



COUNCIL ORDINANCE NO. 20581

COUNCIL BILL 5174

AN ORDINANCE CONCERNING UTILITY SERVICE TO SUPPORT ECONOMIC DEVELOPMENT IN THE INDUSTRIAL CORRIDOR COMMUNITY ORGANIZATION AND AMENDING SECTION 9.8117 OF THE EUGENE CODE, 1971.

ADOPTED: May 22, 2017

SIGNED: May 23, 2017

PASSED: 7:0

REJECTED:

OPPOSED:

ABSENT: Ward 4 vacant

**EFFECTIVE: June 23, 2017,
or on the date of its acknowledgement as provided in ORS 197.625,
whichever is later.**



ORDINANCE NO. 20581

AN ORDINANCE CONCERNING UTILITY SERVICE TO SUPPORT ECONOMIC DEVELOPMENT IN THE INDUSTRIAL CORRIDOR COMMUNITY ORGANIZATION AND AMENDING SECTION 9.8117 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 9.8117 of the Eugene Code, 1971, is amended to provide as follows:

- 9.8117** **Extra-Territorial Extension of Water or Sewer Service – Applicability.**
- (1) The provisions of EC 9.8115 through 9.8121 apply to applications requesting the extension of water service or sewer service from inside the city limits to serve property located outside of the city limits, except as provided in subsection (2) below.
 - (2) Approval for extra-territorial extension of water or sewer service to property located within the boundary of the Industrial Corridor Community Organization as shown on Map 9.8117 Industrial Corridor, is automatic upon approval of a building or development permit so long as the property owner executes an irrevocable consent to annexation form approved by the city attorney, authorizing the city council to annex the property whenever the annexation is authorized by state law. This subsection (2) shall not apply to property that is eligible for annexation.

Section 2. Map 9.8117 Industrial Corridor, depicting the Industrial Corridor Community Organization boundary is adopted as shown on Exhibit A to this Ordinance.

Section 3. The findings set forth in Exhibit B to this Ordinance are adopted as findings in support of this Ordinance.

Section 4. The City Recorder, at the request of, or with the concurrence of the City Attorney, is authorized to administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 5. This Ordinance shall take effect pursuant to Section 32 of the Eugene Charter 2002, or on the date of its acknowledgement as provided in ORS 197.625, whichever is later.

Passed by the City Council this
22nd day of May, 2017



City Recorder

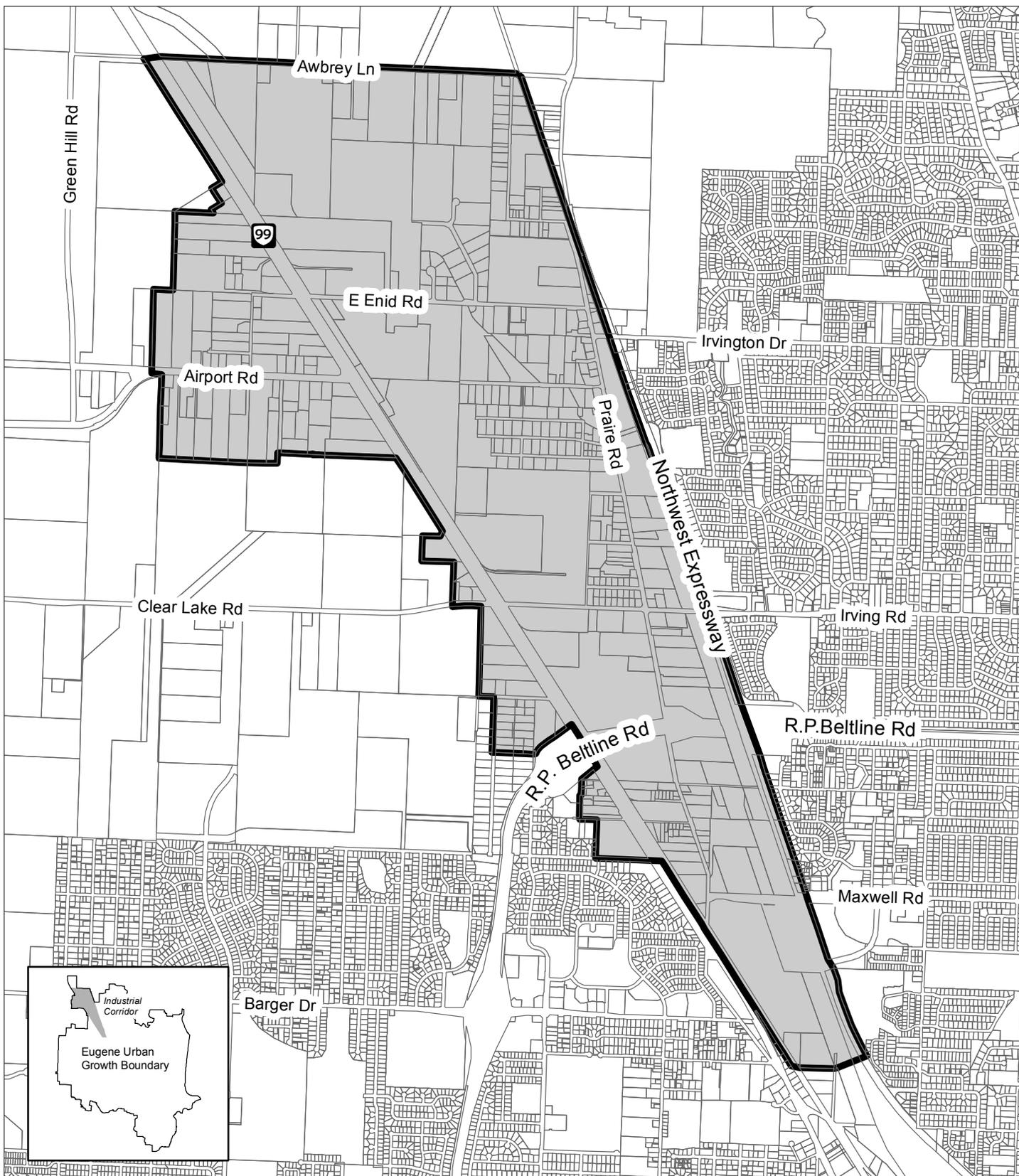
Approved by the Mayor this
23rd day of May, 2017



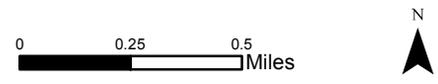
Mayor

Figure 9.8117 Industrial Corridor

Exhibit A



- Industrial Corridor Boundary
- Taxlots



Legislative Findings: Economic Development in the Industrial Corridor (City File CA 17-2)

Overview

The goal of this City-initiated land use code amendment is to help facilitate economic development opportunities within an area known as the “Industrial Corridor” in northwest Eugene.

The area is represented by the Industrial Corridor Community Organization (“ICCO”), which is a non-profit, formally recognized community organization. The ICCO boundary is generally the large triangle of land lying between the Northwest Expressway on the east and the Urban Growth Boundary (UGB) on the west (see map included as Exhibit A to the ordinance).

Most of the property within the ICCO area is zoned and designated for industrial uses. The ICCO area includes many large parcels, some developed by local legacy industries, some undeveloped, and some under-developed. The ICCO area includes about 1,652 acres, approximately 96% of which is zoned industrial (38% Heavy Industrial/I-3, and 59% Light-Medium Industrial/I-2). Proximity to highways, railroad, and airport make the area highly-conducive to industrial uses. At the same time, there are development challenges associated with current policies and land use code requirements, availability of urban services such as sanitary sewer, and lack of contiguity with City limits for a large portion of the area. Consistent with the goals and objectives of the *Metro Plan* and *Regional Economic Prosperity Plan*, encouraging development and redevelopment within the ICCO area has the potential to create highly-desirable manufacturing jobs within local key industries.

Most of the area is outside the City limits of Eugene and does not have access to the full range of urban services such as sanitary sewer, stormwater drainage, police, and fire protection. Much of the area receives its necessary services through special districts, and may need on-site sewage disposal systems, until such time as individual properties are annexed to the City. In accordance with state and federal laws, as well as the *Metro Plan* and land use code, properties seeking development on these lands in most cases require connection to the City’s sewer system and provision of other urban services by the City of Eugene. The *Metro Plan* anticipates that all lands within the UGB will eventually be annexed and served by the City. However, the lack of certain urban services like sanitary sewer, and the lack of contiguity with City limits, has hindered the ability for many properties to annex in the near term.

Property outside the City but inside the UGB (as is the majority of the ICCO area) was previously able to annex even if the property was not contiguous to City limits, provided that the Lane County Boundary Commission approved the request. However, with the abolishment of the Boundary Commission by the Legislature in 2008, annexations must now be contiguous to city limits. In addition to making it difficult to develop unless property first annexed, these changes also have the effect of precluding non-contiguous annexations, which in turn prevents the annexation of individual properties in the majority of the ICCO area. These changes occurred prior to the beginning of the recent recession. With development activity picking up again over the last several years, the policy question about whether to allow annexation agreements, rather than immediate annexation, warrants consideration by Council. In several cases, property owners have been unable to proceed

with development plans due to lack of contiguity with City limits or the availability of urban services (which means they cannot annex).

The alternative of allowing annexation agreements, along with enabling extension of sanitary sewer services outside the City limits, would be an efficient way to allow industrial development to proceed in the area, with a binding agreement to annex in the future when possible

This policy question was posed to the Council in November of 2016, with a recommendation from the City Manager and unanimous approval by the Council of a motion directing the City Manager to schedule a public hearing to allow property in the ICCO area to develop either by annexing or, if non-contiguous, signing an irrevocable consent to annex.

To that end, these legislative findings have been prepared in support of an ordinance which includes a land use code amendment and related provisions. The land use code amendment will create an exception to the requirements for Extra-Territorial Extension of Water or Sewer Service in Chapter 9 of the Eugene Code (see EC 9.8115-9.8121), which is a necessary component to enable development for some properties not already served with water and sewer facilities.

Findings of Compliance with Applicable Approval Criteria

Below are legislative findings addressing the land use code amendment, which is the only aspect of the ordinance subject to the approval criteria for code amendments at EC 9.8065 (listed below in **bold**, with findings addressing each).

EC 9.8065(1): [The amendment] is consistent with applicable statewide planning goals as adopted by the Land Conservation and Development Commission.

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

The City has acknowledged provisions for citizen involvement which ensure the opportunity for community members to be involved in all phases of the planning process and set out requirements for such involvement. The amendment does not amend the citizen involvement program. The process for adopting these amendments complies with Goal 1 because it is consistent with the citizen involvement provisions.

A Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on March 7, 2017. The formal public hearings on the proposal will be duly noticed to all neighborhood organizations, community groups and individuals who have requested notice, as well as to the City of Springfield and Lane County. In addition, notice of the public hearing was published in the Register Guard. Following action by the Eugene Planning Commission (to make a recommendation on the ordinance and code amendment), the Eugene City Council will hold a duly noticed public hearing to consider approval, modification, or denial of the proposal. These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the code amendment is consistent with the requirements of Statewide Planning Goal 1.

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 Eugene Code (Land Use, Chapter 9) specifies the procedures and criteria that are to be used in considering this code amendment. The record shows that there is an adequate factual basis for the ordinance and code amendment, including findings and evidence demonstrating compliance with all applicable approval criteria.

The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unit and when the City uses the information obtained in the exchange to balance the needs of the citizens. To comply with the Goal 2 coordination requirement, the City will engage in an exchange about the subject of these plan amendments with all of the affected governmental units. Specifically, the City provided notice of the action and opportunity to comment to Lane County, Springfield and the Oregon Department of Land Conservation and Development. There are no exceptions to Statewide Planning Goal 2 required for this code amendment. The code amendment is therefore consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. To preserve agricultural lands.

The amendment is for property located within the UGB and does not affect any land designated for agricultural use. Therefore, Statewide Planning Goal 3 does not apply.

Goal 4 - Forest Lands. To conserve forest lands.

The amendment is for property located within the UGB and does not affect any land designated for forest use. Therefore, Statewide Planning 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.

OAR 660-023-0250(3) provides: Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

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

The amendment does not create or amend the City's adopted inventory of Goal 5 resources, does not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5. It does not allow new uses that could be conflicting uses with a

significant Goal 5 resource site, and does not amend the acknowledged UGB. Therefore, Statewide Planning Goal 5 does not apply.

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

Goal 6 addresses waste and process discharges from development, aimed at protecting air, water and land from impacts from those discharges. To the extent the code amendment will enable extra-territorial extension of sanitary sewer service to some ICCO properties, it will generally reduce the likelihood or need for new on-site sewage disposal systems and thereby reduce the potential for groundwater contamination. It will not change any policies or regulations with regard to Eugene Water and Electric Board's role as the provider of water service for the City, other than to enable extension of water service for ICCO properties that may not already be connected. The amendment does not otherwise change any of the City's regulations with regard to stormwater treatment or air quality. The amendment is therefore consistent with Statewide Planning Goal 6, to the extent it might be considered applicable.

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

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis and wildfires. The goal prohibits a development in natural hazard areas without appropriate safeguards. The amendment does not directly affect the City's existing regulatory restrictions or other adopted plan provisions for development in areas subject to natural disasters and hazards, or otherwise require further analysis as part of the amendment. Therefore, Statewide Planning 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.

Goal 8 ensures the provision of recreational facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. The amendment does not affect the City's provisions for or access to recreation areas, facilities or recreational opportunities. Therefore, Statewide Planning 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 amendment will not impact any industrial or commercial use designations, nor amend the City's required inventory for industrial and commercial lands. Nonetheless, it will help to facilitate economic development and redevelopment opportunities in the ICCO area as previously discussed, and further addressed below with regard to relevant policies of the Metro Plan. In general, it will help to enable development of industrial land in the ICCO area that is already included as part of the

City's previously adopted inventory. The amendment is therefore consistent with Statewide Planning Goal 9, to extent that it might be considered applicable.

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

Goal 10 requires communities to provide an adequate supply of residential buildable land to accommodate estimated housing needs for a 20-year planning period. The amendment does not impact the supply of residential buildable land. No land is being re-designated from residential use to a non-residential use, and the amendments do not otherwise diminish the lands available for residential use. Therefore, the amendments are consistent with Statewide Planning 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 amendment will not impact or amend the Public Facilities and Services Plan, which is adopted as a refinement of the Metro Plan. It will be consistent with relevant policies from the Public Facilities and Services Element of the Metro Plan, as addressed below in the findings addressing consistency with its applicable provisions. The amendment also does not include any capital public infrastructure projects to extend facilities and services to the area.

As previously discussed, the amendment will help to facilitate economic development opportunities in the ICCO area, where annexation may not be possible in the near term due to a lack of contiguity or availability of public services and facilities such as sanitary sewer. Specifically, the code amendment will enable extra-territorial extension of water or sewer service where needed, in combination with irrevocable annexation agreements that will thereby facilitate future annexation. As relevant here, the amendment will enable the extension of water or sanitary sewer service, as the need may arise to accommodate development in the ICCO area. The amendment is therefore consistent with Statewide Planning Goal 11, to extent that it might be considered applicable.

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

Goal 12 is implemented by the Transportation Planning Rule (TPR) as defined in Oregon Administrative Rule OAR 660-012-0060. TPR contains the following requirement:

- (1) *If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:
 - (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - (b) Change standards implementing a functional classification system; or*

- (c) *Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*
- (A) *Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
- (B) *Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or*
- (C) *Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.*

The amendment does not change the functional classification of a transportation facility, change the standards implementing a functional classification system or degrade the performance of a facility otherwise projected to not meet performance standards. Therefore, the amendment does not have a significant effect under (a), (b) or (c). As such, the amendment does not significantly affect any existing or future transportation facilities and is consistent with Statewide Planning Goal 12.

Goal 13 - Energy Conservation. To conserve energy.

The amendment does not impact energy conservation in a manner that would require further analysis under Goal 13. Therefore, Statewide Planning Goal 13 does not apply.

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

The amendment does not affect the City's provisions regarding the transition of land from rural to urban uses. Therefore, Statewide Planning 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 amendment does not contain any changes that affect the Willamette River Greenway regulations. Therefore, Statewide Planning Goal 15 does not apply.

Goal 16 through 19 - Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources.

There are no estuarine resources, coastal shore lands, beaches and dunes, or other ocean resources involved or otherwise affected by the amendment. Therefore, Statewide Planning Goals 16 through

19 do not apply.

EC 9.8065(2): [The amendment] is consistent with applicable provisions of the Metro Plan and applicable adopted refinement plans.

The code amendment does not include any amendment of the Metro Plan text or land use designations. The findings below confirm that the code amendment is otherwise consistent with, and supported by, a number of relevant Metro Plan policies. There is no adopted refinement plan for the ICCO area, thus no further analysis is required related to applicable adopted refinement plan provisions.

Growth Management Policies

15. *Ultimately, land within the UGB shall be annexed to a city and provided with the required minimum level of urban facilities and services. While the time frame for annexation may vary, annexation should occur as land transitions from urbanizable to urban.*

The intent of the amendment is to facilitate annexation agreements and extra-territorial extension of water and sanitary sewer services as necessary to support development activity in the ICCO area. As noted previously, the majority of properties in the ICCO area are currently unable to annex or obtain necessary urban services (particularly sanitary sewer). The allowance of binding annexation agreements and service extension to accommodate near-term development activity in the area, will ultimately facilitate future annexation of ICCO properties.

20. *When unincorporated territory within the UGB is provided with any new urban service, that service shall be provided by the following method (in priority order).*
- a. *Annexation to a city;*
 - b. *Contractual annexation agreements with a city;*
 - c. *Annexation to an existing district (under conditions described previously in Policy #19); or*
 - d. *Creation of a new service district (under conditions described previously in Policy #14).*

As previously discussed, the majority of unincorporated territory in the ICCO area is unable to annex to the City as a result of several factors. The code amendment will grant automatic approval for extra-territorial extension of wastewater and water service for ICCO properties, subject to a binding agreement to annex in the future when possible. The amendment is therefore consistent with the above policy by requiring a contractual agreement for future annexation as a condition of service extension, where immediate annexation is not currently possible.

21. *Cities shall not extend water or wastewater service outside city limits to serve a residence or business without first obtaining a valid annexation petition, a consent to annex agreement, or when a health hazard annexation is required.*

Consistent with the above policy, the code amendment will require a consent to annex agreement as a condition of wastewater or water service extension outside the City limits but within the ICCO (and within the UGB).

Economic Element

- B.10 Encourage opportunities for a variety of heavy industrial development in Oregon’s second largest metropolitan area.*
- B.11 Encourage economic activities, which strengthen the metropolitan area’s position as a regional distribution, trade, health, and service center.*
- B.17 Improve land availability for industries dependent on rail access.*
- B.25 Pursue an aggressive annexation program and servicing of designated industrial lands in order to have a sufficient supply of “development ready” land.*

The code amendment is consistent with the above policies by facilitating economic development opportunities within the ICCO area, where many industrial properties are currently unable to annex or obtain urban services within the UGB. While immediate annexation of non-contiguous properties wishing to move forward with development plans in the near term cannot be allowed under current state law, any extra-territorial wastewater or water service extension will require a binding annexation agreement. In combination, annexation agreements and service extensions will encourage economic activities and opportunities for a variety of heavy industrial development with good rail access, facilitate future annexation when it becomes possible, and improve the overall “development ready” status for ICCO properties.

Public Facilities and Services Element

- G.9 Wastewater conveyance and treatment shall be provided to meet the needs of projected growth inside the UGB that are capable of complying with regulatory requirements governing beneficial reuse or discharge of effluent and beneficial reuse or disposal of residuals.*

The code amendment will facilitate wastewater service to ICCO properties that may not already be served, but where service is necessary to accommodate industrial development. The ICCO area is ultimately planned for future annexation to the City and is part of the projected growth and land area needed for industrial development within the UGB. To the extent this policy is relevant, service extension to the ICCO area will facilitate wastewater treatment at the regional treatment facility prior to effluent discharge or beneficial reuse/disposal of residuals.

Based on these findings, the code amendment is consistent with applicable provisions of the Metro Plan as required.

EC 9.8065(3): In the case of establishment of a special area zone, [the amendment] is consistent with EC 9.3020 Criteria for Establishment of an S Special Area Zone.

The code amendment does not include the establishment of any special area zone. As such, the above criterion does not apply.