CHAPTER 14

GENERAL PROVISIONS

Section 14.050 (16)

ORIGINAL

Automobile Wrecking Yard: Any property where (1) the business of wrecking of motor vehicles or trailers is conducted; (2) the storage, sale or disposal of dismantled, partially dismantled, or wrecked vehicles, or their parts, is conducted; or (3) the open storage of two or more motor vehicles not in running condition.

COMMENT:

The definition of wrecking yard is over inclusive. An individual living in a rural area should be permitted to openly store two or more non-functioning automobiles. If a limit is drawn, the number of non-functioning vehicles should be adjusted upward to levels that would guarantee that only bonafide nuisances would be restricted. A redrafted ordinance should regulate only those vehicles visible from adjoining tracts.

REDRAFT:

. . . (3) The open storage of five or more motor

vehicles not in running condition if they are visible from neighboring properties.

Section 14.050 (29)

ORIGINAL:

Comprehensive Plan. A generalized, coordinated land use map and policy statement of the governing body that inter-relates all functional and natural systems and activities relating to the use of lands including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs.

COMMENT:

This definition is too broad. If literally applied the comprehensive plan could be utilized to control virtually all human activity. Further, the definition implies that the Planning Department should assume a "super-agency" role in relation to other County Departments. The definition should be limited both in scope and in the role of the Planning Department.

COMPREHENSIVE PLAN:

A generalized, coordinated land use map and policy statements concerning land use developed by the Board of County Commissioners.

Section 14.050 (66)

ORIGINAL:

Kitchen. Any room and/or portion of a dwelling use, intended or designed to be used for cooking and preparing food.

COMMENT:

The County should limit itself to regulating the objective design of buildings and not the subjective intended use. Intent cannot be objectively determined by those in charge of enforcing this document. Any room could conceivably be labeled a kitchen by this definition if a Planning Department representative believed the builder intended to cook in it.

REDRAFT:

Kitchen. Any room and/or portion of dwelling designed to be used for cooking and preparing foods.

Section 14.050 (87)

ORIGINAL:

Natural Areas. A naturally occurring physical or biological unit, reserved in an undisturbed condition by agencies of the federal or state governments or by private conservation organizations such as the Nature Conservancy.

COMMENT:

This definition delegates county responsibility for designating "Natural Areas" to the federal government, state governments, and any private conservation group.

If the Comprehensive Plan is intended to be utilized as a tool to restrict properties located within and adjoining natural areas, the land owners and the county should possess the final authority to designate such areas.

Other questions concerning "natural areas" must be addressed before this definition is adopted or redrafted such as:

(1) How many acres will such a designation affect?

(2) Will such a designation affect federal allowable cut calculations?

(3) Will properties affected receive compensations for restrictions imposed?

REDRAFT:

A unique naturally occurring physical or biological area which has been left in an undisturbed condition and which has been formally designated a natural area by the Board of County Commissioners with the consent of the landowners designated.

Section 14.050 (91)

ORIGINAL:

Official Map. An ordinance adopted and amended from time to time after public hearing by the Board of County Commissioners, containing a map or maps that show the precise locations of lands to be acquired by Josephine County, either through purchase or dedication. Copies of the Official Map will be maintained in the County Planning Department for public inspection, and will be used to facilitate the property placement of buildings and structures in relation to future property lines.

COMMENT:

Such a proposed map can be utilized to restrict the development of privately owned parcels for a substantial length of time without land owner consent or compensation. Reference to an official map should be deleted.

REDRAFT:

Delete.

Section 14.050 (125)

ORIGINAL:

Upset Condition. A malfunction creating a situation not consistent with prescribed operational conditions.

COMMENT:

The term "upset condition" requires greater definition.

CHAPTER 15

EXTRACTIVE RESOURCE DISTRICT

Section 15.020 (2)(e)

ORIGINAL:

e. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 15.020 (2)(f)

ORIGINAL:

f. Excavation shall be away from the property line in distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation for the depth of final excavation.

COMMENT:

If an operational plan is necessitated, professionals, other than the Planning Director, should be permitted to approve the plan, i.e., a mining engineer, civil engineer, etc. Does the current Planning Director possess expertise in the field of mining?

Prior to adopting this regulation, the Commission should first determine if a problem which warrants regulation is present. If there is no mine excavation problem, the regulation should be deleted.

REDRAFT:

(Delete)

Section 15.020 (2)(a)

ORIGINAL:

a. No cement or asphalt batching plant shall operate for a period greater than 120 days at a single site.

COMMENT:

Since the residential use of the extractive resource zones will be limited and such areas are sources of aggregate it seems a logical place to permit cement and asphalt batching plants to exist for an extended length of time. What is the rationale of the 120 day limit?

REDRAFT:

Delete.

Section 15.020 (3)(c)

ORIGINAL:

c. No plant shall operate without an approved Air contaminant Discharge Permit, issued by the State Department of Environmental Quality.

COMMENT:

State and Federal agencies sufficiently enforce air pollution regulations. County participation in Air Quality Regulation would represent a duplication of effort.

REDRAFT:

(Delete)

Section 15.020 (3)(e)

ORIGINAL:

e. Dust from ancillary sources, such as the pit floor or gravel piles shall be controlled to the greatest extent feasible.

COMMENT:

The term "feasible" can possess two meanings in this draft. First, feasible can be understood to mean simply whether dust control can be accomplished. Second, it can mean whether measures are affordable or practical. The second interpretation should be employed by the Ordinance.

REDRAFT:

. . . to the greatest extent economically feasible.

Section 15.040 (2)

ORIGINAL:

2. Setbacks: No structure, whether permanent or temporary, shall be located closer than 30 feet to any property line. The Planning Director may increase the setback for processing equipment.

COMMENT:

An exception to the rear and side yard set back requirements should be made for pre-existing lots of record which are one acre or smaller in area. After applying the draft's requirements to small parcels, it is quite possible that no building site may remain on many properties. Compliance with the draft's standards could prove especially harsh in the case of a reconstruction denial after fire or natural catastrophe.

REDRAFT:

(For parcels one acre or smaller, the draft should utilize the current SR1 standards; side yard, 10 feet; rear yard, 20 feet.)

CHAPTER 16

FOREST CONSERVATION DISTRICT

Section 16.020 (1): Uses Permitted Outright.

ORIGINAL:

1. Resource Uses.

   a. The management, production and harvesting of timber resources, in accordance with the Oregon Forest Practice Rules, including the following: . . .

COMMENT:

Unless this Section has succeeded in naming every possible forestry, management, production, and harvesting technique, the Ordinance should recognize the legitimacy of the use of reasonable forestry techniques, not specifically mentioned in the Section.

REDRAFT:

The management, production and harvesting of timber resources, including but not limited to the following . . .

Section 16.020 (1)(c)(6)

ORIGINAL:

6. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 16.020 (1)(c)(6)

ORIGINAL:

6. Excavation shall be away from the property line a distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation, for the depth of final excavation.

COMMENT:

If an operational plan is necessitated, professionals, other than the Planning Director, should be permitted to approve the plan, i.e., a mining engineer, civil engineer, etc. Does the current Planning Director possess expertise in the field of mining?

Prior to adopting this regulation, the Commission should first determine if a problem which warrants regulation is present. If there is no mine excavation problem, the regulation should be deleted.

REDRAFT:

(Delete)

Section 16.025 (1)

ORIGINAL:

1. Utility facilities necessary for power generation and transmission.

COMMENT:

This policy would require a zoning or Planning Commission hearing every time a utility intends to install a telephone or power pole. The section should distinguish between major and minor transmission and power generation facilities.

It seems unwise to adopt the current draft's policy of inhibiting power generation facilities and transmission lines.

REDRAFT:

(The policy should technically distinguish between minor and major projects.

Section 16.025 (4)

ORIGINAL:

4. Cement or asphalt batching, rock processing and

crushing, subject to the following standards:

COMMENT:

Rock processing and crushing should be a permitted use in this district. The forest conservation district is intended to be a resource zone, a zone specifically designed to permit access to mineral as well as timber resources. If valuable deposits are discovered restrictions on processing or crushing could destroy economically feasible access to minerals. Unprocessed rock would have to be transported out of the zone for processing, thus adding substantially to costs.

REDRAFT:

(Rock crushing and processing should be permitted uses.)

Section 16.050 (4)(a)

ORIGINAL:

a. No cement or asphalt batching plant shall operate for a period greater than 120 days at a single site.

COMMENT:

Presuming there are few people in a Forest

Conservation District, is there any reason why plant operation should be limited to 120 days?

REDRAFT:

(Delete)

Section 16.025 (4)(b)

ORIGINAL:

b. Screening of the processing site may be required to obscure the view or minimize dust or other annoyance from adjoining occupied property and adjacent public streets.

COMMENT:

If plant operation is restricted to a 120 day operation, screening requirements would become unreasonable in most circumstances.

Section 16.025 (4)(c)

ORIGINAL:

c. No plant shall operate without an approved Air

Contaminant Discharge Permit, issued by the State Department of Environmental Quality.

COMMENT:

State and Federal agencies sufficiently enforce air pollution regulations. County participation in Air Quality regulation would represent a duplication of effort.

REDRAFT:

(Delete)

Section 16.025 (4)(d)

ORIGINAL:

d. If an upset condition occurs, the plant shall be shut down within one hour of the upset, and shall not resume operation until the problem has been resolved.

COMMENT:

The term "upset condition" requires greater definition.

Section 16.025 (4)(e)

ORIGINAL:

e. Dust from ancillary sources, such as the pit floor or gravel piles shall be controlled to the greatest extent feasible.

COMMENT:

The term "feasible" can possess two meanings in this draft. First, feasible can be understood to mean simply whether dust control can be accomplished. Second, it can mean whether measures are affordable or practical. The second interpretation should be employed by the Ordinance.

REDRAFT:

. . . to the greatest extent economically feasible.

Section 16.025 (5)(a)

ORIGINAL:

a. Demonstration that the proposed development would not adversely impact forest management on the property specific or on adjoining lands.

COMMENT:

This section imposes an insurmountable burden of proof.

REDRAFT:

(Delete)

Section 16.025 (5)(b)

ORIGINAL:

b. Demonstration that the proposed development satisfies the outdoor recreation needs identified in the Josephine County Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision-making process. It is impossible for the comprehensive to determine recreation needs for the next 20 years.

REDRAFT:

(Delete)

Section 16.025 (6)(b)

ORIGINAL:

b. Demonstration that the proposed project meets the public recreation needs and tourism needs identified by the Josephine County Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision-making process. It is impossible for the comprehensive plan to identify tourist needs for the next 20 years.

REDRAFT:

(Delete)

Section 16.030 (1)(2)

ORIGINAL:

1. Emergency housing units for limited periods of time necessitated by disaster due to fire, flood or other natural catastrophe, or by public health.

2. An additional housing unit for dependents of the property resident's immediate family.

COMMENT:

Temporary emergency housing should be a permitted use if necessitated by fire, flood, public health or other natural catastrophe. Emergency housing for family care or medical needs may remain subject to Administrative Permit Procedures. However, it should not be limited to dependents of the immediate family.

REDRAFT:

1. Emergency housing should be a permitted use.

2. Any additional housing unit for dependents of the residents family.

Section 16.040 (b)

ORIGINAL:

b. Side and rear yards: There shall be a side yard on each side of the main building, and each side yard shall have a width of not less than 25 feet. There shall be a rear yard of not less than 40 feet in depth from the main building.

COMMENT:

An exception to the rear and side yard lot setback requirements should be made for pre-existing lots of record which are one acre or smaller in area. After applying the draft's requirements to small parcels, it is quite possible that no building site may remain on many properties. Compliance with the draft's standards could prove especially harsh in the case of a reconstruction denial after fire or natural catastrophe.

REDRAFT:

(For parcels one acre or smaller, utilize the current SR1 standards; side yard, 10 feet; rear yard, 20 feet.)

Section 16.040 (4)(e)

ORIGINAL:

e. Stream setbacks. No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located closer than 15 feet to a live stream or to a stream which provides fishery habitat. Lands within 10 feet of a stream bank shall be to the greatest extent feasible maintained in stabilized vegetation, and riparian vegetation that provides shading to the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the retention of vegetation.

REDRAFT:

However if this section is adopted, it should make some provision for substituting natural vegetation. It is doubtful if the State has any interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

Section 16.075 Erosion and Sediment Control

ORIGINAL:

1. Any grading, filling or clearing of vegetation which exceeds the following standards, except when authorized or regulated by the State Forest Practices Rules, shall be subject to an operational plan which shall be incorporated as part of the permit for the proposed land use:

   a. Excavation which exceeds four feet in vertical depth at its deepest point measured from the original surface; or exceeds 3000 square feet

of disturbed surface area; or where the natural ground surface exceeds 12 percent grade and the disturbed surface area exceeds 1500 square feet.

b. A fill which exceeds three feet in vertical depth at its deepest point measured from the natural ground surface and where the finished fill material surface exceeds 12 percent grade and the fill material covers an area of more than 1500 square feet.

c. Excavation or fill on granitic soils where the disturbed area exceeds 1500 square feet and the natural slope exceeds 7 percent slope.

2. When such conditions exist, an operational plan prepared by a geologist, soil scientist, landscape architect, or civil engineer, shall be submitted to the Planning director. The plan shall provide the following information:

a. A statement of the land capabilities of the property on which the grading, filling or clearing is to be performed, including soil series name, hydrologic group, slope, gradients, run-off potential, soil depth, erosion potential, and natural drainage.

b. An accurate plot plan showing the exterior boundaries of the property on which the modification is to be performed, together with elevations, dimensions, location and extent of proposed grading.

c. A description of equipment and methods to be employed in processing and disposing of soil and other material that is removed from the site, including the location of disposal sites.

d. Detailed plans of all drainage devices, walls, cribbing, dams or other protective devices to be constructed in connection with, or as part of the proposed work together with a map showing the drainage area and estimated run-off of the area served by any drains and proposed method of run-off disposal.

e. A soils stabilization report, including final ground cover, landscaping, and erosion controls and requirements for stable cut and fill slopes,

based on detailed stability analysis. For the purposes of determining appropriate soil losses, the Soil Conservation Service, U.S.D.A. publication Soil Interpretations of Oregon OR-Soils-1 shall be used. Prior to issuing the permit, the Planning Director may refer the plan to the County Soil Scientist, the County Road Department, or to the Soil Conservation Service for comment.

COMMENTS

This entire section should be eliminated.

It implies an erosion problem that is much greater than any that really exists in this county, and it ignores the true sources of what erosion problems we do have. The draft ordinance exempts forestry and agricultural activities and farming and forestry are probably our two greatest sources of erosion. Consequently, the requirement to get the Planning Director's approval of fancy plans drawn at about $35 per hour is placed only on residential users. This is discriminatory as well as unnecessary. It is a rare homeowner who will stand idly by and watch his front yard wash away.

This draft ordinance requires anyone in the affected zones to have a fancy plan drawn if he plans a garden that is larger than 39 feet by 39 feet (39x39 = 1521). The case is similar for the person who wishes to build a driveway greater than 12 feet by 125 feet (12x125 = 1500). Both examples assume granitic soils. It would seem that if this excessive restriction is approved, the Planning Department will have time to do nothing but review and issue erosion control permits.

In addition, this section is a clear example of the opportunity this draft ordinance creates for bureaucratic abuse and graft. It requires that a plan be submitted for approval, but it gives no clue of what will constitute an acceptable plan. Absolutely no design criteria are suggested, and it does not even identify what the section is intended to accomplish. Approval is apparently left totally to the Planning

Director's discretion and who knows what or who may sway his thinking on any given day. We cannot afford to create such opportunities for abuse and corruption. This is not an attempt to impugn the current staff; but we do not know who will follow them.

REDRAFT

(Delete)

Section 16.085 Wildfire Protection

ORIGINAL

1. All structures shall be placed or constructed in such a way as to reduce the risk of fire spreading from one structure to another.

2. Thirty-five (35) foot fuel breaks, consisting of non-combustible materials or slow-burning plants, shall be required around new home construction or placement of mobile homes in areas dominated by brush. Brush fields requiring fuel break construction shall be denoted on the zoning maps.

3. Roads and bridge access to developments shall be constructed to support a gross vehicle weight of 26,000 pounds to accommodate fire equipment.

4. Subdivisions shall not be permitted in box canyons using one-way access roads.

COMMENT

Subsection 1: This subsection is too restrictive in

comparison to the actual threat. There are many homeowners who would prefer to accept the risk for fire spreading from one structure to another in order to have the convenience of connecting structures.

Subsection 2: This section should be advisory only rather than a rigid requirement. Once again, property owners may prefer to accept the risk of fire spreading to their residence rather than to eliminate natural vegetation that may have aesthetic or other significance to them. Or, they may wish to reduce the hazard of fire spreading by installing irrigation systems or other fire-stop methods.

Subsection 3: This too should be advisory. Such requirements are reasonable when applied to public roads and ways. But a property owner may not be able to afford such a bridge and he may choose to accept the risk of not getting fire control equipment to his residence rather than forego developing the residence entirely because of the costs forced on him by this ordinance.

This entire section should be measured against the true need for its provisions. Review will find that the true potential of wildfire hazards in this county is slight. History proves that. For each residence built in a wooded area, and therefore for each potential additional fire hazard, we gain an additional fire observer. Residents of wooded areas are not only a fire threat, but they are also our first line of fire defense.

In addition, this section, like many other sections of this draft ordinance, goes beyond its proper scope. It seeks to over-regulate and eliminate personal choice when doing so gains little for the general public. A person's right to assume risk, or to choose a greater risk in exchange for a lesser cost or greater convenience, should be his to make so long as doing so creates no unusual risk for the public generally.

<u>REDRAFT</u>

Delete.

CHAPTER 17

WOODLOT DISTRICT

Section 17.010 Purposes of Woodlot District

ORIGINAL:

The purpose of this chapter is to carry out the objectives of the Goals and Policies of the Josephine County Comprehensive Plan relating to preservation of the rural quality and conservation of forest lands. This chapter is designed to provide a classification for lands in Josephine County of marginal timber production capability, which are predominantly in private ownership. This chapter is designed to provide incentives for the beneficial use of these lands to include stabilization of the Josephine County timber base. Further, this chapter is designed to provide discentives for the inappropriate conversion of such lands to uses that (1) increase the natural hazards to life and property and (2) which are excessively expensive to support with appropriate public facilities.

COMMENT:

1. Please clarify what is meant by "discentive."

2. The risk of an individual's own "life and property" are not Planning Department concerns as long as other's lives and property are not affected.

3. Very few public services are provided to those who live in the County side. What "excessively expensive appropriate public facilites" is the Section making

reference to? Public services increase from concentrating people rather than dispersing them, i.e., Public Sewer and Water Systems, etc. By what measure are athe provision of such services excessively expensive?

Section 17.012 Management Practices

ORIGINAL: (Emphasis supplied)

The Woodlot classification is intended to encourage the development and conservation of natural resources. Normal forest management or agricultural practices shall not be considered a nuisance condition in a Woodlot District, provided that such actions are consistent with the standards of the Oregon Forest Practices Act and do not extend beyond the boundaries of the Woodlot District. Nothing in this regulation is intended to interfere with normal forestry or agricultural practices that might result in conditions such as noise, dust or odor for temporary periods of time. Single-family residences located within the Woodlot District are considered to be a secondary use. Residents of this District should recognize that the intent of the District is to protect resource management activities, and that in the event of a conflict between residential use and normal forestry or agricultural practices, this Regulation will be interpreted in favor of the resource management practice.

COMMENT:

It is extremely difficult to confine noise and dust within a Woodlot District, especially if operations are taking place close to a Woodlot boundary. Since

most forestry activity is highly temporary in nature, neighboring residences should be able to tolerate a temporary reasonable imposition.

REDRAFT:

Same but delete underlined sentence.

Section 17.020 (1)(a)(1)

ORIGINAL:

a. Forest management.

1. The management, production and harvesting of timber resources, including the following:

COMMENT:

Unless this Section has succeeded in naming every possible forestry management, production and harvesting technique, the ordinance should recognize the legitimacy of the use of reasonable forestry techniques not specifically mentioned in the Section.

REDRAFT:

The management, production and harvesting of timber resources, including but not limited to the following:

Section 17.020 (a)(2)(a)

ORIGINAL:

a. If the volume of wood products exceeds eight commercial truck loads per day, any access road, service road, or unpaved public road, while used for long-hauling, shall receive daily dust abatement or shall be treated with an oil surfacing, by the operator, for a distance of 200 feet from a surfaced road or highway or residence located on adjoining property. If more than one commercial log-hauling operation uses the road for log hauling purposes, all operators shall be jointly responsible for dust abatement as previously described.

COMMENT:

Logging activities should be controlled exclusively by the State Forestry Practices Act. The proposed section was designed mainly as a pollution dust control measure. The County to date possesses no demonstratable dust pollution problem. Therefore the County should delay imposition of this section until a dust pollution problem is identified and imminent. Such a delay is necessary in order to avoid imposing significant unjustified costs on the Forestry Industry.

REDRAFT:

Delete.

Section 17.020 (1)(c)(1)

ORIGINAL:

c. Mining and rock extraction, subject to the following standards:

1. An access or service road, while used for the mining, shall be maintained in a dust-free condition, by the operator, for a distance of 200 feet from public roads or streets or residences located on adjoining property. If the mining is the primary cause of traffic on an unpaved public road, that road shall be dust-free for 200 feet from such residences. If more than one mining operation uses the same road, all operators shall be jointly responsible for dust abatement as previously described.

COMMENT:

This ordinance was designed to prevent dust pollution However, there is no demonstrable dust pollution in the county. This section should be conditioned upon the discovery of a dust pollution problem in order to prevent the imposition of needless costs.

However, if the section is utilized the term dust

free should be more closely defined. Does the term mean daily watering, oiling, surfacing, or whatever is adequate to control the problem?

REDRAFT:

Delete.

Section 17.020 (1)(c)(5)

ORIGINAL:

5. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 17.020 (1)(c)(6)

ORIGINAL:

6. Excavation shall be away from the property line a distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation, for the depth of final excavation.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 17.020 (2)(e)(2)

ORIGINAL:

2. The single-family dwelling or mobile home is to be located on property which consists of more than 10

acres, all of which consists of lands with a forest productivity of cubic foot Class 6 or 7; or . . .

COMMENT:

This Section would unnecessarily encumber a property if it possessed one square foot of site Class Five or better land.

REDRAFT:

2. The single-family dwelling or mobile home is to be located on property which consists of more than 10 acres, which is dominated by lands with a forest productivity of Cubic Foot Class Six (6) or Seven (7) and that does not contain a significant or managable quantity of Cubic Foot Class Five (5) or better land.

Section 17.020 (2)(e)(1)

ORIGINAL:

e. Single-family dwelling or mobile home not associated with agriculture subject to compliance with any one of the following standards:

   1. The single-family dwelling or mobile home is to be located on a parcel less than 10 acres in size, and which is not contiguous to other property in the same ownership: or . . .

COMMENT:

The contiguous ownership provision should be eliminated. There is considerable confusion over the meaning of the term "ownership." Property can be owned in many different ways by the same two individuals, yet this Ordinance would require their combination regardless. Further, this contiguous property requirement merely provides a trap for the unwary. It can easily be avoided by proper planning.

REDRAFT:

Same, but delete the last phrase.

Section 17.020 (2)(e)(3)

ORIGINAL:

3. The single-family dwelling or mobile home is to be located on the least-productive buildable site and where the balance of the property is subject to a forest management plan. the forest management plan shall be incorporated as part of the development permit, and shall be prepared by a professional forester, certified soil scientist, or other person who, in the judgment of the Planning Director, is qualified to prepare a management plan. Management plans prepared or approved by the Oregon State Department of Forestry shall be accepted by the

COMMENT:

The contiguous ownership provision should be eliminated. There is considerable confusion over the meaning of the term "ownership." Property can be owned in many different ways by the same two individuals, yet this Ordinance would require their combination regardless. Further, this contiguous property requirement merely provides a trap for the unwary. It can easily be avoided by proper planning.

REDRAFT:

Same, but delete the last phrase.

Section 17.020 (2)(e)(3)

ORIGINAL:

3. The single-family dwelling or mobile home is to be located on the least-productive buildable site and where the balance of the property is subject to a forest management plan. the forest management plan shall be incorporated as part of the development permit, and shall be prepared by a professional forester, certified soil scientist, or other person who, in the judgment of the Planning Director, is qualified to prepare a management plan. Management plans prepared or approved by the Oregon State Department of Forestry shall be accepted by the

COMMENT:

The contiguous ownership provision should be eliminated. There is considerable confusion over the meaning of the term "ownership." Property can be owned in many different ways by the same two individuals, yet this Ordinance would require their combination regardless. Further, this contiguous property requirement merely provides a trap for the unwary. It can easily be avoided by proper planning.

REDRAFT:

Same, but delete the last phrase.

Section 17.020 (2)(e)(3)

ORIGINAL:

3. The single-family dwelling or mobile home is to be located on the least-productive buildable site and where the balance of the property is subject to a forest management plan. the forest management plan shall be incorporated as part of the development permit, and shall be prepared by a professional forester, certified soil scientist, or other person who, in the judgment of the Planning Director, is qualified to prepare a management plan. Management plans prepared or approved by the Oregon State Department of Forestry shall be accepted by the

COMMENT:

The contiguous ownership provision should be eliminated. There is considerable confusion over the meaning of the term "ownership." Property can be owned in many different ways by the same two individuals, yet this Ordinance would require their combination regardless. Further, this contiguous property requirement merely provides a trap for the unwary. It can easily be avoided by proper planning.

REDRAFT:

Same, but delete the last phrase.

Section 17.020 (2)(e)(3)

ORIGINAL:

3. The single-family dwelling or mobile home is to be located on the least-productive buildable site and where the balance of the property is subject to a forest management plan. the forest management plan shall be incorporated as part of the development permit, and shall be prepared by a professional forester, certified soil scientist, or other person who, in the judgment of the Planning Director, is qualified to prepare a management plan. Management plans prepared or approved by the Oregon State Department of Forestry shall be accepted by the

Planning Director. Forest management plans shall include at least the following information:

a. A map, drawn to scale, of the property

b. A statement of the landowner's management objectives.

c. A statement of the existing condition of timber stands and proposed methods of treatment and access.

d. A statement of effects of management activities on wildlife habitat, soil conservation, and streambank protection.

e. A statement of proposed methods of fire prevention and suppression.

f. A time schedule of planned management operations.

Amendments to the forest management plan, approved by the Planning Director, shall be attached to the development permit.

COMMENT:

This Section intrudes significantly into the property owners choice of a building site., further, the section will impose substantial costs on the home buyer in order to manage a resource that isn't present.

REDRAFT:

Delete.

Section 17.025 (1)(a)

ORIGINAL:

b. Demonstration that the proposed development would not adversely impact forest management on the property specific or on adjoining lands.

COMMENT:

This burden of proof is insurmountable.

REDRAFT:

(Delete)

Section 17.025 (1)(a)

ORIGINAL:

a. Demonstration that the proposed project meets the public recreation needs and tourism needs identified by the Josephine County Comprehensive Plan.

COMMENT:

This section is subjective and formless. Further, it is simply not possible for the Comprehensive Plan to determine the tourist needs of the County.

REDRAFT:

(Delete)

Section 17.025 (3)(a)

ORIGINAL:

a. An access or service road, while used for the mining, shall be maintained in a dust-free condition, by the operator, for a distance of 200 feet from public roads or streets or residences located on adjoining property. If the mining is the primary cause of traffic on an unpaved public road, that road shall be dust-free for 200 feet from such residences. If more than one mining operation uses the same road, all operators shall be jointly responsible for dust abatement as previously described.

COMMENT:

This ordinance was designed to prevent dust pollution However, there is no demonstratable dust pollution in the county. This section should be conditioned upon the discovery of a dust pollution problem order to prevent the imposition of needless costs.

However, if the section is utilized the term dust free should be more closely defined. Does the term mean daily watering, oiling, surfacing, or whatever is adequate to control the problem?

REDRAFT:

Delete.

Section 17.025 (3)(e)

ORIGINAL:

e. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 17.020 (3)(f)

ORIGINAL:

f. Excavation shall be away from the property line a distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation, for the depth of final excavation.

COMMENT:

If an operational plan is necessitated, professionals, other than the Planning Director, should be permitted to approve the plan, i.e., a mining engineer, civil engineer, etc. Does the current Planning Director possess expertise in the field of mining?

Prior to adopting this regulation, the Commission should first determine if a problem which warrants regulation is present. If there is no mine excavation problem, the regulation should be deleted.

REDRAFT:

(Delete)

Section 17.030 (2)

ORIGINAL:

2. Open temporary, non-commercial storage of travel trailers, recreational vehicles, or motor vehicles, when such vehicles are currently unlicensed or owned by as individual other than the resident or owner of the property.

COMMENT:

This regulation should not apply to vehicles owned by the property owner or resident. Vehicles owned by others should be subject to regulation if the period of storage is excessive and the vehicles are visible from adjoining property.

REDRAFT:

Open storage of travel trailers, recreational vehicles, or motor vehicles when:

(1) The vehicles are visible from adjoining property.

(2) The vehicles are owned by someone other than the property owner or resident.

(3) The duration of storage exceeds _____ days.

(4) More than 3 vehicles are stored.

Section 17.030 (3) and (4)

ORIGINAL:

3. Emergency housing units for limited periods of time necessitated by disaster due to fire, flood, or other natural catastrophe, or by public health.

4. An additional housing unit for dependents of the property resident's immediate family.

COMMENT:

Temporary emergency housing should be a permitted use if necessitated by fire, flood, public health or other natural catastrophe. Emergency housing for family care or medical needs should remain subject to administrative permit procedures. However, it should not be limited to dependents of the immediate family.

REDRAFT:

3. (Emergency housing should be made a permitted use.)

4. An additional housing unit for dependents of the property resident's family.

Section 17.030 (6)

ORIGINAL:

6. Facilities for the primary processing of forest products, including portable mills, portable chippers, provided that such units are not operated at a single site continuously for more than 120 days from the date of issuance of the permit.

COMMENT:

The Woodlot Zone is a Resource Zone. Primary processing facilities should be permitted uses.

Section 17.045 Development Rating.

ORIGINAL:

For the purposes of determining the maximum total number of dwelling units permissible on any ownership, a development rating shall be assigned. the development rating shall equal the cumulative density ration (the number of dwelling units per acres of land in this District) as determined in Section 17.045 (8).

The minimum lot size permitted by this District shall not be limited by the total density. a landowner may partition property into parcels of varying sizes, taking into consideration such factors as topography, requirements for subsurface sewage disposal, and

productivity of land for forest management purposes, provided that no parcel is created smaller than five (5) acres and the total number of land partionings does not exceed the original development rating.

As land is partioned the property owner may assign the remaining developmenmt rating to any or all of the resulting parcles, subject to provisions of this Ordinance. A statmeent of the voluntary assignment of remaining development potential shall be signed by the partioner or subdivider and shall be recorded with the final map for a partition or final plat for a subdivision. the assignment shall be binding on subsequent landowners, regardless of the size of the resulting parcels.

In determining the development rating the following system shall be used:

COMMENT:

The Woodlot Areas should possess ten acre standard zoning. The majority of these lands can accommodate ten acre development. In reality, these lands are not commercial managable for timber production.

The proposed rating system restricts land owners for possessing a timber resource that is not present. The rating system should only be applied as a last resort.

REDRAFT:

Standard 10 acre divisions should be established.

Section 17.045 (6)(b)

ORIGINAL:

b. Those lands possessing slopes greater than 35% as determined by the configuration of Soil Mapping Units contained within Soil Surveys completed by the the Soil Conservation Service.

COMMENT:

Lands that are 35% or greater in slope shold not be eliminated for the development rating calculations. Steep lands that possess poor timber growing capabilities require greater management effort on the part of individuals. Therefore, lot sizes shold be smaller if a building site is available.

The soils method of determining slope is inaccurate. Imformation gathered by on site inspection by qualified personnel should be permitted to override soils information if this provision is adopted.

REDRAFT:

(Delete.)

Section 17.045 (7)(b)

ORIGINAL:

b. If more than 10 acres of any ownership consist of

areas designated by the Soil Conservation Service, U.S. Department of Agriculture, as containing soils with capabilities of cubic foot Class 3 and 4 productivity for Douglas-fir management such lands shall be assigned a density accumulation of one development unit per 20 acres of land.

COMMENT:

The Soils Method of determining timber productivity consistently overstates timber growing potential by one of two site classes. If onsite inspections reveals that the soils information is inaccurate then the more accurate onsite information should prevail.

REDRAFT:

. . . per 20 acres of land. If on site information concerning site class productivity is available, such information will be utilized in place soil conservation service data.

Section 17.060 (2)

ORIGINAL:

2. Side and rear yards: There shall be a side yard on each side of the main building, and each side yard shall have a width of not less than 25 feet. There shall be a rear yard of not less than 40 feet in depth from the main building.

COMMENT:

An exception to the rear and side yard lot requirements should be made for pre-existing lots of record which are one acre or smaller in area. After applying the draft's setback requirements to small parcels, it is quite possible that no building site may remain on many properties. Compliance with the draft's standards could prove especially harsh in the case of a reconstruction denial after fire or natural catastrophe.

REDRAFT:

(For parcels one acre or smaller, utilize the current SR1 standards; side yard, 10 feet; rear yard, 20 feet.)

Section 17.060 (5)

ORIGINAL:

5. Stream setbacks. No structure, other than boat landings, docks, bridges, pumping, or water treatment facilities, shall be located closer than 15 feet from the high water line or 25 feet from the low water line, whichever is the more restrictive, of a class 1 or 2 stream as defined by the Oregon State Department of Fish and Wildlife. This setback area shall be maintained, to the greatest extend feasible in stabilized vegetation. Riparian vegetation that provides shading to the surface waters shall be be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowners property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the forced retention of vegetation.

REDRAFT:

However if this section is adopted, it should make some allowance for substituting natural vegetation. It is doubtful if the State has any interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

Section 16.075 Erosion and Sediment Control

ORIGINAL:

1. Any grading, filling or clearing of vegetation which exceeds the following standards, except when authorized or regulated by the State Forest Practices Rules, shall be subject to an operational plan which shall be incorporated as part of the permit for the proposed land use:

   a. Excavation which exceeds four feet in vertical depth at its deepest point measured from the original surface; or exceeds 3000 square feet

of disturbed surface area; or where the natural ground surface exceeds 12 percent grade and the disturbed surface area exceeds 1500 square feet.

b. A fill which exceeds three feet in vertical depth at its deepest point measured from the natural ground surface and where the finished fill material surface exceeds 12 percent grade and the fill material covers an area of more than 1500 square feet.

c. Excavation or fill on granitic soils where the disturbed area exceeds 1500 square feet and the natural slope exceeds 7 percent slope.

2. When such conditions exist, an operational plan prepared by a geologist, soil scientist, landscape architect, or civil engineer, shall be submitted to the Planning director. The plan shall provide the following information:

a. A statement of the land capabilities of the property on which the grading, filling or clearing is to be performed, including soil series name, hydrologic group, slope, gradients, run-off potential, soil depth, erosion potential, and natural drainage.

b. An accurate plot plan showing the exterior boundaries of the property on which the modification is to be performed, together with elevations, dimensions, location and extent of proposed grading.

c. A description of equipment and methods to be employed in processing and disposing of soil and other material that is removed from the site, including the location of disposal sites.

d. Detailed plans of all drainage devices, walls, cribbing, dams or other protective devices to be constructed in connection with, or as part of the proposed work together with a map showing the drainage area and estimated run-off of the area served by any drains and proposed method of run-off disposal.

e. A soils stabilization report, including final ground cover, landscaping, and erosion controls

and requirements for stable cut and fill slopes, based on detailed stability analysis. For the purposes of determining appropriate soil losses, the Soil Conservation Service, U.S.D.A. publication Soil Interpretations of Oregon OR-Soils-1 shall be used. Prior to issuing the permit, the Planning Director may refer the plan to the County Soil Scientist, the County Road Department, or to the Soil Conservation Service for comment.

COMMENTS

This entire section should be eliminated..

It implies an erosion problem that is much greater than any that really exists in this county, and it ignores the true sources of what erosion problems we do have. The draft ordinance exempts forestry and agricultural activities and farming and forestry are probably our two greatest sources of erosion. Consequently, the requirement to get the Planning Director's approval of fancy plans drawn at about $35 per hour is placed only on residential users. This is discriminatory as well as unnecessary. It is a rare homeowner who will stand idly by and watch his front yard wash away..

This draft ordinance requires anyone in the affected zones to have a fancy plan drawn if he plans a garden that is larger than 39 feet by 39 feet (39x39 = 1521). The case is similar for the person who wishes to build a driveway greater than 12 feet by 125 feet (12x125 = 1500). Both examples assume granitic soils. It would seem that if this excessive restriction is approved, the Planning Department will have time to do nothing but review and issue erosion control permits..

In addition, this section is a clear example of the opportunity this draft ordinance creates for bureaucratic abuse and graft. It requires that a plan be submitted for approval, but it gives no clue of what will constitute an acceptable plan. Absolutely no design criteria are suggested, and it does not even identify what the section is intended to accomplish.

Approval is apparently left totally to the Planning Director's discretion and who knows what or who may sway his thinking on any given day. We cannot afford to create such opportunities for abuse and corruption. This is not an attempt to impugn the current staff; but we do not know who will follow them.

REDRAFT.

(Delete).

Section 16.085 Wildfire Protection

ORIGINAL

1. All structures shall be placed or constructed in such a way as to reduce the risk of fire spreading from one structure to another.

2. Thirty-five (35) foot fuel breaks, consisting of non-combustible materials or slow-burning plants, shall be required around new home construction or placement of mobile homes in areas dominated by brush. Brush fields requiring fuel break construction shall be denoted on the zoning maps.

3. Roads and bridge access to developments shall be constructed to support a gross vehicle weight of 26,000 pounds to accommodate fire equipment.

4. Subdivisions shall not be permitted in box canyons using one-way access roads.

COMMENTS

Subsection 1: This subsection is too restrictive in comparison to the actual threat. There are many homeowners who would prefer to accept the risk for fire spreading from one structure to another in order to have the convenience of connecting structures.

Subsection 2: This section should be advisory only rather than a rigid requirement. Once again, property owners may prefer to accept the risk of fire spreading to their residence rather than to eliminate natural vegetation that may have aesthetic or other significance to them. Or, they may wish to reduce the hazard of fire spreading by installing irrigation systems or other fire-stop methods.

Subsection 3: This too should be advisory. Such requirements are reasonable when applied to public roads and ways. But a property owner may not be able to afford such a bridge and he may choose to accept the risk of not getting fire control equipment to his residence.

This entire section should be measured against the true need for its provisions. Review will find that the true potential of wildfire hazards in this county is slight. History proves that. For each residence built in a wooded area, and therefore for each potential additional fire hazard, we gain an additional fire observer. Residents of wooded areas are not only a fire threat, but they are also our first line of fire defense.

In addition, this section, like many other sections of this draft ordinance, goes beyond its proper scope. It seeks to over-regulate and eliminate personal choice when doing so gains little for the general public. A person's right to assume risk, or to choose a greater risk in exchange for a lesser cost or greater convenience, should be his to make so long as doing so creates no unusual risk for the public generally.

CHAPTER 18

SERPENTINE DISTRICT

Section 18.020 (1)(c)

ORIGINAL:

c. No harvesting shall be conducted in areas identified in the Comprehensive Plan for Josephine County as natural areas or potential research natural areas, or adjacent to such areas where harvesting would affect the natural conditions of such area, except when authorized by the Zoning Commission upon recommendation by the State Department of Forestry and other affected agencies.

COMMENT:

How many acres will be affected by this designation? Will it affect the allowable cut on Federal Lands? There is a good possibility that this restriction could result in the inverse condemnation of privately held Serpentine Lands. If the Section is used, the references to State Department of Forestry and other affected agencies should be deleted.

REDRAFT:

(Delete)

Section 18.020 (3)(a)

ORIGINAL:

3. Exploration, mining and rock extraction, subject to the following standards:

   a. An access or service road, while used for the mining, shall be maintained in a dust-free condition, by the operator, for a distance of 200 feet from public roads or streets or residences located on adjoining property. If the mining is the primary cause of road dust on an unpaved public road, that road shall be dust-free for 200 feet from such residences. If more than one mining operation uses the same road, all operators shall be jointly responsible for dust abatement as previously described.

COMMENT:

This ordinance was designed to prevent dust pollution However, there is no demonstrable dust pollution in the county. This section should be conditioned upon the discovery of a dust pollution problem order to prevent the imposition of needless costs.

However, if the section is utilized the term dust free should be more closely defined. Does the term mean daily watering, oiling, surfacing, or whatever is adequate to control the problem?

REDRAFT:

Delete.

Section 18.020 (3)(e)

ORIGINAL:

e. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 18.020 (3)(f)

ORIGINAL:

f. Excavation shall be away from the property line a distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation, for the depth of final excavation.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 18.020 (4)(a)

ORIGINAL:

a. No cement or asphalt batching plant or rock crusher shall be located within a Serpentine District unless the plant is to be utilized as part of a surfacing or construction project on an access road or structure located within a Serpentine District.

COMMENT:

Is there any purpose in restricting limiting the rock or cement produced in a plant located in a Serpentine area to use in a Serepentine area? This would create difficulties in border areas between Serpentine and other districts. It also inhibits the utilization of mineral resources in Serpentine areas.

REDRAFT:

Cement or asphalt batching plants or rock crushers.

Section 17.020 (4)(d)

ORIGINAL:

d. No plant shall operate without an approved Air Contaminant Discharge Permit, issued by the State Department of Environmental Quality.

COMMENT:

State and Federal agencies sufficiently enforce air pollution regulations. County participation in air quality regulation would represent a duplication of effort.

REDRAFT:

(Delete)

Section 17.020 (4)(e)

ORIGINAL:

e. If an upset condition occurs, the plant shall be shut

down within one hour of the upset, and shall not resume operation until the problem has been resolved.

COMMENT:

The term "upset condition" requires greater definition.

Section 18.020 (4)(e)

ORIGINAL:

e. Dust from ancillary sources, such as the pit floor or gravel piles shall be controlled to the greatest extent feasible.

COMMENT:

The term "feasible" can possess two meanings in this draft. First, feasible can be understood to mean simply whether dust control can be accomplished. Second, it can mean whether measures are affordable or practical. The second interpretation should be employed by the Ordinance.

REDRAFT:

. . . to the greatest extent economically feasible.

Section 18.030 (2)

ORIGINAL:

2. Open temporary, non-commercial storage of travel trailers, recreational vehicles, or motor vehicles, when such vehicles are currently unlicensed or owned by an individual other than the resident or owner of the property.

COMMENT:

This regulation should not apply to vehicles owned by the property owner or resident. Vehicles owned by others should be subject to regulation if the period of storage is excessive and the vehicles are visible from adjoining property.

REDRAFT:

Open storage of travel trailers, recreational vehicles, or motor vehicles when:

(1) The vehicles are visible from adjoining property.

(2) The vehicles are owned by someone other than the property owner or resident.

(3) The duration of storage exceeds _____ days.

(4) More than 3 vehicles are stored.

Section 18.030 (3)

ORIGINAL:

3. Temporary facilities for the primary processing of forest products including portable mills, portable chippers.

COMMENT:

Temporary facilities for primary processing of forest products should be a permitted use. Those who attempt to manage low quality Serpentine forests should not be hampered with the need of acquiring permits from the Planning Department.

REDRAFT:

Delete.

Section 18.040 (3)(b)

ORIGINAL:

b. Side and rear yards: There shall be a side yard on each side of the main building, and each side yard shall have a width of not less than 30 feet. There shall be a rear yard of not less than 40 feet in depth from the main building. Detached accessory buildings shall not be located less than 30 feet from the front lot line.

COMMENT:

An exception to the rear and side yard lot requirements should be made for pre-existing lots of record which are one acre or smaller in area. After applying the draft's requirements to small parcels, it is quite possible that no building site may remain on many properties. Compliance with the draft's standards could prove especially harsh in the case of a reconstruction denial after fire or natural catastrophe.

REDRAFT:

(For parcels one acre or smaller, utilize the current SR1 standards; side yard, 10 feet; rear yard, 20 feet.)

Section 18.040 (3)(e)

ORIGINAL:

e. Stream setbacks. No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located closer than 15 feet to a live stream or to a stream which provides fishery habitat. Lands within 10 feet of a stream bank shall be to the greatest extent feasible maintained in stabilized vegetation, and riparian vegetation that provides shading to the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the retention of vegetation.

REDRAFT:

However, if this section is adopted, this section should make some provision for substituting natural vegetation. It is doubtful if the State has an interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

Section 18.085 Wildfire Protection.

ORIGINAL

1. All structures shall be placed or constructed in such a way as to reduce the risk of fire spreading from one structure to another.

2. Thirty-five (35) foot fuel breaks, consisting of non-combustible materials or slow-burning plants, shall be required around new home construction or placement of mobile homes in areas dominated by brush. Brush fields requiring fuel break construction shall be denoted on the zoning maps.

3. Roads and bridge access to developments shall be constructed to support a gross vehicle weight of 26,000 pounds to accommodate fire equipment.

4. Subdivisions shall not be permitted in box canyons using one-way access roads.

COMMENT

Subsection 1: This subsection is too restrictive in comparison to the actual threat. There are many homeowners who would prefer to accept the risk for fire spreading from one structure to another in order to have the convenience of connecting structures.

Subsection 2: This section should be advisory only rather than a rigid requirement. Once again, property owners may prefer to accept the risk of fire spreading to their residence rather than to eliminate natural vegetation that may have aesthetic or other significance to them. Or, they may wish to reduce the hazard of fire spreading by installing irrigation systems or other fire-stop methods.

Subsection 3: This too should be advisory. Such requirements are reasonable when applied to public roads and ways. But a property owner may not be able to afford such a bridge and he may choose to accept the risk of not getting fire control equipment to his residence rather than forego developing the residence entirely because of the costs forced on him by this ordinance.

This entire section should be measured against the true need for its provisions. Review will find that the true potential of wildfire hazards in this county is slight. History proves that. For each residence built in a wooded area, and therefore for each potential additional fire hazard, we gain an additional fire observer. Residents of wooded areas are not only a fire threat, but they are also our first line of fire defense.

In addition, this section, like many other sections of this draft ordinance, goes beyond its proper scope. It seeks to over-regulate and eliminate personal choice when doing so gains little for the general public. A person's right to assume risk, or to choose a greater risk in exchange for a lesser cost or greater convenience, should be his to make so long as doing so creates no unusual risk for the public generally.

CHAPTER 19

EXCLUSIVE FARM DISTRICT

Section 19.020 (2)(a)

ORIGINAL:

2. Forest Management:

   a. The propagation and harvesting of forest products.

COMMENT:

This definition precludes individuals from actively managing their forest land. The definition should specifically state that active management practices will be allowed as in the rural residential zone, Section 22.020 (4).

REDRAFT:

Forest Management:

a. The active management, production and harvesting of timber resources.

b. All activities shall be conducted in compliance with the Oregon Forest Practice Rules.

Section 19.025 (2)

ORIGINAL:

Exploration, mining and processing of aggregate and other mineral resources or other subsurface resources, including development of geothermal resources; conditioned upon, but not limited to, the following criteria:

COMMENT:

Exploration for mineral resources should be a permitted use. Mineral exploration is a permitted use in the Serpentine District, Extractive Resource District, the Forest Conservation District, the Rural Residential Zone and it is an implied use in the Woodlot District. Is there a purpose for distinguishing between an Exclusive Farm District and the other zones?

REDRAFT:

(The following should be placed in the uses permitted outright segment)

Exploration of Subsurface Resources.

Section 19.025 (2)(b)

ORIGINAL:

b. Demonstration that the proposed development satisfies the objectives of the Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision making process.

REDRAFT:

(Delete)

Section 19.025 (2)(c)

ORIGINAL:

c. An access or service road, while used for mining, shall be maintained in a dust-free condition, by the operator, for a distance of 200 feet from public roads or streets or residences located on adjoining property. If the mining is the primary cause of road dust on an unpaved public road, that road shall

be dust-free for 200 feet from such residences. If more than one mining operation uses the same road, all operators shall be jointly responsible for dust abatement as previously described.

COMMENT:

This ordinance was designed to prevent dust pollution. However, there is no demonstrable dust pollution in the county. This section should be conditioned upon the discovery of a dust pollution problem order to prevent the imposition of needless costs.

However, if the section is utilized the term dust free should be more closely defined. Does the term mean daily watering, oiling, surfacing, or whatever is adequate to control the problem?

SUGESTED REDRAFT:

(Delete.)

Section 19.025 (2)(g)

ORIGINAL:

g. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 19.025 (2)(h)

ORIGINAL:

h. Excavation shall be away from the property line a distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation, for the depth of final excavation.

COMMENT:

If an operational plan is necessitated, professionals, other than the Planning Director, should be permitted to approve the plan, i.e., a mining engineer, civil engineer, etc. Does the current Planning Director possess expertise in the field of mining?

Prior to adopting this regulation, the Commission should first determine if a problem which warrants

regulation is present. If there is no mine excavation problem, the regulation should be deleted.

REDRAFT:

(Delete)

Section 19.025 (3)(b)

ORIGINAL:

b. Demonstration that the proposed development satisfies the recreation needs identified in the Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision-making process. The Comprehensive Plan cannot accurately determine the County's recreation needs for the next 20 years.

REDRAFT:

(Delete)

Section 19.025 (10)

ORIGINAL:

10. Facilities for the primary processing of forest products, conditioned upon, but not limited to, the following criteria:

    a. Demonstration that such facility will not seriously interfere with accepted farming practices.

    b. Demonstration that such facility will be compatible with farm uses described in subsection (2) of ORS 215.203.

    Such a facility may be approved for a one-year period, which may be renewed. These facilities are intended to be only portable or temporary in nature.

    The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this Section, means timber grown upon a parcel of contiguous land where the primary processing facility is located.

COMMENT:

It is unlikely that a portable facility, generally limited to one year's use would interfere with accepted farming practices. It is equally unlikely that such facilities would be incompatible with farm uses. In addition, most of the county's exclusive farm areas are not in areas likely to be utilized for forestry uses. The sole effect of this section will probably be to unnecessarily burden the few individuals that may be interested in establishing a temporary facility.

REDRAFT:

Temporary primary processing facilities should be a permitted use.

Section 19.040 (4)(d)

ORIGINAL:

d. Stream setbacks. No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located closer than 15 feet to a live stream or to a stream which provides fishery habitat. Lands within 10 feet of a stream bank shall be to the greatest extent feasible maintained in stabilized vegetation, and riparian vegetation that provides shading to the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the forced retention of vegetation.

REDRAFT:

However if this section is adopted, it should make

some provision for the substitution of natural vegetation. It is doubtful if the State has an interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

CHAPTER 20

FARM RESIDENTIAL DISTRICT

Section 20.020 (4)

ORIGINAL:

4. Forest Management:

   a. The propagation and harvesting of forest products.

   b. All activities shall be conducted in compliance with Oregon Forest Practice Rules.

COMMENT:

This definition precludes individuals from actively managing their forest land. The definition should specifically state that active management practices will be allowed as in the rural residential zone, Section 22.020 (4)

REDRAFT:

Forest Management:

a. The active management, production and harvesting of timber resources.

b. All activities shall be conducted in compliance with the Oregon Forest Practice Rules.

Section 20.025 (1)(b)

ORIGINAL:

b. Compliance with applicable State Air Quality Discharge Permits.

COMMENT:

This Section duplicates existing law.

REDRAFT:

(Delete)

Section 20.025 (3)

ORIGINAL:

3. Exploration, mining and processing of aggregate and other mineral resources or other subsurface resources, including geothermal resources, conditioned upon, but not limited to, the following criteria:

COMMENT:

Mineral exploration should be a permitted use as in the rural residential zones. It seems illogical to permit a resource use in a people zone and to restrict a resource use in a quasi-resource district. Also, the Section imposes conditions on all mining exploration, mining, and processing arbitrarily.

REDRAFT:

(Exploration should be a permitted use)

Section 20.025 (3)(b)

ORIGINAL:

b. Demonstration that the proposed development satisfies the objectives of the Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision-making process. The Comprehensive Plan cannot accurately determine the County's recreation needs for the next 20 years.

REDRAFT:

(Delete)

Section 20.025 (3)(c)

ORIGINAL:

C. An access or service road, while used for mining, shall be maintained in a dust-free condition, by the operator, for a distance of 200 feet from public roads or streets or residences located on adjoining property. If the mining is the primary cause of dust on an unpaved public road, that road shall be dust-free for 200 feet from such residences. If more than one mining operation uses the same road, all operators shall be jointly responsible for dust abatement as previously described.

COMMENT:

This ordinance was designed to prevent dust pollution However, there is no demonstrable dust pollution in the county. This section should be conditioned upon the discovery of a dust pollution problem order to prevent the imposition of needless costs.

However, if the section is utilized the term dust free should be more closely defined. Does the term mean daily watering, oiling, surfacing, or whatever is adequate to control the problem?

SUGESTED REDRAFT:

Delete.

Section 20.025 (3)(b)

ORIGINAL:

b. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 20.025 (3)(h)

ORIGINAL:

h. Excavation shall be away from the property line a distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation, for the depth of final excavation.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 20.025 (4)(b)

ORIGINAL:

b. Demonstration that the proposed development satisfies the recreation needs identified in the Josephine County Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision-making process. It is impossible for the comprehensive plan to determine recreation needs for the next 20 years.

REDRAFT:

(Delete)

Section 20.030 (2)

ORIGINAL:

2. Open, temporary, non-commercial storage of travel trailers, recreational vehicles or motor vehicles,

when such vehicles are currently unlicensed or owned by an individual other than the resident or owner of the property.

COMMENT:

This regulation should not apply to vehicles owned by the property owner or resident. Vehicles owned by others should be subject to regulation if the period of storage is excessive and the vehicles are visible from adjoining property.

REDRAFT:

Open storage of travel trailers, recreational vehicles, or motor vehicles when:

(1) The vehicles are visible from adjoining property.

(2) The vehicles are owned by someone other than the property owner or resident.

(3) The duration of storage exceeds _____ days.

(4) More than 3 vehicles are stored.

Section 20.030 (3)(4)

ORIGINAL:

3. Emergency housing units for limited periods of time

necessitated by disaster due to fire, flood or other natural catastrophe, or by public health.

4. An additional housing unit for dependents of the property resident's immediate family.

COMMENT:

Temporary emergency housing should be a permitted use if necessitated by fire, flood, public health or other natural catastrophe. Emergency housing for family care or medical needs may remain subject to Administrative Permit Procedures. However, it should not be limited to dependents of the immediate family.

REDRAFT:

3. Emergency housing should be a permitted use.

4. An additional housing unit for dependents of the resident's family.

Section 20.040 (2)

ORIGINAL:

2. Area and Width. Every lot or land parcel shall have a minimum average width of not less than 330 feet and an area of not less than ten (10) acres. A lot or land parcel having a width of less than 330 feet or an area of less than 10 acres of record at the time of the passage of this Ordinance may be occupied by any use permitted in this Section, provided all yard requirements are complied with. Lots of record

is defined in Section 14.050(77). Additional regulations regarding lot size are provided in Section 50.080.

COMMENT:

The imposition of ten acre zoning on the limited remaining divisible properties would be unnecessarily discriminatory to the few who have not divided their land.

REDRAFT:

(The redraft should admit the possibility of 5 acre parcels if septic and water capabilities are not over burdened.)

Section 20.040 (3)(b)(C)

ORIGINAL:

b. Side and rear yards: There shall be a side yard on each side of the main building, and each side yard shall have a width of not less than 25 feet. There shall be a rear yard of not less than 25 feet in depth from the main building.

c. Detached accessory buildings shall not be located less than 30 feet from the front lot line and not less than 10 feet from the main building. Detached accessory buildings shall be located not less than 25 feet from the side and rear lot lines.

COMMENT:

An exception to the rear and side yard lot requirements should be made for pre-existing lots of record which are one acre or smaller in area. After applying the draft's requirements to small parcels, it is quite possible that no building site may remain on many properties. Compliance with the draft's standards could prove especially harsh in the case of a reconstruction denial after fire or natural catastrophe.

REDRAFT:

(For parcels one acre or smaller, utilize the current SR1 standards; side yard, 10 feet; rear yard, 20 feet.)

Section 20.040 (3)(e)

ORIGINAL:

e. Stream setbacks. No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located less than 15 feet from the high water line or 25 feet from the low water line, whichever is the more restrictive, or a class 1 or 2 stream as defined by the Oregon State Department of Fish and Wildlife. These setback areas shall be maintained, to the greatest extent feasible, in stabilized vegetation. Riparian vegetation that provides shading of the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the retention of vegetation.

REDRAFT:

However, if this section is adopted, it should make some provision for substituting natural vegetation. It is doubtful if the State has an interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

CHAPTER 22

RURAL RESIDENTIAL DISTRICT

Section 22.020 (1)(b)(c)(d)(e)

ORIGINAL:

b. the feeding, breeding and management of livestock on a non-commercial basis, where the number of animals shall not exceed 2 cows, 2 horses, 2 mules, 2 donkeys, 6 goats, or 6 sheep per acre of land uncovered by structures, crops grown for human consumption, or landscaping;

c. the production of poultry on a non-commercial basis where:

   1. the number of animals shall not exceed twelve (12) layers and 50 fryers, and

   2. the animals are enclosed in a pen;

d. the production of rabbits on a non-commercial basis where:

   a. the number of animals shall not exceed three (3) adult does and one (1) adult buck, and

   b. the animals are enclosed in a pen; and

e. the feeding, breeding, and management of swine on a non-commercial basis where:

   1. the number of animals shall not exceed two (2) adult swine per acre of land uncovered by structures, crops grown for human consumption, or landscaping, and

   2. the animals are enclosed in a pen;

COMMENT:

These proposed limits are and will be exceeded by a significant portion of the community living in rural residential zones witout nuisance conditions resulting. Instead of making a large number of citizens violators of the zoning ordinance and encouraging disrespect towards the law, it is preferable to rewrite the section.

Farm use should be a permitted use on rural residential parcels as long as nuisance conditions are not created.

REDRAFT:

Farm uses in rural residential districts subject to the following criteria:

1. Farm uses shall not constitute a nuisance to adjoining residential properties;

2. Farm uses shall not constitute a sanitation or a health hazard.

Section 22.025 (1)(b)

ORIGINAL:

c. Compliance with applicable State Air Contaminant Discharge Permits.

COMMENT:

This provision duplicates existing State and Federal law. The Planning Department or other County Departments should not develop its own Evironmental Protection Agency. In addition to the established E.P.A. and D.E.Q. . . .

REDRAFT:

(Delete)

Section 22.025 (4)(b)

ORIGINAL:

b. Demonstration that the proposed development satisfies the objectives of the Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision making process.

REDRAFT:

(Delete)

Section 22.025 (4)(c)

ORIGINAL:

c. An access or service road, while used for mining, shall be maintained in a dust-free condition, by the operator, for a distance of 200 feet from public roads or streets or residences located on adjoining property. If the mining is the primary cause of dust on an unpaved public road, that road shall be dust-free for 200 feet from such residences. If more than one mining operation uses the same road, all operators shall be jointly responsible for dust abatement as previously described.

COMMENT:

This ordinance was designed to prevent dust pollution However, there is no demonstrable dust pollution in the county. This section should be conditioned upon the discovery of a dust pollution problem order to

prevent the imposition of needless costs.

However, if the section is utilized the term dust free should be more closely defined. Does the term mean daily watering, oiling, surfacing, or whatever is adequate to control the problem?

REDRAFT:

Delete.

Section 22.025 (4)(g)

ORIGINAL:

d. Erosion control and reclamation of the site shall be accomplished in accordance with the standards of this Regulation, and any applicable permit from the Oregon State Department of Geology and Mineral Industries.

COMMENT:

State and Federal agencies regulate mine reclamation. County activity would probably prove duplicative.

REDRAFT:

(Delete)

Section 22.025 (4)(h)

ORIGINAL:

4. Excavation shall be away from the property line a distance adequate to maintain a fence on the property line if needed, and such additional distance as is necessary to allow a normal safe angle of repose during the operation, and to provide the slopes identified in the operational plan approved by the County Planning Director, pursuant to the standards of this Regulation, for the depth of final excavation.

COMMENT:

If an operational plan is necessitated, professionals, other than the Planning Director, should be permitted to approve the plan, i.e., a mining engineer, civil engineer, etc. Does the current Planning Director possess expertise in the field of mining?

Prior to adopting this regulation, the Commission should first determine if a problem which warrants regulation is present. If there is no mine excavation problem, the regulation should be deleted.

REDRAFT:

(Delete)

Section 22.025 (5)(b)

ORIGINAL:

b. No plant shall operate without an approved Air Contaminant Discharge Permit, issued by the State Department of Environmental Quality.

COMMENT:

A local ordinance requiring a discharge permit duplicates state law. Its sole effect to the County will probably be to lengthen the Zoning Ordinance.

REDRAFT:

(Delete)

Section 22.025 (5)(c)

ORIGINAL:

c. If an upset condition occurs, the plant shall be shut down within one hour of the upset, and shall not resume operation until the problem has been resolved.

COMMENT:

The term "upset condition" requires greater definition.

Section 22.025 (5)(e)

ORIGINAL:

e. Dust from ancillary sources, such as the pit floor or gravel piles shall be controlled to the greatest extent feasible.

COMMENT:

This subsection states that ancillary dust sources shall be controlled to the "greatest extent feasible." The phrase "Greatest Extent Feasible" does not make reference to economic feasibility. Many dust control measures could be effectively used to suppress dust but they could prove too expensive to apply to most operations.

This Section also supplies the Planning Department with certain E.P.A. or D.E.Q. type powers. Pollution control is better left in State and Federal hands rather than developing another level of environmental protection law.

REDRAFT:

(Delete)

However, if used, the following language would more appropriately serve County interests:

Dust from ancillary sources such as the pit floor or gravel piles shall be controlled to the greatest extent economically feasible. This provision shall only apply if suspended dust is identified by the Board of County Commissioners as an air pollution problem.

Section 22.025 (5)(a)(b)

ORIGINAL:

b. Demonstration that the proposed development satisfies the outdoor recreation needs identified in the Josephine County Comprehensive Plan.

COMMENT:

This burden of proof is too formless to impose. Such draftsmanship promotes an arbitrary decision-making process. It is impossible for the Comprehensive Plan to determine recreation needs for the next 20 years.

REDRAFT:

(Delete)

Section 22.026 Criteria for Farm Use.

ORIGINAL:

Farm uses in the Rural Residential district shall meet the following provisions:

1. farm uses shall not constitute a nuisance to adjoining residential properties;

2. all farm animals shall be confined to the property;

3. any pen, stall, or enclosure in which animals are housed shall be located no closer than 35 feet from any property line; and

4. farm uses shall not constitute a sanitation or health hazard.

COMMENT:

Requirement 3 should be eliminated. It is a commonly accepted practice to allow pasturage to run to the boundaries of the parcel. This restriction would require fences for pasture to be located 35 feet within the boundary line. Pastures shold be specifically exempt. Also the setback should be 15 feet to allow smaller parcels the opportunity to own animals.

REDRAFT:

Preferably delete.
However, if used, sub section 3 should state: any pen, stall or enclosure (excepting pasturage) shall be located no closer than 15 feet from any property line; and . . .

Section 22.030 (2)

ORIGINAL:

2. Open, temporary, non-commercial storage of travel trailers, recreational vehicles or motor vehicles when such units are currently unlicensed or owned by individuals other than the resident or owner of the property.

COMMENT:

This regulation should not apply to vehicles owned by the property owner or resident. Vehicles owned by others should be subject to regulation if the period of storage is excessive and the vehicles are visible from adjoining property.

REDRAFT:

Open storage of travel trailers, recreational vehicles, or motor vehicles when:

(1) The vehicles are visible from adjoining property.

(2) The vehicles are owned by someone other than the property owner or resident.

(3) The duration of storage exceeds _____ days.

(4) More than 3 vehicles are stored.

Section 22.030 (3)(4)

ORIGINAL:

2. Emergency housing units for limited periods of time necessitated by disaster due to fire, flood or other natural catastrophe, or by public health.

3. Family care, or medical needs, limited to dependents of the immediate family of the property resident.

COMMENT:

Temporary emergency housing should be a permitted use if necessitated by fire, flood, public health or other natural catastrophe. Emergency housing for family care or medical needs may remain subject to administrative permit procedures. However, it should not be limited to dependents of the immediate family.

REDRAFT:

1. Emergency housing should be a permitted use.

2. An additional housing unit for dependents of the resident's family.

Section 22.075 Erosion and Sediment Control

ORIGINAL:

1. Any grading, filling or clearing of vegetation which exceeds the following standards, except when authorized or regulated by the State Forest Practices Rules, shall be subject to an operational plan which shall be incorporated as part of the permit for the proposed land use:

   a. Excavation which exceeds four feet in vertical depth at its deepest point measured from the original surface; or exceeds 3000 square feet of disturbed surface area; or where the natural ground surface exceeds 12 percent grade and the disturbed surface area exceeds 1500 square feet.

   b. A fill which exceeds three feet in vertical depth at its deepest point measured from the natural ground surface and where the finished fill material surface exceeds 12 percent grade and the fill material covers an area of more than 1500 square feet.

   c. Excavation or fill on granitic soils where the disturbed area exceeds 1500 square feet and the natural slope exceeds 7 percent slope.

2. When such conditions exist, an operational plan prepared by a geologist, soil scientist, landscape architect, or civil engineer, shall be submitted to the Planning director. The plan shall provide the following information:

   a. A statement of the land capabilities of the property on which the grading, filling or clearing is to be performed, including soil series name, hydrologic group, slope, gradients, run-off potential, soil depth, erosion potential, and natural drainage.

   b. An accurate plot plan showing the exterior boundaries of the property on which the modification is to be performed, together with

elevations, dimensions, location and extent of proposed grading.

c. A description of equipment and methods to be employed in processing and disposing of soil and other material that is removed from the site, including the location of disposal sites.

d. Detailed plans of all drainage devices, walls, cribbing, dams or other protective devices to be constructed in connection with, or as part of the proposed work together with a map showing the drainage area and estimated run-off of the area served by any drains and proposed method of run-off disposal.

e. A soils stabilization report, including final ground cover, landscaping, and erosion controls and requirements for stable cut and fill slopes, based on detailed stability analysis. For the purposes of determining appropriate soil losses, the Soil Conservation Service, U.S.D.A. publication Soil Interpretations of Oregon OR-Soils-1 shall be used. Prior to issuing the permit, the Planning Director may refer the plan to the County Soil Scientist, the County Road Department, or to the Soil Conservation Service for comment.

COMMENTS

This entire section should be eliminated.

It implies an erosion problem that is much greater than any that really exists in this county, and it ignores the true sources of what erosion problems we do have. The draft ordinance exempts forestry and agricultural activities and farming and forestry are probably our two greatest sources of erosion. Consequently, the requirement to get the Planning Director's approval of fancy plans drawn at about $35 per hour is placed only on residential users. This is discriminatory as well as unnecessary. It is a rare homeowner who will stand idly by and watch his front yard wash away.

This draft ordinance requires anyone in the affected zones to have a fancy plan drawn if he plans a garden that is larger than 39 feet by 39 feet (39x39 = 1521). The case is similar for the person who wishes to build a driveway greater than 12 feet by 125 feet (12x125 = 1500). Both examples assume granitic soils. It would seem that if this excessive restriction is approved, the Planning Department will have time to do nothing but review and issue erosion control permits.

In addition, this section is a clear example of the opportunity this draft ordinance creates for bureaucratic abuse and graft. It requires that a plan be submitted for approval, but it gives no clue of what will constitute an acceptable plan. Absolutely no design criteria are suggested, and it does not even identify what the section is intended to accomplish. Approval is apparently left totally to the Planning Director's discretion and who knows what or who may sway his thinking on any given day. We cannot afford to create such opportunities for abuse and corruption. This is not an attempt to impugn the current staff; but we do not know who will follow them.

REDRAFT

(Delete)

Section 22.085 Wildfire Protection

ORIGINAL

1. All structures shall be placed or constructed in such a way as to reduce the risk of fire spreading from one structure to another.

2. Thirty-five (35) foot fuel breaks, consisting of non-combustible materials or slow-burning plants, shall be required around new home construction or placement of mobile homes in areas dominated by brush. Brush fields requiring fuel break construction shall be denoted on the zoning maps.

3. Roads and bridge access to developments shall be constructed to support a gross vehicle weight of 26,000 pounds to accommodate fire equipment.

4. Subdivisions shall not be permitted in box canyons using one-way access roads.

COMMENT

Subsection 1: This subsection is too restrictive in comparison to the actual threat. There are many homeowners who would prefer to accept the risk for fire spreading from one structure to another in order to have the convenience of connecting structures.

Subsection 2: This section should be advisory only rather than a rigid requirement. Once again, property owners may prefer to accept the risk of fire spreading to their residence rather than to eliminate natural vegetation that may have aesthetic or other significance to them. Or, they may wish to reduce the hazard of fire spreading by installing irrigation systems or other fire-stop methods.

Subsection 3: This too should be advisory. Such requirements are reasonable when applied to public roads and ways. But a property owner may not be able to afford such a bridge and he may choose to accept the risk of not getting fire control equipment to his residence rather than forego developing the residence entirely because of the costs forced on him by this ordinance.

This entire section should be measured against the true need for its provisions. Review will find that the true potential of wildfire hazards in this county

is slight. History proves that. For each residence built in a wooded area, and therefore for each potential additional fire hazard, we gain an additional fire observer. Residents of wooded areas are not only a fire threat, but they are also our first line of fire defense.

In addition, this section, like many other sections of this draft ordinance, goes beyond its proper scope. It seeks to over-regulate and eliminate personal choice when doing so gains little for the general public. A person's right to assume risk, or to choose a greater risk in exchange for a lesser cost or greater convenience, should be his to make so long as doing so creates no unusual risk for the public generally.

CHAPTER 24

RURAL COMMERCIAL DISTRICT

Section 24.025 Used Permitted Conditionally

ORIGINAL:

In a Rural Commercial District the following uses and their accessory uses are permitted when authorized by the Zoning Commission upon satisfactory demonstration of compliance with the standards of this Ordinance. Criteria for review of every use permitted conditionally is addressed in Section 24.026 and Section 50.030 through 50.037.

1. Commercial uses.

   a. Bindery.

   b. Photo copying.

   c. Print shop, including off-set, blueprinting.

   d. Towing services.

   e. Appliance, radio, television and electronics sales and repair.

   f. Art studio, including printing, sculpting, ceramics, glasswork, photography, pottery, woodcarving, and similar crafts.

   g. Bakery.

   h. Barber and beauty shop.

   i. Bicycle shop.

j. Book or stationery store, including newstands.

k. Building materials store.

l. Dairy products retail outlet.

m. Frozen food store and lockers.

n. Garden supply store.

o. Greenhouses, including retail sales.

p. Hardware store.

q. Coin Laundry.

r. Restaurant.

s. Veterinary, enclosed within a building or clinic.

t. Tavern.

2. Public and Institutional Uses:

a. Ambulance and emergency medical facilities.

b. Churches.

c. Public and private schools, including day care facilities.

d. Public parks and recreation sites.

e. Sewage treatment plants, water reservoirs.

f. Utility facilities.

g. Water treatment plants, water reservoirs.

COMMENT:

Is there a reason for delegating the uses mentioned in this Section to conditional uses with the possible exception of a tavern?

REDRAFT:

(With the possible exception of taverns, the uses outlined in the Section should be relocated into the Permitted Use Section.)

Section 24.026 Criteria

ORIGINAL:

Approval of the preceding uses in section 24.025 are conditioned upon, but not limited to the following criteria:

1. The proposed use shall not constitute a nuisance to adjoining properties due to noise or light and glare or interference with the use of adjoining lands.

2. The proposed use shall not result in traffic congestion or result in traffic safety hazards on any public road or street.

3. The proposed use shall not include outside storage of solid waste.

COMMENT:

The term solid waste requires definition.

Section 24.050 Landscaping

ORIGINAL:

Landscaping shall be provided in the front setback area of all uses in this zone. In addition, landscaping shall be provided on the perimeter of any lot used for a public parking lot of more than five (5) vehicles, separating the lot from any public roadway. Such areas shall be fully landscaped with lawn, trees, shrubs, or suitable ground cover, and no portion except the access drives shall be paved.

All landscaping shall be installed in accordance with a plan approved by the Planning Director. Approval shall be granted for any plan wherein the design and materials proposed therein are reasonably appropriate for the use and appearance of the parking area and will not obscure visibility of access drives onto public roadways. Such landscaped areas shall be maintained in a healthy condition and free of weeds and debris.

COMMENT:

1. The precise location of the landscaping should not be regulated. Landscaping in many situations might more appropriately be placed next to the building in order to soften contour lines rather than around the perimeter of the parking lot. The regulation should merely require that a given percentage of the lot be utilized for landscapping.

2. The Planning Director's discretion should be eliminated or limited.

3. The property owner should be encouraged to maintain the landscaped areas free of weeds and debris. The mandatory requirement with its criminal sanction should be eliminated.

REDRAFT:

_____ % of the property shall be landscaped. Landscaping shall not obscure the visibility of access drives onto public roadways. Such areas shall be equipped with a sprinkler system if a public or municipal water system is available to the property. Owners of landscaped areas shall be encouraged to maintain the property free of weeds and debris.

CHAPTER 26

TOURIST COMMERCIAL DISTRICT

Section 26.025 Uses Permitted Conditionally

ORIGINAL:

In a Tourist Commercial district the folloiwng uses and their accessory uses are permitted when authorized by the Zoning Commission upon satisfactory demonstration of compliance with the standards of this Ordinance. Criteria for review of every use permitted conditionally are addressed in Section 20.026 and 50.030 through 50.037.

1. Athletic club, club house.
2. Attached two-family dwellings.
3. Automobile or motorcyle race track.
4. Automobile wash rack.
5. Bowling alley.
6. Cemeteries.
7. Churches.
8. Dance hall.
9. Day-care facilities and pre-schools.
10. Financial institutions, including banks and savings and loans.
11. Lounge.
12. Outdoor concert.

13. Public auctions.

14. Tavern.

15. Utility or communication facilities necessary for public services, including transmission and receiving towers.

COMMENT:

Is there any reason for isolating these uses as conditional uses rather than permitting them outright?

Section 26.026 Criteria

ORIGINAL:

Approval of the preceding uses in section 24.025 are conditioned upon, but not limited to the following criteria:

1. The proposed use shall not constitute a nuisance to adjoining properties due to noise or light and glare or interference with the use of adjoining lands.

2. The proposed use shall not result in traffic congestion or result in traffic safety hazards on any public road or street.

3. The proposed use shall not include outside storage of solid waste.

COMMENT:

The term solid waste requires definition.

Section 26.040 (3)(f)

ORIGINAL:

Stream setbacks:

No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located closer than 15 feet to a live stream or to a stream which provides fishery habitat. Lands within 10 feet of a stream bank shall be to the greatest extent feasible maintained in stabilized vegetation, and riparian vegetation that provides shading to the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the retention of vegetation.

REDRAFT:

However, if this section is adopted, it should make some provision for substituting natural vegetation. It is doubtful if the State has any interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

Section 26.050 Landscaping

ORIGINAL:

Landscaping shall be provided in the front setback area of all uses in this zone. In addition, landscaping shall be provided on the perimeter of any lot used for a public parking lot of more than five (5) vehicles, separating the lot from any public roadway. Such areas shall be fully landscaped with lawn, trees, shrubs, or suitable ground cover, and no portion except the access drives shall be paved.

All landscaping shall be installed in accordance with a plan approved by the Planning Director. Approval shall be granted for any plan wherein the design and materials proposed therein are reasonably appropriate for the use and appearance of the parking area and will not obscure visibility of access drives onto public roadways. Such landscaped areas shall be maintained in a healthy condition and free of weeds and debris.

COMMENT:

1. The precise location of the landscaping should not be regulated. Landscaping in many situations might more appropriately be placed next to the building in

order to soften contour lines rather than around the perimeter of the parking lot. The regulation should merely require that a given percentage of the lot be utilized for landscaping.

2. The Planning Director's discretion should be eliminated or limited.

3. The property owner should be encouraged to maintain the landscaped areas free of weeds and debris. The mandatory requirement with its criminal sanction should be eliminated.

<u>REDRAFT</u>:

_____ % of the property shall be landscaped. Landscaping shall not obscure the visibility of access drives onto public roadways. Such areas shall be equipped with a sprinkler system if a public or municipal water system is available to the property. Owners of landscaped areas shall be encouraged to maintain the property free of weeds and debris.

CHAPTER 27

RURAL SERVICE CENTER COMMERCIAL DISTRICT

Section 27.020 Uses Permitted Outright.

ORIGINAL:

6. Residential:

   a. One single-family residence in conjunction with commercial uses in Section 27.020 (1) through (5), where the residence is physically attached to the use.

COMMENT:

Some housing should be permitted in this district other than shopowner dwellings.

The ordinance should at least permit residential development on a conditional use basis. However, the better course would be to individually assess each center's housing density needs and draft restrictions accordingly.

Section 27.025 Uses Permitted Conditionally.

ORIGINAL:

In a Rural Service Center Commercial District, the following uses and their accessory uses are permitted when authorized by the Zoning Commission upon satisfactory demonstration of compliance with the standards of this Ordinance. Criteria for review of these conditional uses are addressed in Section 50.030 to 50.037 of this Ordinance.

1. Trade and service:

    a. Newspaper publishing plant.

    b. Business and office machines and supplies, sales and repair.

    c. Cabinet shop.

    d. Farm implement and equipment store.

    e. Fuel depot and sales.

    f. Monument or tombstore store.

    g. Rental service stores and yards.

    h. Roofing establishment.

    i. Tractor dealers, repairing and service.

2. Traveler accommodations:

    a. Hotels and motels

    b. Travel trailer parks.

3. Public or institutional:

    a. Sewage treatment plants.

    b. Water treatment plants, water reservoirs.

COMMENT:

Is there any rational basis for distinguishing between the conditional uses stated in this section or the permitted uses in the previous section? If there is no basis then they should be made permitted uses.

Section 27.030 (3)(e)

ORIGINAL:

e. Stream setbacks. No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located closer than 15 feet to a live stream or to a stream which provides fishery habitat. Lands within 10 feet of a stream bank shall be to the greatest extent feasible maintained in stabilized vegetation, and riparian vegetation that provides shading to the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the retention of vegetation.

REDRAFT:

However, if this section is adopted, it should make some provision for substituting natural vegetation. It is doubtful if the State has an interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

Section 27.050 Landscaping

ORIGINAL:

Landscaping shall be provided in the front setback area of all uses in this zone. In addition, landscaping shall be provided on the perimeter of any lot used for a public parking lot of more than five (5) vehicles, separating the lot from any public roadway. Such areas shall be fully landscaped with lawn, trees, shrubs, or suitable ground cover, and no portion except the access drives shall be paved.

All landscaping shall be installed in accordance with a plan approved by the Planning Director. Approval shall be granted for any plan wherein the design and materials proposed therein are reasonably appropriate for the use and appearance of the parking area and will not obscure visibility of access drives onto public roadways. Such landscaped areas shall be maintained in a healthy condition and free of weeds and debris.

COMMENT:

1. The precise location of the landscaping should not be regulated. Landscaping in many situations might more appropriately be placed next to the building in order to soften contour lines rather than around the perimeter of the parking lot. The regulation should merely require that a given percentage of the lot be utilized for landscaping.

2. The Planning Director's discretion should be eliminated or limited.

3. The property owner should be encouraged to maintain the landscaped areas free of weeds and debris. The mandatory requirement with its criminal sanction should be eliminated.

REDRAFT:

_____ % of the property shall be landscaped. Landscaping shall not obscure the visibility of access drives onto public roadways. Such areas shall be equipped with a sprinkler system if a public or municipal water system is available to the property. Owners of landscaped areas shall be encouraged to maintain the property free of weeds and debris.

Section 27.078 Water Supply.

ORIGINAL:

Any public or community water system provided in conjunction with any use permitted by this district shall meet all applicable Oregon State standards. In addition, water systems provided in conjunction with any commercial use shall be designed to provide fire protection through a sprinkler system and any water storage shall be accessible to emergency fire equipment. Prior to issuance of a development permit, plans for the water system shall be submitted to

the chief of any special fire protective district or private fire company providing service within the service center.

COMMENT:

Has the Planning Department developed any assessment of cost impact? Commercial development including "Mom and Pop" type grocery stores could be made prohibitively expensive. Alternative fire protection tecniques are available, i.e., fire walls..

REDRAFT:

Determining the construction cost impact to determine if the benefits justify the costs.

CHAPTER 30

RURAL INDUSTRIAL DISTRICT

Section 30.025

ORIGINAL:

In the Rural Industrial District the following uses and their accessory uses are permitted when authorized by the Zoning Commission upon satisfactory demonstration of compliance with the standards of this Ordinance. Additional criteria for review of every use permitted conditionaly is addressed in Section 50.030 to 50.037.

1. Mineral processing plants.

COMMENT:

Mineral processing should be a permitted use. The economy of the county should not be prohibited from diversifying.

REDRAFT:

(Place mineral processing in Section 30.020.)

Section 24.026 Criteria

ORIGINAL:

1. The proposed use shall not constitute a nuisance to adjoining properties due to noise or light and glare or interference with the use of adjoining lands.

2. The proposed use shall not result in traffic congestion or result in traffic safety hazards on any public road or street.

3. The proposed use shall not include outside storage of solid waste.

COMMENT:

The term solid waste requires definition.

Section 30.040 (2)

ORIGINAL:

. . . Flaglots are permitted only when part of a subdivision submitted to the Planning Commission for approval.

COMMENT:

What is the purpose for this restriction? If the provision is adopted then flag lot created by minor

or major partition approved by the commission should also be permitted.

Section 30.040 (4)(a)

ORIGINAL:

3. Setbacks.

   a. Front yard. A front yard of 20 feet shall be provided.

COMMENT:

Why are 20 foot setbacks utilized here instead of the 10 foot setbacks used in the Commercial Zones?

Section 30.040 (4)(e)

ORIGINAL:

e. Stream setbacks. No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located closer than 15 feet to a live stream or to a stream which provides fishery habitat. Lands within 10 feet of a stream bank shall be to the greatest extent feasible maintained in stabilized vegetation, and riparian vegetation that provides shading to the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the retention of vegetation.

REDRAFT:

However, if this section is adopted, it should make some provision for substituting natural vegetation. It is doubtful if the State has an interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

Section 30.050 Landscaping

ORIGINAL:

Landscaping shall be provided in the front setback area of all uses in this zone. In addition, landscaping shall be provided on the perimeter of any lot used for a public parking lot of more than five (5) vehicles, separating the lot from any public roadway. Such areas shall be fully landscaped with lawn, trees, shrubs, or suitable ground cover, and no portion except the access drives shall be paved.

All landscaping shall be installed in accordance with

a plan approved by the Planning Director. Approval shall be granted for any plan wherein the design and materials proposed therein are reasonably appropriate for the use and appearance of the parking area and will not obscure visibility of access drives onto public roadways. Such landscaped areas shall be maintained in a healthy condition and free of weeds and debris.

COMMENT:

1. The precise location of the landscaping should not be regulated. Landscaping in many situations might more appropriately be placed next to the building in order to soften contour lines rather than around the perimeter of the parking lot. The regulation should merely require that a given percentage of the lot be utilized for landscaping.

2. The Planning Director's discretion should be eliminated or limited.

3. The property owner should be encouraged to maintain the landscaped areas free of weeds and debris. The mandatory requirement with its criminal sanction should be eliminated.

REDRAFT:

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CHAPTER 31

INDUSTRIAL PARK DISTRICT

Section 31.026 (3)

ORIGINAL:

3. The proposed use shall not include outside storage of solid waste.

COMMENT:

The term "solid waste" and "outside storage" require greater definition or ommission.

Section 31.040 (4)(e)

ORIGINAL:

e. Stream setbacks. No structure, other than boat landings, docks, bridges or pumping or water treatment facilities, shall be located closer than 15 feet to a live stream or to a stream which provides fishery habitat. Lands within 10 feet of a stream bank shall be to the greatest extent feasible maintained in

stabilized vegetation, and riparian vegetation that provides shading to the surface waters shall be retained.

COMMENT:

Requiring the maintenance of vegetation along streams on property owned by an individual represents an intrusion into the landowner's property interest. The trees providing the shade are owned by the property owner and not the State. The State Department of Wildlife may acquire easements but the land owner should be compensated to some degree for the retention of vegetation.

REDRAFT:

However, if this section is adopted, it should make some provision for substituting natural vegetation. It is doubtful if the State has an interest in preserving blackberry thickets, if other more acceptable forms of vegetation can be substituted without harm.

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All landscaping shall be installed in accordance with a plan approved by the Planning Director. Approval shall be granted for any plan wherein the design and materials proposed therein are reasonably appropriate for the use and appearance of the parking area and will not obscure visibility of access drives onto public roadways. Such landscaped areas shall be maintained in a healthy condition and free of weeds and debris.

COMMENT:

1. The precise location of the landscaping should not be regulated. Landscaping in many situations might more appropriately be placed next to the building in order to soften contour lines rather than around the perimeter of the parking lot. The regulation should merely require that a given percentage of the lot be utilized for landscaping.

2. The Planning Director's discretion should be eliminated or limited.

3. The property owner should be encouraged to maintain the landscaped areas free of weeds and debris. The mandatory requirement with its criminal sanction should be eliminated.

REDRAFT:

_____ % of the property shall be landscaped. Landscaping shall not obscure the visibility of access drives onto public roadways. Such areas shall be equipped with a sprinkler system if a public or municipal water system is available to the property. Owners of landscaped areas shall be encouraged to maintain the property free of weeds and debris.

CHAPTER 50

SUPPLEMENTARY PROVISIONS

Non-Conforming Uses

Section 50.010 Non-Conforming Uses:

ORIGINAL:

Subject to the provisions of section 50.010 through 50.017, a non-conforming structure of use may be continued and maintained, but shall not be altered or reconstructed without approval of the County Zoning Commission. A non-conforming use may be altered or reconstructed upon approval of the Zoning Commission where the following conditions exist:

COMMENT:

This section should restrict only structural alterations.

REDRAFT:

. . . but shall not be structurally altered . . .

Section 50.037 (1) Revocation of a Conditional Use Permit.

ORIGINAL:

Any permit granted pursuant to Section 50.030 shall be subject to denial or revocation by the Zoning Commission if it is ascertained that the application includes or included any false information, or if the conditions of approval have not been complied with or are not being maintained.

1. In order to consider revocation of a conditional use permit the Zoning Commission shall hold a public hearing in order for the permit holder to show cause why such permit should not be revoked. Such hearing may be called with a minumum of 24 hour notice to the permit holder.

COMMENT:

The minimum notice time should be expanded to allow counsel a reasonable period of time to prepare for hearings. This minimum notice time should be expanded to at least 5 working days prior to hearing.

Section 50.037 (3)

ORIGINAL:

3. All conditional use permits shall be conducted in full compliance with any other County Ordinance or requirement of State law. Failure to conform to other

Section 50.037 (1) Revocation of a Conditional Use Permit.

ORIGINAL:

Any permit granted pursuant to Section 50.030 shall be subject to denial or revocation by the Zoning Commission if it is ascertained that the application includes or included any false information, or if the conditions of approval have not been complied with or are not being maintained.

1. In order to consider revocation of a conditional use permit the Zoning Commission shall hold a public hearing in order for the permit holder to show cause why such permit should not be revoked. Such hearing may be called with a minumum of 24 hour notice to the permit holder.

COMMENT:

The minimum notice time should be expanded to allow counsel a reasonable period of time to prepare for hearings. This minimum notice time should be expanded to at least 5 working days prior to hearing.

Section 50.037 (3)

ORIGINAL:

3. All conditional use permits shall be conducted in full compliance with any other County Ordinance or requirement of State law. Failure to conform to other

applicable laws shall be grounds for consideration by the Zoning Commission for revocation of the permit.

COMMENT:

The purpose of a Zoning law is to regulate land use. The zoning ordinance should not be used as a coercion tool to guarantee compliance to every conceivable State or county law.

REDRAFT

This section should be limited or deleted.

Section 50.050 Home Occupations

ORIGINAL

10. The above provisions shall apply to the Exclusive Farm District, except for the following:

    a. The home occupations shall be conducted only by the resident(s) of the property, and

    b. The home occupation must be conducted within either a dwelling which is the actual residence of the person engaged in the occupation or in an agricultural building.

COMMENT:

Due to the large lot sizes required in the exclusive farm districts, home employers should be given greater freedoms since it is unlikely neighbors will be annoyed or affected.

REDRAFT:

(The current employment level restrictions should be maintained if they are less restrictive.)

Section 50.065 Site Plan

ORIGINAL:

When in the judgment of the Planning Director, a site plan review is necessary to adequately determine compliance with the standards of this Ordinance, the developer shall submit to the Director a site plan for total parcel development. The site plan shall be drawn to scale and shall indicate the following upon request of the Planning Director:

COMMENT:

This Section in conjunction with the following subsections require the illustration of 14 factors on a site plan regardless of whether all the factors are subject to dispute. The property owner should be required to illustrate only those factors which are the subject of controversy to avoid needless costs.

REDRAFT:

. . .the following if relevent upon request of the Planning Director . . . .

Section 50.082 (1)(b)

ORIGINAL:

Where an official Map of the Comprehensive Plann adopted pursuant to law requires the plans for the widening of existing streets, the connecting of existing streets, or the establishment of new streets, the placement of buildings and the establishments of yards where required by this Ordinance, shall elate to the future street boundaries as determined by said official map.

COMMENT:

The proposed map can be utilized to restrict the development of privately owned parcels for a substantial length of time without land owner consent or compensation. Reference to an official map should be deleted.

REDRAFT:

Delete.

Section 50.083 (5)(a)

ORIGINAL:

5. Residential Intrusions may be located in a required yard setback as follows:

The following structures may be located in a required yard: domestic well pump houses not exceeding 24 inches in height; pre-fabricated metal lawn and garden storage buildings; metal patio covers or carports, provided that not more than one side is enclosed; and similar non-combustible or ornamental fixtures, which in the judgment of the Planning Director will not interfere with the legitimate purposes of this Ordinance.

COMMENT:

The 24 inch limit on pump house dimensions does not correspond with the present prevailing pump house size. The scale should be increased to include structures 5 or 6 feet in height. Preferably, the height restriction should be eliminated. The whole section is over restrictive and should be eliminated.

Section 50.094 (1)(b)

ORIGINAL:

b. Dwellings, two-family or multiple	two for each dwelling unit

COMMENT:

Currently the City of Grants Pass requires 1.5 parking spaces for multiple family dwellings and no significant problems have developed. Is there a rationale for devoting so much land to concrete?

REDRAFT:

b. Residental:

1.	One-, two-, and three- family dwellings	Two spaces per dwelling unit
2.	Multi-family dwelling containing four or more dweling units	Three spaces per two dwelling units

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CHAPTER 52

ADMINISTRATION

Development Permit

Section 52.005 Development Permit:

ORIGINAL:

Development permits are issued to assure the property owner the proposed use of the land will be consistent with the standards of this Ordinance. No building or structure, subject to the provisions of this regulation, shall be constructed, changed in use, erected, moved, reconstructed, extended, enlarged or altered without first obtaining a development permit from the County Planning Director or his assistants. In addition, no use of land which under the requirements of this ordinance necessitates a plan review shall be commenced without first acquiring a development permit. If approval of the Planning or Zoning Commission is required, the Director shall not issue the permit until such approval has been received.

COMMENT:

The ordinance should restrict only significant structural alterations.

REDRAFT:

. . . enlarged or significantly structurally altered without . . .

AMENDMENTS

Section 52.012 Amendments to the Ordinance

ORIGINAL:

Amendments to this Ordinance may be initiated as follows:

1. By Resolution of the Board of County Commissioners referring a proposed amendment to the Planning Commission for its consideration, report and recommendation;

2. By proposal of the Commission;

3. By a petition filed with the Planning Director upon forms prescribed by the Commission and bearing the signatures of at least 200 registered voters of the County; or

4. By proposal of the Planning Director or County Legal Counsel.

COMMENT:

Is the only way a citizen can seek to amend the ordinance is to gain two hundred signatures? Would a citizen violate the ordinance if he requested the County Commissioners to hold a hearing and that request was granted? Why must ordinary citizens obtain 200 signatures when the County Planning Director and legal counsel are granted hearings upon request? Requests by the Planning Director and legal counsel should be conditioned upon Board of County Commissioners approval.

VIOLATIONS

Section 52.016 Penalty.

ORIGINAL:

Any person violating any of the provisions of this regulation shall be punishable, upon conviction, by a fine of not more than $500 for a non-continuing offense and a fine of not more than $1,000 for a continuing offense. Each day that a violation occurs after proper service on the property owner of notice of violation may be counted as a separate violation.

COMMENT:

The fines are excessive.

ADDITIONAL OBSERVATIONS

1. HEAVY INDUSTRIAL ZONE:

   a) The Section which restricts outdoor industrial activities is in need of redrafting. Under the current draft such common Josephine County industrial activities such as "green chain", "chipping" and rock crushing must take place indoors (See Sect. 30.020 (1)).

   b) Section 30.020 (1) (d) does not explicitly state that a sawmill or lumbermill is a permited use. Since the wood products industry is the County's major industrial enterprise it's recognition as a permitted use should be explicit.

2. SUPPLEMENTARY PROVISIONS:

   a) Section 50.085 substantially restricts the division of lands which have access only to County non-maintained roads. The policy should be re-drafted to reflect the current policy for the following reasons:

      1. The Section would no longer allow the individual the right to assume the risk of lining off a County non-maintained road in exchange for lower aquisition costs.

      2. Many County non-maintained roads will only be brought up to standards when there are a sufficient number of land owners to bear the expense of improvement. Restricting people from living off of County non-maintained roads will insure that many roads will never be improved.

      3. The shift in policy has not been suffieiently publicized. Its buried deep in the back of the zoning ordinance on page 107.