which will use drought-tolerant species for stabilization of the hillside and erosion control. Use of native trees, shrubs, grasses and groundcover plants is acceptable in areas that are non-maintained and non-irrigated in accordance with SDC 4.4-105.G.

Appellant's Submittal: Appellant did not provide comment on this section of the Hillside Development Overlay District.

Conclusion: This applicant has satisfied Subsection C.

**D. Verification of Slope and Grade Percentages. Prior to acceptance of the Final Plat, all streets shall be cross-sectioned and their center-lines staked in the field, to determine the accuracy of preliminary slope and grade percentages. If there are significant differences between preliminary and final grade and slope determinations, i.e., density or street gradients exceed the limits specified in this Section, the Tentative Plan shall be modified to reflect the revised information and resubmitted.**

General Finding 17: The applicant is not proposing a land division or construction of new public streets. Therefore, this report is not applicable.

Appellant's Submittal: Appellant did not provide comment on this section of the Hillside Development Overlay District.

Conclusion: This applicant has satisfied Subsection D.

**E. Development Plan Report.** A proposed development plan shall be submitted, depicting building envelopes for each lot/parcel, including driveway approaches and all other associated impervious surface areas. The applicant shall specify whether trees will be felled under one Tree Felling Permit, as specified in Section 5.19-100, as part of the subdivision construction process or by separate Tree Felling Permit for each individual lot/parcel prior to the issuance of a Building Permit. The plan shall be based upon the findings of the required reports in this Section and the lot/parcel coverage standards of Section 3.2-215. Building envelopes shall be specified in Covenants Conditions, and Restrictions recorded with the Subdivision Plat.

General Finding 18: The applicant submitted a Site Plan Review application prepared by Schirmer Satre Group under separate cover (Case 811-19-000084-TYP2). The tentative site plan approval was appealed on June 3, 2019 as Case 811-19-000129-TYP3. The tentative site plan shows and describes the area of project impact, location of a new gated driveway serving the proposed substation compound, proposed configuration of a maintenance access driveway, trees proposed for removal to accommodate the project, and amount of the site area covered by impervious surfaces. The building envelope area is limited to the proposed control building within the substation compound on Tax Lot 101, which is outside the Hillside Development Overlay component of the project.

Appellant's Assignment of Error #13: *"The application does not include the required development plan and the Decision errs by approving Hillside Development without this plan. As highlighted in the appellant's written comments before the decision-maker, the applicant was aware of this study requirement, but refused to provide the same. The Decision attempts to justify the applicant's refusal to conform to these minimum standards based on unspecified materials in the separate 'Site Plan Review application submitted as Case 811-19-000084-TYP2 and the Tree Felling Permit submitted as Case 811-19-000016-TYP2.' Decision, p. 4. The problem with the Decision's reliance on these other applications, however, is two-fold: (1) the separate applications for site review and tree felling are not part of the Hillside Development application; and (2) even if they were, the Decision's vague findings do not identify which documents, if any, the Decision relies upon as a substitute for the required plan. As the applicant has failed to provide the required development plan in support of its proposed Hillside Development, its application was facially [sic] inadequate to conform to the minimum standards of the zone, and the City's decision of approval must be reversed."*

Appellant's Assignment of Error #14: *"The application is subject to denial because the proposed 'Glenwood Access Road' cannot developed [sic]. As highlighted in our comments on the application, the application relies on a 'Water Line Easement' and a 30-foot wide access easement as Instrument No. 9302537 in support of the proposed access road. However, the City of Eugene's water line easement is limited to 'the conveyance of water and for all purposes connected therewith,' while the 1993 Declaration of easement was only appurtenant to tax lot 1100. The decision suggests that this issue can be corrected because 'SUB Electric [sic], has acquired ownership of four of the five parcels proposed for the electric transmission line and substation' and relies on a condition of approval imposed in the companion site review case that requires SUB to grant its own 'access easement across Tax Lots 101, 3701, 1100, 1000 and 300.' However, there are problems with both the Decision's findings and its proposed solution. Initially, SUB has not acquired ownership of 'four parcels'. In fact, as the Decision acknowledges, the City acquired 'a portion of Tax Lot 3701.' SUB has not partitioned the parcel or created a legal lot. This poses a problem for the application. Under the Springfield Development Code, a lot or parcel cannot be divided without a formal partition action, and the City cannot issue a development permit prior to a partition:*

**'5.12-105 Purpose and Applicability**

\* \* \*

**B. The Partition Process regulates land divisions that create 2 or 3 parcels within a calendar year. If the Director determines that a property proposed to be partitioned has been, or is in the process of being**

*divided into 4 or more lots, full compliance with the Subdivision regulations specified in this Code may be required.*

**D. Applicability**

**\* \* \***

**3. No lot/parcel may be created without being divided as specified in this Code.**

**4. No development permit will be issued by the City prior to approval of the Partition or Subdivision Tentative Plan application.'**

*As no partition has been approved for the division of tax lot 3701, the Hillside Development Overlay permit could not be issued under the City's code, and reversal of that decision is warranted."*

Appellant's Assignment of Error #15: *"In addition, the reliance on the condition in the site review requiring the applicant to provide access to grant itself an access easement for tax lot 1000 is problematic. Initially, while the Hillside Development approval is contingent upon the grant of this easement, it does not actually impose a condition of approval in its own decision requiring that that easement be created. As there is no evidence of an easement for the Glenwood Access Road and the decision does not impose a condition of approval requiring such, the Decision erroneously relies upon the same and should be reversed."*

Appellant's Assignment of Error #16: *"Furthermore, the applicant has failed to demonstrate that the easement condition is feasible. According to the applicant's plans, its proposed Glenwood Access Road would take access from East 22<sup>nd</sup> Avenue, over and across a paved access located on the portion of tax lot 3701 retained by Alberto Miranda to the north of tax lot 101. The applicant has not demonstrated that it has an easement for tax lot 1000 that crosses the Miranda property or that an alternative access route located solely on their property is feasible. Accordingly, we respectfully request that the Decision be overturned on this basis as well."*

Finding - Response to Assignment of Error #13: The bulk of the intensive development associated with the project is the electric substation, which is outside the hillside development area. Contrary to the appellant's contention, the applicant has provided information on the alignment and routing of the access road and electric transmission lines in all three associated land use applications (Tree Felling, Case 811-19-000016-TYP2; Hillside Development, Case 811-19-000085-TYP2; and Site Plan Review, Case 811-19-000084-TYP2). The applicant provided additional grading details for the maintenance access road at the request of City staff on May 16, 2019, so this information is in the evidentiary record. Finally, the decisions on this and the associated applications are based on the totality of the information in the record, which includes but is not limited to the original application materials, staff and referral agency comments, public comments, supplementary information provided by the applicant, information gathered from staff field visits, and research conducted by staff using available information on the City's Geographic Information System (GIS), Google Maps, and the Regional Land Information Database (RLID) of Lane County among other databases.

Finding - Response to Assignment of Error #14: The applicant submitted a Property Line Adjustment survey for approval by the City on March 26, 2019. The City completed a review of the Property Line Adjustment survey and issued approval for recording the survey on April 24, 2019. The Property Line Adjustment Survey was recorded on July 11, 2019 as County Surveyor's File No. 44759 and, as a result, the project area is entirely within public ownership.

Finding - Response to Assignment of Error #15 and 16: As previously stated, the Hillside Development Permit does not usually exist as a standalone permit and is submitted in conjunction with land division and/or site development plans. The Hillside Development standards list required reports but do not have any specific criteria of approval, particularly requirements for the applicant to demonstrate that legal and physical access is provided to the subject properties. Therefore, while the applicant has demonstrated that a shared easement exists for legal and physical access to Tax Lots 101 and 1100, there is no criteria of approval for this application that requires the applicant to demonstrate that legal and physical access exists or can be obtained for the project area. Access to the development site subject to the Hillside Development Permit is addressed in the companion Tree Felling and Site Plan Review applications submitted as Cases 811-19-000016-TYP2 and 811-19-000084-TYP2 respectively.

Conclusion: This applicant has satisfied Subsection E. Assignments of error #13–16 are denied.

Conclusion: The proposed project has been accompanied by the required supporting technical reports. Other assignments of error raised by the appellant are not germane to the Hillside Development Permit or have been refuted herein. Therefore, the Planning Commission upholds the decision as revised and issued herein.

**SUMMARY OF CONDITIONS OF APPROVAL: None.**

**BEFORE THE PLANNING COMMISSION  
OF THE  
CITY OF SPRINGFIELD, OREGON**

<b>REMAND OF TYPE II DIRECTOR'S DECISION</b>	<b>+ CASE NO. 811-19-000129-TYP3</b>
<b>CONDITIONALLY APPROVING A SITE PLAN</b>	<b>+</b>
<b>REVIEW ON PROPERTY ZONED LIGHT MEDIUM</b>	<b>+</b>
<b>INDUSTRIAL AND EMPLOYMENT MIXED-USE</b>	<b>+ FINDINGS, CONCLUSIONS</b>
<b>SPRINGFIELD UTILITY BOARD, APPLICANT</b>	<b>+ AND FINAL ORDER</b>

**NATURE OF THE REMAND**

The City issued the applicant's Site Plan Review approval on May 17, 2019 as Case No. 811-19-000084-TYP2. The Type II decision was appealed on June 3, 2019 and designated as Case 811-19-000129-TYP3. The Planning Commission's final decision on the local appeal was issued September 4, 2019 and was subsequently appealed to the Land Use Board of Appeals (LUBA). LUBA remanded the land use approval to the City by final opinion and order dated June 11, 2021. In response to the remand issues, the applicant has modified its application and provided additional evidence and argument in support of its application as modified.

The Site Plan Review applies to property that is partially within the incorporated City limits and partially outside the City limits but within the Springfield Urban Growth Boundary (UGB).

**CONCLUSION**

Supported by substantial evidence in the record, the amended Site Plan Review, Case No. 811-19-000129-TYP3 is consistent with the applicable Springfield Development Code Criteria of Approval and satisfactorily addresses the LUBA remand issues. Therefore, the Planning Commission upholds the conditional approval as issued on September 4, 2019 as modified in response to the remand issues, as noted in the Amended Staff Report and Findings attached hereto as Exhibit A. This general finding is supported by the specific findings of fact and conclusions referenced herein and set out in the attached Amended Staff Report and Findings, attached as Exhibit A and incorporated herein by reference.

**ORDER**

It is ORDERED by the Planning Commission of Springfield that the Site Plan Review issued on September 4, 2019 as Case No. 811-19-000129-TYP3 is AFFIRMED as modified in response to the remand issues. This ORDER was presented to and approved by the Planning Commission on September 8, 2021.

**APPEAL**

Pursuant to SDC Section 5.2-155 and 5.3-125, this decision is final unless appealed to the Oregon Land Use Board of Appeals as specified in ORS Chapter 197.

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Planning Commission Chairperson

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

# TYPE II TENTATIVE SITE PLAN REVIEW, AMENDED STAFF REPORT AND FINDINGS FOR REMAND



**Case Number:** 811-19-000129-TYP3

**Application Name:** Appeal of a Type II Director's Decision conditionally approving an electric substation and transmission line on five adjoining parcels

**Nature of Application:** Amended decision to retain findings and conclusions upheld on appeal; and to adopt new findings and conclusions to address issues remanded by LUBA in its November 2020 decision

**Project Location:** Vacant Parcels identified as Map 18-03-03-13, TL 101; Map 18-03-03-12, TL 3701; Map 18-03-03-14, TL 1000 & 1100; and Map 18-03-04-40, TL 300



**Zoning:** Light Medium Industrial (LMI) and Employment Mixed-Use (GEMU)

**Comprehensive Plan Designation:** LMI (1999 *Glenwood Refinement Plan*) and GEMU (2014 *Glenwood Refinement Plan*)

**Site Plan Review Tentative Approval Issued:** May 17, 2019

**Appeal Hearing:** July 16, 2019

**Appeal Decision Issued:** September 4, 2019

**LUBA Remand Issued:** June 11, 2021

**Final Decision Issued:** August 17, 2021

## APPELLANT AND RESPONDENT CONTACT INFORMATION

Appellant:	Respondent:	Respondent's Counsel:
William Sherlock on behalf of Royal Blue Organics Hutchinson Cox Attorneys 940 Willamette St., Suite 400 Eugene OR 97401	Nick Amann SUB Electric 1001 Main Street Springfield OR 97477	Michael Gelardi Gelardi Law P.C. P.O. Box 8529 Coburg OR 97408

## CITY OF SPRINGFIELD'S DEVELOPMENT REVIEW TEAM

POSITION	REVIEW OF	NAME	PHONE
Project Manager	Planning	Andy Limbird	541-726-3784
Transportation Planning Engineer	Transportation	Michael Liebler	541-736-1034
Public Works Engineer	Utilities	Clayton McEachern	541-736-1036
Public Works Engineer	Sanitary & Storm Sewer	Clayton McEachern	541-736-1036
Deputy Fire Marshal	Fire and Life Safety	Eric Phillips-Meadow	541-726-2293
Building Official	Building	Chris Carpenter	541-744-4153



**Site Information:** The subject site consists of five adjoining parcels that generally lie between the I-5 freeway, East 22<sup>nd</sup> Avenue, and the Central Oregon Pacific Railroad line. The project area is entirely within the Springfield Urban Growth Boundary (UGB), and Tax Lot 101 and a portion of Tax Lot 1100 are inside the City limits. The property that is subject of this decision, hereinafter the “project area”, is limited to Tax Lot 101 and the western portion of Tax Lot 1100 that is inside the City limits. The proposed development area is vacant and has not been assigned a municipal street address. A Tree Felling Permit was issued for the project area on April 17, 2019 (Case 811-19-000016-TYP2) in anticipation of future utility system development.

The project area is within the 1999 *Glenwood Refinement Plan* (Tax Lots 101 and 1100). Therefore, the applicable Comprehensive Plan designation is based on the adopted *Glenwood Refinement Plan* diagram which identifies Tax Lots 101 and 1100 as being designated Light Medium Industrial (LMI). The current zoning for the subject property is LMI, which is consistent with the comprehensive plan designation.

The applicant has acquired ownership of Tax Lots 101 and 1100 in their entirety, and a portion of Tax Lot 3701 that forms a narrow peninsula lying between Tax Lots 101 and 1100 was incorporated into Tax Lot 1100 through a property line adjustment recorded July 11, 2019 as County Surveyor’s File No. 44759. Acquisition of the affected portions of Tax Lots 101, 3701 and 1100 was through a Stipulated General Judgement issued on February 22, 2019 and recorded on March 11, 2019 as Document 2019-008928, Lane County Deeds & Records.

The applicant is proposing to construct a linear electric transmission line that extends from an existing three pole facility outside the City limits a distance of approximately 1,600 feet to two step-down poles near the edge of the I-5 right-of-way. Portions of the transmission line within Tax Lots 300 and 1000, and the eastern two-thirds of Tax lot 1100, are outside the City limits and therefore not subject of this decision. The proposed step-down poles are inside the City limits and they would feed the electrical lines into a ~57,800 ft<sup>2</sup> (approximately 1.36-acre) substation compound. The electrical substation is proposed to be constructed in the southern half of Tax Lot 101 and it would be accessed by a driveway extending from the East 22<sup>nd</sup> Avenue alignment. The applicant is also proposing to install perimeter fencing around the substation facilities; screening vegetation in the northern half of Tax Lot 101; and vegetated stormwater facilities to manage runoff from the site.

**REVIEW PROCESS:** This amended Type II decision is reviewed under Type III procedures listed in Springfield Development Code (SDC) Section 5.1-130. The criteria of approval for the amended decision are the same as the prior appeal decision: the Site Plan Review criteria in SDC 5.17-125. The Planning Commission’s decision is the final decision and is appealable to the Oregon Land Use Board of Appeals within 21 days of the decision.

**Procedural Finding:** The Site Plan Review decision (Case Number 811-19-000084-TYP2) was approved, with conditions, on May 17, 2019. An appeal was timely filed on June 3, 2019, within 15 days of the decision, accounting for the weekend, according to SDC 5.3-115.B. The Planning Commission heard the appeal on July 16, 2019 and the hearing was continued to September 4, 2019 at which time the original decision was upheld with conditions.

**Procedural Finding:** The appellant, William Sherlock, on behalf of Royal Blue Organics, appealed the decision to the Oregon Land Use Board of Appeals (LUBA) and the matter was heard in December 2019. LUBA issued its final order and opinion on June 11, 2021 with five issues to be addressed by the City on remand. A subsequent appeal to the Court of Appeals reversed one of LUBA’s remanded issues pertaining to a wetland on the project site. This amended staff report addresses the relevant issues on remand.

**Procedural Finding:** The Hearings Official hears appeals of Type II Director’s decisions outside the City limits but inside the City’s Urban Growth Boundary. The Planning Commission hears appeals of Type II Director’s decisions within the City limits. The subject property is located inside the Urban Growth Boundary, partially within City limits and partially outside City limits. Accordingly, this amended decision is presented jointly to the Planning Commission and Hearings Official. The Planning Commission has authority over the decision as to those properties that are annexed to the City (Tax Lots 101 and a portion of Tax Lot 1100 as adjusted by Property Line Adjustment Survey No. 44759), while the Hearings Official has authority over the decision as to the properties that are not yet annexed but are inside the Urban Growth Boundary (Tax Lots 300, 1000 & Portion of 1100).



Procedural Finding: Due to the need to reopen the written record for additional evidence regarding the remand issues, notice of the public meeting on August 17, 2021 was provided on July 27, 2021 to the property owners and occupants within 300 feet of the subject property, as required by SDC 5.1-130.B.

Procedural Finding: The appellant identified 31 assignments of error which were previously addressed in the adopted staff report and findings. All assignments of error were enumerated in sequential order of presentation in the appellant's submittal. The assignments of error were inserted under the applicable criteria of approval as set out in the original report adopted in September 2019. Certain assignments of error and staff responses are out of sequence with the sequentially numbered findings and conditions contained in the report. Staff has retained all of the original assignments of error and responses and added new findings as necessary to address the issues on remand.

#### **CRITERIA OF SITE PLAN APPROVAL:**

SDC 5.17-125, Site Plan Review Standards, Criteria of Site Plan Approval provides that, on appeal, the Planning Commission shall approve or approve with conditions a Type II Site Plan Review Application upon determining that criteria A through E of this Section have been satisfied. If conditions cannot be attached to satisfy the criteria, the Planning Commission shall deny the application.

#### **A. The zoning is consistent with the *Metro Plan* diagram, and/or the applicable *Refinement Plan* diagram, *Plan District* map, and *Conceptual Development Plan*.**

General Finding 1: The substation site (Tax Lot 101) is zoned and designated Light Medium Industrial (LMI) in accordance with the Springfield Zoning Map and the adopted 1999 *Glenwood Refinement Plan* diagram. In accordance with SDC 3.2-410, high impact public facilities are allowable in the LMI district subject to the special siting requirements of SDC 4.7-160 and Site Plan Review. There are no proposed changes to the zoning for the substation site.

General Finding 2: The electric transmission line is proposed on two parcels (Tax Lots 101 and portion of 1100) that are zoned and designated LMI in accordance with the Springfield Zoning Map and the adopted 1999 *Glenwood Refinement Plan* diagram. The segment of electric transmission line that extends eastward from the current City limits line across the remainder of Tax Lot 1100 and Tax Lot 1000 to the point of connection on Tax Lot 300 is outside City limits and not within the jurisdiction of the Planning Commission. In accordance with SDC 3.2-410, high impact public facilities are allowable in the LMI district subject to the special siting requirements of SDC 4.7-160 and Site Plan Review. There are no proposed changes to the zoning for Tax Lots 101 and 1100.

*Appellant's Assignment of Error #1: The appellant hereby requests that the Hearings Official reverse the Planning Director's decision of approval. As set forth herein, and as will be addressed in greater detail at the upcoming public hearing, the Director erred in issuing an approval that did not conform to the applicable criteria, to wit:*

*"5.12-105 Purpose and Applicability*

*\* \* \* \* \**

*B. The Partition process regulates land divisions that create 2 or 3 parcels within a calendar year. If the Director determines that a property proposed to be partitioned has been, or is in the process of being divided into 4 or more lots, full compliance with the Subdivision regulations specified in this Code may be required.*

*\* \* \* \* \**

*D. Applicability*

*\* \* \* \* \**

*3. No lot/parcel may be created without being divided as specified in this Code.*

*4. No development permit will be issued by the City prior to approval of the Partition or Subdivision Tentative Plan Application."*

*As noted in the decision, the applicant "SUB Electric, has acquired ownership of...a portion of Tax Lot 3701" in order to site the proposed electric transmission line. Decision, p. 3. However, the applicant has not formally partitioned tax lot 3701 into separate legal lots or parcels. As "no development permit will be issued by the*

City prior to approval of the Partition...Tentative Plan application”, the City erred in approving a site plan review on a property that was not a legal lot or parcel.

Appellant’s Assignment of Error #2:

*“5.17-120 Submittal Requirements*

*All Site Plan applications shall be prepared by an Oregon licensed Architect, Landscape Architect, Civil Engineer or Surveyor as determined by the Director. A Site Plan shall contain all the elements deemed necessary by the Director to demonstrate that provisions of this Code are being fulfilled and may include, but not be limited to, the following:*

*A. General Requirements. A Site Plan shall be drawn in ink on quality paper and shall contain the following information:*

*\* \* \* \* \**

- 5. The location and height of proposed or existing fences, walls, outdoor equipment and storage, trash receptacles and signs;”*

*The applicant failed to conform the [sic] minimum mandatory standards for a site plan, as it plans to install extensive fencing throughout a heavily-forested portion of the subject property, but does not depict this fencing on its site plans or address it in the body of the narrative. On May 2, 2019, the applicant posted an invitation to bid for a proposed security fence for the “Glenwood Substation and Transmission Route Security Fence” for an eight-foot security fence, with seven feet of chain link and topped by 3 strands of barbed wire and with corner and end posts sunk in 3.0 deep [sic] concrete footings. As depicted on the enclosed map, the security fencing would be located along a portion of the northern boundary of tax lot 1000, along the entire northern boundary of tax lot 1100, and cut across a portion of tax lot 3701. See Excerpt OF19.01 Invitation to Bid. This security fencing is not delineated on the site plans provided, and the application does not address impacts of the fence and installation or demonstrate consistency with the applicable criteria. As the applicant’s proposal incorporates elements that are not addressed in its site plan application, reversal of the Decision of approval is warranted.*

Appellant’s Assignment of Error #3:

*“5.17-125 Criteria*

*The Director shall approve or approve with conditions: A Type II Site Plan Review application upon determining that approval criteria in Subsections A. through E., below have been satisfied. If conditions cannot be attached to satisfy approval criteria, the Director shall deny the application.*

- A. The zoning is consistent with the Metro Plan diagram, and/or the applicable Refinement Plan diagram, Plan District map, and Conceptual Development Plan.”*

*The decision errs in concluding that the proposed transmission lines are consistent with the City’s Public Facilities and Services Plan and makes a decision that is not supported by substantial evidence in reaching that conclusion. The Decision relies on the revisions to the Eugene-Springfield Metropolitan Area Public Facilities and Services Plan in support of the transmission lines. However, Ordinance 6341 was not adopted in accordance with the comprehensive plan or code and is not acknowledged. Hence, the Plan provides no basis for the proposed substation and transmission lines, and the decision approving the same is in error and should be reversed.*

Appellant’s Assignment of Error #4: *The Decision states that: “The alignment of the proposed electric transmission line is depicted in Project 1&A (Alvey to Glenwood to Springfield), adopted into the PFSP by Ordinance 6341 on September 8, 2015.” Decision, p.3. However, Ordinance 6341 contains critical defects which call into question the validity or effectiveness of its provisions. As set out in the preamble of Ordinance 6341, it is a Type I amendment to the Public Facilities and Services Plan which required joint consideration and adoption by the City of Springfield and Lane County. The Public Facilities and Services Plan sets out a joint review procedure, on page 124, to wit:*

*“C. Processing Amendments*

*Any of the adopting agencies (Lane County, Eugene, or Springfield) may initiate an amendment to this plan at any time on their own motion or on behalf of a citizen.*

- a. *Type I amendments shall be forwarded to the planning commissions of the respective agencies for their recommendation, and, following their recommendation, shall be considered by the governing bodies of all agencies."*

*Ordinance 6341 reflects that it was neither subject to review by the planning commission of Lane County, nor subject to review and consideration by "all agencies" as specified in the Comprehensive Plan. Both the Lane Code and the Springfield Development Code also expressly require joint consideration of the proposed amendment at a joint public hearing before the Lane County and Springfield Planning Commissions. LC 12.220(2)(b); SDC 5.14-130(B) & (C). Ordinance 6341 reflects that this joint public hearing was not held, and that the Lane County Planning Commission was not consulted and its recommendations not provided. Accordingly, Ordinance 6341 was not adopted in accordance with applicable provisions of the comprehensive plan or development code, and is invalid. Moreover, DLCD notice records reflect that the ordinance was never acknowledged. ORS 197.625 provides that a change to an acknowledged comprehensive plan is only deemed to be acknowledged when the notice of proposed change and adopted change is provided to the Oregon Department of Land Conservation and Development as required by ORS 197.610 and ORS 197.615. DLCD has no public notices of proposed or adopted amendments associated with the proposed amendments in 2015. Accordingly, the same is not deemed acknowledged under ORS 197.625, and is not criteria that is applicable to the proposed substation and transmission lines. As Ordinance 6341 was neither validly adopted nor acknowledged by DLCD, the Eugene-Springfield Area Public Facilities and Services Plan map 4 specifies that the proposed substation will be located on property to the east along McVay Hwy, and includes neither a planned facility nor a substation on the subject property. The decision approving the proposed substation and transmission lines on the property is inconsistent with the acknowledged comprehensive plan and should be reversed on this basis.*

*Appellant's Assignment of Error #5:* *In addition, even if Ordinance 6341 were properly adopted and acknowledged, and it is is [sic] not, the Ordinance does not provide for the development of transmission lines outside of public rights-of-way. The proposed transmission lines in Ordinance 6341 tracks I-5 along its length. This is confirmed in the findings which addressed compliance with applicable refinement plan policies by confirming that the proposed transmission line would be located within existing right-of-way:*

***"Finding 19.*** *The location of the planned Glenwood Substation and the associated transmission lines is shown generally in the PFSP maps as intended. The location if the [sic] Substation is outside of the Phase 1 boundary for the Glenwood Refinement Plan. **The transmission lines will take advantage of existing freeway, street and railroad rights of wa[y] in Glenwood to minimize visual impacts of the planned facilities.** Many of the policies listed in Appendix 3 (E) (7) are specific to final location and design decisions that will be addressed at the time of construction. The intent of the PFSP is to show the general location of planned utilities. Design level details are not intended to be provided in the PFSP nor is such detail a requirement of Oregon Administrative Rule Division 11 Public Facilities Planning."* Ordinance 6341, F-15 (Emphasis added).

*Accordingly, even under Ordinance 6341, the proposed transmission lines would located [sic] within the existing freeway right-of-way, and reversal would be required.*

*Appellant's Assignment of Error #6:* *The decision attempts to justify its deviation from Ordinance 6341 by suggesting that the proposed relocation was merely a construction detail, and that it was warranted based on the applicant's inability to use the adjoining rights-of-way. However, the applicant provides no evidence that it was unable to use the adjoining right-of-way. Moreover, as will be addressed below, the alternative routing is not only inconsistent with the I-5 route specified in the plan, but with the applicable siting standards in the refinement plan, and applicable code provisions requiring the transmission facilities be located at the edge of land uses and within existing rights-of-way. The decision also errs in concluding that the proposed transmission lines and substation are consistent with the Glenwood Refinement Plan. As set forth in appendix 3 of the Springfield Development Code, Electrical Facilities and Services are subject to standards for "Utility Placement and Adverse Environment, Visual and Health Impacts." The proposed transmission lines do not conform to these standards, and the decision fails to evaluate many of these criteria, and renders a decision that is not supported by substantial evidence or substantial reasons. These standards require:*

*“E.7.b. Consider views visual pollution, public health, natural environment, and noise pollution in locating and obscuring transmission facilities.”*

*This standard is not addressed in the decision. The application proposes to place transmission lines near the top of a hillside overlooking development along East 22<sup>nd</sup> Avenue and Newman Street. The applicant makes no provisions for protecting views, public health, the natural environment or noise pollution in locating the facilities, and incorporates no provisions to obscure these transmission facilities. The decision should be reversed on this basis as well.*

*Appellant’s Assignment of Error #7:* *“E.7.b.1. Follow natural landforms in aligning transmission lines while avoiding alignment along steep grades that expose the facilities to views, and cross hills obliquely rather than at right angles.” This standard is not addressed in the decision. As depicted in the tentative plans provided by the applicant, the transmission lines corridor is proposed to be straight and does not follow natural land contours on the property. The lines will cross steep hillsides at right angles at several points along the route. The decision should be reversed on this basis as well.*

*Appellant’s Assignment of Error #8:* *“E.7.b.2. Align transmission lines along the edges of land uses to avoid scenic areas and to avoid dividing land use patterns.” This standard is not addressed in the decision. The proposed transmission lines would cross directly through vacant property designated for future employment uses. The lines are not oriented to avoid dividing this land use pattern, an existing riparian tributary on the property or scenic hillsides. Instead, the proposed transmission lines would permanently dominate these vacant properties, and without regard to any development of the same in the future. The decision should be reversed on this basis as well.*

*Appellant’s Assignment of Error #9:* *“E.7.b.3. Utilize trees to provide a backdrop to minimize the visual silhouette of transmission lines against the sky.” This standard is not addressed in the decision. The applicant purports to rely on existing trees to obscure the transmission towers and lines, but provides no information concerning the location, size or elevation of trees that are purportedly being retained for buffering. The decision should be reversed on this basis as well.*

*Appellant’s Assignment of Error #10:* *“E.7.b.4. Reduce the length of visible elements of transmission lines by interrupting views with trees or offsetting the location of segments behind trees and other topographic features where long views of the transmission lines would otherwise occur.” This standard is not addressed in the decision. The applicant has failed to establish that it will obscure the transmission lines with trees or topographic features. The decision should be reversed on this basis as well.*

*Appellant’s Assignment of Error #11:* *“E.7.b.5. Minimize the ‘tunnel effect’ of long, straight, uninterrupted views along transmission lines by only clearing vegetation that threatens the lines and by jogging the alignment at road crossings.” This standard is not addressed in the decision. As depicted in the tentative plans, the applicant is proposing long, straight transmission line corridors along the entire path of the line on lots 1000 and 1100, which will provide a significant tunnel effect. In addition, the applicant clears excessive vegetation, particularly on lot 1000. The decision should be reversed on this basis as well.*

*Appellant’s Assignment of Error #12:* *“E.7.b.6. Minimize the number of transmission poles and consider color and materials in designing the appearance of transmission poles and line attachments so that they blend harmoniously with their surroundings.” This standard is not addressed in the decision. The applicant does not propose a system of transmission lines that will blend harmoniously with their surroundings. The decision should be reversed on this basis as well.*

*Appellant’s Assignment of Error #13:* *“E.7.b.7. Route and locate transmission lines to minimize or eliminate the need for vegetation management.” This standard is not addressed in the decision. The applicant failed to route its lines to minimize or eliminate the need for vegetation management. Despite large area on the properties that are relatively free of vegetation, the applicant selected a route that would require the removal of nearly 300 trees. The decision should be reversed on this basis as well.*

Appellant's Assignment of Error #14: "E.7.b.8. Route and locate transmission lines to minimize potential health effects on Glenwood residents." This standard is not addressed in the decision. Neither the applicant nor the decision acknowledge[s] the development potential of the vacant properties or the variety of uses allowed outright on the subject properties. The decision should be reversed on this basis as well.

Appellant's Assignment of Error #15: "E.7.b.9.Route and locate transmission lines to minimize potential effects on avian migratory patterns." This standard is not addressed in the decision. The application relies on unspecified trees to protect birds in the area without assessing flight patterns, pole or line heights, nesting areas, or the presence of bird attractants in close proximity to the lines. The decision should be reversed on this basis as well.

Appellant's Assignment of Error #16: "E.7.e.2, Obscure the substation and transformer from public view and attenuate the noise generated by these facilities by means of plant materials, earth berms, or enclosure walls." This standard is not addressed in the decision. As addressed below, the proposed substation does not conform to minimum screening standards, either with or without the decision's proposed conditions of approval. Accordingly, the decision should be reversed on this basis as well.

Finding - Response to Assignment of Error #1: The applicant submitted a Property Line Adjustment survey for approval by the City on March 26, 2019. The City completed a review of the Property Line Adjustment survey and issued approval for recording the survey on April 24, 2019. The Property Line Adjustment Survey was recorded on July 11, 2019 as County Surveyor's File No. 44759. The property that is subject of this review are two existing legal parcels, and the portions inside the City limits (i.e. all of Tax Lot 101 and a portion of Tax Lot 1100) are therefore subject to land use approvals issued by the City of Springfield.

Finding - Response to Assignment of Error #2: Installation of property line/security fencing that falls within allowable heights does not require land use approval in any land use district. Therefore, the applicant is entirely within their rights to install chain link fencing along the boundary of the subject site outside of the land use application (and appeal) process. The proposed fencing design and height is permitted in accordance with Section 4.4-115, Table 4.4-1.

Finding - Response to Assignment of Error #3: The Metropolitan Area Public Facilities and Services Plan ("PFSP") is part of the *Metro Plan*. The PFSP was amended in 2015 to enable and guide the siting of SUB's proposed Glenwood substation and transmission line. The appellant argues that the 2015 PFSP amendment is invalid because it was not properly "acknowledged" by the state Department of Land Conservation and Development ("DLCD"). In support of the appellant's argument at the public hearing on July 16, 2019, the appellant's attorney produced a list of plan amendments shown in an online DLCD database that includes notices of post-adoption plan amendments (PAPA) submitted by the City to DLCD in 2015 that does not include the PFSP amendment. The DLCD database does not purport to be an exhaustive list of PAPA notices, and absence of the 2015 PFSP amendment in this database does not demonstrate that the amendment was not properly acknowledged.

The record shows that the City of Springfield and Lane County co-adopted amendments to the Public Facilities and Services Plan in September, 2015. Notice of Adopted Change to the PFSP was issued by DLCD on September 21, 2015. There were no appeals filed within the appeal period, therefore the adopted amendments were deemed acknowledged as set forth in ORS 197.625(1)(a). Evidence supporting this conclusion is found in the DLCD letter, the City's notice of decision, Springfield adopting Ordinance 6341, and the Lane County adopting ordinance PA1318, that are included in the record of this appeal.

The 2015 PFSP amendment was properly acknowledged. Furthermore, the PFSP amendment is intended to facilitate siting of SUB's proposed substation and transmission line, and therefore provides important policy direction to land use permitting of these facilities. Finally, the appellant's argument about the validity of the 2015 PFSP amendment is not valid.

Finding - Response to Assignment of Error #4: As discussed at length above, the cited amendments to the Public Facilities and Services Plan – a Refinement Plan to the *Metro Plan* – were adopted by Springfield Ordinance 6341 on September 8, 2015 and Lane County Ordinance PA 1318 on September 15, 2015. The amendments were accepted by the DLCD and deemed acknowledged as no appeals were filed within the appeal period. It is now too late to raise any of the issues cited by the appellant regarding the adoption process.

Finding - Response to Assignments of Error #5 & 6: The provisions of the adopted *Public Facilities and Services Plan* (PFSP), which is a refinement plan of the *Metro Plan*, allow for flexibility in location, design, and alignment of key public utility lines and installations with the intent to ensure that conceptual alignments shown on metro-wide plans do not preclude site-specific variations in these alignments due to land ownership, topographic, engineering, or geopolitical constraints. Arguments pertaining to location of the transmission line along the I-5 corridor affect properties outside the City limits and therefore fall outside the Planning Commission's jurisdiction over this appeal.

Finding - Response to Assignments of Error #7–16: At the outset of the original Director's Decision, the following statement is provided:

**“DECISION: This decision grants Tentative Site Plan Approval. The standards of the Springfield Development Code (SDC) applicable to each criterion of Site Plan Approval are listed herein and are satisfied by the submitted plans unless specifically noted with findings and conditions necessary for compliance. Final Site Plans must conform to the submitted plans as conditioned herein. This is a limited land use decision made according to City code and state statutes. Unless appealed, the decision is final. Please read this document carefully.”** (Underlined emphasis added).

The portion of the project within the City limits is not subject to provisions of the Glenwood Riverfront Mixed Use Plan District found in Appendix 3 of the City's Development Code. For this reason, the City found the application met this criterion and accepted the applicant's findings and conclusions cited in their application materials or as modified by staff findings that are rested herein. No conditions of approval were required for the applicant to meet this sub-part of the criterion, and no additional conditions of approval are recommended herein.

Conclusion: This applicant has satisfied Criterion A.

- B. Capacity requirements of public improvements, including but not limited to, water and electricity; sanitary sewer and stormwater management facilities; and streets and traffic safety controls shall not be exceeded and the public improvements shall be available to serve the site at the time of development, unless otherwise provided for by this Code and other applicable regulations. The Development & Public Works Director or a utility provider shall determine capacity issues.**

General Finding 4: This criterion is designed to ensure sufficient public and private infrastructure to support the proposed use, such as local roads, sewer and water service. The appellant argues that SUB has not demonstrated compliance with this criterion because the project area lacks access to a public road. The record shows that SUB owns a series of contiguous tax lots that take access directly from East 22<sup>nd</sup> Avenue as a result of SUB's settlement with the adjacent property owner (Alberto Miranda). The property includes Tax Lots 101 and 1100 that are subject of this review. The applicant has proposed improvement of a private access road across the parcels as part of its site plan review application. The Planning Commission should therefore find that SUB has secured access for its proposed development.

General Finding 5: Approval of this proposal would allow for construction of an approximately 57,800 ft<sup>2</sup> electrical system substation compound with perimeter fencing, gated access driveway, screening vegetation, and vegetated stormwater management facilities (all on Tax Lot 101); and a segment of electric transmission lines across a portion of Tax Lot 1100 and extending eastward outside the City limits.

General Finding 6: For all public improvements, the applicant shall retain a private professional civil engineer to design the site improvements in conformance with City codes, this decision, and the current *Engineering*

*Design Standards and Procedures Manual* (EDSPM). The private civil engineer also shall be required to provide construction inspection services.

## **Water and Electricity Improvements**

General Finding 7: SDC 4.3-130 requires each development area to be provided with a water system having sufficiently sized mains and lesser lines to furnish adequate supply to the development and sufficient access for maintenance. Springfield Utility Board (SUB) coordinates the design of the water system within Springfield city limits.

General Finding 8: The proposed development is an unmanned electric system transmission line and substation and it will not contain any facilities that require potable water. Therefore, extension of public water to the subject property is not required. In the event that extension of public water service is required in the future, there are existing public water lines nearby in the East 22<sup>nd</sup> Avenue alignment.

General Finding 9: Based on the applicant's submittal, the existing and proposed water and electricity improvements are adequate for the proposed development.

## **Sanitary Sewer and Stormwater Management Facilities**

### Sanitary Sewer

General Finding 10: Section 4.3-105.A of the SDC requires that sanitary sewers shall be installed to serve each new development and to connect developments to existing mains. Additionally, installation of sanitary sewers shall provide sufficient access for maintenance activities.

General Finding 11: Section 4.3-105.C of the SDC requires that proposed sewer systems shall include design consideration of additional development within the area as projected by the *Metro Plan*.

General Finding 12: Section 2.02.1 of the City's EDSPM states that when land outside a new development will logically direct flow to sanitary sewers in the new development, the sewers shall be public sewers and shall normally extend to one or more of the property boundaries.

General Finding 13: The proposed development does not have any potable water service or sanitary sewer drains, therefore extension of public sanitary sewer is not required for the electric substation and transmission line. In the event that extension of public sanitary sewer service is required in the future, there is an existing public sanitary sewer line near the northwest corner of Tax Lot 101 in the East 22<sup>nd</sup> Avenue alignment.

General Finding 14: There are no loading docks or material transfer areas proposed on the electric substation site, and therefore the additional provisions for sanitary sewer drains found in Section 3.6 of the City of Eugene Stormwater Management Manual do not apply.

### Stormwater Management (Quantity)

General Finding 15: SDC 4.3-110.B requires that the Approval Authority shall grant development approval only where adequate public and/or private stormwater management systems provisions have been made as determined by the Development & Public Works Director, consistent with the EDSPM.

General Finding 16: SDC 4.3-110.C states that a stormwater management system shall accommodate potential runoff from its entire upstream drainage area, whether inside or outside of the development.

General Finding 17: SDC 4.3-110.D requires that runoff from a development shall be directed to an approved stormwater management system with sufficient capacity to accept the discharge.

General Finding 18: SDC 4.3-110.E requires new developments to employ drainage management practices that minimize the amount and rate of surface water runoff into receiving streams, and that promote water quality.

General Finding 19: To comply with Sections 4.3-110.D & E, stormwater runoff from the site will be directed into a series of vegetated rain gardens, grassy swales and a vegetated detention basin prior to discharge into the public system. The public stormwater management system is located in the East 22<sup>nd</sup> Avenue alignment near the northwest corner of Tax Lot 101.

General Finding 20: As part of the Final Site Plan approval process, the applicant will be required to enter into a maintenance agreement with the City whereby the applicant will provide routine functional maintenance of the vegetated rain gardens, grassy swales, and vegetated detention basin.

**Condition of Approval 1:**

**Prior to approval of the Final Site Plan, the applicant shall enter into a maintenance agreement with the City of Springfield, whereby the applicant will provide routine maintenance for functionality of the vegetated rain gardens, grassy swales, and vegetated detention basin serving the development site.**

Stormwater Management (Quality)

General Finding 21: Under Federal regulation of the Clean Water Act (CWA), Endangered Species Act (ESA), and National Pollutant Discharge Elimination System (NPDES), the City of Springfield has obtained a Municipal Separate Storm Sewer System (MS4) permit. A provision of this permit requires the City to demonstrate efforts to reduce the pollution in urban stormwater to the Maximum Extent Practicable (MEP).

General Finding 22: Federal and Oregon Department of Environmental Quality (ODEQ) rules require the City's MS4 plan to address six "Minimum Control Measures". Minimum Control Measure 5, "Post-Construction Stormwater Management for New Development and Redevelopment", applies to the proposed development.

General Finding 23: Minimum Control Measure 5 requires the City of Springfield to develop, implement and enforce a program to ensure the reduction of pollutants in stormwater runoff to the MEP. The City also must develop and implement strategies that include a combination of structural or non-structural Best Management Practices (BMPs) appropriate for the community.

General Finding 24: Minimum Control Measure 5 requires the City of Springfield to use an ordinance or other regulatory mechanism to address post-construction runoff from new and re-development projects to the extent allowable under State law. Regulatory mechanisms used by the City include the SDC, the City's EDSPM and the *Stormwater Facilities Master Plan* (SFMP).

General Finding 25: Section 3.02 of the City's EDSPM states the Development & Public Works Department will accept, as interim design standards for stormwater quality, water quality facilities designed pursuant to the policies and procedures of the City's EDSPM and the City of Eugene Stormwater Management Manual.

General Finding 26: Sections 3.02.5 and 3.02.6 of the City's EDSPM states all public and private development and redevelopment projects shall employ a system of one or more post-developed BMPs that in combination are designed to achieve at least a 70 percent reduction in the total suspended solids in the runoff generated by the development. Section 3.03.4.E of the manual requires a minimum of 50 percent of the non-building rooftop impervious area on a site shall be treated for stormwater quality improvement using vegetative methods and 100% of the area shall be pre-treated.

General Finding 27: To meet the requirements of the City's MS4 permit, the Springfield Development Code, and the City's EDSPM, the applicant has proposed vegetated rain gardens, grassy swales, and a vegetated detention basin.

General Finding 28: The vegetation proposed for use in the rain gardens, grassy swales, and vegetated detention basin will serve as the primary pollutant removal mechanism for the stormwater runoff. Satisfactory pollutant removal will occur only when the vegetation has been fully established.



Appellant's Assignment of Error #29:

*"4.3-110 Stormwater Management*

*G. Protection of Riparian Area Functions. A developer shall be required to employ site design, landscaping, and drainage management practices to protect, preserve, and restore the riparian area functions of the reaches of those watercourses shown on the WQLW Map that are contained within or abut the lot/parcel upon which the proposed development is located. For the purposes of this Code, riparian area functions shall include, but are not limited to:*

- 1. Maintaining temperature;*
- 2. Maintaining channel stability;*
- 3. Providing flood storage;*
- 4. Providing groundwater recharge;*
- 5. Removing sediments;*
- 6. Reducing contaminants, for example: excess nutrients; oil and grease; metals; and fecal coliform;*
- 7. Moderating stormwater flows; and*
- 8. Providing fish and wildlife habitat."*

*As highlighted in the City's Water Quality Limited Watercourses (WQLW) Map, Tax lot 1100 is crossed by a tributary to a water quality limited water course, and a significant portion of tax lot 101 is a wetland identified on the same map. The application acknowledges the presence of both features but does not incorporate any "design, landscaping and drainage management practices to protect, preserve and restore the riparian functions" of the tributary, or wetland. Application, p. 20. Instead, the application merely notes that it has applied for a fill/removal permit for its impacts to the wetland, and that with regard the tributary "the proposed transmission line will not impact this resource." Id. However, the application does not address pole placement activities, the proposed fence construction, the proposed both road construction/maintenance or tree removal within the riparian setback of the tributary; or the wholesale destruction of the wetland area to site the substation. Significantly, it proposes no measures to "protect, preserve and restore" any of the riparian functions of this feature. The decision does not address these impacts or apply the standard, and reversal of the decision is appropriate on this basis as well.*

Appellant's Assignment of Error #30:

*"4.3-115 Water Quality Protection*

*\*\*\*\*\**

*B. Permitted Uses in Riparian Areas. The following uses are permitted in riparian areas as long as they do not diminish riparian functions:*

- 1. The planting of trees and native vegetation to promote bank stability, enhance riparian areas, minimize erosion, preserve water quality and protect federally listed species. Trees may be clustered to allow the preservation of views; or to allow maintenance vehicles to approach City maintained stormwater facilities including detention basins, outfalls, culverts and similar stormwater facilities as may be permitted by the Springfield Engineering Design Standards and Procedures Manual.*
- 2. The felling of hazardous trees for safety reasons as specified in Section 5.19-100, Tree Felling.*  
*\*\*\*\*\**
- 8. Private driveways, public street crossings, bridges and necessary culverts when there is no other vehicle access to the property. Crossings shall be preferably at right angles to the watercourse. Public and private utilities shall be permitted within the driveway, public street or bridge right-of-way.*  
*\*\*\*\*\**

*C. For protection of water quality and protection of riparian functions as specified in Section 4.3-110, the following standards apply:*

1. *Avoid development or redevelopment in the following circumstances:*
  - a. *Unsuitable areas, including but not limited to, unstable slopes, wetlands and riparian areas;*
  - b. *Stream Crossings. Where crossings have to be provided, the impacts to water quality shall be minimized;*

\* \* \* \*
3. *Protect:*
  - a. *Riparian areas, buffers and functions around all water courses;*
  - b. *Wetlands, wetland buffers and wetland functions.*
4. *Preserve the hydrologic capacity of any watercourses.*

\* \* \* \*
6. *Restore and enhance riparian areas that are degraded in riparian function.*
7. *In applying Subsections 4.3-115C.1 through 6., riparian area protection, preservation, restoration and enhancement measures shall be applied as follows:*
  - a. *For new development and redevelopment, existing riparian area functions shall be protected and preserved. Degraded functions shall be restored or enhanced through the full riparian area width, as specified in Subsections 4.3- 115A.1. and 2., and extending through the full frontage of the lot/parcel along the watercourse on the Water Quality Limited Watercourse (WQLW) Map.”*

*The applicant is proposing to develop a substation and associated improvements within the riparian area<sup>4</sup> of a watercourse<sup>5</sup> identified on the WQLW Map. The applicant has performed a formal wetland delineation and identifies the same as approximately 2.84 acres in size, but claims that the same is not a “watercourse.” Application, p. 21. However, as noted herein, the term watercourse refers to “wetlands” and specifically those identified on the WQLW Map, including the wetland on lot 101. Development of this watercourse is not a permitted use of the riparian area under Section 4.3-115(B), and is also prohibited by subsection (C)(1)(a) of that provision as wetlands are “unsuitable areas” for development. The City decision does not address these impacts or these water quality standards and reversal of the decision is appropriate on this basis as well.*

*Footnote 4: “Riparian Area. Riparian areas are vegetated areas (generally consisting of trees, shrubs, and grasses located along both sides of water bodies and are transitional boundaries between land and water environments, Riparian zones act as buffers to protect surface waters from contamination and are habitats for a large variety of animals and birds.”*

*Footnote 5: “Watercourse. Rivers, streams, sloughs, drainages including intermittent streams and seeps, ponds, lakes, aquifers, wetlands and other waters of the State. This definition also includes any channel in which a flow of water occurs, either continuously or intermittently, and if the latter with some degree of regularity. Watercourses may be either natural or artificial. Specific watercourses that are protected by this Code are those shown on the water quality Limited Watercourse Map.”*

*Appellant’s Assignment of Error #31: The application also acknowledges the presence of the tributary on the subject property, and asserts generally that “[i]t and its setback corridor will not be impacted by the proposed transmission line facility or existing access road other than removal of trees within the transmission line and access road easements.” Application, p. 22. However, this representation ignores the applicant's planned fencing improvements, and does not account for improvements to the existing partially graveled path on the subject property, or stream crossings by heavy equipment associated with the pole placement. In addition, the tree removal being proposed is not the removal of hazardous trees that pose safety risks, and would be done within the wetland buffer without proposed restoration. As the decision fails to apply these standards, and does not address the impacts of the proposed development on the tributary, reversal of the decision is appropriate on this basis as well.*

*Finding - Response to Assignment of Error #29: The City has multiple overlapping rules concerning the conservation of wetlands and riparian areas. In addition, disturbance of wetlands and waterways is heavily regulated by federal and state law. SUB has demonstrated compliance with all relevant water quality-related requirements based on the evidence in the record and the City’s site plan review condition of approval requiring SUB to obtain the required federal and state environmental permits for its proposed wetland fill/removal. It is feasible for SUB to obtain required federal and state*

wetland permits based on the wetland delineation study and wetland fill/removal plan submitted by SUB with its joint permit application.

The existing wetland features on Tax Lot 101 have been heavily disturbed by activities of previous landowners or neighbors and are not considered locally or nationally significant. However, the wetland feature is shown on the City's local wetland inventory as a Water Quality Limited Watercourse within the City of Springfield. Therefore, certain provisions of SDC 4.3-115 pertain to the wetland features on Tax Lot 101. The City is accepting of the applicant's wetland delineation report and, once obtained by the applicant, wetland fill/removal permits issued by state and federal agencies as sufficient mitigation for proposed development on this site. The City's water quality protection regulations found in SDC 4.3-115 apply to non-significant wetlands and other waters, although non-significant wetlands do not have the same level of protection through the City's Development Code as locally and nationally significant wetlands. The condition and "significance" of the wetland features present on Tax Lot 101 notwithstanding, the state and federal permitting requirements for wetland fill/removal remain the same. SUB has avoided development of wetlands to the extent practicable and has protected wetlands within the meaning of SDC 4.3-115 through the development plan and mitigation plan submitted to the Army Corps of Engineers and the Oregon Department of State Lands ("DSL") for permits. An excerpt of SUB's wetland development and mitigation plan is in the record.

The appellant suggests that SDC 4.3-115 entirely prohibits development in wetlands, which would be a more stringent standard than required by federal and state environmental law. This interpretation is contrary to the PFSP, which specifies that SUB will place its proposed substation in a wetland area. This interpretation would also jeopardize other existing and proposed City infrastructure located in wetland areas, including but not limited to constructed stormwater management facilities.

The federal Clean Water Act and the Oregon Wetland Removal-Fill law both require an applicant for a wetland development permit to avoid and minimize impacts to wetlands to the extent practicable, taking into account the purpose of the applicant's proposed development. All impacts that cannot be avoided or minimized must be fully mitigated. SDC 4.3-115 sets a similar standard for impact avoidance and wetland protection; this interpretation is required in order to avoid a conflict with the PFSP and a result that would prohibit development of critical infrastructure at other locations throughout the City.

Finding - Response to Assignment of Error #30: The Planning Commission disagrees with the appellant's interpretation that the wetland feature on Tax Lot 101 comprises a "watercourse". As described in the applicant's wetland delineation report (ref. Pages 272-355) there is no measurable flow or defined channel within Tax Lot 101 that could be construed as a "watercourse" and, even if there was, the applicant can submit for necessary state and federal permits to modify or eliminate said watercourse. Under the existing condition the drainage from Tax Lot 101 flows primarily to the East 22<sup>nd</sup> Avenue alignment and enters the piped public stormwater system. Because the applicant's wetland delineation report did not identify a watercourse on Tax Lot 101, the City did not impose a condition requiring special riparian protection or other measures beyond the requirements of the aforementioned state and federal wetland fill/removal permits.

Finding - Response to Assignment of Error #31: Staff has accepted the applicant's proposed development plans which do not propose development within the tributary channel – itself heavily impacted by channelization and piping installed by prior landowners. Additionally, the applicant is required to obtain permits and install necessary mitigation measures for erosion and sediment control before project construction begins on the site. As stated in the response to Assignment of Error #2 (above), there are no specific permits required for installation of perimeter security fencing that meets the provisions of the City's Development Code for height and style of fencing. The installation of fencing along the northern boundary of Tax Lot 1000 and 1100 are outside the City limits and therefore not within the jurisdiction of the Planning Commission.

General Finding 29: In conclusion, the Planning Commission finds that SUB has demonstrated compliance with the stormwater management standards found in SDC 4.3-110 and the site plan review conditions of approval requiring construction and maintenance of SUB's proposed stormwater treatment facilities. SUB's proposed stormwater management plan shows that it is feasible for SUB to comply with the City's stormwater and water quality protection requirements.

### **Condition of Approval 2:**

**Prior to approval of the Final Site Plan, the applicant shall provide an operations and maintenance plan satisfactory to the City to ensure viable long-term maintenance and operation of the vegetated rain gardens, grassy swales, and vegetated detention basin. The operations and maintenance plan shall designate the responsible party for operating and maintaining the system and shall be distributed to all property owners and tenants of the site. A record of this plan shall be filed against the property deed with Lane County Deeds and Records.**

### **Condition of Approval 3:**

**To ensure a fully functioning water quality system and meet objectives of Springfield's MS4 permit, the Springfield Development Code and the EDSPM, the infiltration rain gardens, grassy swales, and vegetated detention basin shall be fully vegetated with all vegetation species established prior to issuance of final occupancy and commencement of operations. Alternatively, if this condition cannot be met, the applicant shall provide and maintain additional interim erosion control/water quality measures acceptable to the Development & Public Works Department that will suffice until such time as the rain garden, swale, and detention basin vegetation becomes fully established. The interim erosion control measures shall be in addition to the required plantings for the site.**

### **Streets and Traffic Safety Controls**

General Finding 30: SDC 4.2-105.G.2 requires that whenever a proposed land division or development will increase traffic on the City street system and that development has unimproved street frontage abutting a fully improved street, that street frontage shall be fully improved to City specifications.

General Finding 31: Immediately to the west of the proposed substation site, East 22<sup>nd</sup> Avenue terminates at the edge of Tax Lot 101 and becomes a private shared driveway. A joint access easement covers a portion of the East 22<sup>nd</sup> Avenue alignment along the Tax Lot 101 frontage to the point where it becomes a public street to the west. Because the proposed substation site does not have an appreciable amount of frontage on a public street, and the facility will generate minimal traffic once constructed and in operation, further improvements to the paved, shared access driveway are not required by this decision.

General Finding 32: The existing and proposed transportation facilities would be adequate to accommodate the anticipated vehicular and pedestrian traffic patterns generated by the development in a safe and efficient manner.

Conclusion: Subject to Conditions of Approval #1–3, the applicant has met Criterion B. Assignments of error #29–31 are denied.

### **C. The proposed development shall comply with all applicable public and private design and construction standards contained in this Code and other applicable regulations.**

General Finding 33: Criterion C contains three different elements with sub-elements and applicable code standards. The site plan application as submitted complies with the code standards listed under each sub-element unless otherwise noted with specific findings and conclusions. The elements, sub-elements and code standards of Criterion C are listed below:

1. Infrastructure Standards in accordance with SDC 4.1-100, 4.2-100 & 4.3-100
  - Water Service and Fire Protection (4.3-130)
  - Public and Private Easements (4.3-120 – 4.3-140)
2. Conformance with standards of SDC 5.17-100, Site Plan Review, SDC 3.2-400 Light Medium Industrial Zoning District, and SDC 4.7-100 Specific Development Standards
  - Establishment of Industrial Zoning Districts (3.2-405)
  - Light Medium Industrial Zoning District – Primary and Secondary Uses (3.2-410)
  - Light Medium Industrial Zoning District – Development Standards (3.2-420)
  - On-Site Lighting Standards (4.5-100)
  - High Impact Public Facilities (4.7-165)

3. Overlay Districts and Applicable Refinement Plan Requirements
  - Hillside Development Overlay District
  - Glenwood Refinement Plan (1999)

## **C.1 Public and Private Improvements in accordance with SDC 4.1-100, 4.2-100 & 4.3-100**

### **Water Service and Fire Protection (4.3-130)**

#### Access

General Finding 34: All fire apparatus access routes are to be all-weather surfaces able to support an 80,000 lb. imposed load in accordance with the 2014 Springfield Fire Code (SFC) 503.2.3 and SFC Appendix D102.1. Access to the project area is afforded from the East 22<sup>nd</sup> Avenue alignment.

General Finding 35: Eugene-Springfield Fire Marshal's Office advises that the fire apparatus access routes need to provide at least 20 feet clear width. The applicant is proposing to construct a gated access driveway to the electric substation compound, which itself is equipped with a second access gate. The applicant has indicated that the driveway swing gate is to be manually operated so it will need to be equipped with a Knox padlock for emergency access. The sliding gate at the electric substation compound will need to be equipped with a Knox pad lock if manually operated, or a Knox keyed gate switch if electrically operated.

General Finding 36: The applicant is proposing to construct an emergency vehicle turnaround hammerhead along the edge of the substation compound, which meets the requirements for emergency access to the facility.

General Finding 37: At least three (3) feet of clear space shall be maintained around the circumference of all fire hydrants in accordance with SFC 507.5.5. Working space around fire department connections shall be maintained 3 feet in width on both sides of the connection point; 3 feet in depth in front of the connection; and 78 inches in height above the connection in accordance with SFC 912.3.2.

General Finding 38: In accordance with SFC 912.3, immediate access to fire department connections shall be maintained at all times and without obstruction by fences, trees, shrubs, walls or any other objects.

#### Water Supply

General Finding 39: There is an existing fire hydrant on the north side of the East 22<sup>nd</sup> Avenue alignment across the street from the proposed access driveway. Based on the existing fire hydrant location, the proposed control house building is within 400 feet of a hydrant as measured to the furthest point on the building along an approved route in accordance with 2014 Springfield Fire Code 507.5.1, Exception 2.

#### **Condition of Approval 4:**

**The Final Site Plan shall provide for a Knox padlock for any manually operated gates or a Knox keyed gate switch for any electrically operated gates serving the access driveway and electric substation compound.**

### **Public and Private Easements (4.3-120 – 4.3-140)**

General Finding 40: SDC 4.3-130.A requires each development area to be provided with a water system having sufficiently sized mains and lesser lines to furnish adequate supply to the development and provide sufficient access for maintenance. SUB coordinates the design of the water system within Springfield city limits. As previously stated herein, the proposed electric substation and transmission line does not require potable water service.

General Finding 41: There is an existing 30-foot wide joint access easement along the East 22<sup>nd</sup> Avenue alignment that affords legal and physical access to Tax Lots 101 and 3701 from the public street system (Document 2019-009076, Lane County Deeds & Records). East of this point, the applicant has indicated on the site plan that a 30-foot wide access easement (Document 9302537, Lane County Deeds & Records) covers the existing gravel access driveway that extends beyond the City limits (across a portion of Tax Lot 1100, and Tax Lots 1000 & 300). The applicant has

submitted an access easement into the record that demonstrates legal access has been provided across the portions of Tax Lots 101 and 1100 that are inside the City limits (Document 2019-009076, Lane County Deeds & Records).

General Finding 42: The applicant is depicting a variable-width transmission line easement across portions of Tax Lots 1100 and 101 to accommodate the proposed transmission poles and lines. The transmission line easement will need to be recorded against all tax lots subject to the project prior to approval of the Final Site Plan and initiation of construction.

**Condition of Approval 5:**

**Prior to approval of the Final Site Plan, the applicant shall execute and record a variable-width electric transmission line easement across Tax Lots 101 and 1100, as generally depicted on the tentative site plan, and provide evidence thereof to the City.**

**C.2 Conformance with Standards of SDC 5.17-100, Site Plan Review; SDC 3.2-400, Industrial Zoning Districts; SDC 3.4-200, Employment Mixed-Use District; and SDC 4.7-100, Specific Development Standards**

**Establishment of Industrial Zoning Districts (3.2-405)**

General Finding 43: In accordance with SDC 3.2-405.B, the Light Medium Industrial (LMI) District establishes sites that are generally involved with manufacturing, processing, transportation, warehousing, communications and utilities.

**Light Medium Industrial Zoning District – Primary and Secondary Uses (3.2-410)**

General Finding 44: In accordance with SDC 3.2-410, high impact public utility facilities are allowable in the LMI District subject to Site Plan Review and the Specific Development Standards of SDC 4.7-160 (see below). High impact facilities are defined as public facilities that serve development and that require special design features to mitigate potential land use conflicts such as visual, olfactory or auditory impacts.

**Light Medium Industrial Zoning District – Development Standards (3.2-420)**

General Finding 45: In accordance with SDC 3.2-420, the minimum size for an LMI parcel is 10,000 ft<sup>2</sup> with at least 75 feet of frontage. The requirement for frontage on a public street can be waived where the access has been guaranteed via a private street or driveway with an irrevocable access easement.

General Finding 46: The development site for the electric substation is approximately 6.4 acres and it has about 370 feet of frontage on a private street (extension of East 22<sup>nd</sup> Avenue) that has an irrevocable joint access easement. The adjoining parcels to the east exceed the minimum parcel dimensions and have access provided by an irrevocable access easement created for the access driveway across Tax Lots 101, 3701 and 1100 (Document 2019-009076, Lane County Deeds & Records).

General Finding 47: The appellant argues that the adjusted Tax Lot 1100 (after property line adjustment) does not meet the frontage requirement for the LMI zone. The LMI zone frontage requirements in SDC 3.2-420 are not applicable criteria under SDC 5.17-125.C for several reasons. First, the development that SUB proposes through its site plan review application does not affect the frontage of the subject property. Second, at the frontage requirements only apply to the creation of new lots or parcels, and neither lot 3701 nor lot 1100 is a new lot or parcel – even after the recent property line adjustment. Third, the property line adjustment between these two existing lots was lawfully approved by the City pursuant to Case No. 811-19-000076-TYP1, as required by court order previously submitted into the record. The appellant's frontage argument is an improper collateral attack on this decision.

General Finding 48: The proposed site plan meets the requirements of SDC 3.2-420 for minimum building, parking area, and front yard setbacks even though the property does not technically have frontage on a public street. The applicant is proposing to retain existing vegetation on the site to the extent practicable, and re-seed disturbed areas with native seed mix to provide for low-maintenance, drought-tolerant ground cover once it has become established. Use of native plants for low-maintenance, non-irrigated landscaping is an acceptable practice in Springfield.

General Finding 49: There are no other specific development standards listed in SDC 3.2-420 that apply to this site as it meets the provisions for setbacks, building coverage, and building height. However, the applicant has not provided

elevation details for the control house building or the other structures within the substation compound. Side elevation details of the substation, including the control house building, are needed for the final site plan submittal.

General Finding 50: Specific Development Standards for high impact public facilities are discussed under SDC 4.7-160 below.

Appellant's Assignment of Error #17: *As will be addressed in greater detail in the next section, public improvements are not available to serve the site at the time of development, because tax lot 1000 lacks access to a public road.*

*"C. The proposed development shall comply with all applicable public and private design and construction standards contained in this Code and other applicable regulations."*

### *"3.2-420 Base Zone Development Standards*

*The following base zone industrial development standards are established.*

*\* \* \* \**

*Minimum Frontage...75 feet (LMI)."*

*The portion of tax lot 3701 that is incorporated into the application does not meet this standard, as it has no frontage on a public road. The application acknowledges that it lacks the required frontage on a public street, but seeks to rely on an easement to substitute for the required frontage. Application, p. 11. While 3.2-420(3), does allow the director to "waive the requirement that buildable City lots/parcels have frontage on a public street," it is only where "the lots/parcels have been approved as part of a Development Area Plan, Site Plan, Subdivision, or Partition application." As is set forth above, the portion of tax lot 3701 involved in the application has not been lawfully divided, and is not a "lot" or "parcel" to which this exception could apply. Accordingly, the decision approving the application violates City frontage requirements, and should be reversed.*

Appellant's Assignment of Error #18:

### *"3.4-250 Schedule of Use Categories*

*In Subareas A, B, C and D, the following uses shall be permitted in the base zoning districts as indicated, subject to the provisions, additional restrictions and exceptions specified in this Code. Uses not specifically listed may be approved as specified in Section 3.4-260. Prohibited uses are listed in Section 3.4-255.*

*\* \* \* \**

*Low impact facilities are any public or semi-public facility that is permitted subject to the design standards of this Code, including, but not limited to, wastewater; stormwater management; electricity and water to serve individual homes and businesses; other utilities that have minimal olfactory, visual or auditory impacts; street lights and fire hydrants."*

*Tax lots 300 and 1000 are designated as Employment Mixed-Use in the Glenwood Phase I Refinement Plan, and on the City's zoning map. The MUE zone only permits "low impact" facilities, including "electricity and water to serve individual homes and businesses" as a permitted use in the zone. The high voltage transmission lines on the subject property do not electricity [sic] to an individual home and business and are not allowed under the applicable zoning. As the decision authorizes development of high voltage transmission lines on the subject property it violates the development code, and should be reversed on that basis.*

Appellant's Assignment of Error #19: *The decision ignores the fact that the proposed high voltage transmission lines are not a permitted use in the MUE zone, and urges instead that the lines are permitted as "High Impact Facilities" under the City's Urbanizable Fringe Overlay Zone. Decision, p. 4. However, the Urbanizable Fringe Overlay zone does not establish permitted uses with MUE zone. What's more, even if it were deemed to do so, the purpose of overlay is to impose additional limits on urban development in the urbanizable area, it does not expand the permitted uses under the MUE plan district. See SDC §§ 3.3-805<sup>2</sup> & 3.4-100.<sup>3</sup> The decision's conclusion to the contrary misapplies applicable law, and should also be reversed on this basis.*



Footnote <sup>2</sup>: “3.3-805 Purpose. The Urbanizable Fringe (UF-10) Overlay District is established to effectively control the potential for urban sprawl and scattered urbanization to achieve the goal of compact growth. This concept will remain the primary growth management technique for directing geographic patterns of urbanization in the City. The UF-10 Overlay District limits the division of land and prohibits urban development of unincorporated urbanizable land which will eventually be annexed to the City. All interim development shall be designed and constructed to City standards.”

Footnote <sup>3</sup>: “3.4-100 Plan Districts....The Plan District provisions may modify any portion of the regulations of the base zone, overlay zone, or other regulations of this Code. The provisions may apply additional requirements or allow exceptions to general regulations. When there is a conflict between Plan District regulations and the base zone, overlay zone, or other regulations of this Code, the Plan District shall control.”

Appellant’s Assignment of Error #20:

“3.4-265 Base Zone Development Standards

The following base zone development standards are established for the Glenwood Riverfront Mixed-Use Plan District:

\* \* \* \*

(2) While there is no minimum frontage standards all lots/parcels shall have frontage on a public street unless the proposed development has been approved as part of a Master Plan, Site Plan, or land division, and access has been guaranteed via a private driveway with an irrevocable joint use/access agreement as specified in Subsection 4.2-120A.”

As pointed out in our comments, tax lot 1000 does not have frontage on a public street, neither has access been-guaranteed via a private driveway with an irrevocable joint use/access agreement. The decision mischaracterizes this issue by suggesting that the “access and utility easements described in the applicant’s project narrative and shown on the site plan may not grant full, unfettered access across the project area in the event that all or portions of the affected parcels are transferred to third party ownership in the future.” Decision, p. 3. That is not the issue. The facts are that the applicant takes access to 22nd Avenue across property to the north owned by Alberto Miranda, and that the applicants have no easement that provides access across Mr. Miranda’s property to tax lot 1000. Accordingly, the decision violates the code and should be reversed on this basis as well.

Appellant’s Assignment of Error #21: The decision attempts to remedy the applicant’s access defect by imposing a condition of approval requiring that the “applicant shall execute and record an access easement across Tax Lots 101, 3701, 1100, 1000 and 300 for the maintenance access driveway as generally depicted on the tentative site plan.” Decision, p. 18. However, the applicant cannot grant itself an access easement across property that it does not own. Accordingly, this condition of approval is not feasible, and cannot establish compliance with the applicable approval criteria.

“4.2-120 Site Access and Driveways

A. Site Access and Driveways – General.

1. All developed lots/parcels shall have an approved access provided by either direct access to a:
  - a. Public Street or alley along the frontage of the property;
  - b. Private street that connects to the public street system. The private street shall be constructed as specified in Section 4.2-110 (private streets shall not be permitted in lieu of public streets shown on the City’s adopted Conceptual Street Plan or TransPlan); or
  - c. Public street by an irrevocable joint/use access easement serving the subject property serving the subject property [sic] that has been approved by the City Attorney, where:
    - i. A private driveway is required in lieu of a panhandle driveway, as specified in Section 3.2-220B; or
    - ii. Combined access for 2 or more lots/parcels is required to reduce the number of driveways along a street as determined by the Public Works Director.”

The subject property does not take access from a public or private road. Instead, the applicant relies on “an existing



30-foot wide easement serving the subject property.” However, as noted the easement does not serve tax lot 1000, and the portion of tax lot 3701 at issue is not a “lot” or “parcel” to which this exception could apply. In addition, the applicant provides no evidence that the Public Works Director has determine [sic] that a combined access is required to reduce driveways along the common street. Accordingly, the decision violates minimum access standards, and should be reversed on this basis as well.

Appellant’s Assignment of Error #22:

*“4.3-135 Major Electrical Power Transmission Lines*

- A. *When necessary to increase the capacity of major transmission lines, utility providers shall provide the increase by use of existing rights-of-way or easements.”*

*The subject property adjoins two existing linear rights-of-way-the I-5 corridor and the Pacific Railroad line. Either right-of-way would provide a clear and reasonably level route for the proposed transmission lines. The decision of approval locating the lines through the forested interior of the properties violates this infrastructure standard, and reversal is appropriate on this basis as well.*

Appellant’s Assignment of Error #23: *The decision seeks to justify location of the transmission lines outside of these rights- of-way by reference to an exception available when a utility provider “cannot provide the increase by use of existing rights-of-way or easements” and allowing the provider to site the lines “as specified in the Metro Plan’s Public Facilities and Services Plan.” Decision, p. 6. However, as is set forth above, the applicant has failed to established that these existing rights- of-way cannot accommodate the proposed transmission lines, and, in any case, the Public Facilities Plan calls for the use of these rights-of-way for the lines. Accordingly, the decision violates this standard as well, and reversal is also appropriate on this basis.*

Appellant’s Assignment of Error #24:

*“4.4-110 Screening.*

- A. *Unless otherwise specified in this Code, screening shall be required:*

*\* \* \* \**

- 2. For outdoor mechanical devices and minor and major public facilities;”*

*\* \* \* \**

- B. *Screening shall be vegetative, earthen and/or structural and be designed to minimize visual and audible incompatible uses from adjacent properties. Unless specified elsewhere in this Subsection, screening shall be continuous to at least six feet above ground level.”*

*The applicant’s proposed substation is not screened as required by this standard. The applicant proposes to install “grouping of randomly placed native conifers” for vegetative screening. Application, p. 26. However, to conform to applicable standards for vegetative screening, the screening must be “continuous”-and not in random clusters. Moreover, as is addressed below, the applicant refuses to install irrigation to support this vegetative screen, in violation of express planting requirements. The applicant’s proposed structural screening is a cyclone security fence, which will do nothing to screen the substation. Accordingly, the decision violates this standard, and is subject to reversal on this basis as well. The decision fails to apply these screening requirements to the substation, and instead concludes that the applicant is providing the required screening “on the west, northwest and north edges of the substation site.” Decision, p. 14. This finding is contrary to law and not supported by substantial evidence in the record. Moreover, to the extent that the same imposes a condition for the additional screening along the southern edge of the property, this condition is inadequate, both in that it fails to screen the substation from property to the east, and because the decision fails to determine whether it is feasible to provide such screening on the site given the lack of irrigation and the impacts to protected physical features on site.*

Finding - Response to Assignment of Error #17: As stated previously, Tax Lot 3701 in its previous and newly adjusted configuration is a legal parcel. The applicant submitted a Property Line Adjustment survey for approval by the City on March 26, 2019. The City completed a review of the Property Line Adjustment survey and issued approval for recording the survey on April 24, 2019. Upon recording the Property Line Adjustment Survey and Deeds on July 11, 2019 the

project area as generally depicted on the map prepared by City staff is now entirely within public ownership. Tax Lot 101 and a portion of Tax Lot 1100 are existing legal parcels inside the City limits and therefore may be subject to land use approvals issued by the City of Springfield.

Finding - Response to Assignments of Error #18, 19 & 23: The proposed transmission line development on Tax Lots 300 and 1000 is outside the purview of the Planning Commission for this appeal.

Finding - Response to Assignments of Error #20 & 21: The appellant's contention that there is no joint access easement across Tax Lot 3701 (and therefore the decision should be overturned) is ironic because the appellant's property at 4000 East 22<sup>nd</sup> Avenue is mostly if not entirely dependent upon SUB Electric's property (Tax Lot 101) for legal and physical access to their site. The Lane County tax records and property line information show the boundary between Tax Lots 3701 and 101 as running more or less in the center of the existing paved access road that provides joint access to these properties (and, by extension, to Tax Lots 1100, 1000 and 300 beyond). Because of the current property line configuration, commercial and private vehicles seeking to access 4000 East 22<sup>nd</sup> Avenue (the appellant's property) – by necessity and in deference to maintaining a proper lane of travel on the southern half of the road while travelling eastbound – cross Tax Lot 101. It is not until vehicles would be parked on the north side of the joint access road or heading westbound that they would be on the appellant's property. All of this overlooks, of course, the access easement for ingress and egress of vehicles that incorporates said portions of Tax Lots 3701 and 101 and that was executed by Mr. Alberto Miranda on February 26, 2019 and recorded at Lane County Deeds & Records on March 12, 2019 as Document 2019-009076. Therefore, SUB Electric has established beyond a shadow of a doubt that they have been granted legal and physical access across portions of Tax Lot 3701 under Mr. Miranda's ownership – as has Mr. Miranda across portions of Tax Lot 101 under SUB's ownership.

Regarding the issue of establishing legal and physical access across the balance of the project area, this issue affects parcels outside the City limits and is therefore outside the purview of the Planning Commission for this appeal.

Finding - Response to Assignment of Error #22: This issue affects parcels outside the City limits and is therefore outside the purview of the Planning Commission for this appeal.

Finding - Response to Assignment of Error #24: In accordance with SDC 4.4-110.B.3.b, the proposed chain link fencing around the electric substation can have fence slats installed to provide the required structural screening. The applicant also has the option to provide additional (or different) screening measures through vegetation, structures or earthen berms. The height of the screening has to be at least 6 feet above the ground surface, which will be met with the proposed vegetation and screening fence. There is no specific requirement in the Development Code to provide screening of features that protrude above the 6-foot level (such as transmission towers, wires, and transformers); therefore, the City has not imposed a condition requiring such screening. Screening of the fenced compound is addressed in subsection 4.7-160 below.

#### **Condition of Approval 6:**

**The Final Site Plan shall provide elevation details for the control house building and other structures within the substation compound.**

#### **On-Site Lighting Standards (4.5-100)**

General Finding 51: In accordance with SDC 4.5-110.B.1, light standards in industrial developments cannot exceed 25 feet high or the height of the principal structure, whichever is less. The applicant is not proposing to install lighting fixtures on the site so this requirement is not applicable.

#### **High Impact Public Facilities (4.7-160)**

General Finding 52: In accordance with SDC 4.7-160.A, high impact public facilities shall be designated on the *Public Facilities and Services Plan* or approved through Type III Discretionary Use procedures. The proposed electric substation and transmission line are projects identified in the adopted *Public Facilities and Services Plan* so this requirement has been met.

General Finding 53: In accordance with SDC 4.7-160.B, high impact public facilities shall be screened as specified in Section 4.4-100. The applicant is proposing to use vegetative screening along the west, northwest and north edges of the substation site where it faces the East 22<sup>nd</sup> Avenue alignment. However, screening has not been provided for the southern edges of the compound which are visible from I-5 and residential properties to the south across I-5. The applicant will need to install structural or vegetative screening on the perimeter of the substation compound in accordance with SDC 4.7-160.B. Because of potential conflicts with vegetation and the overhead transmission lines that enter the substation compound along the southern boundary, structural screening is recommended. Structural screening can include earthen berms or slatted fencing.

General Finding 54: The appellant argues that the substation will not be adequately screened from view in violation of SDC 4.4-110. The site plan review condition of approval (see Condition 7 below) requiring additional screening of the substation ensures compliance with this standard, and that it is feasible for SUB to comply with this condition based on the availability of suitable screening materials. The Planning Commission finds that screening is not necessary on the east side of the substation because the substation will not be visible from this direction and SUB owns the land east of the substation. Moreover, the intent of the screening requirement is to obscure the view of the utility facility from nearby residential areas and the public way.

#### **Condition of Approval 7:**

**The Final Site Plan shall provide for suitable structural and/or vegetative screening of the substation compound enclosure, including portions that are visible from the I-5 corridor and residential properties to the south across I-5.**

### **C.3 Overlay Districts and Applicable Refinement Plan Requirements**

General Finding 55: Tax Lots 300, 1000 and 1100 are outside the City limits but within the Springfield Urban Growth Boundary (UGB). Therefore, provisions of the Urbanizable Fringe Overlay District (UF-10) apply to these parcels. Because these parcels are outside the City limits the provisions of the UF-10 District are outside the jurisdiction of the Planning Commission.

General Finding 56: Portions of the transmission line alignment and associated project work are within areas that exceed 15 percent slope, and portions exceed 35 percent slope. Components of the project that lie within steeply sloping hillside areas – including the maintenance access road and transmission line poles – has triggered the requirement for a Hillside Development Permit. The applicant has submitted a Hillside Development Permit application under separate cover (Case 811-19-000085-TYP2). The sloping areas subject to the Hillside Development Permit are outside the City limits and therefore outside the purview of the Planning Commission for this appeal. However, it is notable that issuance of the Hillside Development Permit will be required before the Final Site Plan can be approved and construction is initiated.

General Finding 57: Tax Lots 101 and 1100 are within the 1999 *Glenwood Refinement Plan* area. The 1999 Refinement Plan identified the requirement for an EWEB substation southeast of Glenwood to manage increasing electric loads in the neighborhood. Policy 1 of the Water and Electric Services section of the Refinement Plan states that SUB shall provide water and electricity service to the Glenwood area either directly or by contract. Consistent with this policy, SUB Electric is upgrading and expanding the electric system in Glenwood through the installation of the proposed transmission line and substation. There are no other specific policies applicable to electric service in the 1999 *Glenwood Refinement Plan*.

General Finding 58: The 1999 *Glenwood Refinement Plan* does not identify any potentially significant or regulated wetlands within the proposed project area. The site is identified on the City's local wetland inventory and is classified as Not Locally Significant. **The applicant is required to obtain necessary state and federal permits for wetland fill/removal before any construction can occur on Tax Lot 101.**

General Finding 59: The appellant raises the issue of visual impact and the accuracy of the photo simulations prepared and submitted by the applicant for the project. The applicant has argued that the proposed substation and transmission lines conflict with policies in the Phase 1 Glenwood Refinement Plan (2014), Public Facilities and Services Section, regarding minimizing the visual impact of electric system facilities. The Planning Commission's jurisdiction of this appeal is limited to Tax Lots 101 and 1100, which are within the City limits, and are not within the Phase 1 Glenwood

Refinement Plan. Therefore the policies cited by the applicant are not applicable to the Planning Commission's review of this appeal.

Remand Finding 59.1: The applicant has prepared a supplemental analysis (see below; also see applicant's remand submittal, Exhibit D) that provides additional alternatives analysis regarding the alignment and design of SUB's proposed transmission line under the siting standards for electrical facilities in the 2014 *Glenwood Refinement Plan* (the "Siting Standards"), which is applicable only to the Hearing Official's decision. The following information is being provided by staff to inform the Hearing Official's decision.

The Siting Standards apply to the two southeastern-most parcels of the subject property, tax lots 1000 and 300, because these two parcels are within the boundary of the 2014 Glenwood plan. SUB evaluated its compliance with the Siting Standards in its original April 2019 Site Plan Review application narrative and supplemented this analysis during the local appeals that followed. This prior analysis, however, did not compare SUB's chosen transmission line alignment to other potential alternatives that SUB has considered. Because LUBA's decision requires SUB to evaluate alternative alignments for purposes of tree preservation, SUB has chosen to reconsider the Siting Standards by comparing SUB's chosen alignment to the other alternatives that SUB has evaluated. The analysis provided by the applicant also provides additional facility design information relevant to the Siting Standards. This analysis supersedes SUB's prior 2019 analysis of the Siting Standards.

**Applicant's Submittal to Address Remand Issue:**

*SDC Appendix C: Policy E.7. - Electric Facilities and Services-Utility Placement and Adverse Environmental, Visual, and Health Impacts.*

*Policy E.7.a. - Coordinate with SUB to develop criteria for locating and obscuring electric facilities that consider visual, auditory, health and environmental impacts; pedestrian mobility; operational ease; and initial costs and maintenance costs in association with proposed development in the Glenwood Riverfront.*

Applicant's Response: SUB coordinated with the City on a 2015 amendment to the Metro Plan's *Public Facilities and Services Plan* (the "PFSP") that establishes the general location of the proposed substation and transmission line between I-5 and the railroad corridor adjacent to Newman Street. As stated in the PFSP, the Metro governments and SUB selected this location because it minimizes the visual impact of the substation and the transmission line as required by Siting Standard E.7.

*Policy E.7.b. - Consider views, visual pollution, public health, natural environment, and noise pollution in locating and obscuring transmission facilities.*

Applicant's Response: SUB's proposed transmission line is bounded on the southeastern end by the existing transmission structure on the subject property that connects to the Bonneville Power Administration's Alvey Substation in Goshen. The line is bounded on the northwestern end by the substation site on Tax Lot 101. The Central Oregon Pacific Railroad Line and Newman Street are adjacent to the subject property to the north. SUB evaluated siting the transmission line along these rights-of-way and concluded that this route is not feasible. This is because the railroad line is adjacent to a steep hillside and there is minimal room along the railroad right of way for the transmission facilities. Even if the transmission line could be located in the railroad or street right of way, this route would require two hillside clearings. First, clearing would be needed from the top of the hill on Tax Lot 300 where the transmission structure is located to the railroad right-of-way at the base of the hill. A second hillside clearing would be needed further north to bring the line up the hillside to connect to the substation on Tax Lot 101. (See tree canopy maps in applicant's remand submittal, Exhibit C.) These clearings would have significant visual impact from McVay Highway (aka Franklin Blvd) and would have a greater environmental impact than the selected route due to the clearing and grading of the steep slopes. The I-5 right-of-way is adjacent to the subject property to the south. ODOT rules generally prohibit linear facilities in the interstate right-of-way, and ODOT instructed SUB that ODOT would not approve siting of the transmission line in the I-5 right-of-way. Even if SUB could site the transmission line in the I-5 right of way, this route would require tree clearing in two larger fair quality tree clusters near the south end of the property along a steep hillside. (See applicant's remand submittal, Exhibit C.) This would produce greater visual impact along I-5 than the selected route and also greater environmental impact due to clearing and grading on the slope. Given this geography, SUB has limited options to traverse the subject property to connect between the existing structure on Tax lot 300 and the proposed substation on Tax Lot 101.

SUB evaluated two alternative routes through the subject property in addition to SUB's selected route. As shown in Exhibit D of the applicant's remand submittal, Alternative 1 was two separate transmission lines, one along roughly the southern portion of the property and the other through roughly the center of the property. Alternative 1 was attractive from the standpoint of operational reliability because it would minimize the probability that a single event would take out both lines. But SUB rejected Alternative 1 because it would require cutting two separate 100-foot clear zones of trees, which would have greater environmental and visual impact than the selected route.

Alternative 2 was a double transmission line along a more northerly route than the selected route. SUB rejected Alternative 2 because it would increase tree felling in comparison to the chosen alignment, particularly through a good quality cluster of young ash trees and another good quality mixed species cluster of trees. (See applicant's remand submittal, Exhibit D.) Alternative 2 would also have had greater visual impact associated with tree cutting from the northeast because of tree felling that would be needed from near the top of the slope above the rail line and running a fair distance across the face of that slope. That tree felling area would have been visible from McVay Highway. This hillside is shown in the current conditions photos taken from McVay Highway and Nugget Way, included in Exhibit E of the applicant's remand submittal. SUB's chosen alignment is a double line along the portion of the property bounded by I-5. SUB concluded that there is enough open space along this route to safely locate two lines spaced 30 feet apart. This alignment also avoids steeper slopes along the northern border of the property. Traversing the edge of the property also minimizes tree cutting overall and preserves trees on both the south and north borders of the property to minimize the visual impact of the lines. In addition, SUB's proposed access road minimizes environmental impact by maximizing use of the existing road and only expanding the road where needed for access to the transmission facilities. Public health impacts are minimized by locating the facilities between I-5 and the railroad line away from residential areas. There is no difference in public health impacts among the different alternative alignments given the geography of the property.

*Policy E.7.b.1. - Follow natural landforms in aligning transmission lines while avoiding alignments along hillcrests or steep grades that expose the facilities to views; and cross hills obliquely rather than at right angles.*

Applicant's Response: The selected transmission route avoids alignment along hillcrests and steep slopes where possible. The selected route is within a large-scale cut out of the Moon Mountain hillside. The roadbed for I-5 was cut into the northeast flank of Moon Mountain, whose hilltop and ridge is to the southwest of the Interstate in Eugene's Laurel Hill Valley neighborhood. The selected transmission route sets the lines into this cut, making the transmission line oblique to the Moon Mountain hillside. As described above, other potential routes for the transmission line would require more tree felling on steep grades that would expose the transmission line to broader views. This includes theoretical alignments within the I-5 or railroad rights of way and Alternatives 1 and 2. Alternatives 1 and 2 would both require tree felling near the top of the crest of the hillside above the rail line, which would expose views of the transmission line from McVay Highway and the Eugene Mobile Village.

*Policy E.7.b.2. - Align transmission lines along edges of land uses to avoid scenic areas and to avoid dividing land use patterns.*

Applicant's Response: The selected route places the transmission corridor along the southern edge of Tax Lot 1000 and along the northwestern edge of Tax Lot 300. The corridor is also along the edges of the tree clusters on these parcels to retain forested areas to the maximum extent practicable. Alternatives 1 and 2, by contrast, would place a transmission corridor through the center of Tax Lot 1000 and further from the edge of Tax Lot 300.

*Policy E.7.b.3. - Utilize trees to provide a backdrop to minimize the silhouette of transmission lines against the sky.*

Applicant's Response: The selected route retains most of the trees on the property and more trees than would be retained under Alternatives 1 or 2. Trees that will remain near the top of the crest above the rail line and north and east of I-5 will minimize the silhouette of the transmission line along the selected route.

*Policy E.7.b.4. - Reduce the length of visible segments of transmission lines by interrupting views with trees or offsetting the location of segments behind trees and other topographic features where long views of the transmission lines would otherwise occur.*

Applicant's Response: Under the selected route, trees that currently exist within the I-5 right-of-way will not be touched and will interrupt the view of the transmission lines from I-5. As shown in the additional attached photo simulations (applicant's remand submittal, Exhibit D), the selected route also retains trees along the north side of the property that will obscure views of the transmission line from McVay Highway. There will be no view of the transmission line from East 22nd Street to the west of the property (including the opponents' coffee facility), nor from Eugene Mobile Village, as shown in the attached photographs. Alternatives 1 and 2, as well as a theoretical alignment along the railroad line, by contrast, would expand the length of visible transmission line from McVay Highway. A theoretical alignment in the I-5 right of way would expose more of the line to views from I-5.

*Policy E.7.b.5. - Minimize the "tunnel effect" of long, straight, uninterrupted views along transmission lines by only clearing vegetation that threatens the lines and by jogging the alignment at road crossings.*

Applicant's Response: The transmission lines will be located in a segmented alignment. SUB will only clear vegetation that threatens the transmission lines or impacts the substation site. All potential alternative alignments would create a greater tunnel effect than the chosen route. A theoretical alignment in the I-5 right-of-way would create uninterrupted views along the freeway. A theoretical alignment along the rail line would require two tunnel-like clearings of the hillside to reach the transmission structure on the south end of the property and the substation on the northern end of the property. Alternatives 1 and 2 would create greater uninterrupted views along McVay Highway.

*Policy E.7.b.6. - Minimize the number of transmission poles and consider color and materials in designing the appearance of transmission poles and line attachments so that they blend harmoniously with their surroundings.*

Applicant's Response: For the safety of the public and to meet standard construction practices, these transmission poles must be placed about every 250 feet along the line. SUB's selected transmission line design is consistent with this standard and therefore minimizes the number of poles to the extent practicable. SUB considered potential colors and materials for the transmission poles and chose a wood pole equivalent galvanized steel design. Steel is preferable to wood poles for fire safety and longevity. The grey color of the galvanized steel is consistent with the existing transmission poles on and in the vicinity of the subject property and blends in against background sky.

*Policy E.7.b.7. - Route and locate transmission lines to minimize or eliminate the need for vegetation management.*

Applicant's Response: SUB will only clear vegetation that threatens the transmission lines or impacts the substation site. SUB's replanting plan minimizes the need for vegetation management by selecting drought tolerant native shrubs and forbs in the transmission line clear zone and drought tolerant incense cedar trees for substation screening.

*Policy E.7.b.8. - Route and locate transmission lines to minimize potential health effects and noise pollution on Glenwood residents.*

Applicant's Response: The selected route minimizes potential health effects and noise pollution by locating the lines away from residential areas. The subject property is isolated from public areas and residential areas by I-5 to the south and the rail line to the north.

*Policy E.7.b.9. - Route and locate transmission lines to minimize potential effects on avian migratory patterns.*

Applicant's Response: The transmission lines will be surrounded by trees, many of which are as tall as or taller than the transmission lines, minimizing the effect on aviation migratory patterns.

*Policy E.7.e. - Consider views and visual pollution in locating and obscuring the future substation.*

Applicant's Response: The substation site location and screening minimize views of the substation. The Army Corps of Engineers and the Oregon Department of State Lands have both concluded that there is no practicable alternative to SUB's proposed substation location, as shown in the wetland permitting files included with SUB's remand submittal.

*Policy E.7.e.1. - Locate the substation in an industrial or employment designated parcel outside of the boundary of the Phase I Glenwood Riverfront.*



Applicant's Response: The substation will be located in the LMI industrial zone outside of the Phase I Glenwood Riverfront.

Policy E.7.e.2. - *Obscure the substation and transformer from public view and attenuate the noise generated by these facilities by means of plant materials, earth berms, or enclosure walls.*

Applicant's Response: Vegetation that currently exists on the undisturbed portions of the site will be used to help screen the substation on Lot 101. In addition, SUB will plant native conifer trees to further obscure and buffer the substation. In addition, the substation will have a fence with slats along the south side of the compound.

Appellant's Assignment of Error #26:

*"3.4-270 Public and Private Development Standards*

*The following public and private development standards are established for the Glenwood Riverfront Mixed-Use Plan District:*

\*\*\*\*

*F. Private Property Landscape Standards.*

\*\*\*\*

*3. General Landscape Standards.*

\*\*\*\*

- i. Irrigation. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All landscaped areas shall provide an irrigation system as follows:*
  - i. A permanent built-in irrigation system with an automatic controller; or*
  - ii. An irrigation system designed and certified by a licensed landscape architect or certified landscape professional as part of the landscape plan that provides sufficient water to ensure that the plants will become established. The system does not have to be permanent if the plants chosen can survive adequately on their own once established; or*
  - iii. Irrigation by Hand. If the applicant chooses this option, the inspection required in Subsection 3.4-270F.3.h.i(c) shall ensure that the landscaping has become established.*
  - iv. The following options will be encouraged in order to reduce the amount of potable water used for landscape irrigation by the use of:*
    - (a) Capture rainwater;*
    - (b) Recycled wastewater;*
    - (c) Water treated and conveyed for non-potable uses; and/or*
    - (d) Other non-potable water sources, including, but not limited to, stormwater, air conditioning condensate, irrigation wells, and foundation drain water.*
  - v. The final irrigation plan diagram, if necessary, shall be submitted with the Final Site Plan Review application."*

*The applicant is proposing to replace approximately 300 trees on the subject property with a "native grass seed mix." L 4.1 (Planting Plan). However, the applicant refuses to provide irrigation support to ensure that these plantings will become established, stating: "[i]nstead plant material on this project will not be irrigated." Application, p. 15. This is a violation of the City's landscaping standards, and reversal of the decision is appropriate on this basis as well.*

Appellant's Assignment of Error #27: *The decision attempts to justify its failure to conform to these minimum standards by contending that the Urbanizable Fringe Overlay standards are the only standards applicable to the project. Decision, p. 5. However, the Riverfront Mixed-Use Plan District standards at Section 3.4-270 control over the Urbanizable Fringe Standards as is set forth in the code. Accordingly, the decision of approval is in error [sic], and should be reversed on this basis as well.*

Appellant's Assignment of Error #28:

- "5. Existing mature vegetation and healthy trees, excluding those plants on the Nuisance Plants List as specified in the Springfield Engineering Design and Procedures Manual, shall be retained to the maximum extent practicable. However, plantings intended to mitigate for the loss of natural resources values shall*

*be subject to the applicable standards as specified in Sections 3.4-280, 4.4-115, 4.4-117 and the Springfield Engineering Design [Standards] and Procedures Manual."*

*The applicant is proposing to remove approximately 300 healthy trees for the proposed project, over a third of which bear little to no relationship with the improvements, and without mitigation. It has also failed to specify the number of trees or existing vegetation which will be removed for its planned fencing. This is not retaining "mature vegetation and healthy trees...to the maximum extent practicable" and is a violation of this provision. The decision fails to apply this standard, and the reversal of the decision is warranted on this basis as well.*

Finding - Response to Assignment of Error #26: The Public and Private Development Standards in SDC 3.4-270 cited by the appellant in this assignment of error do not apply to Tax Lots 101 and 1100, and therefore this issue is outside the jurisdiction of the Planning Commission for this appeal. For Tax Lot 101 and the portion of Tax Lot 1100 within the City limits, the revegetated areas along the segment of transmission line and the landscaping associated with the non-occupied electric substation do not require an automatic irrigation system according to SDC 4.4-105.G, because these areas will be planted with drought resistant native species and plant communities. The applicant will be subject to the provisions of the City's Development Code (ref. SDC 4.4-105.E) pertaining to establishment periods for vegetation and replacement of plant material that fails to establish during this period.

The appellant questions the lack of a permanent irrigation system in SUB's revegetation plans. SDC 4.4-105.G allows for alternative measures for sites planted with native species or plant communities, or as otherwise exempted by the Approving Authority. For the SUB project, the revegetation and landscaping plans have been designed by a landscape professional. SUB has explained that it has developed such a system for the property designed by SUB's landscape architecture firm, and the record includes SUB's proposed revegetation plan. The Planning Commission finds that SUB has demonstrated compliance with this criterion based on this evidence.

To address this issue, the applicant has agreed to provide hand watering of new vegetation during the establishment period as needed. The applicant also has agreed to a condition of approval requiring this additional irrigation safeguard, and that it is feasible for SUB to provide hand watering as needed given SUB's access to the property and willingness to perform this task.

The appellant also raised concerns about erosion associated with SUB's proposed development, including erosion associated with tree removal. Erosion control is one of the purposes of the City's landscaping standards at SDC 4.4-105. Condition 1 of the City's tree felling decision requires SUB to obtain a Land and Drainage Alteration Permit (LDAP) before commencing tree felling. The LDAP permitting process requires installation of erosion control measures and establishment of erosion-controlling vegetation in disturbed areas. In addition, the applicant will be minimizing erosion associated with tree felling by leaving tree stumps in place, and utilizing an erosion control plan for road improvement in the record. The Planning Commission finds that compliance with erosion control requirements, including SDC 4.4-105 and the City's EDSPM, are based on this evidence and provisions of the LDAP permit that will be obtained by SUB permit prior to the start of construction

Finding - Response to Assignment of Error #27: This assignment of error pertains to three parcels that are outside the City limits (i.e. Tax Lots 1000, 1100 and 300) and are therefore outside the jurisdiction of the Planning Commission for this appeal.

For Tax Lot 101 and the portion of Tax Lot 1100 inside the City limits, the Planning Commission has granted the project an exemption from the requirement for an underground irrigation system due to the isolated nature of the project, the potential impacts of installing and maintaining such an underground system, and based on the applicant's proposed revegetation plan using exclusively drought-tolerant native plant species and commitment to use hand watering as necessary to ensure successful vegetation establishment (see Condition 9 below).

Finding - Response to Assignment of Error #28: The applicant has already responded to the tree removal issue which is being adjudicated through a separate appeal (Case 811-19-000102-TYP3). There are no additional trees proposed for removal for installation of the perimeter fencing. Therefore, this assignment of error is not relevant to the criteria of approval for this appeal.



**Condition of Approval 8:**

**Prior to approval of the Final Site Plan, the applicant shall obtain a Hillside Development Permit for the project as initiated by Case 811-19-000085-TYP2.**

**Condition of Approval 9:**

**The Final Site Plan for the electric substation and segment of transmission line within the City limits shall provide for hand watering and other supplementary irrigation measures as necessary to ensure successful vegetation establishment in the landscaped and revegetated areas depicted on the applicant's site plan.**

Conclusion: Subject to Conditions of approval #4–9, the applicant has met Criterion C. Assignments of error #17–24 and #26–28 are denied.

- D. Parking areas and ingress-egress points have been designed to: facilitate vehicular traffic, bicycle and pedestrian safety to avoid congestion; provide connectivity within the development area and to adjacent residential areas, transit stops, neighborhood activity centers, and commercial, industrial and public areas; minimize curb cuts on arterial and collector streets as specified in this Code or other applicable regulations and comply with the ODOT access management standards for State highways.**

General Finding 60: Installation of driveways on a street increases the number of traffic conflict points. The greater number of conflict points increases the probability of traffic crashes. Effective ways to reduce the probability of traffic crashes include: reducing the number of driveways; increasing distances between intersections and driveways; and establishing adequate vision clearance areas where driveways intersect streets. Each of these techniques permits a longer, less cluttered sight distance for the motorist, reduces the number and difficulty of decisions that drivers must make, and contributes to increased traffic safety.

General Finding 61: In accordance with SDC 4.2-120.C, site driveways shall be designed to allow for safe and efficient vehicular ingress and egress as specified in Tables 4.2-2 through 4.2-5, the City's EDSPM, and the City's *Standard Construction Specifications*. Ingress-egress points must be planned to facilitate traffic and pedestrian safety, avoid congestion, and minimize curb cuts on public streets.

General Finding 62: The appellant has not challenged the applicant's compliance with this criterion. However, to the extent that the ingress-egress standards in SDC 5.17-125.D overlap with the appellant's access argument, the applicant has appropriate ingress and egress to the subject property for the reasons described above. For this reason, the findings in the original Director's decision regarding SDC 5.17-125.D are listed herein and adopted with this decision.

General Finding 63: The applicant is proposing to construct a new driveway approach to the substation site on Tax Lot 101. The applicant is proposing to pave the first 18-feet of the driveway as measured from the edge of pavement along the East 22<sup>nd</sup> Avenue alignment, which exceeds the requirements for commercial and industrial driveways under Table 4.2-2 of the Springfield Development Code.

General Finding 64: The applicant is proposing to use an existing gravel access road that runs within Tax Lots 3701, 1100 and 1000 for much of the maintenance access road depicted on the site plan. This part of the project is outside the City limits and therefore outside the jurisdiction of the Planning Commission for this appeal.

Conclusion: The applicant has met Criterion D. The findings and conclusion stated herein are upheld.

- E. Physical features, including, but not limited to: steep slopes with unstable soil or geologic conditions; areas with susceptibility of flooding; significant clusters of trees and shrubs; watercourses shown on the Water Quality Limited Watercourse Map and their associated riparian areas; wetlands; rock outcroppings; open spaces; and areas of historic and/or archaeological significance, as may be specified in Section 3.3-900 or ORS 97.740-760, 358.905-955 and 390.235-240, shall be protected as specified in this Code or in State or Federal law.**

General Finding 65: The Natural Resources Study, the National Wetlands Inventory, the Springfield Local Wetland Inventory Map, Wellhead Protection Overlay and the list of Historic Landmark Sites have been consulted and there are no natural features or resources on the property that warrant protection. However, as previously discussed, the applicant

is required to obtain a wetland fill/removal permit for planned project work on Tax Lot 101. The applicant has submitted copies of the wetland delineation study and their wetland fill/removal permit submittal to the Oregon Department of State Lands and the Army Corps of Engineers. Issuance of the wetland fill/removal permit will be required before approval of the Final Site Plan and initiation of construction.

General Finding 66: Portions of the project area are located within steeply sloping hillside areas that trigger the requirement for a Hillside Development Permit. The applicant has submitted for a Hillside Development Permit under separate cover (Case 811-19-000085-TYP2). As previously stated and conditioned herein, issuance of the Hillside Development Permit is required prior to approval of the Final Site Plan and initiation of construction. Additional details on the proposed hillside development are found in the accompanying Hillside Development Permit submitted under separate cover as Case 811-19-000085-TYP2 and incorporated by referenced herein.

Remand Finding 66.1: The Hillside Development Permit approved by the Planning Commission and Hearings Official as a result of the appeal is referenced herein as Case 811-19-000128-TYP3.

General Finding 67: SDC 5.17-125.E requires protection of various “physical features . . . as specified in [City] Code or State or Federal law.” The Site Plan test was met at SDC 5.17-125.C as it relates to compliance with relevant City Code requirements. SUB has complied with all other relevant local criteria concerning protection of physical features for the reasons outlined in the findings listed herein:

- Tree Preservation: The City’s tree felling permit ensures tree preservation consistent with SDC 5.17-125.E. SUB will be required to obtain a final tree felling permit prior to tree removal.
- Wetlands and Riparian Areas: SUB has complied with all relevant City wetland and water quality-related protection standards for the reasons described herein. The applicant’s permit applications to the Army Corps of Engineers and the Oregon Department of State Lands will ensure SUB’s compliance with federal and state wetland development laws.
- Slope protection: The evidence presented by the applicant’s geotechnical consultant and SUB staff demonstrates that the proposed development will protect slopes. This evidence is further discussed in the Hillside Development Permit submitted under separate cover and also subject of an appeal (Case No. 811-19-000128-TYP3). Overall, the applicant’s argument and supporting studies and analysis is more persuasive than the documents prepared by Geoscience for the appellant because SUB’s evidence includes actual subsurface exploration, sampling, and lab testing. The applicant’s geotechnical consultant also draws from his experience with other nearby properties in assessing the subject property.

Remand Finding 67.1: The City’s site plan review criteria require that “significant clusters of trees and shrubs...be protected as specified in this Code or in State or Federal law.” SDC 5.17-125.E (emphasis added). LUBA’s decision affirms that the City’s “tree felling standards govern protection of significant clusters of trees.” As noted above, LUBA also upheld the scope of SUB’s proposed tree felling as consistent with the City’s tree felling criteria. In its remand order, LUBA requires the City to “consider and explain” how significant clusters of trees and shrubs are protected under SDC 5.17-125.E.

Remand Finding 67.2: Separately, LUBA held that the City’s Glenwood landscaping standards at SDC 3.4-270.F.5 require an “analysis of alternative [transmission] line alignments on the subject property” to ensure that the Project “retains mature vegetation and healthy trees ‘to the maximum extent practicable’” on the two GEMU-zoned parcels of the site. Together these holdings indicate that the City’s “significant clusters” site plan review standard incorporates an additional requirement for tree clearing on the two GEMU-zoned parcels of the Property (Tax Lots 1000 and 300) beyond the tree felling standards that apply to the overall site. Specifically, clearing of healthy tree clusters on Tax Lots 1000 and 300 must meet the GEMU “maximum extent practicable” preservation standard as well as the utility interference standard in the tree felling rules. Because LUBA upheld SUB’s proposed 100-foot clear zone as consistent with the tree felling rules, LUBA’s decision means that SUB must select the practicable location for this clear zone on the site that best preserves healthy trees on Tax Lots 1000 and 300.

Remand Finding 67.3: The SDC does not define “significant tree cluster.” For purposes of inventorying tree canopy, SUB utilized definitions that were recently proposed by the City of Eugene for that city’s tree preservation standards. These Eugene definitions, which are included in the tree canopy evaluation materials in Exhibit C of the applicant’s remand submittal, define a “significant tree cluster” as a group of five or more living trees of at least eight inches in diameter at breast height with overlapping branches. SUB’s working definition of “significant tree cluster” (further broken out into “good,” “fair,” and “poor” quality) is expansive enough to capture all tree clusters that could be considered “significant” under a reasonable interpretation of the term. “Good” quality clusters were identified based upon moderate to low plant density, primarily non-invasive groundcover, even branching, and an upright trunk (tree is not leaning); “fair” quality tree clusters were those with moderate to dense planting; a mix of invasive and non-invasive groundcover; some broken or uneven branching and that may include moderate lean to the trunk; “poor” quality tree clusters had a high density planting, primarily invasive understory, broken or uneven branching, and trees or trunks with significant lean.

Remand Finding 67.4: SUB’s tree canopy evaluation makes clear that SUB’s proposed transmission line alignment best preserves trees on the site of all potential alternatives, regardless of which clusters are deemed “significant.” Specifically, the selected route generally avoids the large clusters of trees along the northern and southern boundaries of the project area by crossing the open meadow on Tax Lot 1100. It also entirely avoids all trees within “good” quality clusters and the vast majority of trees in “fair” quality clusters throughout the site. Both practicable alternative routes on the site involve substantially more tree cutting, including felling of trees within a good quality cluster near the northern border of the site. (See applicant’s remand submittal, Exhibit D).

Remand Finding 67.5: Although the record shows that alignments in the railroad right-of-way and the I-5 right-of-way are not practicable, these theoretical alignments would also require more tree felling than the selected route. An alignment along the railroad line north of the project area would require two hillside clearings. First, clearing would be needed of a fair quality cluster from the top of the hill on Tax Lot 300 where the transmission structure is located to the railroad right-of-way at the base of the hill. A second hillside clearing would be needed further north to bring the line up the hillside through a fair or good quality cluster to connect to the substation on Tax Lot 101. (See applicant’s remand submittal, Exhibit C, pages TF1 and TF2). An alignment in the I-5 right-of-way would require tree clearing in two larger fair quality tree clusters on the south end of the Property along a steep hillside. (See applicant’s remand submittal, Exhibit C, pages TF2-TF4). SUB’s selected transmission route therefore exceeds the requirement to preserve significant clusters of trees as required by the City’s tree felling rules. As LUBA explained, the City’s utility interference standard (SDC 5.19-125) requires only that interference with utility service “warrants” tree felling. SUB has gone beyond this requirement by demonstrating that SUB’s selected route preserves trees clusters (significant or not) better than potential alternative routes on and near the project area.

Remand Finding 67.6: SUB’s selected route also complies with the Glenwood landscaping standard of retaining mature vegetation and healthy trees to the maximum extent practicable on Tax Lots 1000 and 300 because it preserves more healthy trees on these parcels than any practicable alternative route (see Subsection C.3 above). Both alternative routes on the site that are practicable involve a northern alignment that would require clearing of a substantial portion of a good quality tree cluster on Tax Lot 1000, as well as a larger portion of the adjacent poor quality clusters on Tax Lots 1000 and 300. SUB has also refined its tree felling plan to preserve a group of additional trees north of the existing transmission structure on Tax Lot 300 that are within a larger fair quality cluster. After further review since the City’s 2019 approval of SUB’s tree felling plan, SUB has concluded that trimming rather than felling these trees is sufficient to ensure safety of the transmission facilities. This additional tree preservation further demonstrates that SUB’s plans retain healthy trees to the maximum extent practicable in the GEMU zone.

General Finding 68: The Planning Commission finds that SUB’s proposed development will protect significant clusters of trees and mitigate hillside erosion, as required by the standards of the Springfield Development Code, for the reasons described above.

General Finding 69: Stormwater runoff from the subject site eventually flows to the Willamette River system. This river is listed with the State of Oregon as a “water quality limited” stream for numerous chemical and physical constituents, including temperature. Provisions have been made in this decision for protection of stormwater quality. The proposed on-site stormwater treatment system consists of a series of vegetated rain gardens, grassy swales and a vegetated detention basin.

General Finding 70: As previously noted and conditioned herein, groundwater protection must be observed during construction on the site. The applicant shall maintain the private stormwater facilities on the site to ensure the continued protection of surface water and groundwater resources.

*Appellant's Assignment of Error #25: The decision violates Section 5.17-125(E) by failing to protect physical features as required by law. In particular, the decision relies on a deficient tree felling permit to protect "significant clusters of trees and shrubs," which is subject to a separate appeal, rather than evaluating tree preservation under applicable standards. Likewise, the City decision improperly conflates compliance with state fill/removal law with compliance with applicable City standards governing protection of wetlands and water courses. Indeed, the decision at page 6 describes the wetland on tax lot 101 as merely an "interfere[nce] with natural drainage patterns" in an attempt to ignore the City's resource protections. As is addressed below, the wetland on tax lot 101 is protected by the City's water quality standards. Moreover, the decision's description of resource area is based on no evidence in record. As the decision approves an application that does not protect resources on the site, reversal of the decision is appropriate on this basis as well.*

Finding - Response to Assignment of Error #25: The wetland feature on Tax Lot 101 is protected by the City's water quality standards. However, as is the case with proposed development throughout the City, applicants can obtain the necessary permits to facilitate said development. Section 4.3-117.B.1.c is applicable to Tax Lot 101, whereby "[d]uring the application review process, if a property is found to contain a wetland that has not been inventoried, the applicable Federal and State agencies shall be notified. Based upon the Federal and State agency review, both the Springfield Local Wetland Inventory and the Local Wetland Inventory Map may require amendment." The wetland on Tax Lot 101 is not depicted on the City's adopted natural resources inventory. Therefore, the City followed protocol by having the applicant submit the wetland delineation report to Federal and State agencies and obtain necessary wetland fill/removal permits for the proposed development. There are no indications from the wetland delineation report prepared by the applicant and submitted into the record that the subject wetland warrants addition to the City's Local Wetland Inventory Map as a Locally or Nationally Significant Wetland. As such, the wetland feature on Tax Lot 101 falls within the parameters of SDC 4.3-117.B.1.b whereby "inventoried wetlands which are not deemed to be locally significant shall not be subject to the development setbacks and other protections described in this Subsection, but shall continue to be protected under permitting authority of applicable Federal and State agencies." Therefore, upon receipt of wetland fill/removal permits from said Federal and State agencies, the applicant can proceed with development of the site.

**Condition of Approval 10:**

**Prior to issuance of any City permits for initiation of construction within Tax Lot 101, the applicant shall obtain approval of a wetland fill/removal permit from applicable state and federal agencies and provide evidence thereof to the City.**

**Condition of Approval 11:**

**The property owner or their designee shall be responsible for ongoing and perpetual maintenance of the private stormwater facilities on the site to ensure they function as designed and intended, and to ensure protection of groundwater resources. Annual maintenance records shall be kept by the property owner or their designee and provided to the City for review upon reasonable request – normally within five business days.**

**Conclusion:** Subject to Condition of Approval #10, the applicant has met Criterion E. Assignment of error #25 is denied.

**CONCLUSION:**

The above findings and conclusions cited from the application, the original Director's Decision, applicant's response, City response, final applicant rebuttal, supplementary materials including but not limited to acknowledged comprehensive plans, recorded agreements and easements, and correspondence from state agencies, and final applicant response to issues remanded by LUBA all demonstrate that the proposal meets the criteria of approval in SDC 5.17-125 for Site Plan Review subject to the conditions cited herein and listed below. The appellant's assignments of error are denied and the decision to conditionally approve the Site Plan Review in Case 811-19-000084-TYP2 and as amended and superseded by Case 811-19-000129-TYP3 (as modified by the applicant in response to the remand) is hereby upheld.

**Condition of Approval 1:**

Prior to approval of the Final Site Plan, the applicant shall enter into a maintenance agreement with the City of Springfield, whereby the applicant will provide routine maintenance for functionality of the vegetated rain gardens, grassy swales, and vegetated detention basin serving the development site.

**Condition of Approval 2:**

Prior to approval of the Final Site Plan, the applicant shall provide an operations and maintenance plan satisfactory to the City to ensure viable long-term maintenance and operation of the vegetated rain gardens, grassy swales, and vegetated detention basin. The operations and maintenance plan shall designate the responsible party for operating and maintaining the system and shall be distributed to all property owners and tenants of the site. A record of this plan shall be filed against the property deed with Lane County Deeds and Records.

**Condition of Approval 3:**

To ensure a fully functioning water quality system and meet objectives of Springfield's MS4 permit, the Springfield Development Code and the EDSPM, the infiltration rain gardens, grassy swales, and vegetated detention basin shall be fully vegetated with all vegetation species established prior to issuance of final occupancy and commencement of operations. Alternatively, if this condition cannot be met, the applicant shall provide and maintain additional interim erosion control/water quality measures acceptable to the Development & Public Works Department that will suffice until such time as the rain garden, swale, and detention basin vegetation becomes fully established. The interim erosion control measures shall be in addition to the required plantings for the site.

**Condition of Approval 4:**

The Final Site Plan shall provide for a Knox padlock for any manually operated gates or a Knox keyed gate switch for any electrically operated gates serving the access driveway and electric substation compound.

**Condition of Approval 5:**

Prior to approval of the Final Site Plan, the applicant shall execute and record a variable-width electric transmission line easement across Tax Lots 101 and 1100, as generally depicted on the tentative site plan, and provide evidence thereof to the City.

**Condition of Approval 6:**

The Final Site Plan shall provide elevation details for the control house building and other structures within the substation compound.

**Condition of Approval 7:**

The Final Site Plan shall provide for suitable structural and/or vegetative screening of the substation compound enclosure, including portions that are visible from the I-5 corridor and residential properties to the south across I-5.

**Condition of Approval 8:**

Prior to approval of the Final Site Plan, the applicant shall obtain a Hillside Development Permit for the project as initiated by Case 811-19-000085-TYP2.

**Condition of Approval 9:**

The Final Site Plan for the electric substation and segment of transmission line within the City limits shall provide for hand watering and other supplementary irrigation measures as necessary to ensure successful vegetation establishment in the landscaped and revegetated areas depicted on the applicant's site plan.

**Condition of Approval 10:**

Prior to issuance of any City permits for initiation of construction within Tax Lot 101, the applicant shall obtain approval of a wetland fill/removal permit from applicable state and federal agencies and provide evidence thereof to the City.

**Condition of Approval 11:**

**The property owner or their designee shall be responsible for ongoing and perpetual maintenance of the private stormwater facilities on the site to ensure they function as designed and intended, and to ensure protection of groundwater resources. Annual maintenance records shall be kept by the property owner or their designee and provided to the City for review upon reasonable request – normally within five business days.**