



COUNCIL ORDINANCE NO. 20599

COUNCIL BILL 5192

**AN ORDINANCE CONCERNING SKINNER BUTTE HEIGHT
LIMITATION AREA, AMENDING SECTION 9.6715 OF THE
EUGENE CODE, 1971, AND PROVIDING FOR AN EFFECTIVE
DATE.**

ADOPTED: July 23, 2018

SIGNED: July 24, 2018

PASSED: 8:0

REJECTED:

OPPOSED:

ABSENT:

**EFFECTIVE: August 24, 2018, or on the date of its
acknowledgment as provided in ORS 197.625, whichever is
later**



ORDINANCE NO. 20599

AN ORDINANCE CONCERNING SKINNER BUTTE HEIGHT LIMITATION AREA, AMENDING SECTION 9.6715 OF THE EUGENE CODE, 1971, AND PROVIDING FOR AN EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Subsection (3) of Section 9.6715 of the Eugene Code, 1971, is amended to provide as follows:

9.6715 **Height Limitation Areas.**

- (1) Purpose of Height Limitation Areas.** Certain geographical landmarks have scenic attributes that are of value to the community as a whole. To protect views to and from these landmarks, special limitations on building height are established on and around them.
- (2) Applicability.** Special building height limitations apply to the specific areas listed in this section. If the exceptions provided for in EC 9.6720 Height Exemptions for Roof Structures and Architectural Features conflict with the building height limitations in this section, this section shall apply. All elevations in the height limitation areas shall be based on the mean sea level.
- (3) Skinner Butte Height Limitation Area.** The boundaries of the Skinner Butte Height Limitation Area are as follows:

All property lying east of Washington Street, lying north of, and including, the north side of 6th Avenue, lying west of Coburg Road, and lying south of the Willamette River. (See Map 9.6715(3) Skinner Butte Height Limitation Area.)

 - (a) Within the Skinner Butte Height Limitation Area, the maximum height of any building or structure is as follows:
 1. Where the existing ground elevation is at, or below, 460 feet above mean sea level:
 - a. Except for buildings and structures located entirely within the southern half blocks between 5th and 6th Avenues, the maximum height shall be to an elevation of 500 feet above mean sea level.
 - b. For buildings and structures located entirely within the southern half blocks between 5th and 6th Avenues, the maximum height shall be to an elevation of 530 feet above mean sea level.
 2. The area referred to in subsection (3)(a)(1) as the “southern half blocks between 5th and 6th Avenues” is that area located within the Skinner Butte Height Limitation Area and not more than 193 feet north of the centerline of 6th Avenue.
 - (b) Where the existing ground elevation is above 460 feet mean sea level, the maximum height shall be 40 feet above the existing ground elevation at all points.
 - (c) In neither case shall the maximum height of any building or structure exceed the maximum allowed in the zone.

Section 2. The findings set forth in Exhibit A attached to this Ordinance are adopted as findings in support of this Ordinance.

Section 3. 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 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

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

23rd day of July, 2018



City Recorder

Approved by the Mayor this

24 day of July, 2018



Mayor

Preliminary Findings
Skinner Butte Height Limitation Amendment
(City File CA 18-3)

Overview

Skinner Butte Height Limitation Amendment: This proposed land use code amendment will create a half-block building height transition area between the commercially zoned area south of 6th Avenue and the Skinner Butte Height Limitation Area north of 6th Avenue. The proposed height transition area would occupy the half-block area north of 6th Avenue between Washington Street and Coburg Road. This amendment will increase allowable building heights within a half block area, north of 6th Avenue from 500 feet above mean sea level to 530 feet above mean sea level, which could result in buildings up to approximately 110 feet tall (from the current height limit of approximately 80 feet).

Findings

Eugene Code Section 9.8065 requires that the following approval criteria (in ***bold italics***) be applied to a code amendment:

- (1) The amendment is consistent with applicable statewide planning goals 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 community involvement which insure the opportunity for citizens to be involved in all phases of the planning process and set out requirements for such involvement. The code amendment does not amend the citizen involvement program. The process for adopting this amendment complied with Goal 1 because it is consistent with the City's acknowledged citizen involvement provisions.

A Notice of Proposed Amendment was filed with the Oregon Department of Land Conservation and Development on May 2, 2018. A public hearing was scheduled before the Planning Commission on June 5, 2018. A public hearing is scheduled before the City Council for July 16, 2018. Consistent with land use code requirements, the Planning Commission public hearing on the proposal was duly noticed to all affected property owners and occupants, owners and occupants of property within 300 feet of the site, all neighborhood organizations in Eugene, the Oregon Department of Land Conservation and Development, Lane County, City of Springfield, and community groups and individuals who have requested notice. Signs announcing the public hearing were posted May 4, 2018 on and around the affected properties, consistent with land use code requirements. Information concerning the amendment, including the dates of the public hearings, was posted on the City of Eugene website.

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These processes afford ample opportunity for citizen involvement consistent with Goal 1. Therefore, the ordinance is consistent with 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.*

Eugene's land use code specifies the procedure and criteria that were used in considering this amendment. The record shows that there is an adequate factual basis for the amendment. 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 engaged in an exchange about the subject of this amendment with all of the affected governmental units. Specifically, the City provided notice of the proposed action and opportunity to comment to the Oregon Department of Land Conservation and Development, as well as to Lane County and the City of Springfield. There are no exceptions to Statewide Planning Goal 2 required for this amendment. Therefore, the amendment is consistent with Statewide Planning Goal 2.

Goal 3 - Agricultural Lands. *To preserve agricultural lands.*

The amendment is for property located within the urban growth boundary and do 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 urban growth boundary and do 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.*

OR 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.*

This amendment does not create or amend the City's list of Goal 5 resources, do not amend a land use code provision adopted to protect a significant Goal 5 resource or to address specific

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requirements of Goal 5, and do not amend the acknowledged urban growth boundary. Therefore, the amendment does not affect (a) or (c).

In regards to (b), the properties subject to the site-specific land use code amendment do not contain any Goal 5 resources. However, the 1978 Scenic Sites Working Paper and accompanying map, which is a part of the City's adopted significant Goal 5 inventory (see Ordinance No. 20351), identifies Skinner Butte as a "Scenic Site" (as both a "Vista" and as containing "Prominent and Plentiful Vegetation"). Per OAR 660-023-0230, "scenic views and sites" are lands valued for their aesthetic appearance.

Skinner Butte has long been recognized and valued in the community for its aesthetic appearance, which is evidenced by the adoption of the Skinner Butte Height Limitation Area in 1968. Notably, this pre-dates the adoption of Statewide Planning Goal 5 in December 1974. Section 9.6715(1) of the Eugene Code (EC), describes the purpose of height limitation areas as follows: "Certain geographical landmarks have scenic attributes that are of value to the community as a whole. To protect views to and from these landmarks, special limitations on building height are established on and around them."

For the reasons detailed below, the amendment does not allow uses that could conflict with the scenic qualities of Skinner Butte.

Properties on the south side of 6th Avenue, which are not located within the Skinner Butte Height Limitation Area, have a maximum building height of 150 feet for C-3 Major Commercial zones properties and 120 feet for C-2 Community Commercial zoned properties. The change to allow buildings to reach approximately 110 feet in height along the northern side of 6th Avenue (an increase of about 30 feet, from the current height limit of approximately 80 feet) provides a more gradual transition between the properties located to the south and the properties located to the north of 6th Avenue.

The properties to the north of 6th Avenue that are subject to the building height increase are over 1,000 feet from the base of Skinner Butte, and over 1,500 feet from the viewing area at the top of the butte. Given the distance between the subject properties along 6th Avenue and Skinner Butte, the potential impact to the views to and from the butte is minimal. Photos included in the record for this application demonstrate that the amendment will have a minimal impact on the views to and from the butte. The remainder of the height limitation area, which is closer to the butte, will remain in place. The change to the Skinner Butte Height Limitation Area does not conflict with the scenic value of the butte or the viewing of its prominent and plentiful vegetation, and therefore does not allow new uses that could be conflicting uses with a significant Goal 5 resource site.

The amendment is consistent with Statewide Planning Goal 5.

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 amendment does not affect the City's

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ability to provide for clean air, water or land resources. Therefore, Statewide Planning Goal 6 does not apply.

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 affect the City's restrictions on development in areas subject to natural disasters and hazards. Further, the amendment does not allow for new development that could result in a natural hazard. 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.*

Goal 9 requires cities to evaluate the supply and demand of commercial land relative to community economic objectives. The amendment does not impact the supply of industrial or commercial lands. Instead, the Skinner Butte Height Limitation Area amendment increases the capacity of existing commercially zoned land by allowing additional building height. Therefore, the amendment is consistent with Statewide Planning Goal 9.

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 Residential Lands Supply Study (2017) was adopted by the City of Eugene as a refinement of the Envision Eugene Comprehensive Plan, and complies with the requirements of Goal 10 and the corresponding Administrative Rule.

The amendment does not impact the supply of residential buildable land. No land is being re-designated from residential use to a nonresidential use, and the amendment does not otherwise diminish the amount of lands available for residential use. Instead, the Skinner Butte Height Limitation Area amendment increases the capacity of existing commercially zone land, by increasing the potential number of dwelling units that could be built.

Accordingly, the amendment does not impact the supply or availability of residential lands included in

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the documented supply of “buildable land” that is available for residential development as inventoried in the acknowledged Residential Lands Supply Study. Therefore, the amendment is 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 does not affect the City’s provision of public facilities and services. Therefore, Statewide Planning Goal 11 does not apply.

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

The Transportation Planning Rule (OAR 660-012-0060) 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) or (b). In regards to (c), the level of increased development that will result from the additional building height will have a negligible impact on any transportation facility.

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Therefore, the amendment does not significantly affect any existing or future transportation facilities. Based on the above findings, the amendment is consistent with Statewide Planning Goal 12.

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

The amendment does not impact energy conservation. 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 coastal, ocean, estuarine, or beach and dune resources related to the property effected by this amendment. Therefore, these goals are not relevant and the amendment will not affect compliance with Statewide Planning Goals 16 through 19.

(2) *The amendment is consistent with applicable provisions of the comprehensive plan and applicable adopted refinement plans.*

Applicable Metro Plan Policies

The following policies from the *Metro Plan* (identified below in *italics*) are applicable to this amendment. To the extent that the following policies constitute mandatory approval criteria, based on the findings provided below, the amendment is consistent with and supported by the applicable provisions of the *Metro Plan*.

Environmental Design Element

E.5 Carefully develop sites that provide visual diversity to the urban area and optimize their visual and personal accessibility to residents.

The intent of this amendment is to permit taller buildings while still preserving the views to and from Skinner Butte. The height standards in the amendment permit buildings shorter than those allowed in adjacent commercial zones, preserving views to and from Skinner Butte and creating a visual step to soften the building height juxtaposition across 6th Avenue.

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- E.6 *Local jurisdictions shall carefully evaluate their development regulations to ensure that they address environmental design considerations, such as, but not limited to, safety, crime prevention, aesthetics, and compatibility with existing and anticipated adjacent uses (particularly considering high and medium density development locating adjacent to low density residential).*

Consistent with this policy, the amendment provides a creative solution to preserving the views to and from Skinner Butte while promoting commercial development downtown.

Envision Eugene Comprehensive Plan

The Envision Eugene Comprehensive Plan does not contain any policies relevant to this amendment.

Applicable Refinement Plans

Given the narrow applicability of this amendment, only the Eugene Downtown Plan (2004) was found to have policies relevant to this amendment:

Chapter 1, Policy 2. Downtown development shall support the urban qualities of density, vitality, livability and diversity to create a downtown, urban environment.

Chapter 2, Policy 2. Use downtown development tools and incentives to encourage development that provides character and density downtown.

Although these policies are aspirational, the amendment is consistent with each of these policies, supporting density and building character which adds to the downtown, urban environment.

Based on the above findings, the proposal is consistent with and supported by the applicable provisions of these adopted plans.

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

The amendment does not establish a special area zone. Therefore, this criterion does not apply.