

**NLC RECOMMENDATIONS FOR
HIGHLY RECOMMENDED
AND
REJECTED
MICAP AMENDMENTS**

NOTES

The columns in each table are:

Item Nbr	Amendment topic	Top Priority
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Green shading and an “*” in the “Priority” column indicate the amendment (or set of amendments) is one of the fifteen “top priority” items.

Some amendments must be considered as an “integrated” set. For example, there may be an amendment to revise a definition and another amendment to revise a closely related standard, and both must be adopted to achieve the intended purpose. These are noted below.

HIGHLY RECOMMENDED AMENDMENTS – SUMMARY
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PROCESS AND FEES

Approval processes

140	Close "2-step" loophole	*
223	Limit successive partitions	*
136	Fix application evidence & notification	
137	Applicant burden of proof	
139	Require Metro Plan consistency	
143	Explicit requirement for Refinement Plan policies	

Adjustments

227	Define & limit "adjustment"
104	Clarify distances for adjustments

Fees

123	Refund appeals fees
195	Limit appeal & other fees for Neighborhood Associations

LOT STANDARDS

Definitions (integrated set)

14	"Front/Interior Yard Setback"
26	"Setback"
31	"Yard"

Alley access (integrated set)

7	Fix "Alley Access Lot" definition	*
111	Prohibit alley-access-only lots	
135	Remove prohibition of street access from multifamily standards	

Frontage (integrated set)

17	Define "Lot Frontage"	*
108	Lot frontage requirement	

Buildable area and access corridor (integrated set)

16	Eliminate "Lot depth/width" definitions	*
98	Define "Buildable Area"	
66	Define "Vehicle Access Corridor"	
107	Require Access Corridor & Buildable Area	

Subdivisions

92	Don't count private roads in subdivisions' lot area	*
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Flag lot

12	Definition of "Flag Lot"	*
109	Create flag lot standards for all zones [where allowed]	
102	Increase flag lot setbacks	
110	Restrict flag lots to a single new lot	
221	Infill flag lot site review	
222	Prohibit flag lots in new infill subdivisions	
226	Prohibit flag lot except in subdivisions > 10 lots	

DEVELOPMENT STANDARDS

Max density (integrated set)

68	Recalibrate "max density"	*
100	Use tables, new limits for max density	

Building height (integrated set)

8	Definition of "Building Height"	*
101	Max building height standard	

Vehicle Use Area (integrated set)

30	Define "Vehicle Use Area"
103	Add Vehicle Use Area standards

Parking

192	Offsite parking in RPP zones	*
193	Offsite parking in RPP zones	*
229	Prohibit front yard parking R-3 & R-4	

Open space

191	Clarify distance for Open Space credit	*
21	Exclude Vehicle Use Areas from open space	

NATURAL RESOURCE PROTECTION

Drainage & storm water

206	Onsite filtration	*
209	Protect drainage ways	*

Pollution control

205	Eliminate exemptions from pollution control standards	
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Hillside development

166	Strengthen requirements for geotechnical, engineering, & safety analysis on sloped sites	*
118	Require erosion permits	
168	Correct South Hills Study language inversion	
170	Clarify the prohibition on subdivisions above 900'	
172	Tighten South Hills Study criteria to protect forests & slopes 700-900'	

Trees

124	Redefine "Tree protection"	
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REJECTED AMENDMENTS – SUMMARY

Rejected amendments

5	R-1: Permit alley access, reduce min lot size
49	Allow alley access lots
50	Allow smaller original lots for flag lot
197	R-1: Allow more than one "secondary unit"
198	R-1: Allow smaller original lots for flag lot, reduce min flag lot size
199	Remove restrictions on partitioning a duplex lot
201	R-1: Allow above ground utilities for new secondary dwellings
202	Allow partition of lots that will create a non-conforming condition

HIGHLY RECOMMENDED AMENDMENTS – DETAILS

PROCESS AND FEES

FIX LOOPHOLES AND GAPS IN APPROVAL PROCESSES

What do these amendments do?

Fix serious loopholes and gaps in the code that defines the processes and approval criteria for land use actions (e.g., zone changes, subdivisions, etc.).

- Close loopholes that allow an applicant to circumvent local refinement plan policies because potential development is ignored during the approval process.
- Close loopholes that allow an applicant to submit evidence that public has no chance to address before the decision.
- Close loopholes that allow an applicant to use successive lot partitions to circumvent the approval criteria for subdivisions.
- Clarify that the applicant bears the burden of proof in all approval processes.
- Clarify that all land use actions must comply with the Metro Plan.
- Clarify which set of refinement plan polices apply for each land use action. (E.g., all relevant policies in the adopted refinement plan or just those codified in Eugene Code sections beginning at 9.9500.)

Why are these amendments important?

The current poorly crafted code (and staff interpretations of the code) are allowing applicants to circumvent the intent of the code and/or a fair public process. These amendments will remove several critical loopholes and ambiguities that are creating serious problems.

Approval processes

140	Close "2-step" loophole	*
223	Limit successive partitions	*
136	Fix application evidence & notification	
137	Applicant burden of proof	
139	Require Metro Plan consistency	
143	Explicit requirement for Refinement Plan policies	

PREVENT MISUSE OF “ADJUSTMENTS” TO REQUIRED STANDARDS

What do these amendments do?

Fix flawed code that allows a provision for an “adjustment” to a standard to be misused as a complete “waiver”. This also clarifies how threshold distances are measured

- Limits “adjustments” to quantitative standards to a maximum percentage, unless otherwise provided.
- Clarify how threshold distances for granting an adjustment are measured. (E.g., distance from multi-family dwelling to a public park.)

Why are these amendments important?

The current poorly crafted code (and staff interpretations of the code) are allowing complete waivers of basic standards (e.g., minimum lot frontage) using the code’s provision for “adjustments”. The “trick” being used is to allow a 100% “adjustment”. This tactic essentially negates enforcement of many of the code’s standards.

Some adjustments have a condition that states a distance. For example, the minimum “open space” requirement for a multi-family development can be reduced if there’s a public park within a certain distance. Current code doesn’t state how these distances are measured, leading to unreasonable interpretations. For example, staff has interpreted the distance from a multi-family dwelling to a public park “as the crow flies,” rather than along public sidewalks. The proposed amendment (104) would correct this gap.

Adjustments

227	Define & limit "adjustment"
104	Clarify distances for adjustments

SET APPROPRIATE LAND USE FEES

What do these amendments do?

Adjust land use fees to be fairer.

- Refund entire appeal fee when the original decision is not upheld.
- Set reasonable maximum fees for appeals and other land use actions initiated by active, city-chartered neighborhood associations.

Why are these amendments important?

Currently, even when an appeal determines that the Planning Director or Hearings Official erred in his or her original decision, the appellant incurs the cost of the appeal fee. Since the City’s original error was the reason for the cost incurred to correct the error, the appellant should not be responsible for any appeal fee, and should receive a full refund.

The City recognizes neighborhood associations as an important way for citizens to participate in public processes, including land use processes. Many current fees, however, are prohibitively high and effectively prevent neighborhood associations (especially from lower income areas of the City) from fully participating in land use processes. The fees

should set so that neighborhood associations are not locked out of the process because of financial limitations.

Note.

The Eugene Budget Committee is considering action to address these two proposals, and may take action prior to Planning Commission consideration.

Fees

123	Refund appeals fees
195	Limit appeal & other fees for Neighborhood Associations

LOT STANDARDS

CLARIFY BASIC LOT STANDARD DEFINITIONS

What do these amendments do?

Fix flawed code that doesn't clearly define basic terms used in lot standards.

- Clarify various definitions related to “setback” and “yard”.

Why are these amendments important?

These terms are used in many standards, and the existing ambiguities provide loopholes for circumventing the standards. Clarifying these will close the loopholes.

Definitions (integrated set)

14	"Front/Interior Yard Setback"
26	"Setback"
31	"Yard"

PREVENT ALLEY-ACCESS-ONLY LOTS

What do these amendments do?

Fix flawed code that allows alley-access-only lots in conflict with City Council prohibition against such lots.

- Fix the “alley access lot” standard and explicitly prohibit lots that have their only vehicle access from an alley.
- Remove a conflicting provision of the multi-family standards that prohibit street access.

Why are these amendments important?

City Council voted to prohibit alley access lots because of the negative impacts on nearby residents. The current poorly crafted code (and staff interpretations of the code) are allowing new to be created lots that have their only vehicle access from an alley. These amendments implement Council’s action.

Alley access (integrated set)

7	Fix “Alley Access Lot” definition	*
111	Prohibit alley-access-only lots	
135	Remove prohibition of street access from multifamily standards	

PREVENT “GERRYMANDERED” LOTS

What do these amendments do?

Fix flawed code that allows “gerrymandered” lots in conflict with code’s intent.

- Clarifies and strengthens the “lot frontage” standard.
- Replaces unworkable “lot width minimum” standard with simpler and more effective “buildable area” and “access corridor” standards.

Why are these amendments important?

Street and lot configurations are fundamental determinants of neighborhood character. The current poorly crafted code (and staff interpretations of the code) are allowing incompatible lot partitions and subdivisions. These gerrymandered lot divisions frequently allow poorly sited dwelling and vehicle access that have significant negative impacts on nearby residents.

Frontage (integrated set)

17	Define "Lot Frontage"	*
108	Lot frontage requirement	

Buildable area and access corridor (integrated set)

16	Eliminate "Lot depth/width" definitions	*
98	Define "Buildable Area"	
66	Define “Vehicle Access Corridor”	
107	Require Access Corridor & Buildable Area	

DON'T COUNT PRIVATE ROADS IN "LOT SIZE"

What does this amendment do?

Fix flawed code that allows the area encompassed by a private subdivision road to be counted towards the "minimum lot size" standard.

- Clarifies and strengthens the "lot size" standard by eliminating any area that is part of a private subdivision road.

Why is this amendment important?

Counting areas of a private road as part of an adjoining lot's size allows lots that are effectively smaller than the code's established minimums. Substandard lots increase the impacts on adjacent development.

Subdivisions

92	Don't count private roads in subdivisions' lot area	*
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MITIGATE IMPACTS OF FLAG LOTS

What do these amendments do?

Fix and improve code to reduce the impact of incompatible flag lot development.

- See notes, below.

Why are these amendments important?

Flag lot development often has high negative impacts because it breaks up the established lot pattern and allows development in locations (e.g., adjacent to backyards) that was not anticipated when an established neighborhood was originally developed.

Notes:

Fixing the definition (12) and including the missing standards for zones where flag lots are allowed (109) are a top priority.

The remaining five amendments provide several alternatives to address current problems with flag lots:

- Limit situations where flag lots are allowed: Only allow in non-infill subdivisions (222) or only allow in subdivisions with more than 10 lots (226).
- Restrict the creation of new flag lots so only one can be created from the original lot (110).
- Where flag lots are allowed, increase setbacks (102) and/or require site review (221).

Flag lot

12 109	Definition of "Flag Lot" Create flag lot standards for all zones [where allowed]	*
102	Increase flag lot setbacks	
110	Restrict flag lots to a single new lot	
221	Infill flag lot site review	
222	Prohibit flag lots in new infill subdivisions	
226	Prohibit Flag lot except in subdivisions > 10 lots	

DEVELOPMENT STANDARDS

MAKE MAX DENSITY STANDARD CONSISTENT WITH POLICY AND MORE TRANSPARENT

What do these amendments do?

Correct calculations for maximum density (i.e., dwellings allowed on a lot) so they produce results consistent with adopted land use policy and are more transparent.

- Replace “round up calculation” with properly-calibrated table.

Why are these amendments important?

The current “maximum density” calculation has a provision to “round up” results, so that if a lot allows 1.00001 dwellings, the developer is allowed to build 2 dwellings. This substantially increases the effective density, especially in R-2 and higher zones. Analysis of infill development in the Jefferson and Westside neighborhoods indicates the result is to allow densities substantially higher than the maximum allowed by the Metro Plan land use designation.

The proposed amendments would correct this conflict and make the code easier to understand and apply.

Max density (integrated set)

68	Recalibrate "max density"	*
100	Use tables, new limits for max density	

PREVENT EXCESSIVE BUILDING HEIGHT

What do these amendments do?

Close a loophole that allows excessively high structures and makes the maximum building height more transparent.

- Revise definition of “building height”.
- Revise maximum building height standard.

Why are these amendments important?

The current definition of building height is obscure and difficult to apply, and may allow buildings to be considerably taller than the code intends.

Current code measures building height for a sloped roof only to the *midpoint* of the eaves. This allows building heights substantially higher than the specified “maximum building height.” For example, in the R-2 zone, the maximum height is specified as 35 feet, but actual structures can be 45 feet (or higher) to the ridge of the roof. By manipulating the lower edge of a sloped roof, a developer can create excessively high structures.

These amendments redefine building height to the top of the roof and provide separate maximums for flat and sloped roofs.

Building height (integrated set)

8	Definition of "Building Height"	*
101	Max building height standard	

LIMIT IMPACTS FROM VEHICLE USE AREAS

What do these amendments do?

Limit how much of a lot may be covered by vehicle use areas (e.g., parking and driveways).

- Define “Vehicle Use Area”.
- Establish maximum vehicle use area standards.

Why are these amendments important?

Excessive coverage of a lot by vehicle use areas has significant negative impacts on storm water and on the character of surrounding development. These amendments limit those impacts.

Vehicle Use Area (integrated set)

30	Define "Vehicle Use Area"
103	Add Vehicle Use Area standards

MITIGATE IMPACTS OF PARKING

What do these amendments do?

Mitigate the impacts of parking, particularly from multi-family development in established neighborhoods.

- Limit impacts of offsite parking in “Residential Parking Permit” (RPP) areas.
- Prohibit parking in front yards in R-3 and R-4 zones

Why are these amendments important?

When multi-family development generates parking that exceeds the on-site capacity, the spillover impacts nearby residents. Parking in front yards seriously degrades the character of residential neighborhoods. These amendments mitigate those problems.

Parking

192	Offsite parking in RPP zones	*
193	Offsite parking in RPP zones	*
229	Prohibit front yard parking R-3 & R-4	

**ASSURE MULTI-FAMILY DEVELOPMENTS
PROVIDE ADEQUATE OPEN SPACE**

What do these amendments do?

Fix gaps in the current code that allow less than the intended amount of open space to be provided for multi-family developments.

- Use reasonable calculation for distance to public park in order to get open space credit.
- Exclude Vehicle Use Areas from “open space”.

Why are these amendments important?

Adequate on-site or close-by open space is essential to maintain livability in multi-family developments and surrounding neighborhoods. These amendments help assure the intended minimum open space is provided.

Open space

191	Clarify distance for Open Space credit	*
21	Exclude Vehicle Use Areas from open space	

NATURAL RESOURCE PROTECTION

PROTECT NATURAL STORMWATER DRAINAGES

What do these amendments do?

Protect natural storm water drainages and promote onsite filtration.

- Make on-site filtration preferred storm water destination.
- Control development within natural drainage ways.

Why are these amendments important?

Large areas of Eugene, including in River Road and Santa Clara, depend on natural storm water drainages and filtration. These amendments help prevent development that would degrade those natural systems.

Drainage & storm water

206	Onsite filtration	*
209	Protect drainage ways	*

STRENGTHEN POLLUTION CONTROL

What does this amendment do?

Closes gap in code regarding pollution control.

- Remove pollution control exemptions for one- and two-family dwellings.

Why is this amendment important?

As the city is increasingly careful about pollution control, developers (and home owners) should be held to the best standards in the code, regardless of the size of development.

Pollution control

205	Eliminate exemptions from pollution control standards
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ASSURE SAFE AND ENVIRONMENTALLY-SOUND HILLSIDE DEVELOPMENT

What do these amendments do?

Fix deficiencies and strengthen code related to residential development on hillsides.

- Strengthen safety requirements.
- Require erosion permits
- Clarify language of South Hills Study and prohibition on subdivisions above 900'.
- Strengthen language to protect forests and slopes within 700-900' elevation range.

Why are these amendments important?

As the city is increasingly careful about development on sloped sites, developers should be held to the best standards in the code, and should be required to show in sufficient scientific detail the safety of their plans.

The existing prohibition against subdivisions above the 900' line will become increasingly important with the plans for the ridge line trail, and as South Hills open spaces come under increasing development pressure in south and west Eugene. So the existing prohibition should be worded as clearly as possible.

Hillside development

166	Strengthen requirements for geotechnical, engineering, & safety analysis on sloped sites	*
118	Require erosion permits	
168	Correct South Hills Study language inversion	
170	Clarify the prohibition on subdivisions above 900'	
172	Tighten South Hills Study criteria to protect forests & slopes 700-900'	

STRENGTHEN TREE PROTECTION

What does this amendment do?

Strengthen tree protection.

- Strengthen code to assure protection, not mitigation

Why is this amendment important?

The urban forest, including larger tracts and street trees, is an essential element of Eugene's livability. This amendment will help assure the preservation of that asset.

Trees

124	Redefine "Tree protection"	
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REJECTED AMENDMENTS – DETAILS

What do these amendments do?

Weaken lot and development standards, which will allow an increase in detrimental infill or an exacerbation of negative impacts from incompatible development.

Why is it important to reject these amendments?

If approved, they would worsen the residential infill problem.

Rejected amendments

5	R-1: Permit alley access, reduce min lot size
49	Allow alley access lots
50	Allow smaller original lots for flag lot
197	R-1: Allow more than one "secondary unit"
198	R-1: Allow smaller original lots for flag lot, reduce min flag lot size
199	Remove restrictions on partitioning a duplex lot
201	R-1: Allow above ground utilities for new secondary dwellings
202	Allow partition of lots that will create a non-conforming condition