



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/23/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Eugene Plan Amendment
DLCD File Number 005-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, July 06, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Therese Walch, City of Eugene
Gloria Gardiner, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative
Amanda Punton, DLCD Regional Representative

<paa> YA

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Eugene**

Local file number: **R-9.4770**

Date of Adoption: **6/09/2009**

Date Mailed: **6/15/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **4/13/2009**

- | | |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input checked="" type="checkbox"/> Other: Land Use Decision |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Administrative Order No. 58-09-07-F adopts administrative rules implementing Eugene City Code sections 9.4780(2), 9.4780(3) and 9.8030(25). As required by those code sections, the adopted rules describe the procedures that the City used to map setbacks on the Water Quality Waterways Map for purposes of considering any future corrections to that map and establishes a Water Quality Rating System. Administrative Order No. 53-09-03-F amends the adopted land use application fee schedule to add fees for /WQ Water Quality Overlay Zone adjustment review, correction to map and/or removal of /WQ overlay zone, and standards review.

Does the Adoption differ from proposal? **Yes**, Please explain below:

The following items were added to the proposed administrative rules: (1) four site examples; (2) two written report samples; (3) definitions of streambank stability and streambed downcutting; (4) explanation of the Water Quality Waterways Map file-type; and, (5) map update recordation requirements. Additionally, amendments to the adopted fee schedule were adopted.

Plan Map Changed from: **N/A** to:

Zone Map Changed from: **N/A** to:

Location: **N/A** Acres Involved:

Specify Density: Previous: **N/A** New: **N/A**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment 45-days prior to first evidentiary hearing?

- | | |
|---|-----------------------------|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If no, do the statewide planning goals apply?

If no, did Emergency Circumstances require immediate adoption?

DLCD file No. See First Page

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Eugene

Local Contact: **Therese Walch**

Phone: (541) 682-5549 Extension:

Address: **99 East Broadway, Suite 400**

Fax Number: **541-682-5032**

City: **Eugene**

Zip: **97401**

E-mail Address: **therese.walch@ci.eugene.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

ADMINISTRATIVE ORDER NO. 58-09-07-F

**of the
City Manager of the City of Eugene**

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

The City Manager of the City of Eugene finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/WQ WATER QUALITY OVERLAY ZONE ADMINISTRATIVE RULE R-9.4770

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 3.2. Headwater stream. Based on the location of the setback measurement point and per EC 9.4778(1)(c), 40 foot setback areas were identified on the Water Quality Waterways Map extending landward in both directions from the stream centerline, forming GIS polygons. This setback area constitutes the entire water quality management area for Headwater Streams and was included on the adopted Water Quality Waterways Map.
4. The Water Quality Waterways Map, adopted as Exhibit A-1 to Ordinance No. 20430, is a Portable Document Format (PDF) file created from the geographic data layers referenced in sections 1-3 above. The City has retained the geographic data layers from which the Water Quality Waterways Map was produced and they are available for reference in interpreting the Water Quality Waterways Map.
5. Upon final approval of a change pursuant to EC 9.4780(3)(b)5, 9.4786 or 9.8030(25) necessitating an update to the Water Quality Waterways Map, the Planning Director or the Planning Director's designee, shall record at Lane County Deeds and Records a notice of the decision, prepare an updated Map indicating the date of the update and enter the date of the update with a reference to the underlying decision document on a log to be maintained by the City.

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

1. **Preparer**. The required certification, report or determination shall be prepared by one or more of the professionals described at EC 9.4782(2).
2. **Content**. The required certification, report or determination shall be composed of the following four components:
 - 2.1. **Site Plan I – Pre-Proposal Conditions**. The purpose of this site plan is to illustrate the location and extent of the water quality function features as they exist on the subject lot prior to the proposed use, activity or adjustment and mitigation measures. The illustrations on this site plan must correspond with the pre-proposal rating calculations shown on the Water Quality Function Rating Table described in Section 2.3 of this rule.
 - 2.1.1. This site plan must be submitted on a sheet of paper that can be folded to 8.5" x 11" and must be prepared at a scale sufficient for showing the details described at section 2.1.2., below.
 - 2.1.2. This site plan shall include the following:

- (a) The lot lines, dimensions, and lot area at the locations shown on the City's Water Quality Waterways Map;
- (b) The waterway channel area, applicable setback measurement point (THB or centerline), and setback area at the locations shown on the City's Water Quality Waterways Map;
- (c) Existing uses or activities within the lot's Water Quality Management Area, including the dimensions and area of those uses or activities (field or aerial photo verified);
- (d) Any areas excluded from the lot's Water Quality Management Area pursuant to EC 9.4778;
- (e) Existing uses on the lot located outside, and within 50 feet of, the Water Quality Management Area (field or aerial photo verified);
- (f) Existing trees, shrubs, and other low-level plantings (e.g. forbs, grasses, rushes and ferns) within the lot's Water Quality Management Area, including extent of cover, species composition, and distribution (verified with site photo looking up or downstream at the waterway or aerial photo);
- (g) Location of existing indicators of streambank instability and streambed downcutting (field verified) on the lot, if applicable.

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

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

2.2.2. This site plan shall include the following:

- (a) The information described in sections 2.1 2.(a)-(c) above;
- (b) If an adjustment to the setback area is proposed pursuant to EC 9.8030(25)(a) or (b), the dimensions and area of the proposed setback area;
- (c) If uses or activities are proposed pursuant to EC 9.4780(2)(f)4, EC 9.4780(2)(h)12, EC 9.4780(3)(b), (c), (e) or (h), the location, dimensions and area of the proposed uses or activities to be established or to remain within the Water Quality Management Area;

- (d) Uses or activities proposed to be established or to remain outside the lot's Water Quality Management Area;
- (e) All mitigation measures proposed, if any (See Section 2.2.3., below);
- (f) The dimensions of any areas that will be excluded from the lot's Water Quality Management Area pursuant to EC 9.4778;
- (g) Trees, shrubs, and other low-level plantings (e.g. forbs, grasses, rushes and ferns) proposed to be established, or to remain, within the lot's Water Quality Management Area, including extent of cover, species composition, and number or quantity of plants.

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

- (a) Plant vegetation to accomplish greater areas of, and diversity in, vegetative cover;
- (b) Remove structures or impervious areas that are excluded from the Water Quality Management Area pursuant to EC 9.4778 and replace with vegetation cover.
- (c) Submit a recorded use restriction that creates a permanent area of open space adjacent to the Water Quality Management Area that is equal to, or greater than the area to be disturbed by the proposed use or activity.
- (d) Plant with native species. (Native plant species thrive without chemical fertilizers and pesticides, typically require less water for irrigation than non-native species, and are low maintenance once established. Deeply rooted native plants increase the soil's capacity to store water and reduce water runoff.)
- (e) As permitted under EC 9.4780(3)(a), use bio-engineered Best Management Practices for repairing streambank instability and streambed downcutting.

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

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

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

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

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

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

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

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

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

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

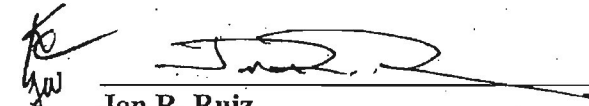
after the proposed use, activity or adjustment and without any mitigation measures. (c) The "Post-Proposal With Mitigation" column shall be used to quantify those conditions expected to exist under the proposal, including any mitigation measures being proposed.

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

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

- 2.4. Written Report. As part of a Water Quality Function Rating System certification, report or determination, the preparer shall submit a written report based on the site plans and Water Quality Function Rating Table certifying that after the proposed use, activity or adjustment is in place, there will be a water quality function rating equal to or greater than that which existed before the use, activity or adjustment.
3. For illustrative purposes, two sets of example certification documents (each including a Site Plan I, Site Plan II, Water Quality Function Rating Table and Written Report) are attached to this Rule.

Dated this 9th day of June, 2009.



 Jon R. Ruiz
 City Manager

00162681.DOC-9

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

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

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

1. Preparer of Site Plans:

Name: Example, Site Plan #1

Qualifications: Oregon Licensed Landscape Architect

2. Content

2.1 Site Plan I - Pre-Proposal Conditions

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

2.2 Site Plan II – Post-Proposal Conditions

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

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

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

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

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

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

(signature, date, and stamp of certified preparer)

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

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

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

1. Preparer of Site Plans:

Name: Example, Site Plan #2

Qualifications: Oregon Licensed Architect

2. Content

2.1 Site Plan I - Pre-Proposal Conditions

- a) Lot dimensions (see Site Plan) and area: 14,156 square feet (0.32 acres).
- b) The site contains the entire waterway channel including both streambanks. The waterway affecting this lot is a Headwater Stream; the setback Measurement Point is the centerline of the stream; the setback is 40 feet; extent of lot affected by the Water Quality Management Area is 5,930 square feet (42% of lot area).
- c) Existing uses on the site includes a single family residence.
- d) A portion of the residence, approximately 150 square feet, is located in the Water Quality Management Area and is determined to be an exclusion per EC 9.4778(3)1. This exclusion reduces the overall Water Quality Management Area on the site to 5,930 square feet, resulting in a Water Quality Management Area rating of **4**.
- e) The remaining portion of the residence is located outside the Water Quality Management Area.
- f) Existing vegetation within Water Quality Management Area is 100% multi-layered with trees, shrubs and other similar vegetation with a mixture of native and non-native vegetation, resulting in a Pollutant Filtration, Erosion Prevention, Shading rating of **5**.
- g) There is evidence of bed downcutting and streambank instability along approximately 21 feet of the streambed and streambank, resulting in a rating of **2**.

2.2 Site Plan II – Post-Proposal Conditions

- a) In addition to the information contained in Site Plan I (a) – (c), the following required information is provided on b) through g).
- b) The request includes an adjustment to EC 9.8030(25)(a)(5) as the parcel is greater than 13,500 square feet and the Water Quality Management Area affects more than 33% of the lot (i.e., 42%). The proposed use would reduce the Water Quality Management Area by 525 square feet (to 38% of total lot area).
- c) Not applicable.

- d) The proposed use within the Water Quality Management Area is a portion (525 square feet) of an existing single family residence. The proposed encroachment impacts the water quality function rating system of the pre-proposal conditions by reducing the water quality management area from a rating of “5” to a “3.” Refer to the Water Quality Function Rating Table.
- e) The proposed use will impact the Pollutant Filtration, Erosion Prevention, Channel Shading function by eliminating 525 square feet of vegetation within the Water Quality Management Area resulting in a reduced rating from 5 to 4.
- f) Measures proposed to mitigate the adjustment impact are shown on Site Plan II and are applied to the “Bed and Bank Stability” function where 20% of the channel bed and banks will be repaired including 3 grade control features and bioengineering measures including willow fascines along toe of bank and willow stakes on the bank spaced t feet on center (96 stakes total). These measures will improve Bed and Bank Stability rating from 2 to 5.

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

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

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

(signature, date, and stamp of certified preparer)



Example Site #1
Water Quality Function Rating System
Pre-Proposal/Existing Condition

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

Preparer pursuant to EC 9.4782
 Name and Qualifications

Stamp or other identification of qualification

Legend:

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

0 10 20 Feet
 Scale

May 2008
 Aerial Photo Base: March 2008



Example Site #1

Water Quality Function Rating System

Post Proposal

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

Preparer pursuant to EC 9.47B2
 Name and Qualifications

Stamp or
 other identification
 of qualification

Legend:

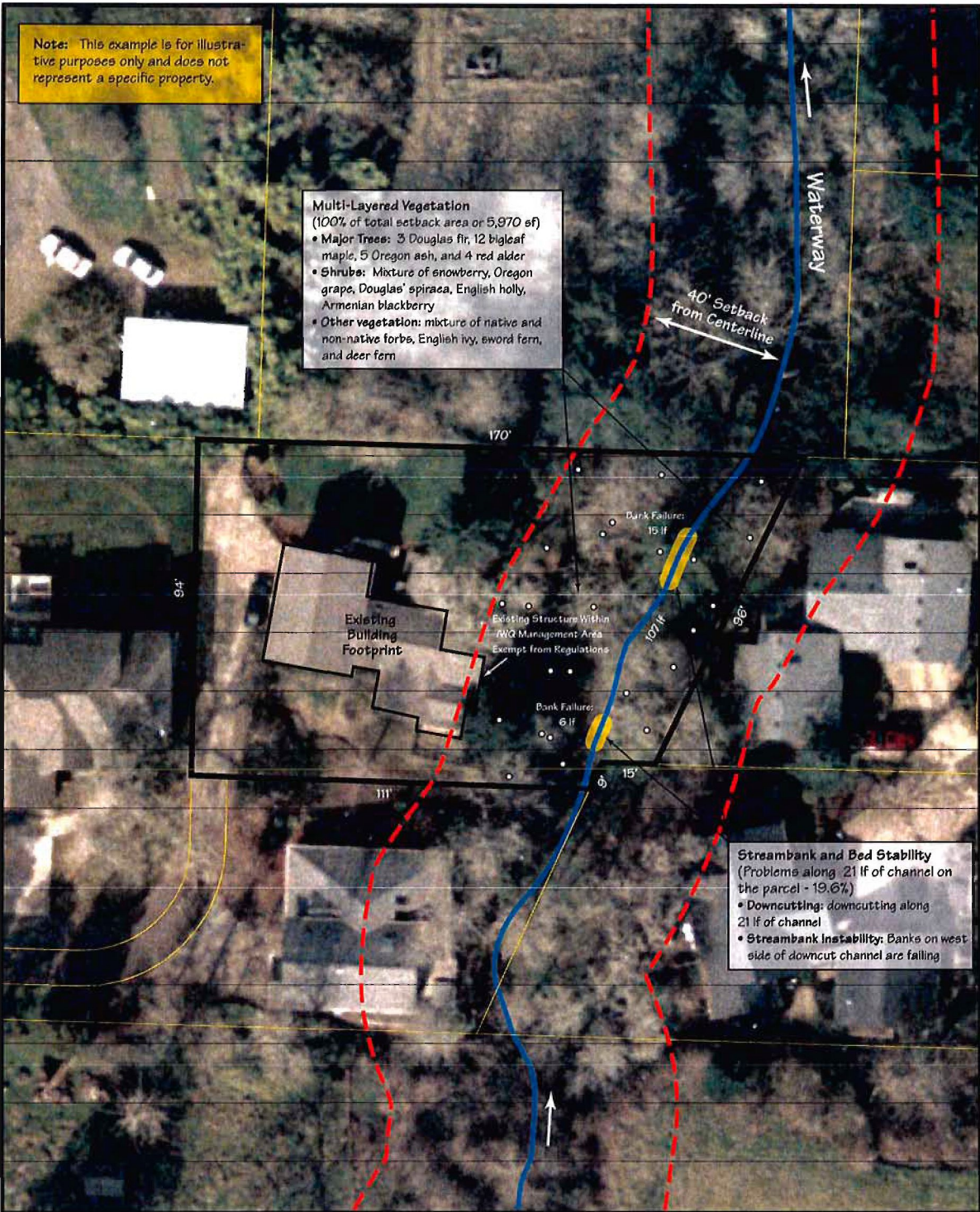
- Parcel Lot Lines (applicant lot)
- Adjacent Parcel Lot Lines
- Waterway
- Setback Measurement Point (top of high bank)
- /WQ Management Area Setback
- Extent of Existing Canopy and Location of Trees
- Proposed Use Within /WQ Management Area
- Proposed Vegetation Enhancement Area



0 10 20 Feet
 Scale

May 2009

Aerial Photo Base: March 2008



Example Site #2
Water Quality Function Rating System
Pre-Proposal/Existing Condition

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

Preparer pursuant to EC 9.4782
 Name and Qualifications

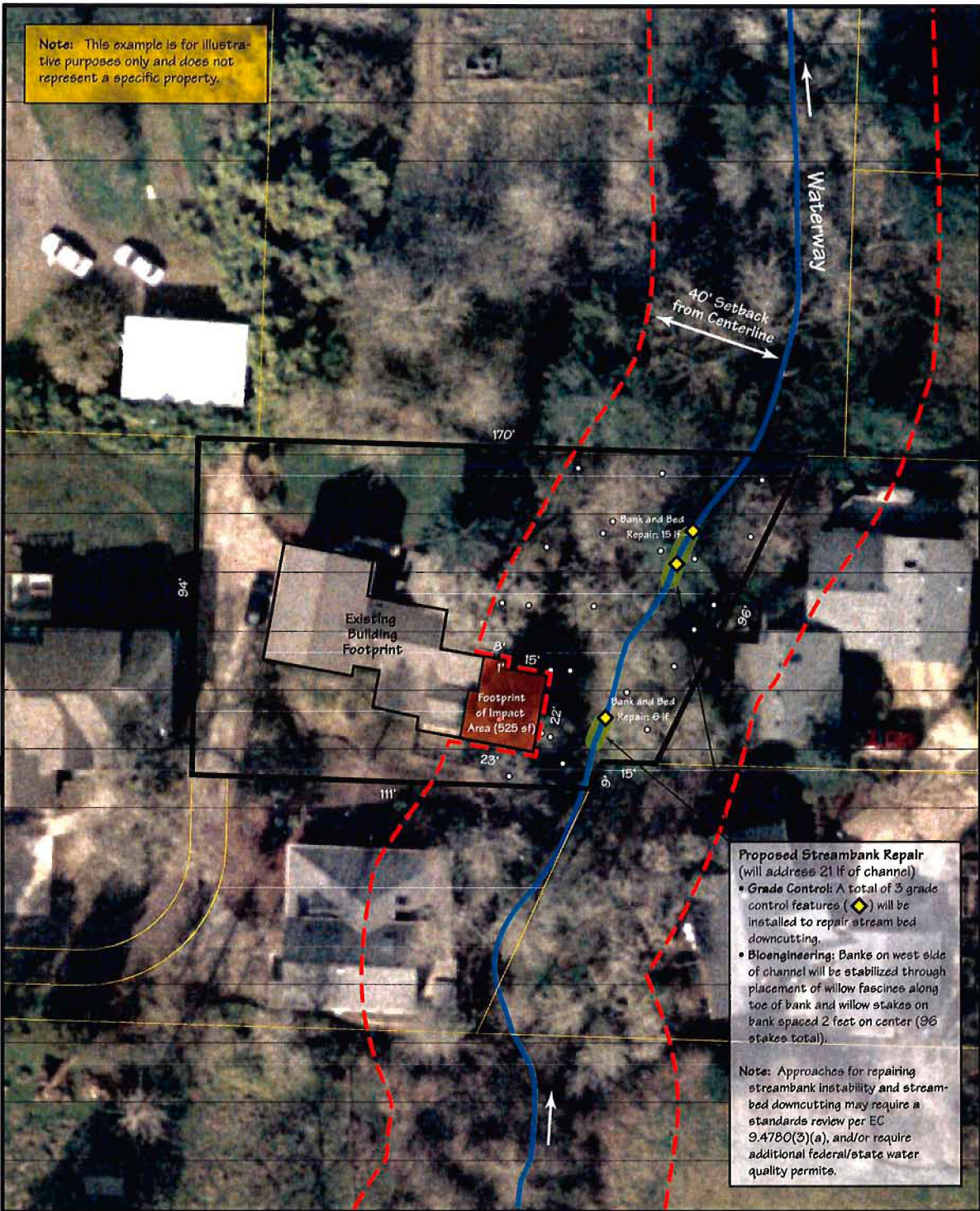
Stamp or other identification of qualification

Legend:

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

0 20 40 Feet
 Scale

May 2009
 Aerial Photo Base: March 2008



Example Site #2

Water Quality Function Rating System

Post Proposal Condition

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

Preparer pursuant to EC 9.4782
 Name and Qualifications

Stamp or other identification of qualification

Legend:

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

0 20 40 Feet

Scale

May 2009 Aerial Photo Base: March 2008

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

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

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

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

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

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

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

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

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

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

Goal 3 - Agricultural Lands. To preserve agricultural lands.

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

Goal 4 - Forest Lands. To conserve forest lands.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Goal 13 - Energy Conservation. *To conserve energy.*

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

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

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

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

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

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

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

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ADMINISTRATIVE ORDER NO. 53-09-03-F
of the
City Manager of the City of Eugene

**AMENDMENT OF THE LAND USE APPLICATION FEE SCHEDULE
ADOPTED BY ADMINISTRATIVE ORDER NOS. 53-05-08-F AND 53-07-
11-F.**

The City Manager of the City of Eugene finds as follows:

A. Section 2.020 and provisions of Chapter 9 of the Eugene, Code, 1971 authorize the City Manager to determine and set fees and charges to be imposed by the City for services, goods, use of municipal property, and licenses and permits.

B. In accordance with the authority set forth above, the Land Use Application Fee Schedule was adopted by Administrative Order No. 53-05-08-F and subsequently amended by Administrative Order No. 53-07-11-F. The land use application fees consist of two fee schedules: a Land Use Application Fee Schedule for land use fees applicable within the City limits (Exhibit A); and a Land Use Application Fee Schedule for land use fees outside City limits but within the Urban Growth Boundary (Exhibit B).

C. On May 11, 2009, Administrative Order No. 53-09-03 was issued proposing the amendment of Section 1 of the Land Use Application Fee Schedule within the City limits (Exhibit A) to add fees for /WQ Water Quality Overlay Zone adjustment review, correction to map and/or removal of /WQ overlay zone, and standards review. Addition of the fees is necessary in order to recover costs involved with implementation of the provisions adopted by Ordinance No. 20430 which establish a /WQ Water Quality Overlay Zone effective on June 10, 2009.

D. Notice of the proposed amendments was provided to the Mayor and City Councilors, to persons who had requested such notice, and made available for inspection by interested persons at the offices of the Public Works Department, 99 E. Broadway, Suite 400, Eugene, Oregon. Notice was also published in the Register Guard and posted at two locations at City Hall on May 12, 2009. The Notice provided that written comments would be received for a period of 15 days from the date of posting and publication, or at the public hearing to be held on May 27, 2009, at 4 p.m. in the Lyle Conference Room on the fourth floor of the Public Works Department, 99 E. Broadway, Eugene, Oregon. There were no attendees at the public hearing, nor were comments received within the time or manner required by the Notice.

E. Based on the above findings, and the findings in Administrative Order No. 53-09-03, I find that Exhibit A of the Land Use Application Fee Schedule should be amended as proposed. In determining the proposed fees, I have considered the applicable policies, enactments and directives of the City Council, the amount charged for these services by the City in the past, the full costs of providing these services supported by the fees, the amounts charged by other comparable providers, and the revenue needs of the City as determined by the adopted


City budget.

On the basis of these findings, I order that:

1. The fees set forth in Exhibit A attached to this Order are the fees to be charged for the described land use application services effective June 10, 2009.

2. A copy of this Order, including Exhibit A, shall be appended to Administrative Order Nos. 53-05-08-F and 53-07-11F.

Dated this 9th day of June, 2009.


Jon R. Ruiz
City Manager

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ADDENDUM TO LAND USE APPLICATION FEE SCHEDULE (EXHIBIT A)
(Applicable Within City Limits)
(effective June 10, 2009)

	Fees
1. LAND USE APPLICATION FEES	
Adjustment Review - /WQ	\$1,208.00
Correction – Water Quality Waterways Map and/or removal of /WQ Overlay Zone* <i>*Application fee to be refunded in full if final decision approves the application pursuant to EC 9.4786(2)(a)</i>	1,557.00
Standards Review - /WQ Overlay Zone	2,818.20

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City Attorney
Civil Department

City of Eugene
360 East 10th Avenue, Suite 300
Eugene, Oregon 97401
(541) 682-5080

June 15, 2009

Attention: Plan Amendment Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: *Notice of Adoption / Administrative Order Nos. 58-09-07-F and 53-09-03-F*

Enclosed please find Form 2, DLCDC Notice of Adoption, two copies of Administrative Order No. 58-09-07-F and Administrative Order No. 53-09-03-F, and Certificate of Mailing.

HARRANG LONG GARY RUDNICK P.C. –
CITY ATTORNEYS

Kathryn P. Brotherton

KPB:abm
Enclosures

cc: Therese Walch

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CERTIFICATE OF MAILING

I certify that on June 15, 2009, I served a true and correct copy of Form 2, DLCD Notice of Adoption, and two copies of Administrative Order No. 58-09-07-F and Administrative Order No. 53-09-03-F, on the Plan Amendment Specialist for the Department of Land Conservation and Development, by causing the same to be deposited in the United States Mail at Eugene, Oregon, enclosed in a sealed envelope with postage prepaid, and addressed as follows:

Attention: Plan Amendment Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540


Kathryn P. Brotherton, OSB #981530

