Josephine County

Rural Land

Development Code

Revised Through February 2, 2005

RURAL LAND DEVELOPMENT CODE
TEXT AMENDMENT & REVISION INDEX

DOCUMENT	DESCRIPTION
ORD 94-4 Effective August 18, 1994	JOSEPHINE COUNTY RURAL LAND DEVELOPMENT CODE ADOPTED; ORD 85-1 REPEALED, EXCEPT SECTIONS 14.100.C (CITATION AUTHORITY) AND SECTIONS 15.237 - 15.241 (ENFORCEMENT PROCEDURES); ORD 90-8 AMENDED (DELETE FLOOD HAZARD MAP ADMINISTRATION, BUT LEAVE FLOOD HAZARD CONSTRUCTION REQUIREMENTS)
ORD 96-10 Effective November 18, 1996	AMENDS RURAL LAND DEVELOPMENT CODE (ORD 94-14) TO ADD THE DEFINITION OF "SEWAGE DISPOSAL PLANT"
ORD 98-10 Effective December 22, 1998	AMENDS RURAL LAND DEVELOPMENT CODE (ORD 94-4) TO REPEAL AND REPLACE ARTICLE 44, TEMPORARY USE PERMITS
ORD 99-3 Effective August 10, 1999	AMENDS RURAL LAND DEVELOPMENT CODE (ORD 94-4) TO REPEAL AND REPLACE CHAPTER 2, REVIEW PROCEDURES
ORD 99-4 Effective September 21, 1999	AMENDS RURAL LAND DEVELOPMENT CODE (ORD 94-4) TO REPEAL AND REPLACE CHAPTER 4, APPLICATION PROCEDURES
ORD 99-7 Effective December 29, 1999	AMENDS RURAL LAND DEVELOPMENT CODE (ORD 94-4) TO INCORPORATE OREGON STATE LEGISLATIVE AND ADMINISTRATIVE RULE CHANGES THROUGH 1995
ORD 99-8 Effective March 29, 2000	AMENDS GOAL 11 OF THE JOSEPHINE COUNTY COMPREHENSIVE PLAN (ORD 81-11) TO REPEAL AND REPLACE GOAL 11, REGARDING AMENDING, UPDATING AND MAINTAINING THE COMPREHENSIVE PLAN; AMENDS RURAL LAND DEVELOPMENT CODE (ORD 94-4) TO REPEAL, REPLACE AND RENUMBER CHAPTERS 47, 48 AND 49 TO CONFORM
ORD 2000-8 Effective April 17, 2001	AMENDS CHAPTER 6 TO INCLUDE NEW ARTICLE 66.1, THE MINERAL AND AGGREGATE RESOURCE ZONE; ADDS AND REPLACES CERTAIN DEFINITIONS REGARDING AGGREGATE MINING TO ARTICLE 11; REPLACES SECTION 72.040 REGARDING SPECIAL SETBACK REQUIREMENTS TO AND FROM SIGNIFICANT AGGREGATE SITES; REPLACES ARTICLE 91 REGARDING THE STANDARDS OF DEVELOPMENT FOR AGGREGATE OPERATIONS.
PLANNING COMMISSION RESOLUTION 2001-1 Effective June 15, 2001	APPROVES REVISIONS DIRECTED BY COUNTY COUNSEL TO RURAL LAND DEVELOPMENT CODE (ORD 94-4) TO INCLUDE MANDATORY CHANGES IN LAWS PER SECTIONS 10.080 AND 12.080 OF THE RLDC
ORD 2002-006 Effective January 14, 2003	AMENDS DEFINITIONS, REMAND HEARING PROCEDURES, MULTIPLE ZONED LOTS OR PARCELS, SPECIAL SETBACK STANDARDS, REPLAT REQUIREMENTS, ACCESSORY STRUCTURE STANDARDS & PROCEDURES
ORD 2003-002 Effective July 6, 2003	AMENDS DEFINITIONS & COMMERCIAL & INDUSTRIAL ZONES FOR WASTER HANDLING & RECYCLING USES; AMENDS ARTICLE 86 REGARDING WASTE, WASTE TRANSFER CENTERS, SEWAGE TRANSFER SITES, RESOURCE RECOVERY FACILITIES, RECYCLING CENTERS

ORD 2004-004 **Effective December 21, 2004**	**MISCELLANEOUS AMENDMENTS ARE PART OF TRANSPORTATION SYSTEMS PLANNING TO PROTECT FUTURE OPERATION OF TRANSPORTATION FACILITIES**
ORD 2004-005 **Effective February 2, 2005**	**AMENDS THE GOALS & POLICIES OF THE COMPREHENSIVE PLAN TO ADD GOAL 12 (Unincorporated Communities); ADOPT ADDENDUM "A" TO GOAL 12 (GOALS & POLICIES FOR MERLIN/NORTH VALLEY); AMEND THE RURAL LAND DEVELOPMENT CODE TO ADD CHAPTER 10 FOR UNINCORPORATED COMMUNITIES GENERALLY AND MERLIN/NORTH VALLEY COMMUNITY SPECIFICALLY; ADOPT MERLIN/NORTH VALLEY COMMUNITY BOUNDARY & CHANGE ZONING DESIGNATIONS AND STANDARDS FOR LANDS WITHIN THE BOUNDARY**

CHAPTER 1 - GENERAL PROVISIONS

ARTICLE 10 - ADOPTION

10.010 - TITLE

The land use regulations contained in this document shall be collectively known as the Josephine County Rural Land Development Code, hereinafter referred to as the "code."

10.020 - PURPOSE

The purpose of this code is to coordinate Josephine County regulations governing the use and development of land, and more specifically:

A. To implement the Josephine County Comprehensive Plan and to guide and manage the future growth of the county in accordance with that plan;

B. To protect the public health, safety, and welfare;

C. To assist the public in identifying and understanding regulations affecting the development and use of specific parcels of land.

10.030 - AUTHORITY

A. This code is established pursuant to Oregon Revised Statutes, Chapters 92, 197, 203 and 215.

B. This document has been legally adopted by Ordinance under ORS 203.035, ORS 197.175(2), and Section 13 of the Charter for Josephine County, as amended.

C. This code shall be administered under Sections 14.100(C), 15.237, 15.238, 15.239, 15.240, and 15.241 of the Josephine County Zoning Ordinance, Ordinance 85-1, as amended.

10.040 - REPLACEMENT OF OTHER ORDINANCES

This code replaces all previously enacted zoning, subdivision, flood hazard, and other related land use ordinances of Josephine County for the rural areas of the county not included in the urban growth boundary as established by Ordinance and drawn on the Official Map of the Grants Pass Urban Growth Boundary.

10.050 - REPEALER

A. The Josephine County Zoning Ordinance, Ordinance 85-1, as amended except for Sections 14.100(C), 15.237, 15.238, 15.239, 15.240, and 15.241, and Ordinance 90-4 - the Josephine County Land Use Hearing Rules, are repealed. The following

Ordinances will no longer apply to the area covered under this code unless otherwise specified:

1. Ordinance 90-1 - The Josephine County Subdivision Ordinance;

2. Ordinance 90-8 - The Flood Hazard Ordinance, the portions of this Ordinance which apply to the Building and Safety Department shall continue to apply to the area covered under this code;

3. Ordinance 90-22 - The Aquifer Ordinance.

B. All actions taken under any previously enacted Josephine County zoning or subdivision or other land use ordinances shall remain in effect subject to the original conditions of approval.

10.060 - SEVERABILITY

The provisions of this code are severable. If any Article, Section, sentence, clause, or phrase of this code is adjudged to be invalid by a Court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this code.

10.070 - WITHDRAWAL OF APPLICATION

If an applicant or appellant withdraws an application in writing, any actions, considerations, decisions, and appeals shall be deemed null and void.

10.080 - RELATIONSHIP TO OTHER LAWS

When Oregon Revised Statutes and Oregon Administrative Rules relating to land use are enacted, amended, or repealed, mandatory state laws and rules shall apply from the time they are effective and shall be amended into this code at the earliest possible time.

ARTICLE 11 - DEFINITIONS

11.010 - PURPOSE

The purpose of this Article is to define the terms and phrases of this code which are technical, specialized, or may not reflect common usage. If a term is not defined, the definition found in the current edition of Webster's, Oxford, or Blacks Law Dictionary shall be used.

11.020 - DEFINITIONS ADOPTED BY REFERENCE

In addition to the definitions in this Article, the following are incorporated by reference. If any definition in this code conflicts with a definition included by reference, the definition of state statute shall prevail except where this code is more restrictive.

A. Oregon Revised Statutes
Chapter 92 - Subdivisions and Partitions

B. Oregon Revised Statutes
Chapter 197 - Comprehensive Plan Coordination; Planning Districts

C. Oregon Revised Statutes
Chapter 215 - County Planning; Zoning; Housing Codes

11.030 - TERMS DEFINED

AASHTO. The acronym stands for American Association of State Highway and Transportation Officials. This organization publishes material on road design and construction.

ABUTTER. An individual, firm, association, syndicate, corporation, or other legal entity having an interest in property bordering directly on a public road or approved private road.

ABUTTING. Adjoining with a common lot or parcel line, except that where 2 or more lots or parcels adjoin only at a corner or corners, they shall not be considered as abutting unless the common lot or parcel line between the two lots or parcels measures 8 or more feet in a single direction.

AC. This abbreviation stands for asphaltic concrete pavement.

ACCESS. The place, means, or way by which pedestrians or vehicles shall have ingress and egress to a property or use.

ACCESS CONTROL STRIP. A designation on the final plat which restricts or prohibits access to a specific public road or highway.

ACCESS ROAD, LOCAL. A public road that is not a county road, state highway, or federal road.

ACCESSORY STRUCTURE OR USE. A structure or use that is incidental, consistent with, and subordinate to the primary structure or use on the same unit of land.

ADEQUATE ACCESS. For site plan review purposes, the term shall mean one of the following:

A. The development fronts on a county road or state highway with a valid access permit; or

B. The development is served by a special access road under the control of the United States Bureau of Land Management, the United States Forest Service or the Oregon Department of Forestry with a valid long-term access use permit; or

C. The development is served by a road decreed by a court to be a public usage road; or

D. The development is served by a written and recorded easement which contains no language excluding commercial or industrial traffic, and the proposed activity is a home occupation business or resource use involving farm, forest, mining, or aggregate.

ADEQUATELY MITIGATED. The term used to describe when a permit approval eliminates or lessens adverse impacts resulting from authorized land use activities through the imposition of conditions of operation or development, so that the activities no longer result in significant adverse impacts regarding the use or quality of other properties or public facilities. See the definition herein for SIGNIFICANT (ADVERSE) IMPACT.

ADJACENT. Near or close by; may be contiguous, abutting, or adjoining, or separated by a roadway, alley, or natural separation. Same as abutting.

ADVERSELY AFFECTED. See SIGNIFICANT (ADVERSE) IMPACT

ADVERTISING STRUCTURE. Any structure used to facilitate advertising of goods or services. This includes billboards, sandwich boards, and exterior signs.

AGGREGATE PROCESSING. Aggregate processing is the crushing, washing, milling and screening, as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete.

AGGREGATE RESOURCES. Naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials used in road building and general construction.

AGGREGATE USE. The extraction, screening, stockpiling, and crushing of sand, gravel, and/or quarry material.

AGRICULTURE, FARMING, FARM USE. The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. Farm use includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. Farm use also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines

including but not limited to providing riding lessons, training clinics and schooling shows. Farm use also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. Farm use includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. Farm use does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined herein or land described in ORS 321.267(1)(e) or 321.415(5).

As used in this definition, "preparation" of products or by-products includes but is not limited to the cleaning, treatment, sorting, composting or packaging of the products or by-products; and "products or by-products raised on such land" means that those products or by-products are raised on the farm operation where the preparation occurs on other farm land provided the preparation is occurring only on land being used for the primary purposes of obtaining a profit in money from the farm use of the land.

As used in this definition, "current employment" of land for farm use includes:

A. Farmland, the operation or use of which is subject to any farm-related government program;

B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

C. Land planted in orchards or other perennials, other than land specified in subparagraph D of this paragraph, prior to maturity;

D. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;

E. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;

F. Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213(1)(y) and 215.283(1)(v);

G. Water impoundments lying in or adjacent to and in common ownership with farm use land;

H. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

I. Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes

of this paragraph, illness includes injury or infirmity whether or not such illness results in death;

J. Any land described under ORS 321.267(1)(e) or 321.415(5); and

K. Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing.

As used in this definition, "accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

As used in this definition, "cultured Christmas trees" means trees:

A. Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

B. Of a marketable species;

C. Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

D. Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

AGRICULTURAL ENTERPRISE, COMMERCIAL. A farm operation that contributes in a substantial way to the area's existing agricultural economy, and which helps maintain agricultural processors and established farm markets.

AIRPORT APPROACH ZONE. That area of approach and transition surfaces around airports where special land use and height regulations are applied.

AIRPORT CLEAR ZONE. As defined by the FAA, an area extending from each end of a runway which is kept clear of obstructions that may affect incoming and departing aircraft.

AIRPORT OVERLAY ZONE. An area in which special land use regulations are established to ensure the safety of the airport operation.

AIRPORT, COMMERCIAL. An airport used by the general public and commercial airline operations including associated maintenance, operations, and support facilities.

AIRPORT HAZARD. Any obstacle or situation which obstructs or interferes with the safe operation of an airport or landing field. This includes vegetation, structures, towers, glare, lights, and electrical interference.

AIRPORT, PERSONAL-USE. An airstrip for airplanes and helicopter pads, including associated hanger, maintenance and service facilities, that is restricted (except for any and all aircraft emergencies) to use by the owner, and on an infrequent and occasional basis, by

invited guests, and by commercial aviation activities in conjunction with agricultural activities only. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip.

AIRPORT ZONE BOUNDARY. An area adjacent to an airport within the boundaries of which there is significant impact from dust, fuel particles, noise, and related activities arising from the operation of an airport.

ALLEY. A public way not over 30 feet wide providing a secondary means of access to abutting property.

ALTER; ALTERATION. A change, addition, or modification in either construction or use of a building or structure.

AMENDMENT. A change in the text or maps of applicable ordinances, resolutions, or related regulations pertaining to land use, including the comprehensive plan, the goals and policies, and this code.

ANIMAL HUSBANDRY. Management, breeding, and raising of animals.

APPEAL. A request that a decision by the staff, Hearings Officer, Planning Commission, and/or Board of Commissioners be reviewed by a higher authority.

APPLICANT. The property owner, (or contract-purchaser, attorney, or representative holding a valid Power of Attorney) requesting approval of a proposed land use action by a review or hearing body.

AQUIFER TEST. A test designed to determine the hydrogeological properties of aquifers and aquitards, where the effect of pumping a well at a known rate is measured in the pumped well and in observation wells penetrating the aquifer.

ARMORY. Place owned and operated by a government agency, where arms and military equipment is stored and/or a facility for military training and national security.

ASSESSOR. The county Assessor of Josephine County.

AUTO REPAIR. Facilities for the general repair of automobiles, including rebuilding and reconditioning of engines, transmissions, mechanical parts, and brake and muffler shops. The repair of motorcycles and small engines is allowed in this type of facility.

AUTO, BOAT, AND RECREATIONAL VEHICLE SALES LOT. Any property where the business is the display, sale, or rental of operative new or used motor vehicles, boats, trailers, or recreational vehicles. Repair or service facilities must be accessory to the primary sales function of the business.

AUTOMOBILE SERVICE STATION. Any property where the business is the supply of motor fuel, oil, lubrication, and accessories to motor vehicles, including tune-up services and vehicle maintenance service.

AUTOMOBILE WRECKING YARD. Any property where the dismantling, salvaging, storing, disposing, or selling of parts of vehicles or trailers is conducted; or, the open storage of 5 or more unlicenced vehicles not in running condition from which parts have not been removed.

AWNING. Any stationary structure used in conjunction with a structure for the purpose of providing shelter and having a roof with supports with not more than 1 wall or storage cabinet substituting for a wall.

BASEMENT. A space wholly or partly underground, having more than ½ of its height, measured from floor to ceiling, below the average finished grade.

BED AND BREAKFAST INN. A Bed and Breakfast Inn is an accessory use to a single family residential dwelling, which is intended to provide temporary accommodation and breakfast to travelers for a daily fee. No meal other than breakfast shall be provided. The owner and/or operator shall live on the site. The limitations of Article 92 of this code shall not apply to a Bed and Breakfast Inns operating in a commercial zone.

BERM. A man-made mound or small hill used as a buffer to deflect sound or to block a view. (See Buffer)

BILLBOARD. Same as "Advertising structure."

BIKE LANE, PATH, OR WAY. Any trail, path, or part of a highway, shoulder, sidewalk, or travelway specifically signed and marked for bicycle travel.

BLOCK. An area of land within a subdivision which may be entirely bounded by streets, highways or ways (except alleys), and the exterior boundary or boundaries of the subdivision.

BOARD; BOARD OF COUNTY COMMISSIONERS. Board of County Commissioners of Josephine County.

BOARDING OF HORSES. The boarding of horses for profit shall include the following:

A. The stabling, feeding, and grooming for a fee, or the renting of stalls; and

B. Related facilities, such as training arenas, corrals, and exercise tracks.

C. The boarding of horses for profit does not include the following:

1. The mere pasturage of horses or the boarding of horses not owned by the property owner for the purpose of breeding with the owner's stock;

2. Equestrian activities when the raising, feeding, training, or grooming of horses is an agricultural use of the land by a property owner qualifying for farm assessment under regulations of the state department of revenue,

BOARDING HOUSE. A dwelling, or part of a dwelling, other than a hotel, motel, or multiple-family dwelling, where lodging, with or without meals, is provided for compensation.

BOAT YARD. Any place or structure used for the construction, dismantling, sales, storage, service, repair, or maintenance of boats.

BOND. Any form of security, including a cash deposit, surety bond, collateral, property, or credit instrument submitted to guarantee performance by a developer, builder, or land owner.

BUFFER. An area of land used to separate land uses and mitigate impacts from one to the other(s). A buffer may include site developments such as berms, walls, fences or other similar structures or may be composed of vegetation.

BUILDABLE AREA. The portion of the lot or parcel, excluding setbacks, where a structure may be erected.

BUILDING. A structure built for the shelter or enclosure of persons, animals, or property of any kind.

BUILDING, AGRICULTURAL. A structure whose use shall be primarily for the storage of farm implements, crops, feed or similar farm products, or to provide shelter for livestock, poultry, or fowl.

BUILDING HEIGHT. See Height of Building.

BUILDING LINE. A line on a plat or map indicating the limit beyond which buildings or structures cannot be erected.

BUILDING LOT. A lot or parcel of land, which is legally created and designed for the purpose of erecting a building or buildings. See the definitions herein for LOT and AUTHORIZED TAX LOT.

BUILDING SITE. The ground area of a building or buildings, together with all open spaces required by this code, and which generally has its principal frontage upon a public or private street.

CABANA. A stationary lightweight structure which may be prefabricated or demountable, with 2 or more walls, used adjacent to, or in conjunction with, a manufactured dwelling to provide additional living space which is meant to be moved with the manufactured dwelling.

CAMPGROUNDS. An area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds located within Farm or Forest Zones are subject to additional and different limitations and requirements (see, Articles 64 and 65).

CAMPING ON PROPERTY. Camping on a parcel without service connections for a period of four (4) months in any twelve (12) month period will not be considered a permanent residence.

CARETAKERS QUARTERS. A manufactured dwelling or apartment limited to 1000 square feet for a caretaker who is necessary for the protection of the main use on industrial property.

CARETAKERS RESIDENCE. A manufactured dwelling or home for a caretaker who is necessary for the protection of the main use on property zoned for forest use.

CARPORT. A roofed structure for sheltering a motor vehicle, open on two or more sides.

CARRYING CAPACITY. The ability of land to support proposed development as determined by an evaluation of suitability for sewage disposal, the adequacy of the domestic groundwater supply (quantity and quality), the presence of adequate off-site roads, the suitability of soil and terrain to support on-site roads, the presence or absence of flood, fire or erosion hazards, and the applicability of other special land use concerns (e.g., watershed protection, protection of wildlife and fishery habitat, the presence of scenic easements, airport flight paths, the availability of emergency services, etc.).

CEMETERY. Property designated and dedicated for cemetery purposes, including burial grounds, columbaria, crematories, mausoleums, and mortuaries.

CERTIFIED PUMP TESTER. An individual certified by the Water Resources Department as possessing the knowledge and equipment to conduct major and minor pump tests.

CHANNEL STABILITY ANALYSIS. A study which addresses the short and long term stability of the stream channel relative to the impacts of a mining operation. The study shall address a potential acceleration of stream channel change due to the mining operation. Such a study shall meet the requirements of the Oregon Department of Geology and Mineral Industries and shall be submitted to that agency for review and approval. The study could include an evaluation of hydrology, hydraulics, fluvial geomorphology, and sediment transport capacity of the existing channel and potential effects of the mining operation on these channel characteristics, subject to the following additional definitions:

A. HYDROLOGIC ANALYSIS. An analysis which defines the magnitude and frequency of channel discharges including but not necessarily limited to the mean annual runoff, 5-, 10-, 25-, and 100- year, 24 hour discharge events. Some statistical analysis may be appropriate.

B. HYDRAULIC ANALYSIS. An analysis based on the above described hydrologic events and may include an evaluation of pre- and post-mining: (1) flood flow depths and water surface elevations; (2) channel and floodplain velocities and depths of inundation.

C. FLUVIAL GEOMORPHIC ANALYSIS. An analysis which defines the relevant geomorphic characteristics of a stream channel and its adjacent flood plain. It is the intent of this study to address the potential for channel change due to proposed mining.

D. SEDIMENT TRANSPORT ANALYSIS. An analysis which addresses the sediment transport capacity of existing stream channels and any potential changes in their ability to transport sediment. This analysis shall address aggradation and degradation potential for both the short and long term (i.e. pre- and post-mining) conditions.

CHURCH. Building and premises used for the conduct of regular religious services; may include a Sunday school and a residence for the pastor, but not including academic schools operated by a church. Churches within the Farm Zones are subject to special siting restrictions (see, Article 64).

CITIZEN ADVISORY COMMITTEE (CAC). A CAC is a group of citizens from an officially defined and adopted geographic area, whose members have been elected in an election conducted according to the Josephine County Citizen Involvement Committee By-laws as amended.

CLINIC, MEDICAL, DENTAL, OR OPTICAL. Facility for examination, consultation, and treatment of patients, including offices, laboratories, and outpatient facilities, but not including hospital beds for overnight care or treatment except for emergency or temporary care.

CLUB OR LODGE. Buildings and facilities owned and operated for a fraternal, social, or recreational purpose, to which membership is required for participation, but is not operated primarily for profit and is recognized by the IRS as a tax exempt organization subject to Section 501 C(3) of the Tax Code.

COMMERCIAL. Any activity or use involving the exchange of products or services for compensation in the course of a business. "In the course of business" means the use or activity must involve repeated transactions, and does not include the isolated exchange of products or services for compensation. It is not necessary for a commercial use or activity to be conducted for profit in order to be commercial. In addition, compensation may include a trade for goods or services or the receipt of donations.

COMMERCIAL ACTIVITIES IN CONJUNCTION WITH FARM USE. The processing, packaging, treatment, and wholesale distribution and storage of a product primarily derived from farm activities on the premises. Also, retail sales of agricultural products, supplies, and services directly related to the production and harvesting of agricultural products. Such uses include the following:

A. Storage, distribution, and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agricultural uses;

B. Farm product receiving plants, including processing, packaging, and reshipment facilities, excluding canneries;

C. Livestock feed or sales yards;

D. Storage, repair, or sale of fencing, irrigation pipe, pumps, and other commercial farm-related equipment and implements;

E. Farm equipment storage and repair facilities;

F. Bulk storage and distribution facilities for fuels, pesticides, and fertilizers;

G. Veterinarian clinic;

H. Horticultural specialties such as nurseries or greenhouses for retail sales of plants and products;

I. Slaughtering of animals, including attendant retail and wholesale sales, which may be conducted outside an enclosed building;

J. Wineries which may include retail sales;

K. Other such uses which may be construed as similar to the uses listed above.

COMMERCIAL POWER GENERATION FACILITY. An electrical power generating plant with a nominal electrical generating capacity of more than 25,000 kilowatts, including but not limited to a thermal power plant, hydropower plant, combustion turbine power plant, geothermal power plant, or a nuclear installation disposal facility, and any facility handling a quantity of fissionable materials sufficient to form a critical mass. A commercial power generation facility includes related or supporting facilities including any structure adjacent to an energy facility, including associated transmission lines, reservoirs, and intake structures built in conjunction with and used as part of the energy facility.

COMMISSION. Shortened reference to the Josephine County Planning Commission.

COMMUNICATION FACILITY. A structure for the purpose of transmitting and receiving telegraph, telephone, microwave, television, radio, and other similar signals.

COMMUNITY BUILDING. A facility owned and operated by a governmental agency or a non-profit community organization, when the primary purpose of the facility is for education, recreation, social welfare, community improvements, or public assembly. Community centers within the Farm Zones are subject to special limitations (see, Article 64).

COMMUNITY SEWAGE SYSTEM. An on-site sewage system which serves more than one lot or parcel, or more than one condominium unit, or more than one unit of a planned unit development, and is approved by the Oregon State Department of Environmental Quality as a Community System.

COMPARABLE PUMP. An equivalent or similar pump; one which will produce the amount of water necessary for the intended use.

COMPLAINANT. A person(s) who lodges a complaint about an alleged violation of this code.

COMPREHENSIVE PLAN. The plan adopted by the county to guide growth and development within the county, which has been prepared, adopted and acknowledged in conformance with ORS Chapter 92, ORS Chapter 197 and ORS Chapter 215.

CONCEPTUAL RECLAMATION PLAN. A written and graphic proposal for the reclamation of land area disturbed by a mining operation. The plan shall address the measures for rehabilitation of mined lands, disposal of mining refuse, erosion control and slope stabilization. The plan need only present the concepts for achieving reclamation, but must do so with sufficient detail that the review body can determine the expected post mining landscape of the site. At a minimum the conceptual reclamation plan shall include: a scale; a north arrow; approximate post mining topography; any vegetative treatment; and physical site features. The approach to reclamation must be consistent with the proposed post mining use of the site, and with the subsequent DOGAMI approved reclamation plan, but should not be subject to the reclamation requirements in ORS 517.750 through 517.900.

CONDITIONAL USE. A use, which requires review and either approval, approval with conditions, or disapproval, by a review or hearing body.

CONFERENCE GROUNDS. A retreat or meeting place for the formal exchange of views and consultation, which may include overnight accommodations for conferees.

CONFLICTING USE. A land use, or other activity subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)- "Conflicting Use"). Agricultural practices are not considered conflicting uses. In regard to a significant aggregate resource a "conflicting use" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site (as specified in OAR 660-023-0180(4)(b).

CONTIGUOUS. Lots or parcels with touching boundaries or points, and means the same as adjacent. When lots or parcels are contiguous and also under common ownership, the contiguous holding may be considered a tract for the purpose of applying other rules. See the definition herein for TRACT, and also note the special restrictions that apply to the development of dwellings on tracts as provided in Articles 64 (Farm Zones) and 65 (Forest Zones).

CONVALESCENT HOME, NURSING HOME. Any certified and licensed institution which operates and maintains a facility providing convalescent and chronic care and keeping, for a period exceeding 24 hours for 2 or more ill or infirmed patients not related to the administrator or owner by blood or marriage. Convalescent and chronic care includes all procedures commonly accepted in nursing and caring for the sick, but does not include surgical facilities.

COUNTY. Josephine County, Oregon.

COUNTY ENGINEER. A registered engineer who plans, organizes, and directs the Engineering Division of the Josephine County Public Works Department.

COUNTY MAINTAINED ROAD OR STREET. A road or street and appurtenances which has been accepted for county maintenance by order of the Board of County Commissioners under the authority of ORS 368.705, or any other provisions of law.

COUNTY ROAD OR STREET. A public way which has been accepted by the Board of County Commissioners by dedication, deed or grant of right-of-way.

CRITERION (CRITERIA) OF APPROVAL. A subjective rule for permit approval that requires the decision-maker to exercise discretion or interpretation, or to exercise legal judgment, in determining compliance. Criterion is singular; criteria is plural.

CUL-DE-SAC. The vehicle turnaround portion of a dead-end road.

CULTURED CHRISTMAS TREES. As defined in ORS 215.203(3) are trees which are:

A. Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

B. Of a species for which the Department of Revenue requires a "Report of Christmas Trees Harvested" for purposes of ad valorem taxation;

C. Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture;

D. Evidencing periodic maintenance practices of shearing for Douglas Fir and pine species, weed and brush control, and one or more of the following practices: basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, and irrigation.

CURB LINE. The line separating the roadway from the planting strip or footway.

DAY CARE FACILITY. A facility used to provide on a regular basis for the care, supervision and guidance of a child that is unaccompanied by a parent, guardian, or custodian, during part of a 24-hour day, with or without compensation. The use may include a day nursery, nursery school group, or home of the day care provider, as set out in ORS 418.805(3).

DECLARANT. The person who files a declaration under the requirements of this code and the Oregon Revised Statutes.

DECLARATION. The instrument described in this code by which the subdivision or partition plat was created.

DEDICATION. An approved or accepted designation of land for public or general use by the owner.

DE NOVO. A Latin term that means a new hearing, which can take into account all previous testimony and any new testimony presented by the proponent and/or the opponent to an issue.

DENSITY. The number of dwelling units to be contained within a specified land area.

DESIGN. The design of any street or alley alignment, grade, or width, or the alignment or width of easements and right-of-way for drainage or irrigation purposes and sanitary facilities, and lot area, width or layout.

DESTINATION RESORT. A self-contained development providing visitor oriented accommodations and developed recreational facilities in a setting with high natural amenities.

DEVELOPED RECREATIONAL FACILITIES. For the purpose of developing a Destination Resort or a Recreational Resort, means improvements constructed for the purposes of recreation and may include but are not limited to golf courses, tennis courts, swimming pools, marinas, ski runs, and bicycle paths.

DEVELOPER. A person or other entity seeking to divide and/or develop and/or redevelop a lot or parcel of land for public or private purposes.

DEVELOPMENT. Any alteration of improved or unimproved real estate, including but not limited to a land division, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DEVELOPMENT PERMIT. A permit issued by the county planning department for any development to establish compliance with this code and the comprehensive plan.

DEVELOPMENT SITE. A tract of land consisting of one or more contiguous lots of record under common ownership, subject to a Development Permit.

DISPLAY SURFACE. The area made available by the sign structure for the purpose of displaying an information or advertising message.

DIRECTOR OF PLANNING. The Planning Director for Josephine County or a designate that is acting on behalf of the Director.

DIRECTOR OF PUBLIC WORKS. The Josephine County Director of Public Works or a designate that is acting on behalf of the Director.

DIRECTOR OF WATER RESOURCES. The Josephine County Director of Water Resources or a designate that is acting on behalf of the Director.

DOCUMENTED WATER QUANTITY PROBLEM AREA. An area which can be shown by public records to have problems which could result in the mining of the groundwater supply of that area, or result in substantial ground water interference.

DOCUMENTED WATER QUALITY PROBLEM AREA. An area which can be shown by public records to have problems which may endanger the quality of the ground water of that area, or adjacent areas. "WATER QUALITY", is defined by OAR 333-42-210, and the National Interim Public Drinking Water Regulations.

DRAINAGE WAY. Natural or man-made watercourse which transmits natural stream or storm runoff.

DRIVEWAY. A way of access for a vehicle to serve a limited number of users from a road or street, which is usually of narrow width and often in private ownership or subject to restricted public use.

DRIVEWAY APPROACH. A vehicle access constructed to standards adopted by the Board of County Commissioners from a public right-of-way to property which abuts a public street.

DWELLING. One or more rooms containing one kitchen and occupied by one family. A dwelling shall not be used as a rental for vacation or resort occupancy, unless approved under other provisions of this code. May be referred to as a residence. A modular home is considered a dwelling under the terms of this code.

DWELLING UNIT, SINGLE-FAMILY. A residential structure containing 1 dwelling.

EASEMENT. A grant of the right to use the property of another for a specific purpose; may be either appurtenant or in gross.

EATING/DRINKING ESTABLISHMENTS. Businesses providing facilities for preparation and consumption of food and beverages, including alcoholic beverages.

EMPLOYEES. All persons working for another, for wages or salary.

ESEE ANALYSIS. The analysis of positive and negative economic, social, environmental and energy consequences that may result from allowing, limiting, or prohibiting future conflicting uses in the protection of a significant Goal 5 resource site.

EXISTING MANUFACTURED DWELLING PARK OR SUBDIVISION. A manufactured dwelling park or subdivision for which the construction of facilities for servicing the lots on which the manufactured dwellings are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

FAMILY. One or more persons living in one dwelling as one housekeeping unit.

FARMING, FARM USE. See the definition herein for AGRICULTURE, FARMING, FARM USE.

FEEDLOT, COMMERCIAL. An open lot or portion of property designed or used for the purpose of the concentrated feeding or the preparation for resale or slaughter of ten or more animal units; does not apply to indoor animal husbandry, or to the feeding of animals accessory to dairy use, or other permitted use, or to the fattening of animals solely for the domestic use of the property owner, or to the penning and feeding of animals for display or show.

FINAL ACTION. A final determination or decision on a land use or land division issue made by the review or hearing body and accompanied by adopted findings, and signed by the review or hearing body or its designee.

FINAL PLAT. A map and other writings prepared in conformance with an approved tentative plan for a subdivision, planned unit development, partition, replat, or property line adjustment which is recorded with the County Clerk to complete the process for dividing land or adjusting property lines.

FINDINGS. As required in ORS 215.416(8), written statements of fact, conclusions, and determinations based upon the evidence at hand, presented relative to the criteria and standards for such review and accepted by the review or hearing body in support of a final action.

FIRE LANE. A way cleared of obstacles so as to allow clear passage for vehicles during a fire emergency.

FIREWORKS. Those fireworks as defined in ORS 480.110(1), and which are prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration, or detonation, but which do not include an explosive as defined in ORS 480.220(1). Such products include diversionary devices used for law enforcement and military purposes which are similar in scope and effect to fireworks as defined in ORS 480.110(1).

FLAGLOT. A unit of land created by a subdivision or partition and which includes a narrow projection with a vehicular pathway to a public road, and which projection is commonly known as the "flagpole".

FLAGPOLE. An area which is impractical to develop used primarily for a vehicular access to reach the main body of a lot.

FLOOD HAZARD AREA. An area highly prone to flooding for which the following terms have special significance:

A. BASE FLOOD. A standard statistical calculation used by engineers to represent the flood magnitude having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V;

B. FLOOD PLAIN. The area adjacent to a stream that is subject to periodic flooding;

C. FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot;

D. FLOOD FRINGE. The area of the flood plain lying outside the floodway, but subject to periodic flooding;

E. SHALLOW FLOODING. A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding;

F. SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOOR AREA. The sum of the gross areas of all floors of a building, measured from the outside walls, excluding attic space having less than 7 feet of headroom, or basement space with less than 6 feet of headroom.

FOREST OPERATIONS. Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620(6).

FOREST USE, FOREST MANAGEMENT. The management, production, and harvesting of timber resources in accordance with the Oregon Forest Practices Rules, including:

A. The production of trees and the processing of forest products;

B. Open space and to buffer conflicting uses (See Buffer);

C. Watershed protection and wildlife and fisheries habitat;

D. Soil protection from wind and water;

E. Maintenance of clean air and water;

F. Outdoor recreational activities and related support services and wilderness values compatible with these uses; and

G. Grazing land for livestock.

FORESTRY BUILDING. A building in conjunction with, and necessary to, a forestry operation or forestry management use.

FOSTER HOME. A family home or facility which is licensed by the state in which residential care is provided for five or fewer adults who are not related to the provider by blood or marriage.

FRONTAGE. That portion of a parcel of property which abuts a street or highway.

FUEL BREAK. An area of non-combustible materials or slow burning plants or the absence of vegetation around a structure.

FUEL DEPOT. Any lot or building used for the storage and/or marketing of all fuel products.

GARAGE. A building or a portion of a building permanently constructed for the purpose of enclosing a motor vehicle.

GEOLOGIC BOUNDARY. A line between areas of the earth's surface occupied by rocks or formations of different type or age.

GOALS. The statements identified as such in the LCDC Goals and Guidelines and the Comprehensive Plan of Josephine County.

GOLF COURSE. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more artificial hazards. Special additional definitions apply to golf courses located in the Farm Zones per applicable Oregon Administrative Rules. See Article 64 of this code.

GRADE (GROUND LEVEL). The average of the finished ground level at the center of all walls of a building. Case walls are parallel to and within 5 feet of a sidewalk and the ground level should be measured at the sidewalk.

GREENHOUSE. Building constructed chiefly of glass or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other plants and which shall be classified as an accessory building except in resource zones.

GROUNDWATER. Groundwater is defined by ORS 537.515(3) as: "Any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of this state, whatever may be the geological formation or structure in which such water stands, flows, percolates, or otherwise moves."

GUEST HOUSE. An auxiliary residence constructed on property located in the Rural Residential, Serpentine and Limited Development zones when the following conditions are met: the parcel on which the guest house is placed is at least 2.5 acres in size; the guest house is no more than 500 square feet in size; is attached to or within 50' of the main residence; and is serviced by the same domestic water system, sewage disposal system (as allowed by the Department of Environmental Quality) and utility meters as the main residence. The limitation on the placement of the guest house within 50' of the main residence may be increased by a variance (Article 44), but the other conditions shall not be varied. A guest house may be site constructed or consist of a manufactured dwelling. Only one guest house per legal parcel shall be allowed.

HALF STREET. A portion of the width of a street, usually along the edge of a subdivision where the remaining portion of the street has been, or could later be, provided in another subdivision or partition.

HARDSHIP. For the purpose of obtaining a variance, it is a condition which arises out of the land which may make it difficult for a person to construct a building or install improvements which are in compliance with the provisions of this code.

HEARING. A proceeding to hear a quasi-judicial application or a legislative amendment before a hearing body.

HEARING BODY. That entity which has jurisdiction over a particular hearing.

HEARINGS OFFICER. The Josephine County Land Use Hearings Officer.

HEIGHT OF BUILDING. The vertical distance above finish grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hip roof. The measurement shall be taken from the finish grade of the adjoining sidewalk or ground surface. The height of a stepped or terraced building is the maximum height of any segment of the building.

HIGH VALUE CROP AREA. For the purpose of siting a Destination Resort, means an area in which there is a concentration of commercial farms capable of producing crops or products

with a minimum gross value of $1000 per acre per year. These crops and products include field crops, small fruits, berries, tree fruits, nuts, vegetables, dairying, livestock feedlots, or Christmas trees as these terms are used in the 1983 county and state agricultural estimates prepared by the Oregon State University Extension Service. The "high value crop area" designation is used for the purpose of minimizing conflicting uses in resort siting and does not revise the requirements of Goal 3.

HIGH VALUE FARMLAND. For the purpose of locating a limited lot of record dwelling on farmland and restricting certain uses, means soils that are:

A. Irrigated and classified prime, unique, Class I or Class II; or

B. Not irrigated and classified prime, unique, Class I or Class II; and

C. Tracts growing specified perennial as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to 1993. "Specified perennial" means perennial grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards but not including seed crops, hay, pasture, or alfalfa.

HIGHWAY READY. A recreational vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

HOME OCCUPATION. An occupation or enterprise carried on within a dwelling or accessory building, for financial gain by the tenant in possession of the property; the occupation or enterprise must be accessory to the primary residential use and in compliance with the applicable requirements of this code. A home occupation does not include operations which meet all of the following criteria:

A. The person is engaged in making objects in the residence which are sold elsewhere including but not limited to arts and crafts, quilting, and/or sewing toys; or

B. The person is engaged in a mail order business including but not limited to selling Avon or other cosmetics, Fuller Brush, toys, other items; or

C. The person offers a service which is conducted within the residence including but not limited to computer programming, data entry, consulting, accounting, and/or bookkeeping;

D. The business shall not have any employees;

E. The business shall not have a sign;

F. Customers shall not be coming to the residence to conduct business.

G. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or trailer

(exceeding 2.5 tons GVW) not including a licensed parcel service or United States Mail.

HOME SCHOOL. Instruction in the home of elementary or secondary education to members of the immediate family and a maximum of 5 additional children, subject to the requirements of a home occupation when not limited to immediate family members.

HORTICULTURE. The science and pursuit of growing plants.

HOSPITAL. An institution providing medical or surgical care to patients, and the related overnight nursing and long-term care requirements arising from that treatment.

HOSPITAL, PET. See the definition herein for VETERINARY CLINIC.

HOTEL. A building which is designed, intended, or used for the accommodation of tourists, transients, and permanent guests for compensation and in which no provision is made for cooking in individual rooms or suites of rooms.

IMPACT AREA. A geographic area within which conflicting uses could adversely affect a significant Goal 5 resource or uses of adjacent property could be affected by a Goal 5 resource. For significant aggregate resources the impact area shall be large enough to include the uses listed at OAR 660-23-180 (4) (b), and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance.

IMPACT AREA AGREEMENT An agreement between a mine operator and owners of property within the impact area of the mine.

IMPROVEMENTS. Include the following:

A. ON-SITE IMPROVEMENTS. Public or private facilities, including but not limited to sanitary sewer systems, water systems, storm drainage systems, streets, and irrigation systems located within the boundary lines of the lot or parcel;

B. ADJACENT OFF-SITE IMPROVEMENTS. Public or private facilities, including but not limited to sanitary sewer systems, water systems, storm drainage systems, and irrigation systems located outside of and adjacent to any boundary line of the lot or parcel;

C. OFF-SITE IMPROVEMENTS. Public or private facilities, including but not limited to sanitary sewer systems, water systems, storm drainage systems, and irrigation systems located outside of and not adjacent to any boundary line of the lot or parcel.

INACTIVE As applied to an aggregate mine inactive means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

INDOOR ANIMAL HUSBANDRY. The continuous, confined housing of livestock in a completely enclosed building with insulation and regulated ventilation and with all waste material to be removed from the building and processed or otherwise disposed of as authorized by law and pursuant to any Conditional Use Permit issued under this code.

INDUSTRIAL. The on-site production of goods and products. Industrial uses include manufacturing, production, processing, assembling, packaging, warehousing, shipping, and receiving of goods and materials, bulk storage of fuels and related materials, and similar uses.

INFRACTION. An offense that results from the violation of a provision of this code, and which is processed and punished consistent with the requirements for infractions.

INSTITUTIONAL USE. Appropriation of water for any organization having a social, educational, or religious purpose.

INTERIOR YARDS. The area enclosed by the designated setback.

IRRIGATION, IRRIGATED. Watered by an artificial or controlled means, including sprinklers, furrows, ditches or spreader dikes. An area or tract is "irrigated" if it is currently watered, or has established rights to use water for irrigation including tracts that receive water for irrigation from a water or irrigation district or other provider.

JUDICIAL NOTICE. A decision by the Presiding Officer to accept as evidence and recognize the existence and truth of certain facts, which may have an impact on the issue or application before the hearing body, and which are universally accepted as true and existing. These facts can be referenced and utilized by the hearing body in a decision, without them being introduced as a formal document into evidence at the hearing.

JUNK YARD. Any property where any person is engaged in the breaking up, dismantling, sorting, or distributing of any scrap, waste, recycled, or discarded material.

KENNEL. A use providing for the commercial keeping, boarding, grooming, breeding or training of smaller domesticated pet animals, such as dogs and cats, that are at least 6 months of age. The keeping of more than six dogs older than 6 months shall be considered a kennel even if not for commercial purposes. The use does not include wildlife sanctuaries, or the keeping of exotic animals under special state or federal permits, or the feeding, breeding and/or management of livestock, poultry or fur-bearing animals when raised as an “agriculture, farming or farm use” as defined in this code. See also the definition for “commercial.”

KITCHEN. Any area within a dwelling or other structure that is designed for the cooking and preparation of food, and which usually contains cabinets, counters, sink, refrigerator, cooking stove, or combinations thereof. In determining whether an area is designed for the cooking and preparation of food, the Planning Director shall consider all of the following factors:

A. Whether the size, location and arrangement of counters and cabinets facilitate the storage, preparation and cooking of food; and

B. Whether the number and location of electrical outlets accommodate the layout of kitchen appliances; and

C. Whether the layout and plumbing accommodates the installation of a sink; and

D. Whether the area functions as an independent living space because of intervening construction features and/or separate outside entry and exit; and

E. Whether the area is served, or set up to be served, by 220 wiring or gas piping that can be used for a cooking stove; and

F. Whether the area is designed and plumbed to function as a bathroom only.

Before issuing a development permit, the Planning Director shall review and approve the building plan drawings required for the building permit, and once approved, the area shall be constructed as shown and approved.

LANDING STRIP, PERSONAL-USE. See the definition herein for AIRPORT, PERSONAL-USE.

LOADING AREA. An off-street space or berth for the temporary parking of commercial vehicles while loading or unloading.

LODGE. A facility providing temporary lodging in conjunction with outdoor recreational activities.

LOT. A single unit of land that is created by a subdivision of land.

LOT AREA. The total area within the boundary lines.

LOT OR PARCEL, AUTHORIZED. Means a separate unit of land created in conformance with any of the following methods:

A. A parcel of land in a recorded subdivision, legally created under the law in force at the time, as defined ORS 92.010;

B. A parcel in an unrecorded subdivision that was filed with the Department of Commerce in accordance with regulations in effect at the time of filing;

C. A parcel created by a land partitioning as defined in ORS 92.010; or

D. By deed or land sales contract, if there were no applicable planning, zoning, or partitioning ordinances, codes, or regulations.

An authorized lot or parcel does not include a unit of land created solely to establish a separate tax account. See also the definitions herein for BUILDING LOT and TAX LOT.

LOT, CORNER. A lot abutting two streets at their intersection or a single street with a right angle turn.

LOT DEPTH. The average distance between the front lot line and the rear lot line.

LOT, INTERIOR. A lot other than a corner lot.

LOT LINE. The property line separating a lot or parcel from a street, alley or abutting parcel.

LOT LINE, FRONT. The property line abutting a public street is the front lot line. In the case of a corner lot, all property lines fronting a public street shall be considered front lot lines. In the case of a flaglot, the line in the main body of the lot that intersects the flagpole at an angle

shall be the front lot line. Where two property lines intersect the flagpole at angles, the line most parallel to the front of the main residence shall be the front lot line. In cases where parcels do not abut a public street at any point, there shall be no front or rear lot lines and all lines shall be considered side lot lines.

LOT LINE, REAR. The property line most opposite and most distant from the front lot line is the rear lot line. When more than one front lot line exists, then all remaining lot lines shall be side lot lines and there shall be no rear lot line.

LOT LINE, SIDE. Any property line not a front or rear lot line is a side lot line. When a lot does not abut a public street, then all lot lines shall be side lot lines.

LOT, THROUGH. An interior lot having both a front and rear lot line abutting a street.

LOT WIDTH, AVERAGE. The average horizontal distance between the side lot or parcel lines, ordinarily measured parallel to the front lot or parcel line on a rectangular lot.

LOUNGE. A place where the sale and consumption of alcoholic beverages occurs in conjunction with a food service operation.

LOWEST FLOOR. The lowest floor or the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this code found at Section 69.160.

MAJOR PUMP TEST. A water quantity test designed to measure the extent of drawdown and recovery in a well(s) and to produce and measure a cone of depression where possible with the pump or a comparable pump installed to accommodate the proposed use.

MANUFACTURED DWELLING. A manufactured dwelling is the term used to describe all three of the following types of manufactured structures:

A. RESIDENTIAL TRAILER. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962 with a minimum size of at least 8 feet by 32 feet;

B. MOBILE HOME. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;

C. MANUFACTURED HOME. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards, (HUD standards), and regulations in effect at the time of construction.

MANUFACTURED DWELLING PARK. Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. It does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by Josephine county under an Ordinance or code adopted pursuant to ORS 92.010 to 92.190.

MANUFACTURING. The fabrication, production, or making of goods by hand or machine to a useable form.

MAP. A diagram, drawing, or other writing that depicts the arrangement of lots or parcels.

MARKETING. An activity or use in which the main object is the promotion and sale of products or services. Marketing may involve the preparation of products for shipment or sale and may include wholesale, retail or warehouse operations.

MASS GATHERING. The organized gathering of 100 or more persons when the gathering is not authorized by some other planning permit approval. Family weddings, reunions and funeral gatherings of the owner of the property, as well as events held in public parks, shall not be considered mass gatherings. Mass gatherings shall be allowed as a permitted temporary use in all zoning districts.

MEMBERSHIP OWNED RECREATIONAL AREA. A privately owned development on a single parcel, providing temporary accommodations such as campsites or recreational vehicle spaces.

METES AND BOUNDS. The boundary lines of a lot or parcel of land with their terminal points and angles which are described by listing courses and distances of the boundaries. Usually produced through a survey done by a licensed surveyor.

MINERALS (INCLUDING AGGREGATE). Any substance excavated from natural deposits in land or water for industrial, commercial or construction purposes. The term includes soil, coal, clay, stone, sand and gravel, lime, metallic ore and any other similar solid substance. Deposits of sand and gravel, stone, shale, lime and other hard minerals may also be referred to as aggregate. This definition slightly expands the definition for minerals contained in ORS 517.750(7).

MINIMIZE A CONFLICT. With regard to the implementation of statewide Goal 5, to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels) to "minimize a conflict" means to ensure conformance to the applicable standard.

MINING AREA. The area at a mineral and/or aggregate site in which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.

MINING. The extraction and processing of mineral or aggregate resources in all zones where it may be permitted including the Exclusive Farm Zone, in the manner provided under ORS 215.298(3) (*Mining in Exclusive Farm Zones*) as it is described on the effective date of this code or as it may be amended. That is, mining of aggregate resources includes all or any part of the process of extraction by the removal of overburden and the extraction of aggregate deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. Mining does not include the following activities:

A. Excavation conducted by a landowner or tenant on the landowner's or tenant's property for the primary purpose of reconstructing or maintaining access roads to the property.

B. Excavation or grading occurring in the process of farm or cemetery operations at the site of the farm or cemetery.

C. Excavation or grading conducted within a road right-of-way or easement for the primary purpose of road construction, reconstruction or maintenance of the road right-of-way or easement where the excavation or grading occurs.

D. Excavation of minerals in conjunction with site preparation for other development which has been authorized by a county Development Permit. The excavation may be in conjunction with plans for building pad, parking, landscape and drainage improvements, or other similar development activities.

MINING SITE. The area at a mineral and/or aggregate site in which mining is permitted or proposed, including undisturbed buffer areas or areas on a parcel where mining is not authorized.

MINOR PUMP TEST. Same as a major pump test but of lesser duration. See Article 84, *Water Standards.*

MODULAR UNIT. A prefabricated structure other than a manufactured dwelling, that meets the state building code standards for a given occupancy, and is transportable to a building site in distinct modules or units.

MORTGAGE LOT. A parcel or lot created to provide security for the purchase price of that parcel, lot, or an improvement on the parcel or lot, which does not involve transfer of legal title and possession.

MORTUARY. Facility for funeral and interment services including crematories, funeral homes, and related facilities.

MOTEL. A building or group of buildings containing guest rooms or units with accompanying automobile parking including auto courts, motor courts, motor hotels, and similar designations, intended or used primarily for the accommodation of transients.

MOTOR HOME. See the definition herein for RECREATIONAL VEHICLE.

NATIONAL WILD AND SCENIC RIVER. A national wild and scenic river system, instituted by Act of Congress, and designated as wild, scenic, or recreational rivers by or pursuant to an act of the legislature of the state or states through which they flow, that are to be permanently administered as wild, scenic, or recreational rivers by an agency or political subdivision of the state or states concerned without expense to the United States, that are found by the Secretary of the Interior to meet the criteria established in the Act and such criteria supplementary thereto. The Wild, Scenic, and Recreational segments of a river are defined as follows:

A. WILD RIVER AREAS. Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted;

B. SCENIC RIVER AREAS. Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads;

C. RECREATIONAL RIVER AREAS. Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

NATURAL AREAS. A designated physical or biological unit.

NEW CONSTRUCTION. Structures for which construction has started on or after the effective date of this code. Regarding flood hazard requirements, see the definition herein for START OF CONSTRUCTION.

NEW WELL. Any well drilled or altered for the purpose of new construction after the effective date of this code.

NOISE OR DUST SENSITIVE USE OR STRUCTURE. A term used to refer to uses or structures authorized in the vicinity of mining operations which are sensitive to the noise and dust impacts because they involve human occupation. Examples of such uses are residences, churches, hospitals, care facilities, schools, libraries, campgrounds and other uses generally open to the public. Forest and farm uses are not considered to be noise or dust sensitive unless a contrary determination is established in the Goal 5 process. Noise or dust sensitive uses or structures are a conflicting use with regard to aggregate mining.

NON-FOREST LAND OR NON-COMMERCIAL FOREST LAND. An authorized lot or parcel of land that has been evaluated using the Internal Rate of Return formula, and as a result of this evaluation, has been determined to be non-forest land. See Section 46.040, *Non-Resource Land Criteria*, of this code.

NON-CONFORMING LOT, OR STRUCTURE. A parcel of land or a structure which lawfully existed prior to adoption of this code, but which does not presently meet the standards for lot area, dimension, setbacks, or other requirements in this code.

NON-CONFORMING USE. Any use which lawfully existed prior to the adoption of this code, but which does not presently meet the requirements of this code that are applicable to the use.

NON-CONFORMING USE, ALTERATION OF. Means a change regarding a non-conforming lot, structure or use that complies with the requirements of Section 13.050 of this code and any applicable state law.

NON-COMPLIANCE, CONTINUING. A failure to comply with any part of this code which occurs on more than one day during any period of time of three months or less.

NON-COMPLIANCE, NON-CONTINUING. A failure to comply with any part of this code which is not a continuing noncompliance.

NURSING HOME. See the definition herein for CONVALESCENT HOME.

OAR. Oregon Administrative Rules.

OFFENSE. A violation of the provisions of this code.

OFFICE. A building, use, or structure designed for use by businesses and professions for the performance of their day to day functions including medical and dental clinics and other professional offices, but excludes laboratories, kennels, and offices incidental to a primary use such as warehouses, storage facilities, and small manufacturing facilities.

OFFICIAL MAP. The map or maps upon which locations are located in detail and with exactness, so as to furnish the basis for property acquisition, land use, zoning, or building restrictions.

OPEN SPACE. Any land that is retained in a substantially natural condition or is improved for recreational uses such as golf courses, hiking or nature trails, or equestrian or bicycle paths or is specifically required to be protected by a conservation easement. Open spaces may include ponds, lands protected as important natural features, lands preserved for farm or forest use, and lands used as buffers. Open space does not include residential lots or yards, or streets or parking areas.

OPPONENT. The individual or group opposing the Applicant's request, their attorney, or qualified representative.

ORS. Oregon Revised Statutes.

OUTDOOR STORAGE. The keeping of materials, merchandise, goods, or vehicles outside of an enclosed structure.

OUTDOOR SALES. A use of land for the purpose of retail sales and services, outside of a structure and may include a sales office.

OVERNIGHT LODGINGS. Permanent, separately rentable accommodations which are not available for residential use. Overnight lodgings include hotel or motel rooms, cabins, and time-share units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through a central reservation or check-in service. Tent sites, recreational vehicle parks, mobile

homes, dormitory rooms, and similar accommodations do not qualify as overnight lodgings for this definition.

OWNER. An individual, firm, association, syndicate, partnership, or corporation having any proprietary interest in land for which an application for a land use or land division under these regulations and other applicable law has been filed.

PAPA. A "post-acknowledgment plan amendment."

PARCEL. A single unit of land that is created by a partitioning of land, intended for lease, transfer of ownership, or development.

PARKING AREA. An area containing parking spaces and maneuvering area, not a street or other public way, to be used for parking of motor vehicles.

PARKING SPACE. A delineated area for the temporary storage of motor vehicles.

PARTITION OF LAND. The procedure used to divide non-platted authorized lots or parcels into 2 or 3 parcels within any given calendar year, but does not include:

A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;

B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;

C. The division of land resulting from the recording of a subdivision or condominium plat;

D. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and other state laws applicable to farm and forest lands. However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. If the property line adjustment is approved, it shall be recorded in the Josephine County deed records.

See Article 52, *Land Partitions*, for the specific requirements for partitioning land.

PARTITION PLAT. The final map and other writing containing all the descriptions, locations, specifications, provisions, and information concerning a partition.

PARTY. A person or organization who meets the following criteria:

A. Participates in the hearing or review either orally or in writing; and
B. Either:

1. Was entitled to notice of the application prior to the hearing or review; or

2. Would be adversely affected as defined in Section 11.030 by a final action of the Review or hearing body.

PEDESTRIAN WAY. An area for ingress and egress solely designed for pedestrian use; generally used in conjunction with a commercial or multi-family residential design.

PERFORMANCE AGREEMENT. An agreement between a developer and the Governing Body where the developer agrees to perform certain tasks and make certain improvements to the property as a condition of receiving an approval. The improvements may be done over a period of time and the developer agrees to set aside monies to pay for the improvements. The terms and conditions of a performance agreement are subject to Article 14.

PERMANENT FOUNDATION. An approved structural support system that is capable of resisting flood forces. A building (including manufactured dwellings) is anchored to a "permanent foundation" when it will resist flotation, collapse, or lateral movement produced by a 100-year flood. A permanent foundation may include reinforced piers or block walls, posts, concrete walls, properly compacted fill or other systems of equivalent strength. Dry-stacked concrete blocks do not constitute a reinforced pier.

PERSON. An individual, firm, partnership, corporation, company, association, syndicate, or any legal entity and includes any trustee, receiver, assignee, or other similar representative.

PET. Dogs, cats, birds, and other common household animals generally kept in a residence, and not present in sufficient numbers to constitute a business or create a problem for neighbors.

PLACE OF PUBLIC ASSEMBLY. A structure which is designed for purposes which include deliberation, education, worship, or entertainment for the public at large.

PLANNED UNIT DEVELOPMENT. A planned unit development is a subdivision that is permitted to depart from development and zoning standards otherwise applicable to subdivisions. Departures must be justified by the accommodation of special geographical conditions at the site or by the provision of special benefits or amenities to the residents or public not otherwise required by the applicable regulations.

PLANNING COMMISSION. The Planning Commission for Josephine County, consisting of nine residents of the county who are appointed by the Board of County Commissioners to perform certain advisory and decision-making land use functions as prescribed by the Oregon Revised Statutes and county ordinance.

PLANNING DIRECTOR. The individual appointed by the Josephine County Board of Commissioners to act as the county's Planning Director.

PLAT. The document that contains the final map and other applicable writings, signatures and approvals for the platting or replatting of a subdivision or partition or the platting of a property

line adjustment that is prepared in conformance with this code and other applicable state requirements, and which must be recorded in the county deed records. The final plat is to be distinguished from the tentative plan. See the definition herein for TENTATIVE PLAN.

PLOT PLAN. A drawing, usually prepared to scale, showing accurately and with dimensions of all the structures and uses proposed for a development on a lot or parcel. The plot plan required for the issuance of a Development Permit is described in Section 41.020.

PRESERVE, HUNTING, FISHING. Land set aside for commercial or non-commercial hunting and fishing.

PRESIDING OFFICER. The person who presides over the proceedings of a hearing body, and is charged with the responsibilities as delineated in Article 31 of this code.

PRIMARY SAFETY ZONE: A fuel break extending in all directions around dwellings unless the area extends onto an adjoining lot or parcel where the fuel break may terminate at the property line. See the definition herein for FUEL BREAK.

PRIVATE ROAD. The entire right-of-way for vehicular and pedestrian traffic, which does not provide for continuous and unrestricted rights of the public to travel across.

PROCESSING OF EXTRACTIVE RESOURCES. All operations involved in the removal and preparation of mineral resources for shipment, refinement, sale or personal use.

PROFESSIONAL OFFICE. The place of business of a person engaged in a recognized profession.

PROPERTY LINE. The division line between two units of land.

PROPERTY LINE ADJUSTMENT. The relocation of a common property line between two abutting properties where an additional unit of land is not created and where the existing unit of land reduced in size complies with the zoning requirements for lot size.

PROPERTY OWNER. The person or persons who own property.

PROPONENT. The applicant or a representative acting on behalf of the proponent.

PROTECT. To adopt land use regulations for a Goal 5 resource in order to limit or prohibit new conflicting uses within the impact area of the site.

PUBLIC NEED. A conclusion based upon presentation of findings of fact that substantiate that a specific request is in the best interests of the public in terms of economic, social, and environmental reasons.

PUBLIC ROAD. A road over which the public has a right of use that is a matter of public record.

PUBLIC AND SEMI-PUBLIC BUILDINGS. Granges, community centers, and structures of similar nature and use.

PUBLIC WATER SYSTEM. A system for the provision to the public of piped water for human consumption, if the system has more than 3 service connections or supplies water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by 10 or more individuals per day or is a facility licensed by the Environmental Health Division. A public water system may be further defined by the Environmental Health Division.

QUARTERS. An apartment which is part of an industrial building or mini-warehouse, limited to 1000 square feet, for the purpose of housing a night watchman or a caretaker.

QUASI-JUDICIAL LAND USE ACTION. A land use action that involves the application of criteria in determining approval or denial of the request for a land use, structure or improvement under consideration. See the definition herein for CRITERION (CRITERIA) OF APPROVAL; see also the definition of LAND USE DECISION as set forth in ORS 197.015(10).

QUORUM. A majority of the members of a hearing body appointed by the Board of County Commissioners present at any meeting.

RAMADA. A stationary structure having a roof extending over a manufactured dwelling; the structure may also extend over a patio or parking area for motor vehicles which is used principally for protection from sun and rain.

RECLAMATION. Actions designed to rehabilitate the earth's surface by plant cover, soil stabilization, water resources, and other measures appropriate to the subsequent beneficial use of the reclaimed lands.

RECREATION. Any experience voluntarily engaged in during leisure (discretionary) time from which the individual derives satisfaction.

RECREATIONAL RESORT. A self-contained development providing visitor oriented accommodations and developed recreational facilities.

RECREATIONAL VEHICLE. A vehicle which is identified as a recreational vehicle by the manufacturer, and is licensed as a recreational vehicle by the Department of Motor Vehicles. It is commonly known as a travel trailer, motor home or an RV.

RECREATIONAL VEHICLE PARK. A development designed as temporary siting for recreational vehicles, having limited facilities including potable water and sewer, to serve the users.

RECYCLING CENTER: A facility for the temporary collection, sorting and subsequent transport of non-putrescible solid waste. This use includes compacting of collected materials, but does not include any of the other processing activities described within the definition of *Resource Recovery Facility.* Recycling centers are subject to special review procedures and standards for operation contained in Article 86 of this code.

REINFORCED PIER. A pier that has, at a minimum, a footing adequate to support the weight of a manufactured dwelling under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled

with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.

RENTAL UNIT. Any dwelling which is occupied, by parties other than the owner, pursuant to a lawfully executed rental agreement, oral or written.

REPLACEMENT WELL. A well constructed for the purpose of being used in conjunction with, or replacing an established well, which over time has declined in capacity and can no longer serve the established needs of the user(s).

REPLAT. The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat, or to increase or decrease the number of lots in the subdivision.

RESIDENCE. See definition herein for DWELLING.

RESIDENTIAL CARE FACILITY. A residential care, residential training, or residential treatment facility, licensed by or under the Oregon Department of Human Resources, for 6 to 15 individuals who need not be related. Staff persons required to meet the Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the facility.

RESIDENTIAL CARE HOME. A residential care, residential training, or residential treatment facility, licensed by or under the Oregon Department of Human Resources, for 5 or fewer individuals who need not be related. Staff persons required to meet the Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the facility.

RESOURCE RECOVERY FACILITY: A facility for the temporary collection of non-putrescible solid waste for the purpose of processing recyclable materials into products. Processing may include the crushing, shredding, chipping, compacting, heating, molding, reforming or re-manufacturing of non-putrescible solid waste alone or in combination with other new or used materials. On-site storage of materials shall be strictly limited to items used or created in the operation of the facility. Resource recovery facilities are subject to special review procedures and standards for operation contained in Article 86 of this code.

RESOURCE STRUCTURE. A building or structure used in conjunction with a forest, farm, or mining operation.

RESTAURANT. Any establishment where food and drink is prepared for sale to the public on or off the premises.

RESTRICTIVE COVENANT. An enforceable promise or declaration given by the owner of real property resulting in the release of some right associated with the use and enjoyment of the property encumbered by the covenant. A restrictive covenant may involve a promise not to object to impacts resulting from resource uses existing or authorized on neighboring lands. The restrictive covenant shall be in writing, signed and notarized and recorded in the real

property records for Josephine County, and is intended to bind the heirs and successors of the owner.

RETIREMENT FACILITY. A building, or group of buildings for elderly residents for which meal service, housekeeping, and activity programs are provided, but for which nursing care is not provided.

REVIEW BODY. Refers to the Planning Director, or any designee of the Planning Director, who is authorized to review requests for land uses, structures or improvements pursuant to the provisions of this code.

RIGHT OF WAY. The area between boundary lines of a street or road.

ROADWAY. The portion or portions of street right-of-way developed for vehicular traffic.

ROAD OR STREET. A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land(s).

ROAD, SERVICE. A road contained entirely within property boundaries and used for internal traffic flow.

ROADSIDE STAND. A temporary structure designed and/or used for display and sale of agricultural products produced on the premises, for food, beverages, and/or produce not grown on the property, or for other goods and services.

RURAL ROADS. Any road outside of an urban growth boundary, built to county standards, including the following types:

A. ARTERIAL STREET. A major street which functions to move large amounts of traffic. Generally consists of four lanes, or two lanes with adequate shoulders, and generally has higher speed limits than collector streets;

B. MAJOR COLLECTOR. A rural road providing service between traffic generators and larger towns or with routes of higher classification, as designated on the Functional Highway Classification maps of Josephine County as periodically revised;

C. MINOR COLLECTOR. Rural roads spaced at intervals consistent with population density to collect and distribute traffic from/to local rural roads and bring all developed areas within a reasonable distance of a collector system as designated on the Functional Highway Classification Maps of Josephine County as periodically revised;

D. LOCAL. A rural road providing access between residential roads and road systems of higher order or providing alternate cross linkage between roads of higher order but not serving as a collector;

E. RESIDENTIAL. A rural road providing direct access to abutting land and access to local rural roads or higher order road systems. The number of lots to be served shall be 60 or less;

F. LIMITED RESIDENTIAL. A rural road providing direct access to abutting land and access to local rural roads or roads of higher order. This is a road intended exclusively for access to abutting property where the number of lots is permanently restricted because one end terminates in a cul-de-sac without a street plug. In areas where the topography is gently rising, less than 15% side slopes, the number of lots served shall be 10 or less and the length is not to exceed 1300 feet. In areas where the terrain is steeper, more than 15% side slopes, the number of lots served shall not exceed 20 lots and the length shall not exceed 2600 feet;

G. RESTRICTED RESIDENTIAL. A rural road providing direct access to abutting land and access to local rural roads of a higher order. This is a road intended to serve a maximum of five (5) lots.

SALE OR SELL. For the sale of real estate, every disposition or transfer of land legally divided, or an interest or estate.

SANITARY LAND FILL. Land used for the disposal of solid waste, in conformance with the requirements of OAR, Chapter 34, Division 61.

SCENIC EASEMENT. The right to control the use of land, including air space above the land, for the purpose of protecting the natural qualities of a designated area. This control does not extend to any regular use exercised prior to the acquisition of the easement without the owner's consent.

SCENIC WATERWAYS. River, or segment of a river, that has been designated as such in accordance with ORS 390.805 to 390.925, or any subsequent Act, and includes related adjacent land (i.e. all land within one-fourth of one mile on each side of a river or segment of river within the scenic waterway, except land that, in the state highway department judgment, does not-affect the view from the waters within a scenic waterway). Designated scenic waterways include the segment of the Rogue River extending from the confluence with the Applegate River downstream a distance of approximately 88 miles to Lobster Creek Bridge, and the segment of the Illinois River from the confluence with Deer Creek downstream a distance of approximately 46 miles to its confluence with the Rogue River.

SCHOOL, PUBLIC AND PRIVATE. An institution of learning which offers instruction as required by the State of Oregon to meet prescribed standards including kindergarten, elementary, secondary, higher education, vocational, and trade schools.

SELF-CONTAINED DEVELOPMENT (for siting a destination resort). A development for which community sewer and water facilities are provided on-site and are limited to meet the needs of the development or are provided by existing public sewer or water service as long as all costs related to service extension and any capacity increases are borne by the development. A "self-contained development" shall have developed recreational facilities provided on-site.

SERIES PARTITION. A series of partitions resulting in the creation of four or more parcels over a period of more than one calendar year.

SERVICE STATION. See auto service station.

SETBACK. A specified distance for the placement of a structure from, including but not limited to, a road, a right-of-way or easement, property line, other structure, septic system, well, river or other waterway, or natural or man-made resource.

SEWAGE DISPOSAL PLANT. The land and the facilities located thereon for the collection, treatment, processing, disposal, management and beneficial reuse of wastewater, treated wastewater and biosolids (sewage sludge) produced in the treatment of wastewater. The facilities include but are not limited to: buildings, storage or stabilization ponds or lagoons, pipes, tanks, basins, pumps, machinery and equipment; structures for enclosing machinery and equipment; all equipment and machinery for the treatment, processing, disposal and management of biosolids, including that used in digesting, dewatering, incinerating, composting, bulking agent grinding, loading conveying, separating, screening, transporting systems, storing or any other facilities which may be needed for wastewater and biosolids treatment, processing, disposal, storage and management. Soil remediation and toxic waste incineration shall not be authorized as part of this definition.

SEWAGE TRANSFER SITE: A facility for the temporary collection of septic tank sewage in holding tanks for transfer to authorized disposal sites. This use involves the pumping of septic sewage from delivery trucks into large, fully enclosed holding tanks for subsequent repumping into larger trucks for transportation away from the site. Sewage transfer sites are subject to special review procedures and standards for operation contained in Article 86 of this code.

SIDEWALK. A pedestrian walkway with permanent surfacing.

SIGN. Any visual device which identifies, describes, illustrates, or otherwise directs attention to a product, place, activity, person, institution, or business, and which is affixed to a structure or the land. Each display surface of a sign, other than 2 surfaces parallel and back to back on the same structure, shall be considered a separate sign; the cumulative area allowed shall be calculated as the area of 1 side. This definition shall not include official notices issued by a court or public body or officer, or directional, warning, or information signs or structures required or authorized by law or by federal, state, or county authority.

SIGN, ILLUMINATED. A sign which is lighted by an artificial light source.

SIGNIFICANT (ADVERSE) IMPACT. A criterion used to determine whether proposed land use activities will inappropriately affect the use or quality of other properties or public facilities. Impacts are significant when they cause serious adverse effects to, or conflict with, other properties in ways that cannot be reasonably mitigated through the imposition of conditions of development or operation. The review body shall judge the significance of impacts based on what a reasonable person would consider serious given the facts and circumstances of the application.

SIGNIFICANT AGGREGATE RESOURCE SITE. An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (A) through (B) of this Section, except as provided in subsection (C) of this Section:

A. Based on a set of samples which in the judgement of an Oregon Registered Geologist is representative of aggregate material in the deposit, the material on the site meets:

1. Oregon Department of Transportation (ODOT) specifications for base rock for air degradation and abrasion; and

2. For material to be used in concrete, Portland cement and asphaltic concrete, the Oregon Department of Transportation (ODOT) specifications for sodium sulfate soundness (ODOT TM 206 test); and

3. The estimated amount of material is more than 60,000 cubic yards; or

B. The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

C. An aggregate site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I, Class II, or of a combination of Class II and Class I or Unique Soil on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996.

D. Paragraph C above does not apply to an expansion area of an existing site if the operator of the existing site had on March 1, 1996 an enforceable property interest in the expansion area.

SILVICULTURE. Systematic management for the production of trees.

SIMILAR USE. A use that is nearly but not exactly the same; having a general resemblance to other uses allowed in a specific zone.

SITE PLAN. A drawing, prepared to scale, showing accurately and with dimensions of all the uses proposed for a development on a lot or parcel. The site plan shall meet the requirements of Article 42 of this code.

SLOW BURNING PLANTS. Plants which are naturally resistant to combustion.

SOILS. The soils identified in the document used by Josephine County to identify soils for development and division purposes is the 1983 SOIL SURVEY OF JOSEPHINE COUNTY, published by the Soil Conservation Service.

SPECIAL FLOOD HAZARD AREA (SFHA). Areas subject to inundation from the waters of a 100 year flood.

STANDARD OF APPROVAL. An objective standard for permit approval that requires the decision-maker to verify the existence or non-existence of certain facts or circumstances by observation or measurement.

STATEMENT OF UNDERSTANDING. A document describing the rights and responsibilities of the applicant in the review of an application.

START OF CONSTRUCTION. For flood administration purposes, means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include the following: land preparation, including clearing, grading, and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers, or foundation or the erection of temporary forms; and the installation on the property of accessory buildings, including garages or sheds not occupied as dwelling units or not part of the main structure.

STORAGE CONTAINER. Any area enclosed or roofed for the purpose of storing personal property, including converted semi-truck trailers and air/sea shipping containers, and modular storage buildings (on or off skids), metal storage sheds, portable sheds or any other similar enclosure. Storage containers, buildings and sheds shall be considered a "structure" for the purpose of meeting accessory structure size limitations and setback and development permit requirements. *NOTE:* Storage containers or sheds not meeting the Uniform Building Code requirements cannot be provided with electrical service.

STREAM. A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

STREET PLUG. An area of land dedicated to the public or deeded to the county as road right-of-way to be used in the future to extend a road or to connect through to another public road. The right to use a street plug in its undeveloped state, or to develop a street plug to a county road, or to use a street plug to connect roads together, is a matter entirely within the discretion of the Board of Commissioners, and any action by the Board to utilize or develop an existing street plug shall be considered a ministerial action as described in Section 22.030 of this code.

STREET, PUBLIC. See the definition herein for ROAD, PUBLIC.

STRUCTURE. Anything constructed, erected, installed or portable, the use of which requires a location on the ground or is attached to something having a location on the ground, including a gas or liquid storage tank that is principally above ground. Outside of the stream setback (§72.040.A), decks, paved or concrete slabs, patios or walkways which are constructed less than 30 inches above grade are not considered structures and Development Permits are not required. Fences which meet the height requirements set forth in Article 73 (*Fences, Walls & Screens*), utility poles, flagpoles, or irrigation system components are not considered structures in any location and Development Permits are not required.

STRUCTURAL ALTERATION. Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

SUBDIVIDE. To affect a subdivision that meets the requirements of this code and other applicable state laws.

SUBDIVIDER. Any person who undertakes proceedings to effect a subdivision of land, including changes in street or lot lines, for the purpose of transfer of ownership or development.

SUBDIVIDE LAND. To divide an area or tract of land into four or more lots within a calendar year. However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided.

SUBDIVISION. Either an act of subdividing land or an area or a tract of land subdivided as defined in this Section.

SUBDIVISION PLAT. A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.

SUBSTANDARD WELL. A well which does not meet the minimum standards for well construction and maintenance as defined by the Oregon Administrative Rules, Chapter 690, Division 200.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL DEVELOPMENT. Actions taken by the permit holder which encompass more than simple site preparation and grading. The permit holder shall have accomplished significant physical development of the site which may include the commencement of one or more services (sewer, septic system, water, storm drainage, parking, roads, etc.). If no physical improvements are required for the conditional use, operation of the project must have begun. The level of development must demonstrate a good faith commitment by the permit holder to beginning the project.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, beginning when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure, the cost of which equals or exceeds 50 percent of the market value of the structure as shown on the current Assessor's rolls or as determined by M.A.I. qualified appraiser either:

A. Before the improvement or repair is started; or
B. If the structure has been damaged and is being restored, before the damage occurred.

C. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SUBSTANTIAL INTERFERENCE. Interference which is caused by use of a groundwater source, which diminishes another groundwater source that is fully developed, to the extent that it will not supply its legally established use.

TAKING. A land use regulation applied to a specific property, such as rezoning, which directly interferes with or substantially disturbs the owner's use and enjoyment of the property, including substantial reduction of economically viable uses of the land, interference with distinct investment-backed expectations, prevention of the best use of the land, or deprivation of a fundamental attribute of ownership. Taking does not include the denial of a land use application or a refusal to grant a permit.

TAVERN. A place where the sale or consumption of beer and wine beverages is the principal activity.

TAX LOT. An area of land utilized for tax assessment purposes. A tax lot shall not be construed to imply that the lot has been created in conformance with applicable land use regulations or that it can be independently developed or sold without conformance with all regulations. See the definitions herein for AUTHORIZED LOT and BUILDING LOT.

TENANT(S) IN POSSESSION. Person(s) responsible for the everyday management of a property.

TENTATIVE PLAN. The preliminary map and other writings submitted for review and approval as part of an application for a subdivision, partition, replat, or property line adjustment.

TEST SUPERVISOR. An employee or representative of Josephine County Water Resources Department that oversees the Major and Minor Pump Tests.

TOP OF BANK. The elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval high water line may be used to approximate the top of bank.

TRACT. One or more contiguous lots or parcels in the same ownership. A tract may include property that is not included in the proposed site for a Destination Resort if the property to be excluded is on the boundary of the tract and constitutes less than 30 percent of the total tract.

TRAVEL TRAILER. See the definition herein for RECREATIONAL VEHICLE.

TRUCK AND HEAVY EQUIPMENT REPAIR. Repair of heavy-duty and commercial trucks, construction equipment and other similar vehicles. Includes the sale, installation, servicing of the equipment and parts, and body repair.

USE. The purpose to which land, structures or other improvements are put to on a lot or parcel of land. For the purposes of this code, a change in tenancy is not considered a change in use. Further, a change of use of a room in a single-family dwelling or duplex is not considered a

change in use unless the change is to facilitate the operation of a home occupation or a Bed and Breakfast Inn.

VARIANCE. A grant of relief from the requirements of this code which permits construction in a manner that would otherwise be prohibited by this code.

VETERINARY CLINIC. Facility providing for medical care and keeping of animals, including a kennel, where overnight accommodation is limited to emergency care and treatment, with laboratories incidental to the operation of the clinic.

VISITOR-ORIENTED ACCOMMODATIONS. Overnight lodging, restaurants, and meeting facilities which are designed to provide for the needs of visitors rather than year-round residents.

VISION CLEARANCE AREA. A triangular area located on a lot abutting an intersection, created by drawing a diagonal line across the lot connecting extensions of the property lines at from the intersection, in which no planting, walls, structures, or obstructions shall be placed that will exceed a height of 3 feet above curb level, or if no curb, from the established street center-line grade. The vision clearance area at all other points is the area between the front property line and a parallel line located at a distance from the property line specified in Section 73.020 of this code.

VISUAL OBSTRUCTION. Any fence, hedge, tree, shrub, device, wall, or structure between the elevations of 3 feet and 8 feet above the curb level, located at a street, drive, or alley intersection which limits the visibility of pedestrians or persons in motor vehicles using the intersection.

WASTE DISPOSAL SITE. Land used for the disposal or handling of solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, composting plants, and disposal sites for septic tank pumping or cesspool cleaning by the public or by a solid waste collection service.

WASTE TRANSFER CENTER: A facility for the temporary collection of putrescible and non-putrescible solid waste for retransportation to an authorized sanitary landfill site, subject to special review procedures and standards for operation contained in Article 86 of this Code. Transfer centers may be operated in conjunction with recycling centers, resource recovery facilities, sewage transfer sites and sewage disposal plants.

WATER OF THE STATE. In Oregon, any natural waterway including bays, estuaries, streams, rivers, creeks, lakes, wetlands, or other area supporting aquatic life. All waters are regulated under the provisions of OAR 141-85-100(24).

WATER QUALITY TEST. A test to determine potability and/or chemical quality of the water.

WAY. A strip of land, whether public or private, providing access to some or all adjoining land ownerships.

WELL. Any artificial opening or artificially altered natural opening, however made, by which groundwater flows under natural pressure or is artificially withdrawn.

WET BAR. An accessory sink, used for convenience and is not used in conjunction with the preparation of food, located within the dwelling. A wet bar has the following dimensions: the maximum size for the sink is 16 inches by 16 inches and is limited to one compartment; the waste line to the sink is limited to 1½ inches in size; and the P-trap is limited to 1¼ inches in size.

WETLANDS. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, under normal circumstances, a prevalence of vegetation typically adapted for life in saturated soil conditions.

WHOLESALE TRADE. Distribution and sale of goods at wholesale. Wholesale trade may include retail trade as an accessory use when wholesale is the dominant use.

WINERY. A winery on property located within a Farm Zone shall must meet the special definitions and rules from ORS 215.452. Specifically, a winery:

A. Means a facility that produces wine with a maximum annual production of less than 50,000 gallons when the facility:

   1. Owns an on-site vineyard of at least 15 acres; or

   2. Owns a contiguous vineyard of at least 15 acres; or

   3. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or

   4. Obtains grapes from any combination of 1, 2, or 3 above; or

B. Means a facility that produces wine with a maximum annual production of more than 50,000 gallons and no more than 100,000 gallons when the facility:

   1. Owns an on-site vineyard of at least 40 acres; or

   2. Owns a contiguous vineyard of at least 40 acres; or

   3. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or

   4. Obtains grapes from any combination of 1, 2, or 3 above; or

C. Allows only the sale of:

   1. Wines produced in conjunction with the winery; and

   2. Items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include those served by a limited service restaurant as defined in ORS 624.010.

D. The vineyards described in A and B above have been planted or the contract has been executed, whichever is applicable, as documented by the applicant prior to the issuance of a permit to establish the winery.

WORKYARD, PUBLIC. An enclosed area for the storage of vehicles and supplies and the provision of maintenance services for public facilities.

WRECKING YARD. See the definition herein for AUTOMOBILE WRECKING YARD.

YARD. A space open and unobstructed from the ground upward and unoccupied.

YARD, FRONT. A yard between the front line of the building (exclusive of steps) and the front property line.

YARD, REAR. An open, unoccupied space on the same lot with a building (exclusive of steps and porches) and the rear line of the lot.

YARD, SIDE. An open, unoccupied space on the same lot with a building, between the side wall line of the building and the side lot line.

ZONE. Classification of land by purpose and use; those specific areas where requirements of density, use, coverage, landscaping, and parking may be applied. May include an overlay zone which applies specific conditions to all uses allowed in a zone based on physical or other characteristics.

ZONE, APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL. The area under the approach, transitional, horizontal, and conical surfaces defined in Part 77, Objects Affecting Navigable Air Space, Federal Aviation Regulations, published by the Federal Aviation Administration (FAA) of the U.S. Department of Transportation.

ARTICLE 12 - ADMINISTRATION

12.010 - SCOPE & COMPLIANCE

No transfer or division of property contrary to the provisions of this code shall occur. No structure or lot shall be used or occupied, and no structure or part of the structure shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this code.

12.020 - CONSISTENCY WITH PLANS AND LAWS

A. This code is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this code and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

B. Actions initiated and approved under this code shall be consistent with the requirements of the Josephine County Comprehensive Plan, the Goals and Policies of the Comprehensive Plan, and any applicable local, state, or federal laws, rules and regulations.

C. The violation of any land use regulation or law existing prior to the effective date of this code shall not be considered a non-conforming use, but shall be considered a continuing violation unless the provisions of this code specifically cure or resolve the violation by changing the applicable requirements.

D. Any use, activity, building, or structure found to be non-compliant, incompatible, or inconsistent with this code shall be considered a violation.

12.030 - OFFICIAL ZONING MAPS

Land use zones defined in this code are depicted on the official county zoning maps as such are maintained in the custody of the Planning Director.

12.040 - INTERPRETATION OF ZONE BOUNDARIES

Where uncertainty exists as to the location or nature of zone boundaries as shown on the official zoning maps, the following provisions shall apply:

A. Where zone boundaries are indicated as approximately following lot lines, center lines, rights of way for highways, streets, alleys, roads, canals, railroads, or contours or other similar landmarks, those lines shall be construed to be the boundaries.

B. The case of unsubdivided property where a zone boundary divides a lot or parcel of land, the location of the boundary when not indicated by dimension or legal description, shall be determined by the Planning Director.

C. Where a public highway, street, or alley or any portion thereof is officially vacated or abandoned, the area compromising the vacated highway, street, or alley shall have applied to it the same zone applied to the property it becomes part of.

12.050 - ALLOWED USES

The following uses shall be allowed where located in all zones:

A. Existing or functioning highway and road rights of way and areas used primarily for automobile and truck transportation shall be deemed to permit continued use and other uses supportive of the primary use.

B. Railroad rights of way and areas used solely for the purpose of accommodating track, signals and other operative devices and the movement or rolling stock shall be deemed to be zoned to permit continued use.

C. Easements or land areas used solely for electric power line and poles, telephone lines and poles, and gas transmission lines shall be deemed zoned to permit continued use.

12.060 - FEES REQUIRED

Any application for a land use, land division, development decision, or appeal shall be accompanied by a non-refundable fee when prescribed by this code. The amount of the fee shall be decided by the Board of County Commissioners in a separate fee schedule adopted by ordinance.

12.070 - RULES OF INTERPRETATION OF DOCUMENT

A. **Effect Of Provisions:**

1. These provisions are declared to be the minimum requirements, which are binding upon all persons and bodies charged with administering or enforcing this code;

2. Where conditions imposed by this code are less restrictive than comparative conditions imposed by any other local ordinance, code resolution or regulation, or by the provision of state law or state administrative regulation, then the more restrictive shall govern;

3. This code shall not interfere with, abrogate, or annul any easements, covenants, or other agreements between parties. When the private documents impose a greater restriction upon the use of land than are imposed or required by this code, the enforcement of the private documents shall be the responsibility of the parties signing the documents;

4. A signed application, appeal, or other document may be faxed to the Planning Office and will be accepted as a legal document, provided it is received and stamped in by 5:00 p.m. the day it is due.

B. **Language Used In This Code:**

1. As used in this code, the singular includes the plural; the words "can" and "may" are discretionary; and the words "will", "shall" and "must" are non-discretionary;

2. Whenever a certain hour or time of day is specified in this code, or any permit, condition of approval, or notice is issued or given, that hour shall be standard time or daylight savings time, whichever is in current use in the county;

3. Time deadlines in this code shall be computed with day 0 beginning on the date a document is postmarked or delivered or otherwise made public, and ending at 5:00 p.m. on the last working day of the notice or time period. If the last working day is on a holiday, the notice period shall run until 5:00 p.m. on the following regularly scheduled working day. Day shall mean calendar day unless otherwise specified in this code;

4. Whenever this code requires consideration of distances, or parking spaces, or other aspects of development or the physical environment expressed in numerical quantities which are fractions of whole numbers, those numbers are rounded to the next highest whole number;

5. "Filing" or "submitted" for the purposes of this code shall mean that all required documents have been received by the Planning Department by any deadline required in this code, order, or condition of approval.

12.080 - EDITORIAL REVISION

The County Legal Counsel or District Attorney may at any time direct changes be made to any currently maintained copies of this code to comply with new or amended acts of the Legislature, pursuant to ORS 173.160, provided the editorial revisions are initiated by written memorandum filed with the County Clerk, and are subject to approval by the Planning Commission at its next regular meeting.

12.090 - DUTIES OF THE PLANNING DIRECTOR

In order to implement the Oregon Revised Statutes and carry out those mandates, the Planning Director shall have the authority and duty to administer and interpret the provisions of this code. Duties of the Planning Director shall include, but not be limited to:

A. Permit Review:

1. Review all Development Permits to determine that the permit requirements of this code have been satisfied;

2. Review all Development Permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;

3. Issue all types of permits as required in the provisions of this code.

B. The Planning Director shall perform the Permit Review Procedures as authorized in Article 22.

C. The Planning Director shall perform the following duties pertaining where applicable, to site review, administrative reviews, and public hearings:

1. Refer and schedule applications to the appropriate Review or hearing body;

2. Conduct the correspondence of the Review or hearing body;

3. Give notice in accordance with Article 32;

4. Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement, and continuances, and a summary of action taken by the Review or hearing body;

5. Prepare and maintain findings of fact and/or minutes of public meetings conducted under this code;

6. Mail a copy of the final order to the applicant and any representative;

7. Mail a notice of decision to all parties participating in the review or hearing processes and have a copy of the decision available for public inspection.

D. The Planning Director may delegate the authority to review, process, and issue Development Permits, temporary use permits, variances, Conditional Use Permits, plan and zone changes, and to conduct site plan review. The Director may delegate other functions as deemed necessary.

E. The Planning Director may refer any application to a higher level or standard of review, or have any application or matter affecting this code to public hearing review by the Planning Commission, the Hearings Officer or the Board when:

1. The comments received raise substantive issues based on the decision criteria for the application which are listed in the notice; or

2. At the discretion of the Director.

ARTICLE 13 - NON-CONFORMING LOTS, USES & STRUCTURES

13.010 - NON-CONFORMING LOTS OR PARCELS

A. The minimum area or width requirements of this code shall not apply to non-conforming lots or parcels. An authorized lot or parcel may be occupied by any use or structure as may be otherwise authorized pursuant to the requirements of this code.

B. No lot area, yard or other open space existing on or after the effective date of this code shall be reduced in area, dimension, or size below the minimum required by this code.

C. The general lot size or width requirements of this code shall not apply when a portion of a tax lot under single ownership is located in an area subject to an exception from statewide planning goals and is isolated from the part of the property by a public road.

D. When the lot size deficiency is entirely the result of a portion of the original parcel having been removed for public roadway purposes, or bona fide survey defects, the owner may partition the parcel into 2 or 3 lots of nearly equal size, provided the septic site evaluation is satisfactory and all other lot requirements are met. For the purposes of this subsection, the records of the County Assessor's Office or an independent survey by a property owner shall be used to establish acreage figures.

E. Lots which were legally created prior to June 29, 1973, and which do not meet the current minimum frontage, lot width or lot sizes required for the zone, are deemed acceptable for development.

13.020 - NON-CONFORMING USES

A. If a non-conforming use is discontinued from active use for a period of one year, further use of the property shall be for a conforming use.

B. If a non-conforming use is changed, it shall be changed to a use that conforms to the regulations of the zone in which it is located, and after change, it shall not be changed back again to any non-conforming use.

C. If a non-conforming use is interrupted or ceases to operate for a period of one year, it may not be resumed unless the resumed use is in compliance with the requirements of the zone in which the lot or parcel is located, or the change is authorized as an alteration pursuant to Section 13.050 below.

13.030 - NON-CONFORMING STRUCTURES

A. Subject to the provisions of Sections 13.040 and 13.050, a lawful non-conforming structure may be altered or maintained.

B. If a building or structure is non-conforming due to failure to comply with a yard or location requirements and that building or structure is proposed to be altered or enlarged, any alteration or enlargement may occur only to the extent that it conforms

with all other requirements of this code, and does not cause any further violation of the provision to which it is non-conforming.

C. The provisions of this code shall not apply to applications for uses or structures which are submitted prior to the date of adoption, except when the uses or structures do not commence within 2 years from the date of approval. A structure shall be considered commenced when all required permits have been acquired and construction begins.

D. If a non-conforming structure is removed from the property for a period of one year, the structure may not be replaced unless the replacement conforms to the requirements of the zone in which the lot or parcel is located.

13.040 - DAMAGED OR DESTROYED USES & STRUCTURES

A. If a non-conforming structure, or a structure containing a non-conforming use, is damaged by fire or other casualty or natural disaster, the structure may be replaced or restored.

B. Restoration or replacement must begin within one calendar year of the date the use or structure was damaged.

C. The restoration or replacement shall be processed by issuing a Development Permit under the Ministerial Review Procedure, Section 22.030.

D. Unless provided otherwise by another provision of this code, restoration or replacement that begins more than one year from the date the use or structure was damaged must conform to all the requirements of this code and other applicable law.

13.050 - ALTERATION OF A NON-CONFORMING USE OR STRUCTURE

Alteration of a non-conforming use or structure may be allowed or restricted as follows:

A. The initial decision on a proposal for the alteration that is necessary to reasonably continue the use shall be made using Planning Director and Quasi-Judicial Review Procedures as described in Article 22.040;

B. An “alteration” of a nonconforming use includes:

1. A change in the use of no greater adverse impact to the neighborhood; and

2. A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

C. An alteration that results in adverse impacts to the neighborhood may be mitigated by special conditions of approval so as to render the impacts less than adverse.

D. For the purpose of verifying the nature and extent of a lawful nonconforming use, the applicant may not be required to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of the application.

13.060 - DETERMINATION OF A NON-CONFORMING USE

A. Any person may apply to the Planning Director for a determination of the existence and/or extent of a non-conforming use.

B. A request for a determination shall include:

1. An application on forms provided by the Planning Office;

2. The application shall clearly state the purpose of the request, and why the determination is requested;

3. Contain a statement of facts relating to the non-conforming status, including all documents, records, photographs, affidavits or other evidence supporting the statement;

4. Be accompanied by a fee equivalent to a request for the alteration of a non-conforming use.

C. The application shall be processed under the Quasi-Judicial Review Procedures set out in Article 22.

ARTICLE 14 - PERFORMANCE AGREEMENT

14.010 - PURPOSE

The purpose of performance agreements is to ensure that improvements or actions required by this code are made, and that neither the county or other affected property owners will incur the costs.

14.020 - IMPROVEMENTS

A. The review and/or hearing body may specify and require road improvements or repairs, infrastructure improvements or repairs, or other site improvements or repairs to be installed prior to final approval of any development. The review and/or hearing body may require that applicants or developers enter into a performance agreement with the county for completion of required improvements or repairs.

B. The review and/or hearing body may specify the installation of site improvements as a condition of approval. The review and/or hearing body may require that applicants or developers enter into a performance agreement with the county for completion of required improvements.

14.030 - PERFORMANCE AGREEMENT

A. The Director of Public Works or the Planning Director may enter into an agreement, with security, allowing the applicant to install improvements or repairs over a period of time not to exceed 2 years from the time of filing a final plat, and may attach specific performance conditions to the agreement.

B. The Director of Public Works or the Planning Director may enter into an agreement, with security, allowing the applicant to install required improvements or perform an action required by this code within a specific time period, and may attach specific performance conditions to the agreement.

C. A bond or other security acceptable to the Director of Public Works or the Planning Director, shall accompany any performance agreement. The bond or other security shall be one of the following:

1. A bond or other security;
2. Cash or a certified check;
3. Time deposit certificate payable to Josephine County;
4. Savings account assignment to Josephine County;
5. An irrevocable letter of credit in favor of Josephine County from a financial institution authorized to do business in the State of Oregon, in a form acceptable to Josephine County.

D. The amount of the guarantee to be set for each element of the agreement (i.e. on-site, adjacent off-site, and off-site for basic service) shall be calculated on the basis of a publicly awarded contract including the elements of a construction contract, engineering, and surveying cost, financing and administration charges and contingencies.

E. The amount of the guarantee shall be calculated using a specific engineering plan. When an engineering plan is not available, the amount of the guarantee shall be based on reliable estimates from an established source of the product and/or service to be guaranteed which will be submitted by the developer and agreed to by the Planning Director and the County Engineer, as applicable.

F. The Director of Public Works or the Planning Director may grant special time extensions to a performance agreement, and attach conditions to any special time extension. Such an extension shall not be considered a land use decision and shall not require notice or be appealable.

14.040 - EXECUTION OF PERFORMANCE AGREEMENT

A. Assurance of full and faithful performance of an improvement agreement shall be for a sum calculated in Section 14.030.D & E.

B. In the event the applicant or developer fails to carry out all provisions of the agreement, the county shall:

1. Call on the surety company for full and faithful performance; or

2. Use the deposit or letter of credit to complete the work.

C. If the amount of the bond, deposit, or letter of credit is greater than the cost of completing the work, the county shall release the remainder to the rightful claimant.

D. If the amount of the bond, deposit, or letter of credit is less than the cost of completing the work, the applicant shall be liable for the difference, and upon demand, shall pay any liability to the county.

E. The bond or other security listed in Section 14.030.C shall be payable or released to Josephine County upon the county's certification of the applicant's failure to comply with the performance agreement.

CHAPTER 2 — REVIEW PROCEDURES

Ordinance 99-3, Effective August 10, 1999

ARTICLE 20 - BASIC PROVISIONS

20.010 - PURPOSE

The purpose of this Chapter is to establish the procedures to be used in the review of various land use applications and the issuance or denial of land use permits in Josephine County. It is an objective of this Chapter to ensure that the level of private and public resources required to accomplish the requirements of this code shall be proportional to the scope and intensity of impacts associated with specific land uses. The following procedures are designed to establish efficient and effective levels of service to affected property owners, developers and involved public and private agencies and organizations.

20.020 - TYPES OF REVIEW

The following types of review are established:

A. Pre-Application Review

B. Director Review

C. Hearings Officer Review

D. Planning Commission Review

E. Board Review

20.030 - GENERAL PROCEDURES

A. When a land use proposal involves multiple applications, the applications shall be processed together using the highest level of review procedure required by any one of the consolidated applications. Each application shall require full pre-application and application review as required by this code, to include the payment of all respective pre-application and application fees. Notices may be consolidated whenever it is efficient and convenient to do so. Findings of approval or denial may be consolidated into a single document as long as all applicable standards and criteria are identified and addressed as required by law.

B. Notwithstanding subsection A above, the Director may require the separate process of applications whenever the Director determines that the advantages of consolidated review are outweighed by complications, confusion or administrative burdens to the review body, the county or other participants.

ARTICLE 21 - PRE-APPLICATION REVIEW

21.010 - PURPOSE

The purpose of pre-application review is to familiarize applicants and others with the procedures, standards, criteria and the various requirements of other affected agencies or jurisdictions that may apply to specific land use applications, and to assure that every application is complete and ready for processing when formally submitted. Pre-application review may include one or more conferences with planning staff, as well as informational correspondence. Pre-application review shall take place prior to formal filing of all applications.

21.020 - CONFERENCES AND CORRESPONDENCE

Persons who desire information regarding a land use permit or a determination regarding the administration of any provision or requirement of this code, as well as other planning duties imposed by ordinance or law upon the Director, may apply for pre-application review. At the request of the applicant or the Director, one or more meetings may be scheduled with a planner to discuss the request. In all cases, unless waived by the applicant, the Director shall furnish a written response that identifies and describes application procedures, fees, standards, criteria, rules and laws, comments and recommendations, along with a list of other agencies or departments that may also have possible jurisdiction over the request.

21.030 - DISCLAIMER

Pre-application review is intended to identify tentative requirements, comments or recommendations regarding applications and must not be considered final or binding in any regard. Full application review may include notice to neighbors, neighborhood or area citizen's groups, affected agencies, departments or organizations which can, along with further staff review, disclose new or different information that can affect final requirements or recommendations. Pre-application comments or correspondence shall not authorize site improvements or be used to support the purchase of property or other kinds of investment. Final approval by issuance of all necessary permits is absolutely required before any development or land use activity covered by this code is authorized.

21.040 - SCOPE OF REVIEW

The pre-application review may cover the following topics:

A. Requirements for filing an application, including application forms, fees, and the submission of factual documentation about the proposal;

B. Procedural requirements for review and/or hearing the proposal;

C. Substantive review standards and criteria;

D. Opportunities and constraints regarding the proposal which result from the policies and regulations contained in this code and other applicable federal, state or county rules, resolutions, ordinances, technical manuals and codes, as such may be reasonably ascertained within the limits of pre-application review;

E. Other issues which may be appropriate.

21.050 - NOTICE, HEARING & APPEAL

The requirements for notice, hearing and appeal as provided by this code shall not apply to requests for pre-application review.

ARTICLE 22 - PERMIT REVIEW PROCEDURES

22.010 - PURPOSE

The purpose of this Article is to establish the procedures to be used for the processing of permit applications for land uses in Josephine County.

22.020 - RULES OF PROCEDURES

The general rules of procedure contained in Articles 12 *(Administration)*, 20 *(Basic Review Provisions)*, 21 *(Pre-Application Review)*, 30 *(Basic Provisions)*, 32 *(Public Notice)*, 33 *(Appeal of Decisions)*, 40 *(Basic Application Provisions)*, 41 *(Administration of Permits)* and 42 *(Site Plan Review)* shall apply, where appropriate, to the Director's review of permit applications. The review of applications by the Hearings Officer or the Planning Commission shall also conform to the requirements of Articles 23 *(Hearings Officer Review Procedure)* and 24 *(Planning Commission Review Procedure)*.

22.030 - MINISTERIAL REVIEW PROCEDURES

A. This review shall apply to permit requests involving the application of clear and objective standards for approval, and which are therefore considered ministerial. Ministerial review shall not involve the interpretation of criteria or the exercise of policy or legal judgment.

B. Ministerial review shall not require public notice or hearing.

C. The Director shall review all ministerial applications to determine compliance with applicable standards. If the Director determines an application is complete and that it complies with relevant standards, the application shall be approved.

D. The Director may refer ministerial applications to a higher level of review pursuant to the authority granted in Article 12.090.E, including site plan review pursuant to Article 42.

E. The Development Permit shall document the Director's final action on ministerial applications subject to the rules set forth in Article 41, *Administration of Permits*.

F. Unless specifically provided otherwise in this code, a decision to deny a permit utilizing Ministerial Review Procedures may be appealed by the applicant only to the Board, subject to the rules and procedures contained in Article 33 applicable to the appeal of decisions by the Director.

22.040 - QUASI-JUDICIAL REVIEW PROCEDURES

A. This review shall apply to all permit requests which constitute land use decisions because the decision to issue or not issue the permit requires the interpretation of criteria or the exercise of policy or legal judgment. The Director, the Hearings Officer and the Planning Commission are authorized to review and approve permits that require Quasi-Judicial Review. The Director shall be the review body unless the Director refers the application to a higher level of review as authorized by this code, or review authority is specifically

granted to the Hearings Officer, Planning Commission or the Board elsewhere in this code.

B. All Quasi-Judicial applications shall comply with the following procedures:

1. A permit request requiring Quasi-Judicial Review shall be initiated by filing a request for pre-application review on forms provided by the Planning Department, together with a pre-application fee.

2. During pre-application review the application materials shall be reviewed pursuant to Article 21 to determine completeness. If the application is complete, or becomes complete, the applicant shall submit all required fees in full. If the information is not complete or fees are missing, the applicant shall be notified in writing of exactly what information and/or fees are missing. The application shall be deemed complete upon receipt of the missing information and/or fees; or, if the applicant refuses to submit the missing information, the application shall be deemed complete the 31st day after the application and fees are received and accepted.

3. The Director is authorized to require site plan review pursuant to the rules contained in Article 42, to include the payment of the appropriate site plan review fee.

4. For all applications requiring site plan or public hearing review, the Director shall determine whether a wetland is located on the property pursuant to an officially adopted wetlands inventory. If it is determined that an official wetland is shown on the site, the Planning Director shall notify the division of state lands (DSL) on forms provided by it within 5 working days from when the application is deemed complete. A copy of the form shall be sent to the applicant as notification that special permits relating to wetland protection may be required.

5. The Director shall mail notice of an application to all persons within the notice area as required by Article 32. All comments or objections relating to the application shall be submitted in writing within 15 days from the mailing of the notice in order to be included in the review, or to establish party status for appeal purposes.

C. In those cases where the Director is the review body:

1. The Director shall evaluate the application, public and agency comments or objections, if any are received, and the planner's report from site plan review (when required), and then determine whether the application complies with the applicable standards and criteria contained in this code, with or without conditions for development.

2. The Director's decision shall be rendered in the form of written Findings of Fact and Decision and shall be entered into the Director's file. The Director is authorized to approve, approve with conditions or deny the request.

3. Written notice of the decision shall be mailed or delivered to all parties to the action. The decision may be appealed to the Board of County Commissioners as set forth in Article 33.

4. A Development Permit may be issued once a decision notice is mailed and the 12 day appeal period ends without an appeal being filed.

D. In those cases where the Hearings Officer, Planning Commission or Board of Commissioners is the review body, permit applications requiring Quasi-Judicial Review shall be processed in accordance with the procedures outlined in subsections B.1 through B.5 of this Section, as well as the applicable provisions of Articles 23 (Hearings Officer), 24 (Planning Commission), and 25 (Board Review), and Chapter 3 on Public Hearings, Notices and Appeals.

ARTICLE 23 - HEARINGS OFFICER REVIEW PROCEDURES

23.010 - PURPOSE

The purpose of this Article is to provide for the conduct of an impartial public hearing by a Hearings Officer for applications which involve significant impacts on the neighborhood and/or facilities and services, or involve complex or difficult legal or factual issues or criteria.

23.020 - APPOINTMENT & DUTIES

A. The Board of County Commissioners shall appoint the Hearings Officer to serve at the pleasure of the Board. The Board may appoint more than one Hearings Officer.

B. The Hearings Officer shall be knowledgeable and proficient in the land use laws and procedures of the State of Oregon and Josephine County.

C. The Hearings Officer is authorized to act on behalf of the Board of County Commissioners in making land use decisions regarding matters of original jurisdiction as granted by this code, or as referred to the Hearings Officer by the Planning Director or the Board.

23.030 - RULES OF PROCEDURE

Public hearings conducted by the Hearings Officer shall follow the procedures for Quasi-Judicial land use hearings as set forth in Article 22, and as further governed by Chapter 3, *Public Hearings, Notice & Appeal.*

23.040 - PUBLIC HEARING & NOTICE

A. The Director shall administer all hearings before the Hearings Officer by scheduling and rescheduling hearings for dates, times and places certain, by providing notices to applicants, neighbors and interested persons and agencies, by providing the Hearings Officer with background and analytical reports regarding each request, and by assigning one or more planners to present staff reports and assist in the conduct of the hearings.

B. The Director shall have authority to continue or reschedule any public hearing to a new place, date and time certain at the request of the applicant when the request is made prior to the issuance of public notice by mail or publication. This authority is permissive and is intended to accomplish basic fairness while minimizing inconvenience. In all cases the Director is authorized to refer the request for a continuance to the Hearings Officer for consideration at the scheduled public hearing.

C. Requests for a continuance made after the mailing or publication of notice for the hearing must be considered by the Hearings Officer at the public hearing. In the event the continuance cannot be given to a place, date and time certain at the public hearing, a re-noticing and/or new publication fee must be submitted within 7 days from when the continuance is orally granted or the application shall be deemed withdrawn.

23.050 - REVIEW & DECISION

A. Public hearings conducted by the Hearings Officer shall be called to order at the date and time specified in the public notice. The hearing shall conform to the requirements of Article 31.

B. The Hearings Officer may grant continuances as needed or helpful to permit a full and fair hearing, and the decision may take into account the special circumstances of any participant in the hearing, as well as the requirement to conclude action on the request (including appeals) within the statutory time limit on land use decisions. The decision to grant or not grant a continuance is not appealable. Applicants can request a reasonable extension of the statutory time limit as a condition of a continuance.

C. The Hearings Officer may continue a hearing to a place, date and time certain to conduct a site visit. The site visit shall be considered a part of the hearing, and shall be open to all participants. The Hearings Officer may make factual inquiries regarding the physical location, layout and other physical features or circumstances of the site from staff, but no substantive testimony shall be received from the parties or witnesses. The Hearings Officer shall summarize the site visit on the record when the hearing reconvenes.

D. The Hearings Officer shall grant continuances or hold the record open as provided in Section 31.120.J of this code.

E. At the conclusion of the hearing, the Hearings Officer may take any one of the following actions: [1] make a decision to outright approve; [2] make a decision to conditionally approve; [3] make a decision to deny the request; or [4] continue the hearing to a date and time or place certain for further evidence or decision only.

F. The final decision of the Hearings Officer shall be in the form of written findings of fact meeting the requirements of state law and Section 31.130.C of this code.

23.060 - APPEAL

Final actions of the Hearings Officer may be appealed to the Board within 10 days from the date notice of the decision is mailed to the participants as set forth in Article 33.

ARTICLE 24 - PLANNING COMMISSION REVIEW PROCEDURES

24.010 - PURPOSE

The purpose of this Article is to provide for the conduct of an impartial public hearing by the Rural Planning Commission for applications which involve significant policy issues having county-wide impact, or which call for review and recommendation to the Board of Commissioners.

24.020 - APPOINTMENT & DUTIES

A. The Board of County Commissioners under the authority of Oregon Revised Statutes shall appoint the members of the Planning Commission to serve terms fixed in length by the Board.

B. The Planning Commissioners shall be appointed subject to the following rules:

1. The members of the Commission shall be residents of the various geographic areas of the county;

2. No more than two voting members shall be engaged principally in the buying, selling, or developing of real estate for profit either as individuals or for a company or corporation;

3. No more than two voting members shall be engaged in the same kind of occupation, business, trade or profession.

C. The members of the Planning Commission shall act on behalf of the Board of County Commissioners in hearings deciding and making recommendations regarding land use applications as authorized by this code.

24.030 - RULES OF PROCEDURE

Public hearings conducted by the Planning Commission shall follow the procedures for Quasi-Judicial land use hearings as set forth in Article 22, and as further governed by Chapter 3, *Public Hearings, Notice & Appeal.*

24.040 - PUBLIC HEARING & NOTICE

A. The Director shall administer all hearings before the Planning Commission by scheduling and rescheduling hearings for dates, times and places certain, by providing notices to applicants, neighbors and interested persons and agencies, by providing the Planning Commission with background and analytical reports regarding each request, and by assigning one or more planners to be present at the hearings to give staff reports and to assist in the conduct of the hearings.

B. The Director shall have authority to continue or reschedule any public hearing to a new place, date and time certain at the request of the applicant when the request is made prior to the issuance of public notice by mail or publication. This authority is permissive and is intended to accomplish basic fairness while minimizing inconvenience. In all cases the

Director is authorized to refer the request for a continuance to the Planning Commission for consideration at the scheduled public hearing.

C. Requests for a continuance made after notice by mail or publication must be considered by the Planning Commission at the public hearing. In the event the continuance cannot be given to a place, date and time certain at the public hearing, a re-noticing and/or new publication fee must be submitted within 7 days from when the continuance is orally granted or the application shall be deemed withdrawn.

24.050 - REVIEW & DECISION

A. Public hearings conducted by the Planning Commission shall be called to order by the presiding officer at the date and time specified in the public notice. The hearing shall conform to the requirements of Article 31.

B. The Planning Commission may grant continuances as needed or helpful to permit a full and fair hearing, and the decision may take into account the special circumstances of any party to the hearing, as well as the requirement to conclude action on the request (including appeals) within the statutory time limit on land use decisions. The decision to grant or not grant a continuance is not appealable. Applicants can request a reasonable extension of the statutory time limit as a condition of a continuance.

C. The Planning Commission may continue a hearing to a place, date and time certain to conduct a site visit. The site visit shall be considered a part of the hearing and shall be open to all participants. The commissioners may make factual inquiries regarding the physical location, layout and other physical features or circumstances of the site from staff, but no substantive testimony shall be received from the parties or witnesses. The presiding officer shall summarize the site visit on the record when the hearing reconvenes.

D. The Planning Commission may grant a continuance or hold the record open as provided in Section 31.120.J of this code.

E. At the conclusion of the hearing, the Planning Commission may take any one of the following actions: [1] make a decision to outright approve; [2] make a decision to conditionally approve; [3] make a decision to deny the request; or [4] continue the hearing to a date and time certain for further evidence or decision only.

F. A final decision of the Planning Commission shall be in the form of findings of fact meeting the requirements of state law and Section 31.130.C of this code. Decisions which constitute a recommendation to the Board shall be in the form of minutes detailing the testimony, arguments and deliberations leading up to the recommendation.

24.060 - APPEAL

Final actions of the Planning Commission may be appealed to the Board within 10 days from the date notice of the decision is mailed to the participants as set forth in Article 33.

ARTICLE 25 - BOARD OF COMMISSIONER REVIEW PROCEDURES

25.010 - PURPOSE

The purpose of Board of Commissioner review procedures is to hear and resolve appeals from decisions by the Planning Director, the Hearings Officer, the Planning Commission (final decisions and recommended decisions), to hear matters of original or assumed jurisdiction, and to hear matters remanded to it from a higher board or court.

25.020 - RULES OF PROCEDURE

Public hearings conducted by the Board shall follow the procedures for Quasi-Judicial land use hearings as set forth in Article 22, and as further governed by Chapter 3, *Public Hearings, Notice & Appeal.*

25.030 - PUBLIC HEARING & NOTICE

A. The Planning Director, in coordination with the Board's office staff, shall administer all hearings before the Board by scheduling and rescheduling hearings for dates, times and places certain, by providing notices to applicants, neighbors and interested persons and agencies, by providing the Board with background and analytical reports regarding the requests, and by assigning one or more planners to be present at the hearing to give staff reports and to assist in the conduct of the hearings.

B. The Director shall have authority to continue or reschedule any public hearing to a new place, date and time certain at the request of the applicant when the request is made prior to the issuance of public notice by mail or publication. This authority is permissive and is intended to accomplish basic fairness while minimizing inconvenience. In all cases the Director is authorized to refer the request for a continuance to the Board for consideration at the scheduled public hearing.

C. Requests for a continuance made after notice is given by mail or publication must be considered by the Board at the public hearing. In the event the continuance cannot be given to a place, date and time certain at the public hearing, a re-noticing and/or new publication fee must be submitted within 7 days from when the continuance is orally granted or the application shall be deemed withdrawn.

25.040 - REVIEW & DECISION

A. Public hearings conducted by the Board shall be called to order by the Chair at the date and time specified in the public notice. The hearing shall conform to the requirements of Article 31.

B. The Board may grant continuances as needed or helpful to permit a full and fair hearing, and the decision may take into account the special circumstances of any party to the hearing, as well as the requirement to conclude action on the request (including appeals) within the statutory time limit on land use decisions. Applicants can request a reasonable extension of the statutory time limit as a condition of a continuance.

C. The Board may continue a hearing to a place, date and time certain to conduct a site visit. The site visit shall be considered a part of the hearing and shall be open to all participants. The Board may make factual inquiries regarding the physical location, layout and other physical features or circumstances of the site from staff, but no substantive testimony shall be received from the parties or witnesses. The presiding officer of the Board shall summarize the site visit on the record when the hearing reconvenes.

D. The Board may grant a continuance or hold the record open as provided in Section 31.120.J of this code.

E. At the conclusion of the hearing, the Board may take any one of the following actions: [1] make a decision to outright approve; [2] make a decision to conditionally approve; [3] make a decision to deny the request; or [4] continue the hearing to a date and time certain for further evidence or decision only.

F. The final decision of the Board shall be in the form of findings of fact meeting the requirements of state law and Section 31.130.C of this code.

25.050 - APPEAL

A land use decision by the Board may be appealed to the Oregon Land Use Board of Appeals as provided by state law.

CHAPTER 3 - PUBLIC HEARINGS, NOTICES & APPEALS

ARTICLE 30 - BASIC PROVISIONS

30.010 - PURPOSE

The purpose of Chapter 3 is to prescribe procedures for the conduct of public hearings, public notice requirements, and the appeal of decisions reached as a result of the review procedures described in Chapter 2.

30.020 - APPLICATIONS

A. All documents, evidence, exhibits and other information relied upon by the applicant in support of a Development Permit or any application reviewed and decided without a public hearing shall be submitted to the Planning Office no later than 5:00 p.m. on the date notice is mailed.

B. All documents, evidence, exhibits and other information relied upon by the applicant in support of an application that involves a public hearing shall be submitted to the Planning Office by 5:00 p.m. 21 days prior to the first scheduled date of the public hearing.

C. If additional documents, evidence, exhibits and other information are submitted in support of an application between the 21st day before the first scheduled date of public hearing and the public hearing, any participant in the hearing shall be entitled to request and receive a continuance of the hearing or have the record left open, subject to the specific rules governing such requests as set forth in Section 31.120.J.

D. Unless a continuance has otherwise been provided, any participant may request any time before the conclusion of the initial evidentiary hearing that the record be left open for at least 7 days after the hearing.

E. Review of an application or a public hearing on an application shall not be scheduled or noticed until the application is deemed complete by the Planning Director.

30.030 - STAFF REPORTS

Staff reports shall be available for public inspection at least 7 days prior to the date of the public hearing.

30.040 - GENERAL PROCEDURES

A. The Planning Director shall develop forms to be used for all applications and the appeal of all applications set out in this Chapter.

B. The burden of proof is on the applicant and/or the appellant to complete the forms and to substantiate the information presented on the application and/or appeal forms.

C. The Planning Director may reject applications or appeals which are not complete.

D. In the context of this Chapter, the term "applicant" shall have the following meaning:

1. When the original review or hearing body hears and decides on the application, the applicant is the person(s) submitting the application;

2. When a decision is appealed, the applicant is the person(s) filing the appeal, unless the appeal results in a *de novo* hearing, in which case the individual or organization submitting the application continues to be the applicant.

ARTICLE 31 - PUBLIC HEARINGS

31.010 - PURPOSE

This Article shall govern the conduct of all quasi-judicial and legislative land use hearings within Josephine County, as well as the Urban Growth Boundary of Cave Junction, which are held or made by the Board or its designates. Such hearings include all proceedings before the Hearings Officer, Planning Commission, or the Board, and may involve comprehensive plan changes, zone changes, subdivision or partition platting, Conditional Use Permit, changes in non-conforming uses, appeals, and the interpretation and administration of ordinances, codes, laws, and items referred by the Planning Director, as well as all other official actions upon application or request.

31.020 - SPECIAL HEARINGS

A. The Planning Director may process any question or decision regarding the administration of this code by a special hearing before the Planning Commission or the Hearings Officer if the issue is complex, will have a substantial impact on the area, or if questions of a substantive nature are raised. The presiding officer of the hearing body assigned to hear the matter shall be consulted before the matter is scheduled.

B. The Planning Director may appoint a special fact-finder(s) to investigate any circumstance or question concerning this code. The Planning Director shall consult with Legal Counsel prior to appointing a special fact-finder(s):

   1. The Planning Director shall establish the scope of the investigation and the procedures which will be followed during the inquiry;

   2. The special fact-finder(s) shall report to the Planning Director and shall submit their results and/or findings as a recommendation to the Director.

C. Notice of a special hearing shall be given in accordance with Article 32.

D. The special hearing shall be conducted according to the rules set out in Article 31.

31.030 - REQUESTS FOR HEARING

A. A hearing as provided in these rules shall be initiated in one of the following ways:

   1. By motion of the Board or the Planning Commission;

   2. By an application filed with the Planning Director in conformance with code requirements and this Article; or

   3. By written directive of the Planning Director.

B. In cases where the hearing is initiated by a motion of the Board or Planning Commission:

   1. The motion shall set forth the specific issue or issues to be considered in the hearing and shall identify, if appropriate, those who will be recognized as parties to the proceedings for the purpose of notice as required by Article 32 of this code.

The motion may relate to new matters, matters for rehearing, or previous decision requiring clarification or explanation;

2. The decision to issue or not issue a motion shall lie entirely within the discretion of the Board or Planning Commission, and the reason or reasons for the action need not be specified in the motion;

3. In all cases, the Board or Planning Commission shall cause notice of the hearing to be given in accordance with Article 32 of this code.

C. In cases where the hearing is initiated by application, the application shall meet all the requirements for the type of application submitted as set out in Chapters 4 and 5.

D. In cases initiated at the direction of the Planning Director, the Director shall prepare a written statement of the matter to be considered. The statement shall include the following:

1. The name of the hearing body that will hear the request, as determined at the Director's discretion; and

2. A statement of the factual background or circumstances giving rise to the request, the applicable criteria, and the issue or issues requiring resolution.

E. In the event the request involves specific property or properties, notice of the hearing shall be given in accordance with Article 32 of this code.

31.040 - NATURE OF HEARING

A. Land use hearings conducted pursuant to this Article which are quasi-judicial administrative determinations shall be conducted according to the rules and procedures governing those actions. All applicants are entitled to a notice of the hearing, to an opportunity to be heard, to present and rebut evidence before an impartial hearing body, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law.

B. Land use hearings conducted pursuant to this Article which are legislative determinations shall be conducted according to the rules and procedures governing those actions. Notice of the hearing shall be published and the public shall be invited to testify, to present and rebut evidence before an impartial hearing body, to have the proceedings recorded, and to have a decision rendered.

C. Hearings held pursuant to this Article are proceedings and the applicant(s) shall appear in person or through an attorney or authorized representative.

31.050 - PRESIDING OFFICER

A. The hearing body shall designate one of its members to preside over the proceedings. The presiding officer shall have the authority to:

1. Regulate the course and decorum of the meetings;

2. Dispose of procedural requests or similar matters;

3. Rule on offers of proof and relevancy of evidence;

4. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations, cross-examination, and rebuttal testimony;

5. Question any person appearing, and allow other members to question the person;

6. Waive, at the presiding officer's discretion, the application of any Section of this Article where the circumstances of the hearing indicate it would be expedient and proper to do so, provided the waiver does not act to prejudice or deny any party their substantial rights as provided in this code or otherwise by law;

7. Take any other actions as authorized by the Board or Commission to appropriately conduct the hearing.

B. All procedural decisions of the presiding officer shall be those of the hearing body unless the presiding officer is overruled by a majority vote of the members of the hearing body.

31.060 - CONDUCT OF PARTICIPANTS

Proceedings shall, at all times, be orderly and respectful. No person shall be heard until they state their name and address for the record. The presiding officer may terminate the hearing when necessary or refuse to recognize anyone who:

A. Is disorderly, abusive, and/or disruptive;

B. Takes part in or encourages audience demonstrations, including applause, cheering, display of signs, or other conduct disruptive of the hearing;

C. Testifies without first receiving recognition from the presiding officer and stating their full name and residential address;

D. Presents irrelevant, immaterial, or repetitious evidence.

31.070 - BURDEN AND NATURE OF PROOF

A. The burden of proof shall be on the applicant. The more a proposed use or structure changes existing land use patterns, or causes impacts on surrounding lands or the community, the greater the burden of proof shall be on the applicant to show the request complies with all applicable criteria. The applicant shall address all of the applicable

standards and criteria as identified by hearing body. Regarding appeals from decisions made after the initial evidentiary public hearing, the burden of proof shall be upon the appellant. Regarding appeals that result in the initial evidentiary public hearing, the burden of proof shall remain with the applicant. The applicant may present rebuttal evidence to the information in the staff report, as appropriate, to meet the requirements of this subsection.

B. The decision of the hearing body shall be supported by substantial evidence in the record. The applicant shall address the required criteria and present evidence as appropriate to the specific proposal. In addition to the standards and criteria for the specific type of application, the hearing body shall deem the following criteria applicable to its decisions:

1. Conformance with the Josephine County Comprehensive Plan to include its Goals and Policies;

2. Conformance with applicable state laws, rules, and regulations pertaining to land use and the specific proposal, including the applicable Oregon Administrative Rules in Chapter 660 and guidelines contained in the statewide planning goals;

3. Conformance with this code, the building code, health code, and similar requirements as they relate to the specific proposal;

4. Conformance with general development considerations, such as the preservation of the character of the area involved, the properties peculiar suitability for particular uses, the conservation of property values, and the current direction of building development;

5. Whether or not a mistake has been made in the original Comprehensive Plan designation;

6. Whether or not a change of circumstances has occurred so that the existing condition within the vicinity of the proposal no longer conforms to the intent of the Comprehensive Plan, or applicable codes.

31.080 - DISCLOSURE RULE

A. **Pre-Hearing/Ex parte Contact:**

1. Members of the hearing body shall avoid significant ex parte and pre-hearing contacts with interested parties to the proposal so that their deliberations and recommendations can be based on the evidence presented at the time of the public hearing. Any contacts shall be revealed at the commencement of the hearing or when identified, and:

   a. If the contacts have not significantly impaired the member's impartiality or ability to vote on the matter, the member shall so state and may participate; or

b. If the contacts have significantly impaired the member's impartiality and ability to vote on the matter, the member shall so state and shall abstain from voting on the matter. The member may be counted for purposes of forming a quorum.

2. Parties to the request may challenge the impartiality of a member of the hearing body based on ex parte contact. The disqualification of a challenged member is discretionary and shall be determined by a majority vote of the unchallenged members. A quorum is not required for a vote of disqualification. In no case shall any member participate in a vote concerning his or her own disqualification;

3. Contact with county staff does not constitute ex parte contact.

B. **Conflict of Interest:**

1. In addition to the ex parte and pre-hearing contacts, no member of the governing body shall participate in any vote on a proposal when:

a. The member (or spouse, brother, sister, child, parent, father-in-law, mother-in-law, or any business in which the member has a financial interest, or any business which the member is negotiating for) has a direct or substantial financial interest in the proposal;

b. The member has an interest in property within the area entitled to receive notice of the public hearing under Article 32;

c. The member has a relationship with the applicant or other participants so that the member is unable to be reasonably impartial in reaching a decision;

d. For any other reason specified by state law;

e. No other official or employee of the county who has a financial interest or other private interest in the proposal shall participate in discussion with or give an official opinion on the proposal without first declaring for the record the nature and extent of the conflict of interest.

2. Parties to the request may challenge the impartiality of a member of the hearing body based on conflict of interest. The disqualification of a challenged member is discretionary and shall be determined by a majority vote of the unchallenged members. A quorum is not required for a vote of disqualification. In no case shall any member participate in a vote concerning his or her own disqualification.

31.090 - CHALLENGE FOR BIAS, PREJUDICE, OR CONFLICT OF INTEREST

A. Any applicant or opponent of a proposal may challenge the qualification of any member to participate in such hearing and decision because of bias, prejudice or conflict of interest.

B. The challenge shall be in writing and shall state the facts relied upon for the challenge.

C. The challenge must be submitted, to the Planning Director not less than 48 hours preceding the time set for the public hearing, unless good cause is shown as to why the submission could not be made in a timely manner.

D. The Director shall attempt to notify the challenged member before the hearing.

E. The challenged member(s) shall have an opportunity at the hearing:

1. To agree with the challenge and withdraw from participation in the Hearing and decision; or

2. To disagree with the challenge and respond orally and in writing.

F. The challenge and any response shall be incorporated into the record of the hearing.

31.100 - PARTIES

A. Person(s) speaking at the hearing shall identify themselves as:

1. A witness only; or

2. A party as defined in Section 11.030; or

3. A county or other public official.

B. Persons appearing at a hearing either orally or in writing (including those representing an organization) shall state at the beginning of their testimony the facts which support their status as a party (as defined in Section 11.030) or a witness:

1. Persons who were not entitled to notice, but who claim party status because they will be adversely affected or aggrieved by the decision, shall identify and document the facts showing how they will be adversely affected or aggrieved. Persons who fail to do so shall be witnesses;

2. At the close of their statement of facts on how they will be adversely affected or aggrieved, the presiding officer will promptly rule on whether that person will be treated as a party or not;

3. The ruling of the presiding officer on this point shall be the ruling of the hearing body unless the hearing body votes to overruled the presiding officer.

4. After party and/or witness status has been determined, anyone challenging the ruling shall be heard immediately and the presiding officer (or the hearing body) may change its decision on party status.

31.110 - RULES OF EVIDENCE

A. All evidence offered and not properly objected to may be received unless otherwise excluded by the hearing body. Evidence received at the hearing shall be of the same

quality as the evidence used by reasonable persons in the conduct of their everyday affairs.

B. All documents or evidence relied upon by the applicant shall be submitted to the Planning Director as specified in Section 30.020.B and shall be made available to the public for inspection.

C. All evidence received by the hearing body shall be made a part of the record of the case, except for matters stipulated to and matters judicially noticeable. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference (if the document so incorporated is a public record not exempt from inspection).

D. Cross-examination shall be at the discretion of the hearing body. Any cross-examination question shall be directed to the presiding officer who will determine if the cross-examination will benefit the hearing body. If the presiding officer determines the question will help in the decision, the presiding officer will ask the question to the party or witness appropriate to answer. In all cases, cross-examination shall be conducted in a non-inflammatory manner. The presiding officer may terminate cross-examination if it becomes disruptive to the hearing.

E. Judicial notice may be taken of any applicable federal, state or local statute/ordinance, rule, regulation, general fact, and/or scientific fact within the experience, technical competence, or specialized knowledge of a member of the hearing body, staff, or technical witness called by either side. Opportunity will be given for rebuttal of these facts.

F. No decision shall be rendered except upon consideration of the whole record, or portions as may be cited by the hearing body, and as supported by, and in accordance with, reliable, probative, and substantial evidence.

G. The hearing body at its discretion may be represented by the Legal Counsel.

31.120 - ORDER OF PROCEDURE

The presiding officer shall conduct the hearing in an orderly fashion within the guidelines in this Section. However, the technical rules of parliamentary procedure shall be avoided so the hearing may be conducted in a clear, simple and fair manner.

A. **Quorum.** The presiding officer shall establish a quorum:

1. If a member of the hearing body must leave prior to the close of the particular proposal at hand, losing the quorum, the presiding officer shall so state, and shall proceed with the hearing for purposes of taking evidence and testimony;

2. The members shall not vote on the proposal until the absent member has reviewed the evidence and testimony taken;

3. At the close of the hearing, the hearing body shall continue the request to a date and time certain for deliberation and decision when the absent member can participate;

4. If the request cannot be continued to a date and time certain during the public hearing, the Planning Director shall reschedule the request as soon as possible and give new notice as set out in Article 32;

5. If a quorum is not present, a hearing body may take action to continue the agenda until a date and time certain.

B. **Commencement.** The presiding officer shall announce the nature and purpose of the hearing, summarize the rules for the conduct of the hearing, identify the name of each applicant, and describe the general nature of each proposal. In addition, the presiding officer shall announce the following:

1. All testimony and evidence must be directed toward the standards and criteria as determined applicable by the hearing body.

2. Any participant who fails to raise an issue in a hearing, in person or by letter, with sufficient specificity to afford the hearing body an opportunity to respond to that issue, is precluded from using the issue in any subsequent appeal of the decision (called the *raise it or waive it* rule);

C. **Abstentions.** The presiding officer shall inquire of the hearing body whether any member wishes to abstain from participation in the hearing on a specific proposal:

1. Any member so abstaining shall identify the reasons for the record and shall not participate in the discussion of, or vote on the proposal;

2. Any member whose participation has been challenged by an allegation of bias, prejudice, conflict of interest, or pre-judgment, or who has been subject to significant ex parte or pre-hearing contacts with proponents or opponents, may make a statement explaining the nature of the conflict or bias for the record, and shall announce whether the member will participate in the hearing as set forth in Section 31.080.

D. **Objection to Jurisdiction.** The presiding officer shall inquire of the audience if there are any objections to the jurisdiction of the hearing body to hear the matter. Objections, if any, shall be noted in the record, and the matter shall proceed or terminate at the discretion of the hearing body.

E. **Criteria.** The presiding officer shall request the planner present at the hearing to present and explain the standards and criteria that must be considered in reviewing the request.

F. **Staff Report.** The presiding officer shall have the planner summarize the staff report and indicate the possible actions that can be taken by the review body.

G. **Proponent's Case.** The presiding officer shall allow the applicant or appellant to comment and present evidence in support of the application or appeal as follows:

1. 10 minutes for the proponent to make introductory comments and present evidence;

2. 5 minutes for each witness called by the proponent;

3. 5 minutes for each audience member speaking in favor of the proposal;

4. 5 minutes for cross-examination of planning staff regarding the Staff Report subject to the general rules of cross-examination set out in Section 31.110.D; and

5. The time allocations for the proponent's case may be adjusted at the discretion of the hearing body to expedite the hearing or promote fairness.

H. **Opponent's Case.** The presiding officer shall allow opponents to comment and present evidence in opposition to the proposal as follows:

1. 10 minutes for a representative of the opponents to make introductory comments and present evidence;

2. 5 minutes for each witness or party to speak in opposition to the proposal;

3. 5 minutes for cross-examination of planning staff regarding the Staff Report subject to the general rules of cross-examination set out in Section 31.110.D; and

4. The time allocations for the opponent's case may be adjusted at the discretion of the hearing body to expedite the hearing or promote fairness.

I. **Rebuttal.** The presiding officer shall allow the applicant to cross-examine the opponent by addressing questions to the presiding officer, and otherwise rebut any new matters presented by the opponents or their witnesses. The hearing body may allow the opponent to offer surrebuttal to the applicant's rebuttal if:

1. The applicant provides new arguments, issues or evidence in the rebuttal; and

2. The opponent's responses are specifically limited to the new arguments, issues or evidence submitted in rebuttal only.

J. **Additional Evidence or Testimony.** Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The following Rules shall govern requests to submit additional evidence or testimony:

1. The hearing body shall grant the request by taking one of the following actions:

   a. **CONTINUE THE HEARING** – For at least 7 days to a date, time and place certain. The hearing body shall allow persons to present and rebut new evidence and testimony at the continued hearing. If new written evidence

is submitted at the continued hearing, any person may request the record be left open 7 days to submit additional written evidence or testimony in response to the new written evidence. The request must be made prior to the close of the continued hearing; or

b. **LEAVE THE RECORD OPEN** – For additional written evidence or testimony for at least 7 days.

2. Whenever the record is left open under subsection 1 above, and new evidence is submitted during the opened period, any participant in the hearing may file a written request for an opportunity to respond to the new evidence. The written request must be filed with the Planning Director on behalf of the hearing body within 7 days after the record closes. The record shall thereupon reopen for at least 7 additional days, during which time any person may submit new written evidence and testimony and raise new issues which relate to the new evidence, testimony or criteria that was submitted during the previous open period. If the Planning Director determines the written request is timely, the Director shall provide appropriate notice to the participants stating the record has been reopened and specify the new date the record will close. All new written evidence and testimony, or statements regarding new issues, shall be delivered to the Planning Director within the reopened period for placement in the record. It shall not be necessary for the hearing body to reconvene or to take formal action on a request to submit additional evidence or testimony when action to leave the record open is required pursuant to these rules. Under these circumstances, authority of the hearing body to reopen the record and to specify the length of time it shall remain open is delegated to the Planning Director.

3. Beyond the mandatory requirements of subsections 1 and 2 immediately above, the hearing body is authorized to grant any other continuance, or leave the record open, subject to whatever reasonable guidelines and time limits it deems necessary or helpful to accomplish its fact finding and deliberating duties.

4. Unless waived, the applicant shall be entitled at least 7 days after the record finally closes to submit final written arguments in support of the application. The final arguments shall be considered part of the record, but shall not include any new evidence.

5. The time required by continuances or extensions under this subsection shall not toll the 120/150 day time limit specified in ORS 215.427 unless the continuance or extension is requested or agreed to by the applicant.

6. For the purpose of these rules, the following definitions apply:

   a. "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.

b. "Evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.

K. **Summation.** The presiding officer shall allow the proponent and opponent 5 minutes, or other reasonable time limit determined by the hearing body, to summarize their arguments.

L. **Discussion.** At the close of the proponent's and the opponent's summation, the Planning Staff shall review the applicable criteria, the evidence submitted, and the staff recommendation. The members of the hearing body shall be allowed to openly discuss the proposal and further question planning staff or any party appearing for or against the proposal.

M. **Close of Hearing.** The presiding officer shall close the public hearing when certain that all of the testimony has been heard, and all questions have been answered:

1. If there should be a need to discuss the proposal with any person who is not a member of the hearing body, the presiding officer shall re-open the public hearing for that purpose;

2. Upon satisfaction of the situation, and an opportunity for comment and/or rebuttal by the proponent, the opponent and staff, the presiding officer shall again close the public hearing.

31.130 - FINAL ACTION

A. At the close of the public hearing, the hearing body may:

1. **ON A QUASI-JUDICIAL APPLICATION:**

a. Approve the application as submitted;

b. Deny the application;

c. Approve the application with certain conditions as it deems appropriate; or

d. Continue the application for further study, a site visit, deliberations, or a decision to a date and time certain.

2. **ON A LEGISLATIVE MATTER:**

a. Approve the matter as submitted;

b. Deny the matter;

c. Approve the matter with conditions as it deems appropriate; or

d. Continue the matter for further study, a site visit, deliberations, or a decision to a date and time certain.

B. The decision of the hearing body shall be made after the hearing is closed and deliberations are completed, and shall be in the form of a motion, duly seconded, and approved by a majority of the members. The presiding officer shall poll each member regarding their vote and the reasons for it. All members shall state their vote for the record.

C. A quasi-judicial decision of the hearing body shall not become final until written findings of fact are prepared and approved by a majority vote of the participating members, signed by the presiding officer or a designate, and mailed as required by Article 33. The findings shall include the criteria, standards for approval, the facts relied on in making the decision, and a statement showing how the facts, when applied to the criteria, justify the final action.

D. A legislative matter shall become final upon the second reading of the Ordinance, in a public meeting. Notice of the adoption shall be sent to DLCD. Local notice of the adoption shall be deemed given by a notice of the date for the second reading by publication.

31.140 - RECORD OF PROCEEDINGS AND DECISIONS

A. The presiding officer of the hearing body shall designate a person to record the proceedings electronically or stenographically. The proceedings shall not be transcribed unless required for appeal, review, or unless otherwise ordered by the Board, Planning Commission or Hearings Officer.

B. All exhibits received in evidence shall be marked or otherwise made readily available and identifiable for purposes of review. Evidence or exhibits of unusual size or bulk, which cannot be conveniently held, shall not be received. All exhibits received into the record shall be retained by the Planning Director on behalf on the hearing body, and shall be made accessible for inspection or copying by interested persons, subject to a reasonable copying fee. When all appeal periods have expired, the Planning Director is authorized to dispose of the exhibits.

C. The Planning Director shall hold all sound recordings made of hearings items for the following time periods after the date of the last meeting on that item. The tapes shall be made available for inspection or copying by interested persons, subject to a reasonable charge for copying:

1. If a meeting is fully transcribed, hold the tapes for 90 days;

2. If the meeting is summarized in minutes, hold the tapes for 1 year;

3. If the meeting is summarized in formal findings, hold the tapes for 5 years;

4. If minutes or findings are not done, the tape cannot be erased and must be kept forever.

D. Findings of the decision are to be compiled for each decision made at a public hearing. The responsibility for preparation of this document shall be determined by the presiding officer of the hearing body at the close of the hearing.

E. Notice of the decision shall be mailed to the participants who are determined in the hearing to have party status, and by courtesy to anyone otherwise requesting notice of the decision. Copies of the findings of decision may be reviewed and copied at the Planning Office (Hearings Officer and Planning Commission decisions) or the Commissioner's Office (Board of Commissioner decisions).

ARTICLE 32 - PUBLIC NOTICE

32.010 - PURPOSE

The purpose of public notice is to provide an opportunity for affected or interested persons to participate in Josephine county's land use review and decision-making process.

32.020 - NOTICE SCHEDULE

A. The Planning Director shall determine the type of notice required for each decision, and may provide additional notice, in such a way that all persons reasonably determined to be potentially affected by a local land use decision receive actual notice.

B. The notice requirements for the various types of land use, development, and land division decisions are set forth in Sections 32.030 through 32.060.

32.030 - MAILED NOTICE

A. **Notice Prior to Decision**. All quasi-judicial land use procedures shall include notice of the proposed action by first class mail at least fifteen days prior to the date of review for all applications processed by the Planning Director without a hearing, or twenty days prior to hearings before the Hearings Officer, Planning Commission or Board of County Commissioners.

1. **PERSONS AND ORGANIZATIONS**. Notice prior to decision shall be given to the following persons and organizations:

a. The applicant and subject property owner;

b. To all property owners, or contract purchasers of record, as shown on the most recent property tax assessment role where such property is located:

[1] Within 100 feet of the property which is the subject of the notice where the property is wholly or in part within an urban growth boundary;

[2] Within 250 feet of the property which is the subject of the notice where the property is outside an urban growth boundary and not within a farm or forest zone;

[3] Within 750 feet of the property which is the subject of the notice where the property is within a farm or forest zone;

[4] To each mailing address for tenants of a mobile home park for an application involving property encompassing all or part of a mobile home park. The applicant shall provide a mailing list of all tenants of the park;

[5] To a public airport owner for a zone change if:

[a] The zone could permit development of a structure greater than 35 feet in height, and the property is inside the runway "approach surface" as defined by the Oregon Department of Transportation; and

[b] The subject property is within 5,000 feet of the side or end of a runway.

[6] To all property owners within 1500 feet of a parcel when a change of comprehensive plan designation and zone change, or a zone change is proposed;

[7] To all property owners within 1500 feet of a proposed quarry, mining, or processing operation;

[8] To the Citizen Advisory Committee, if any are certified in the area the application is located;

[9] Mailed notice may be given to additional individuals and organizations whenever the Planning Director or hearing body determines the additional notice is necessary or helpful to provide fair and effective notice to those who may be adversely affected by the proposed land use decision.

[10] Public agencies providing transportation facilities or services, metropolitan planning organizations and the Oregon Department of Transportation if the proposed land use action will affect the agency's transportation facilities.

2. **CONTENT OF NOTICE PRIOR TO DECISION**. Notices given prior to decisions made by the Planning Director, Hearings Officer, Planning Commission and Board of Commissioners shall contain the following information:

a. The date, time, and location of the hearing;

b. Nature of the application and the proposed use or uses which could be authorized;

c. A list of the applicable criteria from the comprehensive plan, this code, and state goals by reference only. A statement shall be included indicating where the criteria can be viewed or copies purchased;

d. A description of the subject property, reasonably calculated to give notice of its actual location;

e. A statement that failure to raise an issue in a hearing, in person or by letter, with sufficient specificity to afford the review or hearing body an

opportunity to respond to the issue precludes a local or LUBA appeal based on that issue *(raise it or waive it)*;

f. Name of a local government representative to contact and the telephone number where additional information may be obtained;

g. Statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at a reasonable cost;

h. Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided at a reasonable cost;

i. A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings.

B. **Notice After Decision**:

1. **PLANNING DIRECTOR DECISIONS MADE WITHOUT A HEARING**. In cases where the Planning Director makes quasi-judicial land use decisions without a public hearing, the Director shall cause written notice of the decision to be mailed to all persons and organizations as listed in Article 32.030.A.1 above, together with any other additional persons or organizations who will be adversely affected by the proposed decision. The content of the notice shall include, at a minimum, all of the following information:

a. An explanation of the nature of the application and the uses that will be authorized by an approval;

b. The street address or other information that clearly describes the location of the proposed use;

c. The name, telephone number and address of the planner or other person who can be contacted for information about the decision;

d. An explanation that copies of the application, documents, evidence and standards and criteria involved in the decision can be inspected and copied;

e. An explanation that any person who is adversely affected or aggrieved, or who is entitled to receive notice, may appeal the decision pursuant to the requirements of Article 33 *(Appeal of Decisions)* within 12 days from the date of the Planning Director's decision;

f. An explanation that the decision will not become final until the period for appeal has expired without an appeal;

g. An explanation that any person who is mailed notice of the decision cannot appeal directly to LUBA; and

h. The appeal hearing shall be a *de novo* hearing (that is, a fully open, evidentiary hearing that is held "of new").

2. **HEARINGS OFFICER, PLANNING COMMISSION AND BOARD OF COMMISSIONER DECISIONS MADE AFTER A HEARING**. Notice of the final action on a quasi-judicial land use request made at the conclusion of a public hearing shall be given to all participants who established party status in the hearing pursuant to Article 31.100.

32.040 - PUBLISHED NOTICE

Notice by publication shall be given for any quasi-judicial land use application that proposes to change the zone or plan maps for specific properties. Published notice shall also be given for any legislative land use action that proposes to amend any element of the county's comprehensive plan (maps, data bases, goals and policies, land use regulations, etc.). In all such cases, 10 days' advance notice of the hearing shall be published in a newspaper of general circulation in the county or, in the case the plan as it is to be heard concerns only part of the county, it is published in the territory so concerned.

32.050 - CONTINUANCES

Hearings may be continued when necessary to gather additional information, to visit sites, or to respond to new testimony or other evidence presented in a first or subsequent hearing. Additional or further notice shall not be required as long as the date, time and place for the continuation is made during a duly noticed hearing. If an application is continued without setting a date, time and place certain during a duly noticed hearing, the continued hearing shall be noticed in full compliance with the requirements of this Article. New notice required for a continuance may require a renoticing notice fee as required by the hearing body.

32.060 - RECEIPT OF NOTICE

Failure of any person or organization to receive notice shall not nullify a land use decision.

ARTICLE 33 - APPEAL OF DECISIONS

33.010 - PURPOSE

The purpose of this Article is to establish uniform procedures for the appeal of land use decisions made pursuant to this code.

33.020 - APPEAL AUTHORITY

A. Final actions made under the following review procedures may be appealed to the Board of Commissioners:

1. Planning Director - Article 22
2. Hearings Officer - Article 23
3. Planning Commission - Article 24

B. Recommendations to another review or hearing body do not constitute a final action and cannot be appealed.

33.030 - TIME LIMITS, NOTICE REQUIREMENTS & STANDING FOR APPEALS

Final decisions described in Section 33.020 may be appealed to the Board subject to the time limits and noticing and standing requirements as follows:

A. Final decisions by the Planning Director, Hearings Officer, or the Planning Commission may be appealed to the Board by a party filing a statement of appeal with the Planning Director within:

1. 10 days after written notice of the decision is given or mailed for final decisions hearings made by a Hearings Officer or the Planning Commission; or
2. 12 days after written notice of a Planning Director decision made without a public hearing.

B. Notice is deemed given when:

1. It is mailed to the last known address of the party (the date of mailing shall be established by the postmark for the bulk mailing that included the individual notice); or
2. It is personally given to the person or organization.

C. A party shall mean a person or organization deemed by the decision-maker to be a party as defined in Section 11.030. Party status may be challenged on appeal by any party to the appeal, the Planning Director, or the Board. Any challenge shall be settled by the Board as its first order of business in the appeal hearing.

D. Notice for appeal hearings shall be given only to those individuals or organizations that were deemed to have party status in the record for the hearing under appeal, unless the appeal results in an initial evidentiary hearing, in which case notice of the appeal hearing shall comply fully with the requirements of Article 32.030.B.1.

33.040 - STATEMENT OF APPEAL

A. A statement of appeal shall be on a form supplied by the Planning Director and shall contain the following information:

1. How the comprehensive plan, this code, or other applicable federal, state or local law or rule, or evidence, was incorrectly interpreted or applied in the decision;

2. What information in the record of decision was pertinent to the decision, but was not considered by the review body. This may include the comprehensive plan, this code, applicable state law, or other evidence;

3. Each ground or reason for appeal must be separately numbered and explained, and the appeal hearing will be strictly limited to the items specified in the statement of appeal;

B. The ground or reason for the appeal must have been raised at the review or hearing body with sufficient specificity to allow the review or hearing body an opportunity to respond to the issue.

C. The statement of appeal shall be accompanied by the following:

1. The required filing fee;

2. In cases involving an appeal on the record, the statement shall also be accompanied by a deposit, in an amount established by the Planning Director, to cover the estimated cost of producing a typewritten summary of the testimony in the hearing;

3. In the event the deposit is insufficient to cover the cost of the preparation of the typewritten summary, the Planning Director shall mail written notice to the appellant of the balance due;

a. Within 10 days from the mailing of the notice of completion of the summary, appellant shall tender to the Director the balance due for the cost of the summary;

b. Failure to tender the balance is a jurisdictional defect and the appeal shall be dismissed;

c. Any part of the deposit in excess of the actual cost of the summary shall be returned to the appellant.

D. In the event more than one party files an appeal, the Planning Director shall require equal deposits from each appellant. The final cost of the typewritten summary, shall be shared equally by all appellants.

E. Failure to submit a statement of appeal in conformance with the requirements of this Section shall be considered a jurisdictional defect, and the appeal shall be dismissed.

33.050 - EFFECT OF APPEAL

A. Failure to file an appeal within the specified time or in the manner prescribed in Sections 33.030 and 33.040 shall nullify the appeal and the decision shall be final.

B. The effect of an appeal to the Board shall be to stay or suspend the appealed action.

33.060 - STANDING TO APPEAL

In order to have standing to appeal any decision rendered under the procedures of this code, one of the following requirements must be met:

A. **Decisions Made Without A Hearing.** The person or organization seeking to appeal a decision made without a public hearing must demonstrate one of the following circumstances:

1. The person or organization was entitled to notice for the original hearing and submitted written comments or objections into the record; or

2. The person or organization is able to establish before the Board during the appeal hearing that the person or organization was adversely affected or aggrieved by the decision under appeal.

B. **Decisions Made After A Hearing.** The person or organization participated, either orally or in writing, in the hearing under appeal and was granted party status under Section 31.100.B of this code by the presiding officer at the public hearing.

33.070 - APPEAL OF PLANNING DIRECTOR DECISIONS

Appeals from decisions made by the Planning Director without a hearing shall be heard by the Board as a *de novo* hearing (a fully, open evidentiary hearing). Within 14 days from the filing of the statement of appeal, the Planning Director shall prepare a report of the action under appeal, and mail notice to the parties indicating the report is available for inspection and/or copying. The report shall consist of all materials, documents, and exhibits considered by the Planning Director in taking the action, including the final action under appeal, if one exists. The Planning Director is authorized to charge a reasonable fee for the preparation and copying of the report.

33.080 - APPEAL OF HEARINGS OFFICER OR PLANNING COMMISSION DECISION

A. Appeals from decisions made by a Hearings Officer or the Planning Commission shall be to the Board, and shall be confined to the record made at the hearing under appeal. The record shall include:

1. All materials, pleadings, memoranda, stipulations, motions, exhibits, and documents submitted by any party to the action as evidence in the hearing;

2. All materials submitted by the Planning staff in the hearing;

3. The tape recording, if one exists, of the hearing;

4. A typewritten summary of the testimony given at the hearing. The typewritten summary shall be prepared by the Planning Director or a designate;

5. The findings of fact entered by the hearing body.

B. Within 21 days of filing of the statement of appeal, the Planning Director shall cause the record to be compiled, including the written summary of testimony, and mail notice to the parties indicating the record is available for inspection and/or copying. The Planning Director is authorized to charge a reasonable fee for paper or tape copying.

C. Any party wishing to challenge the composition or completeness of the record, or the accuracy of the typewritten summary of the testimony, shall file written objections within 14 days from the date of the mailing of the notice of completion of record. In addition;

1. Objections to the accuracy of the summary of testimony shall be accompanied by a verbatim transcript for the portion(s) of the hearing which supports each challenged point;

2. Controversy concerning any of these matters shall be settled by the Board as its second order of business at the appeal hearing, after questions about party status, if any exist, are settled.

D. The parties to an appeal from any action by the Hearings Officer or Planning Commission shall be allowed to present oral or written arguments concerning any ground or reason for appeal specified in the statement of appeal, but no new matters or evidence shall be submitted unless permitted pursuant to Section 33.080.E.

E. A party to an appeal from any action by the Hearings Officer or Planning Commission may request permission to submit evidence not contained in the record for an appeal when all of the following criteria are met:

1. The evidence was not reasonably available to the party at the time of the original hearing, and the facts supporting this conclusion are documented by affidavit(s);

2. The evidence is substantially relevant to issues raised in the appeal. Evidence is substantially relevant when, in the opinion of the Board, it has special value to prove relevant criteria, so that consideration of the new evidence is likely to alter deliberations;

3. The evidence to be introduced was made available to all parties to the appeal at least 20 days prior to the hearing, and there is no significant prejudice or unfairness to another party. In addition:

   a. If it becomes available within 20 days of the hearing, a continuance may be requested by the proponent in order to meet the 20 day rule;

   b. The Board may grant a continuance so the new evidence will meet the 20 day rule provided the continuance serves the public interest; and

   c. If the applicant is the party asking the privilege of introducing evidence, the request shall be accompanied by request for a reasonable extension of the 150 day time limit specified in ORS 215.429.

33.090 - ACTION OF THE BOARD OF COUNTY COMMISSIONERS

A. In addition to appeals authorized by other provisions in this Chapter, the Board may order its own review of final decisions made by the Planning Director or a hearing body. Review under these circumstances shall be governed by the provisions of this Article including the creation of the record. A summary of testimony as required by Section 33.040.C shall be prepared at the county's expense.

B. The Board may affirm, reverse, or amend the decision under appeal, and may impose additional or different conditions as may be necessary to carry out its decision. The Board may also return the proceeding to the Planning Director or hearing body for additional consideration or action. The return shall contain specific instructions regarding the nature and scope of the matter to be considered.

C. The Board shall make written findings and conclusions as part of its written decision. This document will constitute the final action of the Board for appeal and other purposes.

D. The Board may cause supplemental or replacement findings and conclusions, based on the record for the decision, to be prepared and signed after the original findings and conclusions have been executed. When supplemental or replacement findings and conclusions are prepared and signed, this document shall constitute the final action of the Board for appeal and other purposes in lieu of the original findings and conclusions.

E. The Board may open the record for clarification on a part of the record.

F. The Board by its own motion only, may choose to hear any appeal de novo. The decision to do so must be made within 10 days of receiving a statement of appeal.

G. An appeal of a decision of the Board to the Land Use Board of Appeals (LUBA), shall follow the procedures outlined in ORS 197.805 to 197.860.

33.100 - CONSOLIDATION OF APPEALS

In the event the final action for a single land use or land division is subject to concurrent appeals, the Board is authorized to consolidate the appeals into a single proceeding. In this event, the presiding officer may modify the rules of procedure contained in this Chapter, or implement new rules, which facilitate the merger of the appeal applications and the taking of evidence, testimony and argument. The decision of the Board shall be documented in a single set of findings of fact which shall act as the formal decision and final action on all of the appeals for the purpose of further appeals.

33.110 - REMANDS FROM THE LAND USE BOARD OF APPEAL (LUBA)

In all cases, a copy of the opinion on remand shall be filed with the Planning Director to be included in the permanent file.

33.120 - PARTICIPATION BEFORE LAND USE BOARD OF APPEALS (LUBA)

The county shall not file or participate in an appeal before LUBA unless the Board specifically authorizes the filing or participation through the county's Legal Counsel. Otherwise, the filing for any appeal or review before LUBA, or any other judicial body, shall be the responsibility of the participant whose interests are, or may be, affected by an affirmation, modification, reversal, or remand upon appeal or review.

33.130 - REMAND HEARINGS

Hearings to consider remanded land use decisions shall be governed by the applicable rules for applications, hearings and appeals as set forth in this code, except as follows:

A. A remand proceeding shall be initiated by an appeal application on forms prescribed by the Planning Director, together with the fee for remand hearings. The application must be filed within 45 days from the date of the final opinion and order remanding the county's decision. Except as provided in subsection B below, only the applicant as defined in Section 11.030 of this code may file a remand application.

B. All remand proceedings shall be conducted exclusively by the Board unless the Board delegates jurisdiction to another review body by resolution. This grant of jurisdiction is intended to supersede any other grant of jurisdiction in this code. In addition, the Board reserves the right to initiate a remand proceeding pursuant to Section 31.030 of this code.

C. The applicant in a remand proceeding shall specify in the application whether the remand hearing will be confined to the record of the earlier proceeding or whether the remand hearing will involve the introduction of new evidence. In the event the remand hearing is confined to the earlier record, the applicant shall submit amended findings with the remand application. The remand hearing shall be confined to the earlier record unless the

review body opens the record for new evidence pursuant to Sections 33.080.E or 33.090.F.

D. Participation in the remand hearing shall be strictly limited to those persons or organizations who were legal parties in the higher appeal. Procedures shall therefore be limited in the following respects:

1. Written notice shall be given only to the persons or entities who were parties to the higher appeal.

2. Only parties to the higher appeal may present arguments (in the case of a hearing on the record), or present evidence, witnesses, testimony and arguments (in the event new evidence is allowed) in the remand hearing.

3. Josephine County shall always be considered a party in the remand proceeding even if it did not submit briefs or make arguments in the higher appeal(s).

E. The remand hearing shall not consider any issue or issues other than those specified for remand in the remanding decision, and no other evidence, testimony or arguments shall be allowed regarding other issues within the scope of the Board's original action.

F. The following special time limits shall apply to remand applications:

1. The review body shall take final action on a remand application within 90 days of the effective date of the final remand order; and

2. The effective date of the final order is the last day for filing a petition for judicial review of a final order of LUBA, or if judicial review of LUBA's order is sought by the Oregon Court of Appeals or the Supreme Court, the 90-day period shall not begin until final resolution of the judicial review; and

3. In any case, the 90 day period shall not begin until the applicant requests in writing that the county proceed with the application on remand; and

4. The 90 day period may be extended for a reasonable period of time at the request of the applicant; and

5. The 90 day period applies only to decisions wholly within the authority and control of the county; and

6. The 90 day period does not apply to a remand proceeding concerning an amendment to an acknowledged comprehensive plan or land use regulation or the adoption of a new land use regulation that was forwarded to the Director of Land Conservation and Development under ORS 197.610.

G. The prevailing party shall prepare the findings of fact for the decision on remand unless the Board designates someone else to prepare them.

CHAPTER 4 - APPLICATION PROCEDURES

Ordinance 99-4, Effective September 21, 1999

ARTICLE 40 - BASIC PROVISIONS

40.010 - PURPOSE

The purpose of this Article is to establish the basic procedures for the submission of applications for land use permits in Josephine County.

40.020 - TYPES OF ACTIONS

The following is a list of land use actions authorized by this code. This list shall not be considered exclusive, and land use actions authorized by state or federal law or other county ordinance or regulation are also authorized.

A. Alteration of a non-conforming use

B. Amendment of the comprehensive plan map

C. Appeals and remand hearings

D. Change of zone

E. Conditional use permit (general)

F. Destination and recreational resorts

G. Determination of a non-conforming use

H. Development in flood hazard areas

I. Development permit

J. Director's decision regarding the interpretation or administration of this code

K. Farm and forest dwellings

L. Farm and forest uses

M. Home occupation permit

N. Hydroelectric and transmission facilities

O. Land divisions

P. Naming of a street or road

Q. Similar use

R. Site plan review by the Director

S. Temporary use permit

T. Text Amendment to the comprehensive plan or this code

U. Variance

40.030 - GENERAL PROCEDURES

A. All applications shall be submitted on forms provided by the Director.

B. It is the responsibility of the applicant to complete the application forms and to supply the documentation as required by Pre-application Review (Article 21).

C. The Director is authorized to reject incomplete or frivolous applications.

D. When a development proposal involves more than one application, and any one or more of the applications requires conditional use or hearing procedures, the applications may be consolidated for one review process, unless the Director determines one of the following circumstances applies:

1. The issues in the applications are so complex that combined review will likely prevent a full and fair review of all of the issues; or

2. The consolidation of the applications will result in an administrative hardship to the Director, the review body or the participants.

E. Consolidated applications shall be accompanied by the full fee for each application, and shall be processed using the highest level of review procedure required by any of the applications. A decision to approve or deny consolidated applications may be documented in a single set of findings as long as the findings separately list and address the standards and criteria for each application. A decision by the Director to consolidate or not consolidate applications is not subject to appeal.

F. Applications for land uses that might affect transportation facilities, corridors or sites under ownership or maintenance of other jurisdictions will also be reviewed by the corresponding jurisdiction.

40.040 - APPLICATION REQUIREMENTS

An application shall include or attach some or all of the following items. A list of the initial requirements shall be furnished applicants at the completion of pre-application review, or at a later time if the Director determines additional information or documents are needed for effective review.

A. Proof of ownership

B. A completed application form (or a *Land Use Request Cover Sheet* in the event a specific application form does not exist for the request)

C. A power of attorney, if the applicant is someone other than the property owner and the property owner has not signed the application

D. An executed *Statement of Understanding*

E. All required fees

F. Proof of access

G. Copies of easements encumbering or benefitting the property

H. A *Determination of Legal Lot* demonstrating the parcel or lot is authorized for development

I. A plot plan meeting the requirements of Section 41.020.B.3 of this code

J. A site plan map meeting the requirements of Section 42.060 of this code

K. A copy of the Assessor's and/or zoning map for the vicinity

L. A copy of the applicable *Flood Hazard Map* or *Flood Insurance Rate Map* with the property lines delineated to the same scale as the map, or a depiction of the federal designated flood plain/floodway on the plot plans required by items I or J above

M. A soil map for the property from the *Soil Survey of Josephine County*

N. An access permit from the Oregon State Highway Division

O. Proof of a long-term access permit or agreement from a public agency

P. A scenic easement approval

Q. A drainage and/or erosion control plan

R. An elevation map for the property showing 6 or more relative elevations or contours for the property

S. Proof of irrigation or water rights

T. Copies of relevant well logs, pump tests or other water source or quality data

U. An approved *Statement of Intended Water Use* and/or other information showing compliance with the Article 84 (Water Standards)

V. Copies of existing and proposed septic site evaluations

W. Copies of existing surveys

X. An original copy of an aerial photograph of the property or vicinity

Y. Any information or documentation regarding open space, scenic, historic, archeological and natural resource sites that are located on or near the property

Z. Any other information necessary or helpful to explain the circumstances of the request or address applicable standards and criteria, as determined by the Director.

ARTICLE 41 - ADMINISTRATION OF PERMITS

41.010 - PURPOSE

The purpose of this Article is to set out basic rules for the issuance, time limit, extension, expiration and revocation of land use permits.

41.020 - DEVELOPMENT PERMITS

A. No use, building or structure shall be established, constructed, changed in use, erected, moved, reconstructed, replaced, extended, enlarged or altered without first obtaining a Development Permit from the Director, except as follows:

1. When the development consists of interior remodeling only, and results in no increase in the "footprint" or exterior dimensions of an existing structure;

2. When the development consists of a change in occupancy without a change in the use of the land or structure;

3. The use is listed as an *Outright Use* in a farm or forest zone; or

4. The use is an agricultural or forest use (as defined in Article 11 of this code) which is listed in the Rural Residential, Mineral and Aggregate Resource, Serpentine or Limited Development districts.

B. A Development Permit shall be used to document the Director's final action on all land use applications, except land divisions covered by Chapter 5 of this code and decisions involving the interpretation and administration of the requirements of this code, and shall be used to advise other departments and agencies that the requirements of this code have been met. In the case of ministerial actions described in Section 22.030, the Development Permit shall be the only documentation required for the Director's action. The following additional rules shall apply to Development Permits:

1. All of the standards, conditions and requirements of the approval shall be considered a part of the Development Permit.

2. The Development Permit shall be signed by a property owner, a contractor licensed by the State of Oregon, a licensed attorney at law, or some other person possessing a valid power of attorney which authorizes the obtaining of land use permits for the owner(s).

3. The Development Permit shall be accompanied by a plot plan of the property being developed meeting the following basic requirements:

   a. Proportionally drawn with a north arrow;

   b. Show the owners' name, together with the Assessor's legal description (township, range, section, quarter section, tax lot number) and the street address;

c. Show the location and name of all streets, roads, rights-of way, easements, rivers, streams, watercourses and irrigation ditches on or adjacent to the property;

d. Show the location, size (including height), and intended use of all existing and proposed structures or improvements (including septic and well locations) on the property, clearly identifying the proposed structure(s); and

e. Show the distance from existing and proposed structures or improvements from the two nearest property lines.

4. The Development Permit may be used by the Director as a method of documenting or authorizing a lawfully existing land use, structure or improvement.

5. When a development or Conditional Use Permit request requires review by the Hearings Officer, Planning Commission or the Board (by referral from the Director, by original jurisdiction or by appeal) the Development Permit shall not be issued until final action is taken on all local appeals, and all of the pre-conditions of the approval have been met or guaranteed.

6. Development permits shall be valid for 1 year from the date of issuance, but may be renewed for additional 1 year periods so long as the use or structure continues to be authorized by the provisions of this code or other applicable law. Renewals shall occur only after the Director determines the use or structure complies with any additional standards, criteria or processing procedures which exist at the time of renewal.

41.030 - TIME LIMIT, EXTENSION & EXPIRATION OF PERMITS

A. All land use permits, except Development Permits and permits which have special conditions relating to expiration and/or renewal attached to them, shall expire 2 years after the date findings of approval are executed unless substantial development occurs as defined in Section 11.030.

B. If substantial development does not occur within the life of the permit, the permit holder may request a one-time 2 year extension of the permit from the Director subject to all of the following requirements:

1. The request is made by filing a request for an extension on forms provided by the planning office, together with a pre-application fee;

2. The request is made before the original permit or any subsequent extension expires; and

3. There has been no change in the circumstances, criteria or standards used to support the original approval or subsequent extension.

C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22.

D. When the permit involves the establishment of a specific use or activity and the use or activity actually commences, but then discontinues for any continuous period of 2 years, the permit shall expire, and the use shall be considered abandoned, unless an extension is obtained in conformance with requirements of subsection B of this Section.

E. Time limits, extension and expiration of land use permits for dwellings within the Farm and Forest Zones shall be governed separately by Sections 64.070.D and 65.070.G of this code.

41.040 - REVOCATION OF PERMITS

Unless another Section of this code makes a different provision, all land use permits may be subject to revocation by the Director if it is determined the application includes false or misleading information, or if the standards or conditions governing the permit have not been met or maintained.

A. The revocation of any permit by the Director shall be subject to the following rules:

1. The Director shall mail the permit-holder a written statement of the proposed revocation at least 30 days prior to the date of revocation. The notice shall contain a detailed statement identifying the specific reason(s) for revocation. The notice shall advise the permit holder of the opportunity to respond to the Director's statement in writing within 15 days from the date the notice is mailed by explaining or refuting the reason(s).

2. The Director's action to revoke a permit shall be considered a land use decision subject to the process requirements of Section 22.040.B.5 and 22.040.C.1 through C.3 of this code.

3. In the event the permit-holder submits a written explanation to the notice, the Director shall thereupon give careful consideration to the response in conjunction with other relevant evidence, including other written comments received in response to landowner or agency notice, to determine whether revocation of the permit should occur.

4. At the conclusion of the Director's review, the Director shall enter findings of the decision and mail notice of the decision to revoke or not revoke to the permit-holder and other parties to the action. The notice shall explain basic appeal rights.

5. No permit shall be revoked until the appeal period for the decision to revoke has expired without an appeal.

B. The Director's decision to revoke a permit may be appealed pursuant to the rules and procedures contained in Article 33 governing the appeal of land use decisions. In the event of an appeal, the revocation of the permit shall be stayed pending review by the Board of Commissioners.

ARTICLE 42 - SITE PLAN REVIEW

42.010 - PURPOSE

Site plan review is an internal administrative process designed to assist the Director in the review of land use applications by assessing certain proposed developments. It shall be the function of the site plan review process to examine and evaluate plans for development, and to formulate recommended conditions for development designed to assure compliance with applicable standards and/or criteria.

42.020 - SITE PLAN REVIEW PARTICIPATION

The Director shall notify and involve other county departments, government agencies, political jurisdictions, private organizations, individuals or property owners as the Director determines are necessary or helpful in the conduct of site plan review. Site plan review shall not be considered a separate land use action or process apart from the review authority of the Director, or in the case of public hearings, the Hearings Officer, the Planning Commission or the Board.

42.030 - INITIATION OF SITE PLAN REVIEW

A. The following requests shall require a pre-application review for site plan review pursuant to Article 21 of this code:

1. The expansion, alteration or replacement of a use or structure lawfully established prior to being listed as a conditional use, or which was previously approved as a conditional use;

2. The resumption of conditional use activities within structures that have been destroyed by casualty;

3. Development permits within any commercial or industrial zone that involve the enlargement of existing structures or the construction of new structures or public facilities;

4. Development permits for the exploration, mining and processing of aggregate or other minerals, including geothermal resources;

5. Development within a Floodway Hazard Area; and

6. Accessory structures that exceed the cumulative size limits contained in Section 72.060.

7. Any other request when the Director believes the facts and circumstances indicates the more comprehensive review afforded by site plan review is justified.

B. At the completion of pre-application review, the Planning Director may initiate site plan review when the Director has reason to believe one of the following circumstances may exist:

1. The development involves the potential for significant impact(s) on surrounding properties, public facilities or transportation systems, or will adversely affect environmental concerns such as wildfire, flooding, erosion control, or wetland, wildlife habitat and watershed preservation, or other similar concerns; or

2. Review of the application will be enhanced by a thorough factual investigation through inter-agency or inter-jurisdictional notice and comment, as well as notice to surrounding landowners.

C. The action to require site plan review is not a land use decision or a final decision for appeal.

42.040 - SITE PLAN REVIEW PROCEDURES

A. In the event the Director determines site plan review is required, and after the application is deemed complete and the application fee paid, the Director shall assign a planner to conduct the site plan review, together with instructions to review for compliance with standards of development only, or to include review for compliance with standards and criteria.

B. The planner shall conduct a site plan review of the development and submit a report to the Director within 21 days from date the site review application is deemed complete, subject to the following minimum requirements:

1. The report shall include a list of recommended conditions for the development, and each condition shall be separately numbered and shall include a citation to the ordinance, statute, rule, resolution, technical manual, policy or other similar documents which support or require the condition; and

2. All recommended conditions which require the applicant to provide on-site public facilities or to improve existing on-site public facilities, or to transfer land, or an interest therein, to the public, or to make off-site improvements to public land or facilities, or which are required to protect the general public health, safety and welfare, shall be supported by the following additional information in the report:

a. A description of the legitimate public interest or interests to be advanced by the condition;

b. A description of how the development will adversely impact such interests; and

c. Demonstrate how the required condition is reasonably related (roughly proportional) to the protection of such interests.

C. Upon receipt, the Director shall review the report to determine the conditions which are to be attached to the permit or recommended to the hearings body. Any permit issued by the Director which incorporates conditions based upon a review of criteria shall be noticed and processed using quasi-judicial review procedures as set forth in Section

22.040 of this code. The findings shall include the special citations and supporting information required by subsection B above.

42.050 - SITE REVIEW STANDARDS & CRITERIA

Site plans shall be reviewed against, and comply with, the following standards and/or criteria as required by the Director:

A. **Standards.**

1. Development standards contained within this code and all other applicable master plans, rules, resolutions, ordinances, codes, technical manuals and policies of the county or the state or federal governments;

2. The Josephine County Roadway and Traffic Management Plan, including the Official Street Map;

3. Standards for construction of required infrastructure and public facilities; and

4. Adequate access standards contained in Section 11.030.

B. **Criteria.**

1. All criteria made applicable by the provisions of Article 44 (Variances), Article 69 (Overlays), Chapter 7 (Development Standards), Chapter 8 (Public Facilities), and Chapter 9 (Special Uses).

2. The location, size, design and operating characteristics of the proposed use will not result in significant impacts on the neighborhood ("significant impact" is defined in Article 11 of this code);

3. The use will not exceed the carrying capacity of the land as defined in Section 11.030;

4. Existing and proposed infrastructure and public facilities are adequate to serve the proposed development. Pursuant to a requirement contained in the county's Transportation Systems Plan, or any other official document containing county road standards, the review body may control the location and number of vehicular access points, establish new streets, increase right-of way and road width, require curbs, sidewalks and traffic circulation features.

5. The development is designed so that it coordinates efficiently with surrounding development patterns and existing and planned utilities, facilities and streets in the vicinity;

6. Special hazards (flooding, fire, erosion, etc.) and special environmental circumstances (watershed, wetland, wildlife or plant habitat, etc.), are adequately mitigated, provided for or protected.

42.060 - SITE PLAN MAP REQUIREMENTS

When site plan review is required by the Director, the applicant shall prepare and submit a site plan map for the entire parcel where the development is proposed to occur. The site plan map shall be drawn to scale and shall show some or all of the following items, as determined in the Pre-Application Review pursuant to Article 21.

A. Location of the parcel by address and Assessor's legal description.

B. The length of lot lines in feet and parcel size(s) in acres (to 10ths).

C. The scale used to draw the map, a north arrow and the date of preparation.

D. The location, size, height and dimensions of existing and proposed buildings and structures, including the distances between the buildings and the nearest property line.

E. A notation describing the existing and proposed uses for the structures shown on the site.

F. The slopes on the property (by % of grade), the nature and area of any proposed grading or earth movement, and the features of the proposed erosion control plan, if one is required (see Article 83).

G. The location and conceptual design for storm drainage or detention facilities.

H. The location of existing and proposed roads or driveways, including the location and width of existing rights-of-way(s) called for in the Josephine County Roadway and Traffic Management Plan, points of entry and exit for motor vehicles, and a description of other existing or proposed uses for streets (e.g., parking, walkways, bikepaths, etc.).

I. The location, dimensions and uses for all existing and proposed easements serving or burdening the parcel.

J. The location and layout of existing and proposed off-street parking, including the number and dimensions of spaces, the surface material, the internal circulation pattern and loading facilities.

K. The location and layout of existing and proposed public and private utilities on and adjoining the site, including septic systems.

L. The location of off-street walkways and bikepaths.

M. The location, height and construction materials of walls and fences.

N. The location and nature of exterior lighting fixtures, including a depiction or description of the area to be illuminated.

O. The location, size, height and purpose for existing and proposed exterior notification or advertising signs or structures.

P. The location and description of receptacles or areas for trash and garbage collection and/or disposal.

Q. The location of natural or man-made water features, such as, springs, rivers, creeks, ponds, lakes, drainage ways, irrigation ditches and other similar features.

R. The location of the 100-year floodplain and floodway lines.

S. Architectural or engineering data needed to show the criteria or standards of site plan review have been met.

T. The boundary limits of the phases of development when phased development is proposed.

U. A depiction or description of adjoining structures and land uses, together with the approximate distances between the subject parcel lines and the adjacent structures or uses.

V. When an addition or remodel is proposed to an existing structure the site plan map shall indicate the relationship of the proposed addition or remodel to the existing development.

42.070 - PERFORMANCE AGREEMENT

The Director or hearings body shall require a performance agreement pursuant to Article 14 for improvements which are to be completed after the issuance of the Development Permit.

ARTICLE 43 — TEMPORARY USE PERMITS

43.010 - PURPOSE

The purpose of the Temporary Use Permit is to provide for certain uses not otherwise allowed by this code in order to meet special non-permanent needs of the residents of the county. Impacts from temporary uses shall be limited in duration, subject to special standards of approval and review and revocation procedures to assure compatibility with the intent and purpose of the various zoning districts in which they are allowed.

43.020 - REVIEW PROCEDURE

Applications for Temporary Uses shall be reviewed using Ministerial Review procedures as set forth in Article 22.030 of this code.

43.030 - PERMITTED TEMPORARY USES

Temporary uses shall be allowed subject to the following standards:

A. **Medical Hardship Dwelling**. The Director is authorized to permit a second dwelling only on an authorized lot or parcel when it is needed to assist in the care for a dependent person by a care provider. A Medical Hardship Dwelling shall be allowed subject to the following terms and standards:

1. **TERMS.**

   a. A "dependent person" shall mean any person who suffers from a mental or physical disability so that assistance is needed to establish a non-institutional residence.

   b. A "care provider" shall mean any person or persons who agree to assist a dependent person in residential living. The care provider may be the owner, a renter or the applicant for the second dwelling. If the care provider or applicant is someone other than the owner, the owner must also be a party to the application.

2. **STANDARDS.**

   a. The dependent person and care provider need not be related by blood or other legal relationship.

   b. The dwelling must be placed upon the property under a placement or building permit from the Department of Building and Safety, and shall consist of one of the following:

      [1] a manufactured dwelling; or

      [2] a recreation vehicle; or

[3] an existing site-built structure that will be converted into a dwelling by the addition of kitchen and/or laundry facilities upon approval as a medical hardship dwelling.

c. The Director shall require a statement from a medical doctor certifying the dependent person suffers from a mental or physical disability, and that this condition otherwise requires dependent care in a hospital, nursing home, care home or facility, by a live-in nurse or companion, or some other comparable circumstance. The statement shall be submitted on forms supplied by the Director.

d. The medical hardship dwelling must be connected to the same subsurface sewage disposal system as the one used by the existing dwelling, provided such connection is permitted by the regulations of the Department of Environmental Quality. Any connection must be made under permit from DEQ.

e. The dependent person's care shall be provided principally by the care provider. The care provider may employ or arrange for services from others during occasional periods of absence or incapacity.

f. The medical hardship dwelling shall be placed within close proximity to the existing dwelling.

g. As a condition of the issuance of a medical hardship dwelling permit under subsections A.2.b above, the applicant shall sign and record a deed restriction agreeing to the removal and/or conversion of the dwelling as specified in subsection i. below, to include consent for the Director or his agent to inspect the property to confirm compliance.

h. The Temporary Use Permit for a medical hardship dwelling shall terminate 90 days after the care-giving relationship between the dependent person and the care provider ceases for any reason, or 90 days after the property owner fails to renew the permit as required by Section 43.040.

i. The property owner shall apply to the Director for a Verification of Compliance with the removal or conversion requirements of this subsection within 90 days from the date of termination. Failure to apply for a Verification of Compliance shall be considered a violation of this code. Verification of Compliance shall include an inspection of the property and/or the hardship structure by a planning official to verify the existence of one or more of the following circumstances:

[1] The hardship dwelling has been removed from the property; or

[2] The hardship dwelling has been converted to an authorized use, subject to the following rules:

[a] A recreational vehicle may not be converted for use as a guest house or accessory structure;

[b] A manufactured dwelling or converted accessory structure is approved for use as a guest house as defined in Section 11.030 of this code; or

[c] A manufactured dwelling or converted accessory structure may be remodeled to qualify as some other authorized accessory structure by removal of the kitchen facilities. In determining the extent of remodeling needed to remove the kitchen facilities, the Director shall apply the factors listed in Section 11.030 of this code.

b. Upon verification as provided in subsection i. above, the Director shall issue a notarized Certificate of Compliance verifying the property and structures comply with the requirements of this code. The property owner may record the Certificate of Compliance in the deed records.

B. **Mass Gathering.** The Director is authorized to permit a Mass Gathering in any zoning district subject to the following standards:

1. A mass gathering shall be limited to no more than 4 calendar days in duration for each permit, exclusive of setup, teardown and cleanup;

2. A curfew for all activities associated with a mass gathering shall be in effect from the hours of 10:00 p.m. to 8:00 a.m.;

3. No site or event shall be approved for more than 4 gatherings within any 12 month period;

4. A permit shall not be issued prior to the submission of written sign-offs (on a form provided by the Planning Director) from each of the following departments or agencies:

   a. Josephine County Sheriff's Department;

   b. Josephine County Health Department;

   c. Oregon Department of Environmental Quality; and

   d. All fire departments, districts or companies having jurisdiction or concern over the site or neighboring lands (the Director is authorized to identify the appropriate departments, districts or companies).

C. **Temporary Storage of Unoccupied Manufactured Dwelling.** A manufactured dwelling may be stored on a parcel already developed with a dwelling subject to the following standards:

1. The storage is for a period of time less than 6 months;
2. The permit is issued to the property owner only;
3. The manufactured dwelling is not occupied or connected to any utility service, including a sewage disposal system;
4. The manufactured dwelling is placed on the property in a way that meets all setback requirements. In addition, the Director is authorized to specify the siting of the manufactured dwelling to screen it from the view of adjoining properties; and
5. The Director may renew a Development Permit for the storage of a manufactured dwelling for one additional 6 month period only. This time period may not be further extended by a variance permit.

D. **Roadside Stands.** A roadside stand for the sale of food, beverages, produce not grown on the property, or other goods or services may be allowed subject to the following standards:

1. The stand shall not be located in a public right-of-way unless the applicant submits written authorization from the public agency with authority over the right-of-way;
2. The stand shall be limited to 120 consecutive days, but may be extended by application for and issuance of a new Development Permit.
3. The applicant shall provide off-street parking consistent with Article 75; and
4. Authorization from the county health department shall be provided for all food or beverage sales.

43.040 - ANNUAL RENEWAL

Unless specified in the Article otherwise, all temporary use permits shall be reviewed annually by the Director. A decision to renew a temporary use permit shall be processed using Ministerial Review procedures as set forth in Article 22 of this code. Annual renewals shall be governed by the following standards:

A. Annual renewals shall occur as close as practical to one calendar year from the date of issuance of the permit, but the Director is authorized to collect and process renewals in groups or by calendar quarters, as may be convenient.

B. An application for renewal of a medical hardship dwelling, at a minimum, must be accompanied by the prescribed fee, a renewal statement from a medical doctor certifying continuance of the incapacity, and a written acknowledgment from the Department of Environmental Quality stating the dwelling continues to be served by an authorized sewage disposal system.

ARTICLE 44 - VARIANCES

44.010 - PURPOSE

A variance is an authorized departure from a dimensional standard contained in this code. Variances are intended to allow controlled exceptions to the requirements of this code when strict administration of dimensional standards for development will result in an unnecessary hardship to the property owner arising from circumstances inherent in the property to be developed. Use variances shall not be permitted.

44.020 - REVIEW PROCEDURE

Requests for variances shall be processed using Quasi-Judicial Review Procedures as set forth in Article 22 of this code.

44.030 - REVIEW CRITERIA

Applications for variances shall comply with the following criteria:

A. The reason for the variance arises from one or more special conditions or circumstances related to the property to be developed, such as lot size or shape, topography, the location of existing structures or facilities, vegetation, the presence of development restrictions (wildlife habitat, wetlands, special setbacks, etc.) or hazardous conditions (erosion, fire, flooding, etc.), or some other similar condition or circumstance.

B. Strict adherence to the development standard(s) will result in a hardship to the property owner by substantially preventing or denying a development option contemplated by the applicable zoning district. The hardship shall not be self-imposed, but adverse economic or financial consequences may be used to support the hardship as long as the consequences result from a condition in the land, as described in criterion A above.

C. The approved variance will result in the minimum departure from the development standard(s) needed to alleviate the hardship.

D. The location, size, design and use of the proposed structure or facility will not result in a significant impact(s) on the neighborhood that cannot be reasonably mitigated through the imposition of special conditions of approval by the review body.

44.040 - PERFORMANCE AGREEMENT

The Director or hearings body shall require a performance agreement pursuant to Article 14 for improvements which are to be completed after the issuance of the Development Permit.

ARTICLE 45 - CONDITIONAL USE PERMITS

45.010 - PURPOSE

Conditional uses are land uses that involve significant benefits to the community and individual property owners, and are intended to allow important options for land use development within the various zones. It is also recognized that conditional uses may result in adverse impacts on nearby properties, as well as on existing public facilities, unless special precautions are taken in the issuance of permits. This Article is intended to meet this concern by providing comprehensive review criteria and procedures designed to assure conditional uses will be compatible with the neighborhood and are supported by adequate public infrastructure and facilities. It is therefore the policy of this code to permit conditional uses when significant impacts can be adequately mitigated through conditions of approval. Conditional use permits run with the land and the rights and obligations afforded by the permit may be assumed by new owners.

45.020 - REVIEW PROCEDURE

A. Applications for new conditional use permits shall be processed using Quasi-Judicial Review Procedures as set forth in Article 22 of this code. All applications for new conditional uses shall include a site plan meeting the drawing and information requirements of Section 42.060. Site plan review may be required per Section 22.040.B.3.

B. Applications for the expansion, alteration or replacement of a use or structure lawfully established prior to being listed as a conditional use, or which was previously approved as a conditional use, shall be subject to pre-application review for site plan review pursuant to Section 42.030 *(Initiation of Site Plan Review)*.

45.030 - REVIEW STANDARDS & CRITERIA

Conditional use permit requests shall comply with the following standards and criteria:

A. **Standards.**

1. Development standards contained within this code and all other applicable master plans, rules, resolutions, ordinances, codes, technical manuals and policies of the county or the state or federal governments;

2. The Josephine County Roadway and Traffic Management Plan, including the Official Street Map;

3. Standards for construction of required infrastructure and public facilities; and

4. Access standards contained in Section 11.030.

B. **Criteria.**

1. All criteria made applicable by the provisions of Article 69 (Overlays), Chapter 7 (Development Standards). Chapter 8 (Public Facilities), and Chapter 9 (Special Uses).

2. The location, size, design and operating characteristics of the proposed use will not result in significant impacts on the neighborhood ("significant impact" is defined in Article 11 of this code);

3. The use will not exceed the carrying capacity of the land as defined in Section 11.030;

4. Existing and proposed infrastructure and public facilities are adequate to serve the proposed development;. Pursuant to a requirement contained in the county's Transportation Systems Plan, or any other official document containing county road standards, the review body may control the location and number of vehicular access points, establish new streets, increase right-of way and road width, require curbs, sidewalks and traffic circulation features.

5. The development is designed so that it coordinates efficiently with surrounding development patterns and existing and planned utilities, facilities and streets in the vicinity;

6. Special hazards (flooding, fire, erosion, etc.) and special environmental circumstances (watershed, wetland, wildlife or plant habitat, etc.), are adequately mitigated, provided for or protected.

45.040 - PERFORMANCE AGREEMENT

The Director or hearings body shall require a performance agreement pursuant to Article 14 for improvements which are to be completed after the issuance of the Development Permit.

ARTICLE 46 - AMENDING & UPDATING THE COMPREHENSIVE PLAN[1]

46.010 - PURPOSE

The purpose of this Article is to implement the procedures and criteria for amending any element of the comprehensive plan pursuant to the requirements of Goal 11 of the county's Goals and Policies.

46.020 - REVIEW PROCEDURE

A. Applications to amend any element of the comprehensive plan shall be processed using Planning Commission Review Procedures (Article 24) and/or Board of Commissioners Review Procedures (Article 25).

B. Applications to amend any element of the comprehensive plan shall be reviewed and decided as follows:

1. **REVIEW AUTHORITY OF THE PLANNING COMMISSION**. The Planning Commission shall review all applications to amend any element of the comprehensive plan. Planning Commission reviews shall be subject to the following rules:

   a. The Planning Commission shall make the final decision on applications to amend any element of the comprehensive plan unless the applications involve an exception to statewide planning goals or involve lands designated as agricultural or forest lands under a statewide planning goal.

   b. The final decision shall be in the form of written findings that explain the standards and criteria considered relevant to the decision, state the facts relied upon in rendering the decision and explain the justification for the decision based on the applicable standards and criteria, and shall be accompanied by a recommended ordinance.

   c. Final decisions of the Planning Commission may be appealed on the record to the Board as provided in Article 33 of this code.

   d. Applications involving exceptions or agricultural or forest lands shall be reviewed by the Planning Commission in a public hearing. At the conclusion of the hearing the Planning Commission shall deliberate and make a recommended decision to the Board.

   e. All Planning Commission hearings shall conform to the notice and hearing rules as set forth in Chapter 3 of this code.

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[1] Article 46 created by Ordinance 99-8, Effective March 29, 2000, replacing former Articles 47, 48 and 49.

f. Final authority of the Planning Commission to act upon plan amendments is for appeal purposes only, and does not include the authority to implement changes by ordinance.

2. **REVIEW AUTHORITY OF THE BOARD.** The Board's authority to review actions by the Planning Commission to adopt, amend or repeal any part of the comprehensive plan shall be subject to the following rules:

a. Where the Planning Commission makes a recommended decision to the Board pursuant to subsection B[1][d] above, the Board shall conduct a full *de novo* hearing regarding the application. The Board's hearing shall conform to the notice and hearing rules as set forth in Chapter 3 of this code, and any other applicable state law or rule.

b. This policy shall not prevent or limit the Board's authority to initiate a hearing to review any Planning Commission action regarding the comprehensive plan pursuant to provisions of this code.

c. The Board shall have sole authority to implement changes to the county's comprehensive plan by ordinance.

46.030 - PLAN AMENDMENT APPLICATION REQUIREMENTS

A. Applications to amend the text or maps of the comprehensive plan may be initiated by the Board, the Planning Commission, the Planning Director, interested agencies or individuals.

B. All applications shall be submitted on forms provided by the Planning Director and shall be accompanied by required application fees; however, requests initiated by the Board, the Planning Commission or the Planning Director shall not require fees.

C. At a minimum the application shall:

1. Identify the specific policy, inventory, map, plan or ordinance sought to be changed;

2. Explain why the change is being requested (change in circumstances, new or different information, revise incorrect or incomplete information contained in previous efforts, etc.);

3. Include the exact language required to accomplish the proposed change in the text; or, in the case of a map amendment, include a scaled zoning map precisely identifying the area and designations to be changed;

4. Include a list of all state and local goals, together with a written explanation stating why the goals do or do not apply, and if the applicant believes one or more of the goals apply, how the proposed application is consistent with the

requirements of the applicable goal or goals. The Planning Director or review body may specify different state and county goals as applicable to the application.

5. In the event the proposed change relates to an inventory, data base, plan or ordinance, the application shall include the scientific and technical data, reports or other evidence prepared by an expert in that field necessary to support the change. It shall be the function of the review body to determine, based upon substantial evidence in the record, whether the particular training and experience of a witness qualifies the witness to testify as an expert. Specifically:

   a. More detailed soil data may be utilized to define classifications or characteristics of soils contained in the county's data base, provided the data is credible and attested by a certified soil scientist; and

   b. In the case of a change to a Goal 5 inventory, the application shall be accompanied by evidence demonstrating compliance with OAR 660-23, as amended, which may include one or more Economic, Social, Environmental and Energy (ESEE) analyses.

6. In the event the proposed change relates to a map amendment, the application shall contain detailed evidence and other documentation showing how the request meets the criteria contained in Section 46.050 of this Article.

46.040 - PLAN AMENDMENT REVIEW CRITERIA

A. Amendments to a plan and zone map shall demonstrate compliance with all applicable statewide and county goals and policies.

B. Requests involving changes for lands from a resource designation to a non-resource designation shall either comply with statewide exception criteria contained in Oregon Revised Statutes 197.732, and as implemented in Oregon Administrative Rules, Chapter 660, Division 4, or demonstrate the land is non-resource pursuant to the criteria contained in Section 46.050 below.

C. Requests involving changes to the plan and/or zone maps shall demonstrate the land has adequate carrying capacity to support the densities and types of uses allowed by the proposed plan and zone designations. The adequacy of carrying capacity, at a minimum, shall be evaluated using the criteria listed below. The criteria are to be considered together to determine whether the geography of the land is suited to support the kind of development associated with the proposed designations. With the exception of criterion [1] below, the application of any one criterion is not intended to be determinative of carrying capacity alone, unless the review body finds the importance of a specific benefit or detriment associated with the criterion overrides the consideration of other criteria. Nevertheless, in order to determine the adequacy of carrying capacity, the analysis must consider and address all of the listed criteria in relationship to one another. Sites may be

altered to achieve adequate carrying capacity, but as alterations become more extensive, technical or difficult to perform or maintain, the greater the burden of proof shall be on the applicant to demonstrate compliance with the following criteria:

1. The proposed density and types of uses can be supported by the facility, service and other applicable development standards contained in this code or contained in other applicable federal, state and local rules and regulations governing such densities and types of uses.

2. Other physical characteristics of the land and surrounding area make the land suitable for the proposed density and types of uses, to include consideration of existing or potential hazards (flood, wildfire, erosion), the degree of slopes, the presence of wetlands, geologic formations, mineral deposits and any other similar natural or man-made conditions or circumstances;

3. The land in its natural state accommodates the proposed uses and densities, or special alterations or mitigation plans can make the land achieve the carrying capacity described under items [1] and [2] above;

4. Development pursuant to the proposed uses or densities will not significantly increase the risk from hazards to the residents of the development, the area or the general public;

5. Features of the development will not result in future maintenance costs to the public for the infrastructure needed to serve the development and the area that are atypically higher than expenses for other developments in the same plan and zone designations (examples of infrastructure include streets, bridges, storm drain facilities, erosion and sediment control facilities, and other similar public infrastructure facilities); and

6. Special circumstances exist at or near the site that justify increased risks, expensive or complex mitigation plans, or higher infrastructure costs to the public from the development. This criterion can be used to consider specific community needs that have arisen within the area since the existing zoning was implemented at the site. Examples of circumstances which might support the application of this criterion are changes in demographics; the location or discovery of unique natural resources; changes in infrastructure that are intended to support and encourage the kinds of development associated with the request; the development of rural communities; and any other circumstance that establishes a special need or benefit to the community that justifies increased risks and costs. This criterion shall not be used to modify the requirements of criterion [1] above.

D. The density and types of uses authorized by the proposed plan and zoning designations are appropriate based on the requirements of subsection [1] or [2] below:

1. The change in designations at the location is consistent with the character of the surrounding area. Consistency shall be demonstrated by a detailed review of the

relationship between the area covered by the proposed change in designations and the surrounding area, subject to the following rules.

a. The detailed review shall describe the similarities or dissimilarities between the area of proposed change and the surrounding area based upon parcel size and ownership patterns,[2] zoning, existing or authorized land uses and structures, public facilities and services, and natural or man-made features.[3]

b. The detailed review shall include a written statement explaining the rationale used to include or exclude areas from study, and be supported by zoning maps, aerial photographs, contour maps, and any other public or private records, statistics or other documents necessary or helpful to establish the character of the area and show how the change will be consistent.

2. Demonstrate how the introduction of inconsistent density or uses into an area is justified. This demonstration may be based upon changes in the area resulting from rezonings, new residential, commercial, industrial or resource development, the introduction or improvement of public facilities and services, changes in demographics, changes in plan inventories, and other similar circumstances. The application shall show how the proposed change in designations, in the context of the foregoing circumstances, implements applicable state and/or county goals and policies. The more the change introduces inconsistent densities and uses into an area, the greater the burden on the applicant to justify the basis for the change.

E. Requests involving changes to the plan and/or zone maps within established exception areas shall demonstrate the change complies with the criteria contained in Oregon Administrative Rule 660-004-0018 governing plan and zone changes within exception areas.

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[2] Evidence regarding changes in parcel size and ownership patterns shall, at a minimum, consider the circumstances of the parcelization and ownership patterns lawfully existing within the area of study. Review of parcelization patterns shall not only include the number and size of the parcels, but the relationship of the parcels to the total acreage within the study area, together with the potential for additional parcelization pursuant to existing zoning. In order for parcels to be counted in a parcelization analysis, the parcels must be authorized lots or parcels as defined by §11.030 of this code.

[3] Natural or man-made features may include watercourses, wetlands, watersheds, ridges, valleys, roads, rights-of-way, easements, political or service boundaries and other similar features. The study must identify and explain how these features operate to join or disjoin the area being changed from surrounding lands.

46.050 - NON-RESOURCE LAND CRITERIA.

Authorized lots or parcels (but not portions thereof) which have been zoned Woodlot Resource or Farm Resource may be designated as non-resource when the application demonstrates compliance with the following criteria and rules:

A. The land within the lot or parcel is non-farm land because:

1. The predominant (greater than 50%) soil or soils are rated Class V or above in the *Soil Survey of Josephine County*, as adopted or amended in the plan data base (soils having both an irrigated and non-irrigated class ratings will be rated based on whether irrigation rights are or are not perfected at the time the application is filed); and

2. The land is otherwise unsuitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices; and

3. The land is not required to buffer urban growth areas from commercial agricultural operations; and

4. The land is not necessary to permit farm practices or forest operations to continue or occur on adjacent or nearby resource zoned lands, subject to the rules and procedures as set forth in subsection C below.

B. The land within the lot or parcel is non-forest land because:

1. It is not included within the following definition of forest land:

   A lot or parcel is considered forest land when the predominant (more than 50%) soil or soils on the parcel have an internal rate of return of 3.50 or higher (if a single forest-rated soil is present), or composite internal rate of return of 3.50 or higher (if multiple forest-rated soils are present).

   For the purpose of this criterion, any evaluation of the internal rates of return for forest soils shall be made pursuant to the document entitled, *Using The Internal Rate Of Return To Rate Forest Soils For Applications In Land Use Planning (1985)*, by Lawrence F. Brown, as amended; or

2. If a determination cannot be made using the internal rate of return system as described in subsection B[1] above, the land is shown to be unsuitable for commercial forest uses based upon a combination of proofs, to include (but not limited to) the site index or cubic foot calculations, the testimony of expert witnesses, information contained in scientific studies or reports from public and

private sources, historic market data for the relevant timber economy, and any other substantive testimony or evidence regarding the commercial productivity of the subject land, which taken together demonstrate the land is not protected by Statewide Goal 4; and

3. The land is not necessary to permit farm practices or forest operations to continue or occur on adjacent or nearby resource zoned lands, subject to the rules and procedures as set forth in subsection C below.[4]

C. Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur. The following rules shall apply when evaluating this criterion:

1. Land use benefits shall include access, water supplies, wind breaks, impact buffering, the minimization of land use conflicts, the preservation and protection of soil, air, water, watershed, and vegetation amenities; and the retention of normally accepted wildfire fighting strategies for adjacent or nearby commercial forest uses.

2. A land use benefit shall be considered necessary for normal farm practices and forest operations when loss of the benefit will interfere with accepted farm practices or forest operations by significantly impeding or significantly increasing the cost of the practices or operations.

3. The application shall include a review of the relationship between the lot or parcel under consideration and surrounding farm practices and forest operations. The review shall list and describe existing or potential farm practices and forest operations on adjacent or nearby lands, as well as the general geography and potential land uses on the subject property, and then provide an analysis of how the uses permitted by the proposed non-resource designations may or may not significantly impede or significantly increase the cost of accepted farm practices or forest operations. The review may be based upon data or information from some or all of the following sources: private organizations (commercial timber producers, forestry consultants, woodlot associations, etc.) public agencies that

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[4] Only lands zoned in the Woodlot Resource zone may qualify as non-forest lands (see paragraph 3 above). Lands zoned in the Forest Commercial zone are not eligible for this option. The basis for this distinction lies in the county's ability to ascertain the commercial viability of forest lands based upon the Internal Rate of Return (IRR) system, as it has been applied within the acknowledged plan. The IRR system, in conjunction with the county's further ability to ascertain other locational factors, demonstrates that Woodlot Resource zoned lands have qualified commercial forest value and are generally situated in proximity to other non-commercial forest or non-resource lands. The county is able to make this finding based upon the GIS mapping and analysis contained in the report, *Locational Factors Affecting Woodlot Resource Lands*, by Michael Snider (March 22, 1999). This publication is made a part of the comprehensive plan by this reference.

collect and interpret farm practice or forest operation data, such as county offices (Departments of Planning, Assessor and Forestry) state agencies (Departments of Forestry, Agriculture, Revenue and the Oregon State Extension Service), federal agencies (Department of Agriculture/Forest Service, the Bureau of Land Management, the Natural Resources Conservation Service and the Farm Service Agency), and other similar public entities.

4. In the event a farm or forest operator within the review area contends in the record that the map changes could significantly impede or increase the cost of specific practices or operations, and this contention is based upon records, data and other information in the operator's possession, but unavailable to participants in the hearing from public sources, the review body is authorized to require the operator to submit the supporting records, data and other information into the record for examination by the review body and other participants.

5. A lot or parcel shall not be considered necessary to permit farm practices or forest operations on adjacent or nearby lands if the necessary benefit can be preserved through the imposition of special restrictions or conditions on the use of the subject property which reasonably assure continuation of the benefit.

6. As a condition upon the approval of all plan and map changes from resource to non-resource designations, the property owner shall be required to execute and record in the county deed records a *Conflict Preference Covenant*, which recognizes the rights of adjacent and nearby resource land owners to conduct normal farm practices and forest operations. The covenant shall provide that all land use conflicts between non-resource uses on the subject property and adjacent or nearby resource operations will be resolved in favor of accepted farm and forest practices and operations.

D. The land is not other forested lands that maintain soil, air, water and fish and wildlife resources.

E. If the proposed plan designation is Rural Residential, the lot or parcel must be shown to be entirely outside of the critical habitat area (i.e., above 2500' or designated as impacted) on the official 1985 Deer Winter Range map, as adopted or amended.

F. When a request for a plan map amendment qualifies because the land is non-resource pursuant to the criteria contained in this policy, the zoning may be changed to one of the following zones only: Limited Development, Serpentine or Rural Residential with a minimum parcel size of 5 acres or larger. All such applications must also demonstrate compliance with the map amendment procedures and criteria as set forth in Policies 1 and 2.

G. For the purposes of implementing the provisions of the foregoing rules, the term "significant" shall mean the proposed change is likely to have considerable influence or effect upon the matter being considered, or that the effect or impacts arising from the

change will result in important or weighty consequences or risks. The term is intended to guide the review body in evaluating the effects certain land use activities may have on other land use activities or on other land use considerations made applicable by these policies or other state or local goals, rules or laws. The review body shall judge the use of the term significant based on what a reasonable person would consider significant given the facts and circumstances being considered.

CHAPTER 5 - LAND DIVISIONS

ARTICLE 50 - BASIC PROVISIONS

50.010 - PURPOSE

The purpose of this Chapter is to provide standard procedures and requirements for dividing land which are consistent with Oregon statutes and requirements. The provisions contained in this Chapter shall apply to all land divisions regardless of the zone, or the number or use of the proposed parcels or lots.

50.020 - TYPES OF LAND DIVISIONS

A. In order to achieve the purposes set forth above, the following land division procedures are established (Land uses and applications are established in Chapters 4 and 6):

1. Subdivision Procedure;
2. Land Partition Procedure;
3. Replatting Procedure;
4. Property Line Adjustment Procedure;
5. Planned Unit Development.

B. In addition to the tentative plan, all land divisions shall be required to comply with the standards set out in the following:

1. Final Plat;
2. Monumentation.

50.030 - GENERAL PROCEDURES

A. The Planning Director shall develop forms to be used for all applications set out in this Chapter.

B. The burden of proof is on the applicant to complete the forms and to substantiate the information presented on the application forms.

C. The Planning Director may reject applications which are not complete.

D. When a development proposal involves several different applications for the development of land, the applications may be processed concurrently as a package using the highest level of review procedure required by the different applications. The decision on the development proposal shall address each application.

E. The Planning Director may require separation of applications where:

1. The cumulative package is too complex for a single hearing; or

2. Consolidation of the applications is not administratively feasible.

F. Where application is made to the Planning Director for approval of the creation of lots or parcels which were improperly formed without the approval of the governing body, the county may consider and approve an application for the creation of lots or parcels notwithstanding that less than all of the owners of the existing legal lot or parcel have applied for the approval.

G. If property has been divided in violation of the standards of this code, a notice of violation shall be recorded with all appropriate county departments. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors with an interest in such property.

H. Whenever it becomes discovered that real property has been divided in violation of this code, the county shall notify the current owner of record, by certified mail, of the county's intent to record a notice of violation. The notice shall describe the real property and shall provide an opportunity to the owner to present evidence to refute the alleged violation. The notice shall also describe the suspected violation and explain why the subject property is not lawful under the provisions of this code.

I. The notice of intention described in Section 50.030.H, shall provide the owner at least 30 days, but not more than 60 days, to present evidence showing a violation has not occurred. If evidence is presented and it is determined that there is no violation, a clearance letter shall be mailed to the owner of record.

J. If it is determined by the county that after examining evidence submitted by the owner, a violation does exist or if the owner fails to respond to the notice within the time specified in Section 50.030.I, the county shall record the notice of violation with all appropriate county departments.

K. Certificate of Compliance:

1. Any property owner may request a determination as to whether real property complies with the this code adopted pursuant to the provision of the Oregon Revised Statutes, Chapter 92. The county shall make a determination of compliance and shall provide a Certificate of Compliance for recording with all appropriate county Departments of the determination. The Certificate shall describe the property and shall state that the division of such property complies with the this code;

2. If a property owner requests a Certificate of Compliance and the county determines that the real property does not comply with the provisions of the this code, the county shall issue a Conditional Certificate of Compliance. The county

may, as a condition of granting such a certificate, impose conditions that would bring the property into compliance with the provisions of the this code;

3. A Final Plat of a subdivision, planned unit development, partition, replat, or property line adjustment shall constitute a Certificate of Compliance when recorded with all appropriate county departments.

50.040 - APPLICATION REQUIREMENTS

A complete application will have some of the following information either answered on the application or as an attachment to the application as determined by the person conducting the pre-application conference:

A. Proof of ownership;

B. A completed application form which includes the signature(s) of the land owner and the applicant;

C. Power of Attorney;

D. A Statement of Understanding which is signed and notarized;

E. All required fees;

F. The tentative plan map which meets the requirements of Section 51.060 or 52.060 or 55.060, drawn to scale and legible; the number of copies required may be reduced during the pre-application conference;

G. A copy of the assessors map showing the subject parcel and the adjacent tax lots;

H. A copy of the assessors map indicating the ownership of all abutting land that appears under the same legal name as the parcel proposed for development;

I. A statement from the County Watermaster identifying what acreage has irrigation and water rights, and how many acres are covered under each right;

J. Copy of all existing well logs and relevant water quality and quantity information;

K. A signed Statement of Intended Water Use and information on how the standards in Article 84 will be met;

L. A copy of an aerial photo of the property;

M. A lot history to prove the parcel is a separate, legal parcel;

N. State highway access permit, as applicable;

O. Copy of a long term access permit or agreement with a federal agency such as the Forest Service or the Bureau of Land Management;

P. A letter or other approval from the appropriate federal and state agencies if the property is located within a scenic easement;

Q. A map of the soils on the property including soil numbers;

R. The location of all water wells on the parcel including the water supply, water depth, the gallons per minute produced and copies of all well logs;

S. A copy of any concurrent land use applications including resource and non-resource dwellings, and variances;

T. Other information deemed necessary or helpful for the type of application.

50.050 - EXCLUSION OF PROPERTY

All property held under contiguous ownership at the beginning of the calendar year, other than existing platted lots or authorized lots, shall be considered as one unit for subdividing or partitioning purposes. A developer may exclude, subject to the standards of this Section, a portion of the contiguous property from the subdivision or partition for purposes of preparation of the tentative plan. The exclusion, however, will be calculated as a lot or parcel for the purpose of determining whether the proposed development constitutes a subdivision or a partition. No exclusion shall be permitted unless the following conditions exist:

A. The area to be excluded from the tentative plan is greater than 1 acre in size;

B. The excluded area is being reserved for future development and will not be immediately developed, or has already been developed;

C. The excluded area will not be provided access by the creation of any new street or road in the subdivision or partition.

ARTICLE 51 - SUBDIVISIONS

51.010 - PURPOSE

The purpose of the subdivision procedure is to ensure that the division of land into lots for subsequent use and development is conducted in an orderly manner and in compliance with this code and Oregon law.

51.020 - SUBDIVISION RESTRICTIONS

No person, agent, or corporation shall divide or sell any parcel located in any subdivision except according to the provisions of an accepted final subdivision plat. If any change is made to the subdivision inconsistent with the accepted final subdivision plat, or if any improvements required by this code are not complete, the Director may rescind acceptance of the subdivision.

51.030 - APPLICATION

All applications for tentative approval of the proposed subdivision shall meet the requirements of Section 50.040 as determined in the pre-application conference and shall be accompanied by at least 10 prints of a tentative plan furnished by the subdivider.

51.040 - REVIEW PROCEDURE

A. Subdivisions which do not meet the criteria set out in Section 51.040(B), shall be reviewed and a decision rendered under the Quasi-Judicial Review Procedures as established in Article 22 of this code.

B. Subdivisions which meet the following criteria shall be reviewed and a decision rendered under the Planning Commission Review Procedure as established in Article 24 of this code:

1. The proposed subdivision will create 10 or more lots; or

2. The proposed subdivision will create a through and/or connecting street or road; or

3. The general topography of the property proposed for a subdivision has a slope of 15% or greater; or

4. The proposed subdivision is located in a known and mapped hazard area including but not limited to flood hazard and a water hazard area.

51.050 - REVIEW CRITERIA

In addition to the requirements of Chapters 7 & 8, the following information will be reviewed in order to determine if the subdivision complies with county standards:

A. Compliance with this code and all applicable rules, resolutions, ordinances, codes, technical manuals, and policies of the county;

B. The proposed development conforms with the Official Street Map and/or any potential street extensions, and will not prohibit the extension of streets or roads;

C. The existing and required infrastructure and public facilities and services are adequate to serve the proposed development;

D. The carrying capacity as defined in Section 11.030 is adequate for the proposed density of development;

E. All lots created shall conform to the minimum lot size for the zone the parcel is located in and to the requirements in Article 71 of this code;

F. The parcels are located and laid out to properly relate to adjoining or nearby lot or parcel lines, utilities, streets, or other existing or planned facilities;

G. The proposed development will not conflict with legally established easements or access within or adjacent to the parcel configuration resulting from the subject property;

H. The proposed development is compatible with the existing land use pattern in the area;

I. Any development located in an area subject to flooding, water hazard, earth movement or fire, shall present a solution to mitigate the hazard as a condition of approval.

51.060 - TENTATIVE PLAN REQUIREMENTS

The tentative plan of a subdivision shall be at a scale so that all survey and mathematical information, and all other details, will be clearly and legibly shown. The tentative plan shall show all of the following information:

A. The proposed name of the subdivision;

B. North arrow, scale, date of application, and bases of bearing;

C. Names and addresses of the owner(s), and any participating engineer, surveyor, land planner, and/or landscape architect;

D. The tract designation or other description according to the real estate records of the County Assessor;

E. The boundary lines (accurate in scale) of the tract to be subdivided;

F. A topographic map with contour intervals, based on the overall difference in elevation in the proposed subdivision as listed in the following chart (all figures are in feet):

DIFFERENCE IN ELEVATION	CONTOUR INTERVAL
9 TO 25	2
26 TO 50	5
51 TO 100	10
101 TO 200+	10 open / 20 timber

G. The location, width, and names of streets or public ways within the tentative plan including existing buildings, railroad right-of-ways, and other important features such as section lines, political subdivisions or corporation lines, and school district boundaries;

H. Approximate location of existing septic systems, sewer mains, water mains, drainage structures, irrigation and mining ditches, fire hydrants, culverts, underground utilities, and improvements within the tract or immediately adjacent, including existing structures;

I. All parcels of land intended to be dedicated for public use or reserved by deed for the use of all property owners in the proposed subdivision including the purpose of any conditions or limitations of the deed reservation;

J. The name of new streets, the approximate grades of all streets proposed and/or existing in the subdivision, and the approximate widths and locations of any proposed easements for drainage, sewerage, and public utilities;

K. Typical cross-sections of proposed streets, showing the location of all proposed utility improvements within the street right-of-way and adjacent easements at a scale which will clearly show the details, if required by the County Engineer;

L. Approximate location of all areas subject to inundation or storm water overflow, and the location, width, and direction of flow of all watercourses and natural drainages;

M. Proposed lots, approximate dimensions, square footage or acreage designation, and lot numbers;

N. Appropriate information clearly stating the map is a tentative plan;

O. Proposed source of water supply; if it is not a municipal source, the estimated volume of water available, including data on the proposed location and type of all storage facilities;

P. If a domestic water supply as proposed by the developer includes drilling wells, information on the feasibility of well drilling. The information will be provided even if the developer is not required by the review body to drill the wells;

Q. The proposed method of sewage disposal:

1. If the development is to be served by a community sewer system, information must be submitted regarding the location of lines and the feasibility of collection;

2. If treatment is to be accomplished by an existing municipal or public sewage facility information regarding the ability of the existing facility to accommodate the projected increased load;

3. If treatment is to be accomplished by a new installation or privately owned treatment facility, a statement regarding conformity to applicable regulations of the Oregon Department of Environmental Quality;

4. If the development is to be served by a community collection and storage system, data shall be submitted regarding the location of all proposed lines, holding tanks, storage facilities, and pumping facilities. Information regarding the proposed removal and disposal of the sewage, the location of the pumping facility, eventual treatment, and the method of transport shall also be provided;

5. If the development is to be served by subsurface sewage disposal, then some combination of the following information shall be submitted: a suitability statement from a soil scientist regarding the suitability of the soils for subsurface disposal, or a septic site evaluation for 2 or more lots with a minimum of 25% of the lots, or copies of any existing septic system permits.

R. Identify the source of other public utilities;

S. Proposed deed restrictions, if any;

T. If the proposed subdivision is located within the boundaries of an irrigation district, identify the irrigation district involved and include copies of all appropriate easements;

U. The location of any environmental hazard, including areas unsuitable for building purposes, land subject to mass movement, erosion, or similar natural phenomena, the location of any flood hazard areas including base flood elevation data, the type and boundaries of the flood hazard area, and the boundaries of the regulatory floodway, if any;

V. A drainage plan showing existing and potential drainage, creeks, streams, ditches, and culverts;

W. An elevation map showing six to eight relative contours of the site before grading for the erosion control plan (a United States Geologic Survey contour map may be substituted if approved in the pre-application conference);

X. Comprehensive plan and zoning designation;

Y. A vicinity sketch meeting the following criteria:

1. The sketch shall either be a separate drawing or be drawn on the cover sheet of the tentative plan at a scale suitable for reproduction by copying;

2. Show all existing and adjacent subdivisions, streets, tract lines of acreage parcels, names of the recorded owners of parcels of land immediately adjoining the proposed subdivision, and between the subdivision and the nearest existing or proposed public road;

3. Show how streets and alleys in neighboring subdivisions or undeveloped property will be located to produce the most advantageous development of the entire neighborhood area.

51.070 - PROCESSING

A. The request for a subdivision may be initiated by filing an application on forms provided by the Planning Office, and shall set forth in detail all necessary information under Section 50.040 and the pre-application conference.

B. A pre-application conference is required.

C. Within 30 days from the date the application is received the application shall be reviewed against the standards set out in Section 50.040, and as added by pre-application review, to determine if all the necessary information is complete and of sufficient detail to describe the proposal. If the information or the tentative plan is not complete, the applicant shall be notified in writing detailing what information is missing and shall be directed to submit the missing information or to place the information on the tentative plan. If the applicant does not submit the requested information or place it on the tentative plan map within the time specified in the letter, the application shall be deemed complete and processed.

D. Within 5 working days of receiving an application, the Planning Director shall check the wetlands maps located in the planning office, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on the proposed site, the Planning Director shall notify the Division of State Lands (DSL) on forms provided by DSL. A copy of the letter shall be sent to the applicant. The letter shall notify DSL and the applicant of the possible presence of a wetland and the potential need for state and federal permits.

E. Approval of the tentative plan shall be a tentative approval and shall not constitute acceptance of a plat or final map. The following shall apply:

1. The review body shall submit a copy of the tentative plan for review by any agency or legal entity as required by law;

2. The tentative plan and vicinity sketch shall be reviewed using site plan review procedures. The planner conducting site plan review submit recommendations to the review body for inclusion in the final decision;

3. The review body will include the comments and alternatives of all reviewing parties in the file;

4. The Planning Director may refer the subdivision to a formal hearing if the development will have a substantial impact on the area or if enough comments raising substantive issues based on the review criteria are received during the comment period;

5. The review body shall evaluate the tentative plan and other application materials against the review standards and criteria set out in Section 51.050 and determine whether the request satisfies the requirements for tentative approval;

6. Approval of the tentative plan shall be reduced to writing by the review body in the form of a final action;

7. Upon approval of the tentative plan, the applicant shall be directed to prepare a final plat in conformance with the tentative plan and Articles 56 and 57 of this code;

8. Approval of the tentative plan shall be binding upon the developer and Josephine County for the purpose of the preparation of the final plat or final map.

F. A final action granting approval of a tentative plan may be appealed to the Board of County Commissioners within 10 days consistent with the provisions of Article 33.

G. Minor conditions may be imposed where necessary due to physical problems encountered during implementation of the tentative plan by the County Engineer consistent with Josephine County Road Standards, Sanitary Sewer Standards, Interim Development Standards, Groundwater Development Standards, Water System and Storm Sewer Design Standards, and other design standards contained in ordinances, codes, and technical manuals adopted by the Board of County Commissioners.

51.080 - CONDITIONS AND IMPROVEMENTS

A. Special conditions of approval for the tentative plan may be required by the review body beyond the standards or criteria specified in this code if it determines the information or development is needed to protect the public health, safety, and welfare of the neighborhood or the community. In order to impose special conditions, the review body in its findings shall:

1. Identify and describe the circumstances resulting from the development which create the threat to the public health, safety, and welfare of the neighborhood or the community; and
2. Articulate how the proposed special condition(s) are reasonably necessary to alleviate or mitigate the identified circumstances.

B. The conditions may include, but shall not be limited to:

1. The provision of domestic water on each or some of the lots;

2. Paving of streets or ways;

3. Construction of sidewalks or pedestrian paths;

4. Control of erosion;

5. Extension of streets to existing maintained roads.

C. The review body may require the following:

1. Dedication of lands for public parks, school sites, or other purposes;

2. Off-site improvements, to be completed by the developer, when necessary to mitigate impacts resulting from the development based on the property development standards set out in this code or in other documents adopted by reference in this code.

D. After approval of the tentative plan by the review body, but prior to any construction within a subdivision, the developer shall submit to the County Engineer the following information, as appropriate:

1. A plan and profile on Federal Aid sheets showing the following:

a. Width of the proposed dedication throughout the length of the proposal;

b. Centerline alignment showing P.C. and P.T. stationing on all curves, necessary curve data, and bearings of tangents;

c. Ground line and grade line profile on the centerline of the proposed street or road;

d. Vertical curve data showing P.I. elevations and stations, length of vertical curve and tangent;

e. Earthwork distribution (only when the developer proposes to bond or provide other financial guarantee for construction of roads for approval of the subdivision plat);

f. Location and material type for waste or borrow areas;

g. Typical road section(s);

h. Drainage and culvert design and location, and typical ditch section.

2. Cross sections:

a. Shall be platted on rolls of 10 on standard cross-section paper;

b. Computed cross-section printouts may be submitted in lieu of platted cross-sections;

c. Shall show proposed widened cuts or fill if these are needed for material balance.

3. Sheets and drawing showing the following:

   a. Traverse data including the coordinates of the boundary of the subdivision, and ties to section corners and donation land claim corners showing the error of closure, if any;

   b. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.

4. Provisions for road construction, installation of utilities, and scheduling of work will be provided by the developer prior to construction;

5. Sewer plans meeting requirements of any Josephine County service districts in which the subdivision is located, and approval of the Oregon Department of Environmental Quality.

E. After approval of the tentative plan but prior to any construction, the developer shall submit to the County Health Department, plans and profiles of any proposed water distribution system showing the location of any valves, fire hydrants, or storage facilities, meeting requirements of the Oregon Health Division. If required by the review body, water systems shall be designed to provide fire flow capacity meeting standards established by the state Fire Marshall.

51.085 - CONVERSION OF MANUFACTURED DWELLING PARKS TO SUBDIVISIONS

Subject to all of the detailed requirements of ORS 92.427, and the further process and mapping requirements contained in this Article for the preparation and approval of tentative plans for subdivisions, the review body shall approve a tentative plan for the conversion of an existing manufactured dwelling park to a subdivision upon receipt and verification of evidence that:

A. The park is in compliance with the county's standards for a manufactured dwelling park, or a mobile home park, or is an approved nonconforming use. For the purposes of this subsection, a park is in compliance if the county has not issued a written notice of noncompliance as of September 1, 2001; and

B. The tentative plan does not increase the number of lots, as defined in ORS 446.003, approved for the park, change the boundary lines or setback requirements or make other development changes.

51.090 - MODIFICATION

The review body may modify or alter an action on a previously approved tentative plan subject to compliance with all the following:

A. A request for modification shall be submitted by the developer, in writing, setting forth the specific modification requested and the facts to justify the modification; and

B. The request shall clearly indicate that the modification is reasonably necessary to mitigate physical circumstances not anticipated in the approval process and the request will not significantly alter the previous action of the review body.

51.100 - TIME LINE

An approved tentative plan is valid for 2 years from the date of approval. During that time, improvements must be installed and a final plat prepared. If the improvements have not been installed or suitably guaranteed under Article 14 and a final plat is not submitted for approval then the tentative plan shall become null and void.

51.110 - TIME EXTENSION

A one-time 2 year extension of the tentative plan approval may be granted by the Planning Director if the following are met:

A. The applicant must submit a request for an extension on forms provided by the Planning Office, together with a pre-application fee, prior to the expiration date of the approval of the tentative plan;

B. The Planning Director shall determine that the extension is necessary to complete conditions of approval and that no changes in ordinances, codes, or circumstances would cause the original approval to be effected;

C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22;

D. Approval of the extension is not considered a land use decision and is not subject to appeal as such.

ARTICLE 52 - LAND PARTITIONS

52.010 - PURPOSE

The purpose of the land partitioning procedure is to ensure that the division of lands into parcels for subsequent use and development is conducted in an orderly manner and in compliance with this code and Oregon law.

52.020 - PARTITION RESTRICTIONS

No person, agent, or corporation shall divide or sell any parcel located in any partition, except according to the provisions of an accepted partition plan map. If any change is made to the partition, inconsistent with the accepted partition map, or if any improvements required by this code are not complete, the Director may rescind acceptance of the partition.

52.030 - APPLICATION

All applications for tentative approval for a partition shall set forth in detail all necessary information under Section 50.040 as discussed in the pre-application conference and shall be accompanied by 5 copies of a tentative map for the proposed partition. If a road is being created, 10 copies shall be submitted.

52.040 - REVIEW PROCEDURE

Partitions shall be reviewed and a decision rendered under the Quasi-Judicial Review Procedures as established in Section 22.040 of this code.

52.050 - REVIEW CRITERIA

In addition to the requirements of Chapters 7 & 8, the following information will be reviewed in order to determine if the partition complies with county standards:

A. Compliance with this code and all applicable rules, resolutions, ordinances, codes, technical manuals, and policies of the county;

B. The proposed development conforms with the Official Street Map and/or any potential street extensions and will not prohibit the extension of streets or roads;

C. The existing and required infrastructure and public facilities and services are adequate to serve the proposed development;

D. The carrying capacity as defined in Section 11.030 is adequate for the proposed density of development;

E. All lots created shall conform to the minimum lot size for the zone the parcel is located in and to the requirements in Article 71 of this code;

F. The parcels are located and laid out to properly relate to adjoining or nearby lot or parcel lines, utilities, streets, or other existing or planned facilities;

G. The proposed development will not conflict with legally established easements or accesses within or adjacent to the parcel configuration resulting from the subject property;

H. The proposed development is compatible with the existing land use pattern in the area;

I. Any development located in a area subject to flooding, water hazard, earth movement, or fire shall present a solution to mitigate the hazard as a condition of approval.

52.060 - TENTATIVE PLAN REQUIREMENTS

The tentative plan for partitions shall include the following information on the map or attached to the map on supplemental sheets, as applicable:

A. North arrow, scale, and date;

B. Names and addresses of the owner and/or partitioner;

C. The tract designation or other description according to the real estate records of the County Assessor;.

D. The location, width and names of streets or public ways adjacent to the subject property, railroad right-of-ways, and other important features such as section lines, political subdivisions or corporation lines, and school district boundaries;

E. Parcel boundary lines and dimensions (accurate in scale), with parcel numbers;

F. The approximate area of each parcel;

G. Identification that the map is a partition;

H. The name and address of any participating engineer, surveyor, and/or land use planner;

I. The location and size of drainage lines, sewer lines, water lines, culverts, underground utilities, utility easements, and the approximate location of utility poles; show existing buildings or structures together with distances in feet from existing structures to existing parcel lines; show new parcel lines created by the proposed partition. This information shall be provided for all partitions in all zones;

J. The location of any flood hazard areas including base flood elevation data, the type and boundaries of the flood hazard area, and the boundaries of the regulatory floodway, if any;

K. Location, width, and direction of flow of natural drainages, water courses, irrigation ditches, and mining ditches;

L. The location of an environmental hazard, including areas unsuitable for building purposes, land subject to mass movement, erosion, or similar natural phenomena;

M. A drainage plan showing existing and potential drainage, creeks, streams, ditches, and culverts;

N. An elevation map showing six to eight relative contours of the site before grading for the erosion control plan (a United States Geologic Survey contour map may be substituted if approved in the pre-application conference);

O. Comprehensive plan and zoning designations;

P. Indicate where the Airport Overlay is, if applicable;

Q. The name of new streets, the approximate grades of all proposed or existing streets, and the locations of any proposed easements for drainage, sewerage, and public utilities;

R. Typical cross-sections of proposed streets, showing all utility improvements proposed within the street right-of-way and adjacent easements at a scale which will clearly show the details, if required by the County Engineer;

S. The proposed method of sewage disposal including the preliminary location of septic system(s) include copies of any existing septic system permits;

T. A topographic map with contour intervals, based on the overall difference in elevation in the proposed partition as listed in the following chart (all figures are in feet):

DIFFERENCE IN ELEVATION	CONTOUR INTERVAL
9 TO 25	2
26 TO 50	5
51 TO 100	10
101 TO 200+	10 open / 20 timber

52.070 - PROCESSING

A. The request for a partition may be initiated by filing an application on forms provided by the Planning Office and shall set forth in detail all necessary information under Section 50.040 and the pre-application conference.

B. A pre-application conference is required.

C. Within 30 days from the date the application is received the application shall be reviewed against the standards set out in Section 50.040, and as added by pre-application review, to determine if all the necessary information is complete and of sufficient detail to describe the proposal. If the information or the tentative plan is not complete, the applicant shall be notified in writing detailing what information is missing and directed to submit the missing information or to place the information on the tentative plan. If the applicant does not submit the requested information or place it on the tentative plan map within the time specified in the letter, the application shall be deemed complete and processed.

D. Within 5 working days of receiving an application, the Planning Director shall check the wetlands maps located in the Planning Office, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on the proposed site, the Planning Director shall notify the Division of State Lands (DSL) on forms provided by DSL. A copy of the letter shall be sent to the applicant. The letter shall notify DSL and the applicant of the possible presence of a wetland and the potential need for state and federal permits.

E. Approval of the tentative plan shall be a tentative approval and shall not constitute acceptance of a plat or final map. The following shall apply:

1. The review body shall submit a copy of the tentative plan for review by any agency or legal entity required by law;

2. The review body will include the comments and alternatives of all reviewing parties in the file;

3. The review body shall evaluate the review criteria set out in Section 52.050 in reaching a decision on approval of the tentative plan;

4. Approval of the tentative plan shall be reduced to writing by the review body in the form of a final action and not by a notation upon the tentative plan;

5. Upon approval of the tentative plan, the applicant shall be directed to prepare a final plat in conformance with the tentative plan and Articles 56 and 57 of this code;

6. Approval of the tentative plan shall be binding upon the developer and Josephine County for the purpose of the preparation of the final plat or final map.

F. A final action granting approval of a tentative plan may be appealed to the Board of County Commissioners within 10 days consistent with the provisions of Article 33.

G. Minor conditions may be imposed where necessary due to physical problems encountered during implementation of the tentative plan by the County Engineer consistent with Josephine County Road Standards, Sanitary Sewer Standards, Interim Development Standards, Groundwater Development Standards, Water System and Storm Sewer Design Standards, and other design standards contained in ordinances, codes, and technical manuals adopted by the Board of County Commissioners.

52.080 - CONDITIONS AND IMPROVEMENTS

A. Special conditions of approval for the tentative plan may be required by the review body beyond the standards or criteria specified in this code if it determines the information or development is needed to protect the public health, safety, and welfare of the neighborhood or the community. In order to impose special conditions, the review body in its findings shall:

1. Identify and describe the circumstances resulting from the development which create the threat to the public health, safety, and welfare of the neighborhood or the community; and

2. Articulate how the proposed special condition(s) are reasonably necessary to alleviate or mitigate the identified circumstances.

B. Such conditions may include, but shall not be limited to the following:

1. The provision of domestic water on each or some of the lots;

2. Paving of streets or ways;

3. Construction of pedestrian access;

4. Control of erosion;

5. Extension of streets to existing maintained roads;

6. Off-site improvements to be completed by the developer, when necessary to substantially mitigate impacts resulting from the development, based on the property development standards set out in this code or in other documents adopted by reference in this code.

52.090 - SURVEY REQUIREMENTS

A. When a partition creates one or more parcels 10.00 acres or smaller, the entire partition shall be surveyed in accordance with the requirements for the setting of monuments as contained in Article 57 of this code and applicable state laws.

B. Partitions where all parcels are greater than 10.00 acres shall be exempt from the requirement to survey the land in accordance with Article 57 of this code. This exemption does not waive the requirement that a final plat be prepared by a surveyor licensed by the state of Oregon.

52.100 - MODIFICATION

The review body may modify or alter an action on a previously approved tentative plan subject to compliance with all the following:

A. A request for modification shall be submitted by the developer, in writing, setting forth the specific modification requested and the facts to justify the modification; and

B. The request shall clearly indicate that the modification is reasonably necessary to mitigate physical circumstances not anticipated in the approval process and the request and will not significantly alter the previous action of the review body.

52.110 - TIME LINE

An approved tentative plan is valid for 2 years from the date of approval. During that time, improvements must be installed or suitably guaranteed and a final plat prepared. If the improvements have not been installed and a final plat is not submitted for approval then the tentative plan shall become null and void.

52.120 - TIME EXTENSION

A one-time 2 year extension of the tentative plan approval may be granted by the Planning Director if the following are met:

A. The applicant must submit a request for an extension on forms provided by the Planning Office, together with a pre-application fee, prior to the expiration date of the approval of the tentative plan;

B. The Planning Director shall determine that the extension is necessary to complete conditions of approval and that no changes in ordinances, codes, or circumstances would cause the original approval to be effected;

C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22;

D. Approval of the extension is not considered a land use decision and is not subject to appeal as such.

ARTICLE 53 - REPLATS

53.010 - PURPOSE

The purpose of this Article is to provide a procedure to modify recorded lots or parcels or further divide recorded lots or parcels or change lot configurations.

53.020 - REPLATS REQUIRED

A. No person, agent or corporation shall perform replats except in compliance with the requirements for replatting as contained in this code.

B. The requirements of this Article may apply to the act of replatting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots or parcels in the subdivision or partition. The requirements of this article shall apply to the act of replatting when any one of the following circumstances exist:

1. The replat changes the location of any external boundary; or

2. The replat increases or decreases the total area of the plat; or

3. The replat changes the location of a public or private street or public easement or right-of-way; or

4. The replat increases the number of lots or parcels.

C. When a replat is not required pursuant to subsection B.1 through B.4 above, common property lines between one or more abutting parcels may be relocated using the procedures and standards as set forth in Article 54, *Property Line Adjustments*.

53.030 - APPLICATION

Whenever recorded lots or parcels are further divided or the lot configuration is changed, an application conforming to the requirements of Section 50.040 together with 5 copies of a tentative map for the proposed replat shall be submitted to the Planning Director. If the number of lots or parcels to be replatted is 4 or more, or the lots or parcels do not abut a maintained county road, 10 copies shall be submitted.

53.040 - REVIEW PROCEDURE

Replats shall be reviewed and a decision rendered under the Quasi-Judicial Review Procedures as set out in Section 22.040.

53.050 - REVIEW CRITERIA

In addition to the requirements of Chapters 7 and 8, as applicable, the following information will be reviewed in order to determine if the replat complies with county standards:

A. Compliance with this code and all applicable rules, resolutions, ordinances, codes, technical manuals, and policies of the county;

B. The proposed development conforms with the Official Street Map and/or any potential street extensions and will not prohibit the extension of streets or roads;

C. The existing and required infrastructure, roads and public facilities and services are adequate to serve the proposed development;

D. The carrying capacity as defined in Section 11.030 of the subject property is adequate for the proposed density of development;

E. Adjustments to nonconforming lots or parcels shall not result in greater nonconformity or render substantially conforming lots or parcels more nonconforming;

F. The parcels are located and laid out to properly relate to adjoining or nearby lot or parcel lines, utilities, streets, or other existing or planned facilities;

G. The proposed development will not conflict with legally established easements or accesses within or adjacent to the parcel configuration resulting from the subject property;

H. The proposed development is compatible with the existing land use pattern in the area;

I. Any development located in a area subject to flooding, water hazard, earth movement, or fire shall present a solution to mitigate the hazard as a condition of approval.

53.060 - TENTATIVE PLAN REQUIREMENTS

A. A tentative plan meeting the requirements of Section 52.060 shall be required if the replat will decrease the number of lots or parcels remaining, if the lots or parcels abut a maintained county road or if the number of lots or parcels is less than 4.

B. A tentative plan meeting the requirements of Section 51.060 shall be required if the replat will increase the number of lots or parcels, the lots or parcels do not abut a maintained county road, or the replatting of 4 or more lots is proposed.

53.070 - PROCESSING

A. The request for a replat may be initiated by filing an application on forms provided by the Planning Office, and shall set forth in detail all necessary information under Section 50.040 and the pre-application conference.

B. A pre-application conference is required.

C. Within 30 days from the date the application is received the application shall be reviewed against the standards set out in Section 50.040, and as added by pre-application conference, to determine if all the necessary information is complete and of sufficient detail to describe the proposal. If the information or the tentative plan is not complete, the applicant shall be notified in writing detailing what information is missing, and directed to submit the missing information or to place the information on the tentative plan. If the applicant does not submit the requested information or place it on the tentative plan map

within the time specified in the letter, the application shall be deemed complete and processed.

D. Within 5 working days of receiving an application, the Planning Director shall check the wetlands maps located in the Planning Office, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on the proposed site, the Planning Director shall notify the Division of State Lands (DSL) on forms provided by DSL. A copy of the letter shall be sent to the applicant. The letter shall notify DSL and the applicant of the possible presence of a wetland and the potential need for state and federal permits.

E. Approval of the tentative plan shall be a tentative approval and shall not constitute acceptance of a plat or final map. The following shall apply:

1. The review body shall submit a copy of the tentative plan for review by any agency or legal entity as required by law;

2. The review body will include the comments and alternatives of all reviewing parties in the file;

3. The review body shall evaluate the review criteria set out in Section 53.050 in reaching a decision on approval of the tentative plan;

4. Approval of the tentative plan shall be reduced to writing by the review body in the form of a final action and not by a notation upon the tentative plan;

5. Upon approval of the tentative plan, the applicant shall be directed to prepare a final plat in conformance with the tentative plan and Articles 56 and 57 of this code;

6. Approval of the tentative plan shall be binding upon the developer and Josephine County for the purpose of the preparation of the final plat or final map.

F. A final action granting approval of a tentative plan may be appealed to the Board of County Commissioners within 10 days consistent with the provisions of Article 33.

G. Minor conditions may be imposed where necessary due to physical problems encountered during implementation of the tentative plan by the County Engineer consistent with Josephine County Road Standards, Sanitary Sewer Standards, Interim Development Standards, Groundwater Development Standards, Water System and Storm Sewer Design Standards, and other design standards contained in ordinances, codes, and technical manuals adopted by the Board of County Commissioners.

53.080 - CONDITIONS AND IMPROVEMENTS

A. Special conditions of approval for the tentative plan may be required by the review body beyond the standards or criteria specified in this code if it determines the information or development is needed to protect the public health, safety, and welfare of the

neighborhood or the community. In order to impose special conditions, the review body in its findings shall:

1. Identify and describe the circumstances resulting from the development which create the threat to the public health, safety, and welfare of the neighborhood or the community; and

2. Articulate how the proposed special condition(s) are reasonably necessary to alleviate or mitigate the identified circumstances.

B. Conditions may include, but shall not be limited to the following:

1. Provision of domestic water on each or some of the lots;

2. Paving of streets or ways;

3. Construction of sidewalks or pedestrian paths;

4. Control of erosion;

5. Extension of streets to existing maintained roads;

6. Off-site improvements, to be completed by the developer, when necessary to substantially mitigate impacts resulting from the development, based on the property development standards set out in this code or in other documents adopted by reference in this code.

53.090 - SURVEY REQUIREMENTS

A. When a replat creates one or more parcels 10.00 acres or smaller, the entire replat for the lots or parcels of 10.00 acres or smaller shall be surveyed in accordance with the requirements for the setting of monuments as contained in Article 57 of this code and applicable state laws.

B. Replats where all parcels are greater than 10.00 acres shall be exempt from the requirement to survey the land in accordance with Article 57 of this code. This exemption does not waive the requirement that a final plat be prepared by a surveyor licensed by the State of Oregon.

53.100 - TIME LINE

An approved tentative plan is valid for 2 years from the date of approval. During that time, improvements must be installed and a final plat prepared. If the improvements have not been installed or suitably guaranteed and a final plat is not submitted for approval then the tentative plan shall become null and void.

53.110 - TIME EXTENSION

A one-time 2 year extension of the tentative plan approval may be granted by the Planning Director if the following are met:

A. The applicant must submit a request for an extension on forms provided by the Planning Office, together with a pre-application fee, prior to the expiration date of the approval of the tentative plan;

B. The Planning Director shall determine that the extension is necessary to complete conditions of approval and that no changes in ordinances, codes, or circumstances would cause the original approval to be effected;

C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22;

D. Approval of the extension is not considered a land use decision and is not subject to appeal as such.

ARTICLE 54 - PROPERTY LINE ADJUSTMENTS

54.010 - PURPOSE

The purpose of this Article is to standardize property line adjustment procedures and ensure that the requirements of this code are met.

54.020 - PROPERTY LINE ADJUSTMENT RESTRICTIONS

A. A property line adjustment is the relocation of a common boundary of two abutting properties where an additional unit of land is not created and where the existing unit of land reduced in size complies with the zoning requirements for lot size.

B. When one or both the lots being adjusted is smaller than the minimum lot size for the zone in which lots or parcels are located, neither of the lots or parcels may be reduced to an area less than the original smallest lot or parcel. Further, if there is one parcel that is smaller than the minimum lot size required in the zone before the adjustment, only one parcel smaller than the minimum lot size required in the zone is allowed after the adjustment.

C. No person, agent, or corporation shall adjust or sell any parcel located in any property line adjustment except according to the provisions of an accepted property line adjustment plan map. If any change is made to the adjustment, inconsistent with the accepted adjustment map, the Planning Director may rescind acceptance of the adjustment.

D. Platted lots and parcels shall be reconfigured, adjusted, or revised by replatting. The process for replatting is found in Article 53 of this code.

54.030 - APPLICATION

Whenever a common boundary between two lots or parcels is adjusted by relocation of the common boundary, an application meeting the requirements of Section 50.040 as discussed in the pre-application conference, and a tentative plan map shall be submitted to the Planning Director.

54.040 - REVIEW PROCEDURE

Property line adjustments shall be reviewed and a decision rendered under the Ministerial Review Procedures as established in Section 22.030 of this code.

54.050 - REVIEW STANDARDS

In addition to the requirements of Chapters 7 and 8, as applicable, the following information will be reviewed in order to determine if the property line adjustment complies with county standards:

A. Both contiguous parcels were lawfully created;

B. The property line adjustment will not result in the creation of a new parcel;

C. The parcels resulting from the property line adjustment conform to the minimum lot size for the zone the parcel is located in and to the requirements in Article 71 of this code;

D. Adjustments to nonconforming lots or parcels shall not result in greater nonconformity or render substantially conforming lots or parcels more nonconforming;

E. The property line adjustment will not conflict with any public or private easement.

54.060 - TENTATIVE PLAN REQUIREMENTS

The map shall be prepared in the manner set forth in Section 52.060 of this code.

54.070 - PROCESSING

A. The request for a property line adjustment may be initiated by filing an application on forms provided by the Planning Office, and shall set forth in detail all necessary information under Section 50.040 and the pre-application conference.

B. A pre-application conference is required.

C. Within 30 days from the date the application is received the application shall be reviewed against the standards set out in Section 50.040, and as added by pre-application review to determine if all the necessary information is complete and of sufficient detail to describe the proposal. If the information or the tentative plan is not complete, the applicant shall be notified in writing detailing what information is missing, and directed submit the missing information or to place the information on the tentative plan. If the applicant does not submit the requested information or place it on the tentative plan map within the time specified in the letter, the application shall be deemed complete and processed.

D. Approval of the tentative plan shall be a tentative approval and shall not constitute acceptance of a plat or final map. The following shall apply:

1. The Planning Director will include the comments and alternatives of all reviewing parties in the file;

2. The review body shall evaluate the review criteria set out in Section 54.050 in reaching a decision on approval of the tentative plan;

3. Approval of the tentative plan shall be reduced to writing by the review body in the form of a final action and not by a notation on the tentative plan;

4. Upon approval of the tentative plan, the applicant shall be directed to prepare a final plat in conformance with the tentative plan and Articles 56 and 57 of this code;

5. Approval of the tentative plan shall be binding upon the developer and Josephine County for the purpose of the preparation of the final plat or final map.

E. A final action granting approval of a tentative plan does not require the exercise of judgement, is not considered a land use decision and may not be appealed as such.

F. Minor conditions may be imposed where necessary due to physical problems encountered during implementation of the tentative plan by the County Engineer consistent with Josephine County Road Standards, Sanitary Sewer Standards, Interim Development

Standards, Groundwater Development Standards, Water System and Storm Sewer Design Standards, and other design standards contained in ordinances, codes, and technical manuals adopted by the Board of County Commissioners.

54.080 - SURVEY REQUIREMENTS

A. When a Property Line Adjustment involves parcels 10.00 acres or smaller after the adjustment, the parcels that are 10.00 acres or smaller shall be surveyed in accordance with the requirements for the setting of monuments as contained in Article 57 of this code and applicable state laws.

B. Property Line Adjustments where all parcels are greater than 10.00 acres shall be exempt from the requirement to survey the land in accordance with Article 57 of this code. This exemption does not waive the requirement that a final plat be prepared by a surveyor licensed by the State of Oregon.

54.090 - ZONE BOUNDARY ADJUSTMENT

A. In conjunction with an application for a property line adjustment, the Planning Director has the authority to allow the adjustment of a zoning boundary without requiring a zone change application if the following criteria are satisfied:

1. The adjustment is in conjunction with a movement of a property line; and

2. The adjustment will not adversely impact adjoining properties; and

3. The adjustment will not alter the stability of the overall land use pattern in the area; and

4. The adjustment will not provide for a increase in residential lots or density; and

5. The adjustment will not create a significant increase in area for industrial or commercial uses.

B. A request for a zone boundary adjustment may be initiated by a property owner, or an authorized agent, by filing an application with the Planning Director in conjunction with the application for a property line adjustment. The following shall apply:

1. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed zone boundary adjustment;
2. The Planning Director may request other drawings or material essential to an understanding of the proposed adjustment and its relationship to the surrounding properties.

C. The application shall be reviewed under the Ministerial Review Procedures in Section 22.030. The review shall be done concurrently with the review for the property line adjustment.

D. If the request meets the purpose and criteria for a zone boundary adjustment, the Planning Director may approve the request pursuant to Section 22.030.

E. An application for a zone boundary adjustment cannot be approved if the corresponding application for the property line adjustment is not approved and a final plat approved and filed.

54.100 - TIME LINE

An approved tentative plan is valid for 2 years from the date of approval. During that time, improvements must be installed and a final plat prepared. If the improvements have not been installed or suitably guaranteed and a final plat is not submitted for approval then the tentative plan shall become null and void.

54.110 - TIME EXTENSION

A one-time 2 year extension of the tentative plan approval may be granted by the Planning Director if the following are met:

A. The applicant must submit a request for an extension on forms provided by the Planning Office, together with a pre-application fee, prior to the expiration date of the approval of the tentative plan;

B. The Planning Director shall determine that the extension is necessary to complete conditions of approval and that no changes in ordinances, codes, or circumstances would cause the original approval to be effected;

C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22;

D. Approval of the extension is not considered a land use decision and is not subject to appeal as such.

ARTICLE 55 - PLANNED UNIT DEVELOPMENT

55.010 - PURPOSE

The purpose of a planned unit development (PUD) is to permit the application of new technology and greater freedom of design in land developments than may be possible under a strict interpretation of the provisions of this code. The adoption of a PUD in combination with an existing zone is designed to permit a greater flexibility in development of land, encourage variety in the development pattern, encourage mixed uses in a total area which could not otherwise be efficiently and aesthetically developed as an integrated whole, encourage developers to use a creative approach in land development, conserve natural land features, facilitate a desirable aesthetic use of open space, encourage public and private common open spaces, and allow flexibility and variety in the location of improvements on lots with diversity in the use of land. The use of these provisions is dependent upon the submission of an acceptable plan and satisfactory assurance it will be carried out. The plan should accomplish substantially the same general objectives as proposed by the comprehensive plan for the plan and zone designation.

55.020 - PLANNED UNIT DEVELOPMENT RESTRICTIONS

A. No development or building permits for required improvements may be authorized or issued within the PUD prior to final plat approval except in compliance with the following:

   1. Full compliance with all provisions of this code including execution and filing of all required documents;

   2. Full compliance with the conditions imposed by the Planning Commission or by this code; and

   3. Full compliance with the approved tentative plan.

B. No person, agent, or corporation shall adjust or sell any parcel located in any PUD except according to the provisions of an accepted final plat. If any change is made to the adjustment, inconsistent with the accepted final plat, the Planning Commission may rescind acceptance of the PUD.

C. The Planning Commission, on its own motion, may revoke any PUD approval for noncompliance with the conditions set forth in the order granting the approval, after first holding a public hearing and giving notice of the hearing.

55.030 - APPLICATION

An applicant shall submit 10 copies of a tentative plan to the Planning Director together with a completed application meeting the requirements set out in Section 50.040 as discussed in the pre-application conference.

55.040 - REVIEW PROCEDURE

Planned Unit Developments shall be reviewed and a decision rendered by the Planning Commission as established in Article 24 of this code.

55.050 - REVIEW CRITERIA

In addition to the requirements of Chapters 7 and 8, the following information will be reviewed in order to determine if the PUD complies with the following county standards:

A. Compliance with this code and all applicable rules, resolutions, ordinances, codes, technical manuals, and policies of the county;

B. The proposed development conforms with the Official Street Map and/or any potential street extensions and will not prohibit the extension of streets or roads;

C. The existing and required infrastructure and public facilities and services are adequate to serve the proposed development;

D. The carrying capacity as defined in Section 11.030, of the subject property is adequate for the proposed density of development;

E. All lots created shall conform to the minimum lot size for the zone the parcel is located in and to the requirements in Article 71 of this code, except as deviations may be allowed pursuant to Section 55.080 of this Article;

F. The parcels are located and laid out to properly relate to adjoining or nearby lot or parcel lines, utilities, streets, or other existing or planned facilities;

G. The proposed development will not conflict with legally established easements or access within or adjacent to the parcel configuration resulting from the subject property;

H. The proposed development is compatible with the existing land use pattern in the area;

I. Any development located in a area subject to flooding, water hazard, earth movement, or fire shall present a solution to mitigate the hazard as a condition of approval. If the commission finds that it is necessary and prudent for the protection of public safety and welfare to restrict development in the hazardous areas, the commission may require, as a condition of approval, that those lands be dedicated to uses that minimize the aggravation of such hazards;

J. There are special physical conditions or objectives of development satisfied by the proposal which warrant a departure from the requirements in this code;

K. Resulting development will not be inconsistent with the comprehensive plan provisions or zoning objectives of the area, and the area around the development can be planned to be in substantial harmony with the proposed PUD;

L. The plan can be completed within a reasonable period of time;

M. In granting approval for PUD, the commission shall be guided by the following:

1. The applicant has, through investigation, planning and programming, demonstrated the soundness of the proposal, the ability to carry out the project as proposed, and that construction shall begin within 2 years of the conclusion of any necessary action by the governing body, or within a longer period of time as may be established by the Planning Commission;

2. The proposal conforms with the comprehensive plan in terms of location and general development standards;

3. The project will accrue benefits to general public in terms of need, convenience, service, and appearance sufficient to justify any necessary exceptions to the regulations of the zone;

4. The project will satisfactorily take care of the traffic it generates by means of adequate off-street parking, access points, and additional street right-of-way improvements;

5. That the project will be compatible with adjacent developments and will not adversely affect the character of the area;

6. No PUD shall be approved in any zone if the housing density or the proposed development will result in an intensity of land use greater than permitted in the zone.

55.060 - TENTATIVE PLAN REQUIREMENTS

The tentative plan shall be prepared in accordance with the requirements of Section 51.060. In addition, the applicant shall include the following information:

A. Proposed land uses, approximate building locations, type of construction, if known, and housing unit densities;

B. Proposed circulation pattern indicating the status of street ownership, parking areas, type of surfacing, curbs, etc;

C. Proposed open space uses, showing proposed landscaped areas;

D. Proposed grading and drainage pattern;

E. Relation of the proposed development to the surrounding area and the comprehensive plan.

55.070 - PROCESSING

A. The request for a PUD may be initiated by filing an application on forms provided by the Planning Office, and shall set forth in detail all necessary information under Section 50.040 and the pre-application conference.

B. A pre-application conference is required.

C. Within 30 days from the date the application is received the application shall be reviewed against the standards set out in Section 50.040 and as added by pre-application review, to determine if all the necessary information is complete and of sufficient detail to describe the proposal. If the information or the tentative plan is not complete, the applicant shall be notified in writing detailing what information is missing, and directed to submit the missing information or to place the information on the tentative plan. If the applicant does not submit the requested information or place it on the tentative plan map within the time specified in the letter, the application shall be deemed complete and processed.

D. Within 5 working days of receiving an application, the Planning Director shall check the wetlands maps located in the Planning Office, to determine if the site proposed for development may have a wetland located on it. If it is determined that a wetland may be located on the proposed site, the Planning Director shall notify the Division of State Lands (DSL) on forms provided by DSL. A copy of the letter shall be sent to the applicant. The letter shall notify DSL and the applicant of the possible presence of a wetland and the potential need for state and federal permits.

E. Approval of the tentative plan shall be a tentative approval and shall not constitute acceptance of a plat or final map. The following shall apply:

1. The Planning Director shall submit a copy of the tentative plan for review by any agency or legal entity as required by law;

2. The tentative plan and vicinity sketch shall be reviewed by the Subdivision Review Committee and recommendations for the project prepared. The Subdivision Review Committee shall submit their recommendations to the hearing body for inclusion in the final decision;

3. The Planning Commission shall consider the tentative development plan at a meeting at which time the findings and recommendations of all reviewing parties shall be considered;

4. In considering the plan, the commission shall review the proposal against the criteria set out in Section 55.050;

5. The Planning Commission shall hold a public hearing and shall review the information and make a written recommendation to the Board of County Commissioners;

6. The Board shall review the recommendation of the Planning Commission and may schedule additional hearings on the application at its discretion;

7. The Board of County Commissioners decision shall be reduced to writing in the form of a final action consistent with the requirements in Section 31.130(C) and not by notation upon the tentative plan;

8. Upon approval of the tentative plan, the applicant shall be directed to prepare a final plat in conformance with the tentative plan and Articles 56 and 57 of this code;

9. Any approved PUD shall be subject to all conditions imposed, and shall be excepted from other provisions of this code only to the extent specified in the authorization;

10. Approval of the tentative plan shall be binding upon the developer and Josephine County for the purpose of the preparation of the final plat or final map.

F. Minor conditions may be imposed where necessary due to physical problems encountered during implementation of the tentative plan by the County Engineer consistent with Josephine County Road Standards, Sanitary Sewer Standards, Interim Development Standards, Groundwater Development Standards, Water System and Storm Sewer Design Standards, and other design standards contained in ordinances, codes, and technical manuals adopted by the Board of County Commissioners.

55.080 - CONDITIONS AND IMPROVEMENTS

The following standards are the basic requirements governing a PUD in an area in which it is permitted, in accordance with this code:

A. The standards set out in Chapters 7 and 8 including requirements for area, density, yards, off-street parking, or other requirements based on the underlying zone in which the PUD is proposed;

B. The density of dwelling units shall not exceed that normally allowed by the zone in which the proposed development is located. This provision is not to be confused with the ability of a developer to increase the density of dwelling units within a given area of the PUD through the retention of open space while maintaining the density ratio of acres per dwelling;

C. In addition all other requirements made applicable by this code, the review body may authorize a PUD within any Rural Residential zone only when all of the following requirements are met:

1. The number of new dwelling units in the development does not exceed 10;

2. The number of new lots or parcels to be created in the development does not exceed 10;

3. None of the new lots or parcels will be smaller than two acres;

4. The development is not to be served by a new community sewer system;

5. The development is not to be served by any extension of a sewer system from within an urban growth boundary or from within an unincorporated community;

6. The overall density of the development will not exceed one dwelling for each unit of acreage specified as the minimum for the Rural Residential zone applicable to the land contained in the PUD;

7. Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use, and will not significantly increase the cost of accepted farm or forest practices there; and

8. For any open space or common area provided as a part of the PUD, the owner shall submit proof of non-revocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

D. Lands and structures not dedicated to the public but reserved for use by owners or tenants and their guests (common areas) will be subject to a non-profit corporation of owners organized under the laws of the State of Oregon. To comply with this provision, all of the following must be completed:

1. A non-profit corporation shall be established. The articles of incorporation shall provide that:

   a. The corporation shall maintain the common areas;

   b. The corporation shall pay taxes on common areas;

   c. The owners of each lot in the development shall have 1 vote as a shareholder in the corporation;

   d. The corporation is responsible for carrying out the provisions of approval of this PUD specifying the name of the PUD and Josephine County as the place the subdivision plat is recorded;

   e. The corporation is responsible for carrying out the responsibilities of the non-profit corporation (or any other entity, by any name) mentioned in the restrictive covenants (real covenants), however titled, referred to in Section 55.080.C.2 of this code;

   f. Any shareholder shall be able to enforce any obligation of the corporation which the corporation neglects or refuses to carry out and reasonable attorney fees shall be awarded to the successful party;

   g. None of the above provisions can be modified or repealed without the unanimous consent of all shareholders of the corporation, representing every lot of the subdivision after all lots have been sold by the original owner-developer-declarant.

2. There shall be filed in the county deed records, restrictive covenants (real covenants), however titled, which shall:

a. Require, as a mutual benefit and burden of ownership of any lot in the PUD, the maintenance, perpetuation, and continuity of the non-profit corporation mentioned in Section 55.080.C.1, and the payment of a pro rata share of the taxes and maintenance costs for common areas by each lot owner. This shall be done through the corporation;

b. Specify other provisions as may be desired by the applicant-developer-declarant or required by the hearing body;

c. Specifically state that the covenants relate to the PUD, that the corporation mentioned in Section 55.080.C.1, can enforce the covenants and any shareholder can require the corporation to enforce the covenants.

3. The articles of incorporation referred to in Section 55.080.C.1 shall be approved in writing by the Planning Director and a certified copy, showing filing with the Oregon Corporation Commission, will be presented to the Planning Director prior to, and as a condition of, final plat approval;

4. The covenants mentioned in Section 55.080.C.2 shall be approved in writing by the Planning Director and shall be filed simultaneously with, and be a condition of final plat approval;

5. The Planning Director may request the assistance of County Legal Counsel in a review of the Articles of Incorporation of covenants mentioned in Section 55.080.C.1 & 2.

E. In any development which is primarily designed for or occupied by dwellings, electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring conduits and similar facilities shall be placed underground by the developer unless waived by the Planning Commission;

F. The Planning Commission may require easements necessary for orderly extension of public utilities to future adjacent developments;

G. The tract or tracts of land included in a proposed PUD must be in one ownership or control, or subject of a joint application by all persons possessing recorded interest in the title to the tract;

H. Areas of semi-public uses within the PUD may be included as open space in calculating the allowable density for residential projects;

I. The development program shall assure that unique or scenic natural features of the land are preserved, and that landscaping is provided for the common use areas when appropriate;

J. The PUD shall not be used as a vehicle for a developer to avoid the normal requirements of this code;

K. In addition to the requirements of this Article, the commission may attach conditions it finds necessary to carry out the purposes of this Article. These conditions may include, but are not limited to, the following:

1. Increasing the required setbacks;

2. Limiting the height of buildings;

3. Controlling the location and number of vehicular access points;

4. Establishing new streets, increasing the right-of-way or roadway width of existing streets, requiring curbs and sidewalks, and, in general, improving the traffic circulation system;

5. Increasing the number of parking spaces and improving design standards for parking areas;

6. Limiting the number, size, location, and lighting of signs;

7. Designating sites for open space and recreational development, and, in general, improving landscaping requirements;

8. Requiring additional view obscuring screening or fencing;

9. The Planning Commission may make requirements benefitting other factors relevant to the health, safety, and welfare of the community directly affected by the development.

L. If the method of sewage disposal is to be by subsurface septic treatment, the developer shall provide the Planning Commission with site evaluation for 25% of the proposed lots and copies of any existing septic permits for the proposed development:

1. In addition, a report from a soil scientist shall be submitted describing the septic capability of the soils to support the proposed use;

2. If any evaluations fail to meet septic system standards or the soil report reveals poor expectation of the capability of the soil to support the proposed use, site evaluations shall be required for all lots proposed for development;

3. If subsurface disposal is inadequate or not in the interest of public welfare, the commission may require, as a condition of approval, that a community collection system or community sewer system be installed.

M. The developer shall inform the Planning Commission of all known environmental hazards such as mud slides, areas subject to floodwater inundation, area subject to mass earth movement, erosive soils, areas unsuited subject to similar environmental hazards;

N. After approval of the tentative plan by the Planning Commission, but prior to construction of any road or utility within a PUD, the developer shall submit to the County Engineer the following information as appropriate:

1. A plan and profile on Federal Aid sheets showing the following:

    a. Widths of the proposed dedication through the length of the proposal;

    b. Centerline alignment showing P.C. and P.T. stationing on all curves, necessary curve data, and bearing of tangent;

    c. Ground line and grade line profile on the centerline of the proposed street or road;

    d. Vertical curve data showing P.I. elevations and stations, length of vertices, curve, and tangent;

    e. Earthwork distribution (only when the developer proposed to bond or provide other financial guarantee) for construction of roads following approval of the PUD;

    f. Locations and material type for waste or borrow areas;

    g. Typical road section(s);

    h. Location of drainages, culvert design, and typical ditch section.

2. Cross section:

    a. Shall be platted on rolls of 10 on standard cross section paper. Computer cross section printouts may be submitted in lieu of platted cross sections;

    b. Shall show proposed widened cuts or fill if these are needed for material balance.

3. Sheets and drawing showing the following;

    a. Traverse data including the coordinates of the boundary of the PUD and ties to section corners and donation land claim corners, and showing the error of closure, if any;

    b. Ties to existing monuments, proposed monuments, adjacent subdivision, street corners, and state highway stationing.

4. A time schedule showing construction commencement, rate of development, and approximate completion date for each phase of construction;

5. The stages for development of private and public facilities planned;

6. Plans and profiles of proposed sanitary and/or stormwater sewers, with grades, pipe sizes, and location of manholes indicated, meeting the requirements of any service district and the Oregon Department of Environmental Quality;

7. Plans and profiles of any proposed water distribution system showing pipes and the location of any valves, fire hydrants, or storage facilities, meeting the

requirements of the Oregon Health Division. If required by the hearing body, water systems shall be designed to provide fire flow capacity meeting standards established by the State Fire Marshall;

8. Specifications for the construction of all proposed sewer and water lines and other utilities;

9. Grading plans and specifications as required by the County Engineer for areas other than streets and ways.

55.090 - FINAL PLAT REQUIREMENTS

A final plat shall be submitted and recorded in conformance with the tentative plan and the provisions of Article 56 of this code. In addition to the information required in Article 56.050, the following information shall be shown on the Final Plat, where appropriate:

A. Land Use:

1. All areas proposed to be dedicated or reserved for interior circulation, public parks, playgrounds, school sites, public buildings, and otherwise dedicated or reserved to the public;

2. Open space that is to be maintained and controlled by the owners of the property and their successors in interest, which is available for the recreational and leisure use of the occupants and uses of the PUD.

B. Circulation:

1. Location of any special engineering features needed to facilitate or ensure the safety or circulation pattern;

2. Location and dimensions of pedestrian walkways, malls, and foot, bicycle and horse trails that will be dedicated as part of the development.

C. Parking and Loading:

1. Location, arrangement, number, and dimension of automobile garages, parking spaces, the widths of aisles and bays, and angle of parking, when interests in spaces are transferred with units of development;

2. Location, arrangement, and dimensions of truck loading spaces and docks for commercial or industrial development;

D. Required Certifications:

1. A certificate conforming to ORS 92.070 with the seal of, and signed by, the engineer or surveyor responsible for the survey and final plat or final map;

2. A certificate signed by all parties having any recorded title interest or vested interest in the land, dedicating to the public all streets and roads without any

reservation or restriction, other than reversionary rights upon vacation of any such street or road and easement for public utilities.

55.100 - DEVELOPMENT PROGRAM

In addition to the final plat, a development program shall contain the following information and supplemental reports, where appropriate:

A. The location of all plantings, fences, and existing trees and vegetation areas to be retained in the development;

B. The location of all buildings to be constructed in conjunction with the development, and the location of all existing buildings to be retained;

C. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary, and their interest the premises;

D. Table showing the overall density of the proposed residential development and showing density by dwelling types;

E. Drafts of appropriate restrictive covenants and all other documents providing for the maintenance of any public open spaces and recreational areas not dedicated to the public, including agreements by property associations, dedicatory deeds, or reservations of public open spaces.

55.110 - MODIFICATION

The hearing body may modify or alter an action on a previously approved tentative plan subject to compliance with all the following:

A. A request for modification shall be submitted by the developer, in writing, setting forth the specific modification requested and the facts to justify the modification; and

B. The request shall clearly indicate that the modification is reasonably necessary to mitigate physical circumstances not anticipated in the approval process and the request will not significantly alter the previous action of the hearing body.

55.120 - TIME LINE

An approved tentative plan is valid for 2 years from the date of approval. During that time, improvements must be installed and a final plat prepared. If the improvements have not been installed or suitably guaranteed and a final plat is not submitted for approval then the tentative plan shall become null and void.

55.130 - TIME EXTENSION

A one-time 2 year extension of the tentative plan approval may be granted by the Planning Director if the following are met:

A. The applicant must submit a request for an extension on forms provided by the Planning Office, together with a pre-application fee, prior to the expiration date of the approval of the tentative plan;

B. The Planning Director shall determine that the extension is necessary to complete conditions of approval and that no changes in ordinances, codes, or circumstances would cause the original approval to be effected;

C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22;

D. Approval of the extension is not considered a land use decision and is not subject to appeal as such.

ARTICLE 56 - FINAL PLATS

56.010 - PURPOSE

The purpose of this Article is to assure that the mapping and recording of final plats for land divisions fully complies with the requirements of state law and the provisions of this code.

56.020 - REVIEW AUTHORITY

The review body shall examine and approve or deny final plats using ministerial review procedures as set forth in Article 22.

56.030 - APPLICATION REQUIREMENTS

An application for final plat approval shall be required for all land divisions. The application shall be filed with the Planning Director and shall include up to 5 copies of the final plat drawing that conforms with the conditions of tentative approval and the procedural and mapping requirements of this Article and Article 57 regarding monumentation. The Director is authorized to reduce the number of copies of the final plat when fewer than 5 copies are needed to accomplish review. Applications for final plats shall be submitted to the Director within two years from the date of tentative approval, together with the required fee. Failure to submit a final plat application within this time limit shall render the tentative approval null and void.

56.040 - STANDARDS FOR APPROVAL

A final plat shall be approved when the special conditions of approval have been satisfied and the final plat conforms to the approved tentative plan map, and otherwise meets the mapping and content requirements for final plats as set forth in this code and any other applicable state law or rule.

56.050 - FINAL PLAT REQUIREMENTS

A. **General Requirements.** Final plats for all land divisions shall be an accurate plat for official record prepared by a land surveyor licensed and registered by the state of Oregon, and shall conform to the provision of this code, the applicable laws of the state of Oregon, and the other requirements contained in the county's approval. In addition, the final plat shall include:

1. An affidavit from the surveyor stating that the surveyor has correctly marked, with proper monuments, if required, the land as represented in the plat and that the survey was carried out in accordance with the standards of Article 57 of this code; and

2. Documentation showing that all outstanding assessments have been paid or the assessments have been segregated by the County Assessor.

B. **Drawing Requirements.** Final plats shall show any dedication of streets, roads or public parks and squares, and any other representations or writings which were approved as part of the record. These items shall be rendered in permanent black India ink or silver halide

permanent photocopy, upon 4 mil or thicker Mylar or equivalent material, approved by the County Surveyor, and which is 18 inches by 24 inches in size. In addition:

1. The strength and permanency of the original drawing shall be such that the plat is suitable for recording as a permanent record in the office of the County Clerk;

2. All signatures on the original plat shall be in permanent black India type ink;

3. The plat shall be drawn to a scale approved by the County Surveyor;

4. The lettering of the approvals, any declarations, the affidavit, and all other narrative information and drawings shall be of such a size or type as will be clearly legible, and no part shall come closer to any edge of the sheet than one inch. The plat may be placed on as many sheets as necessary, but a face sheet and an index page shall be included for plats placed upon three or more sheets;

5. The final plat shall also be accompanied by an exact duplicate of the final plat, suitable for making prints.

C. **Content Requirements.** Final plats shall contain, in addition to any other requirements of state law or rule, the following information (either on the plat or accompanying the plat):

1. The date, north arrow, scale, name of the subdivision and an indication the map is a "Final Plat";

2. The legal description of the tract boundaries;

3. The name of the owner or owners, subdivider, and engineer or surveyor;

4. The reference points of existing identified surveys, related to the plat by distances and bearings, and referenced to a field book or map as follows:

   a. Stakes, monuments, or other evidence found on the ground and used to determine the boundaries of the land division;

   b. Corners of adjoining land divisions;

   c. City boundary lines when crossing or adjacent to the land division;

   d. Other monuments found or established in making the survey of the land division, or required to be installed by provisions of this code.

5. The exact location and width of streets and easements intercepting the boundary of the tract;

6. The tract, block, and lot or parcel boundary lines, street right-of-way and centerlines with dimensions, bearings or deflection angles, radii, arcs, points of curvature, and tangent bearings. Approximate high water lines for any creek, lake, or other body of water, and the 100 year flood hazard. Tract boundaries and street

bearings shall be shown to the nearest 10 seconds with bases of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used;

7. The width of the portion of streets being dedicated and the width of existing right-of-ways. For streets on a curvature which are being dedicated, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated;

8. Any easements, denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. New easements shall be referenced in the owner's certificates of dedication. Private easements shall become effective when the plat is recorded;

9. Lot or parcel numbers beginning with the number "1" and thereafter numbered consecutively;

10. The area contained in each lot or parcel. For lots or parcels one acre or larger that have been surveyed, the area shall be shown to the nearest hundredth of an acre; for lots or parcels less than one acre, the area to the nearest square foot;

11. Any subdivision submitted for final approval shall not use block numbers or letters unless the subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters;

12. Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots or parcels intended for sale;

13. The following certificates (combined when appropriate):

    a. A certificate signed and acknowledged by all parties having any proprietary interest in the land, consenting to the preparation and recording of the plat or final map;

    b. A certificate signed and acknowledged by the parties described in subsection 13.a above, dedicating all lots of land shown on the final map or final plat intended for the exclusive use of the owners in the land division, their licensees, visitors, tenants, and servants;

    c. A certificate conforming to the requirements of ORS 92.070, with the seal of and signed by the engineer or surveyor responsible for the survey and final plat or final map;

    d. A certificate or transfer deed signed by all parties having any proprietary interest in the land, dedicating to the public all streets and roads without any reservation or restriction other than reversionary rights upon vacation of any street or road and easement for public utilities;

    e. Other certifications now or hereafter required by law.

D. **Accompanying Data.** The following data shall accompany the final plat:

1. A subdivision guarantee issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary, and their interest in the premises *(not required for property line adjustments)*;

2. A copy of any required deed restrictions applicable to the subdivision or partition;

3. A copy of any dedication requiring separate documents;

4. A list of all taxes and assessments on the tract which have become a lien on the tract;

5. Sheets and drawings showing the following:

   a. Traverse data including the coordinates of the boundary of the subdivision or partition and ties to section corners and donation land claim corners, and showing the error of closure, if any;

   b. The computation of distances, angles, and courses shown on the plat;

   c. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and street highway stationing.

6. A statement from the County Engineer indicating the developer has complied with the street and facility improvement requirements of the tentative plan and Article 56, or a guarantee has been given and approved that meets the requirements of Article 14 that assures completion of all required improvements and monumentation;

7. One of the following provisions regarding water shall be received and accepted by the county prior to the approval of the plat:

   a. A certification by a municipality-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commissioner of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed plat;

   b. A bond, contract, or other assurance by the subdivider to the county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line on each and every lot depicted in the proposed plat; and the amount of the bond, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any reasonable change in such amount as determined necessary by the county consistent with Article 14;

c. A statement that no domestic water supply facility will be provided to the purchaser of any lot depicted in the proposed plat, where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the subdivision in its evaluation report.

8. One of the following provisions regarding sewage shall be received and accepted by the county prior to the approval of the plat:

a. A certification by a municipality-owned sewage disposal system or by the owner of a privately owned sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that a sewage disposal system will be available to the lot line of each and every lot depicted in the proposed subdivision plat;

b. A bond, contract, or other assurance from the subdivider to the county, consistent with the provisions of Article 14, that a sewage disposal system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted on the proposed subdivision plat; and the amount of such bond, contract, or other assurance shall be determined by a registered professional engineer, subject to any change in such amount as the county considers necessary;

c. In lieu of paragraphs (a) and (b) of this subsection, a statement that no sewage disposal facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755(1)(b):

[1] A copy of any statement, signed by the subdivider and endorsed by the county, shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the Real Estate Commissioner in the public report made for the subdivision under ORS 92.385;

[2] If the making of a public report has been waived or the subdivision is otherwise exempt under Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot;

[3] The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy to the Real Estate Commissioner and shall keep any such receipt on file in this state, subject to inspection by the Real Estate

Commissioner, for a period of three years after the date the receipt is taken.

9. A statement of water rights shall be noted on the final plat, noting the water rights certificate number, if the final plat contains land outside of the boundaries of an irrigation, drainage or water control district or a district improvement company. If a water right is appurtenant to the lands shown on the plat, the statement of water rights, together with a copy of the plat, must be submitted to the Oregon Water Resources Department.

56.060 - PROCESSING OF PLATS

Final plats shall be reviewed using the following procedures:

A. **General Procedures.** Final plats for various land divisions shall be reviewed, approved and recorded subject to the following general procedures:

1. The following county officials, in the order listed below, shall review and approve or record final plats for land divisions:

   a. The Planning Director

   b. The Surveyor

   c. The Assessor

   d. The Board of Commissioners *(Subdivision and Planned Unit Development Subdivision plats only)*

   e. The County Clerk

2. It shall be the responsibility of the owner/developer to transmit the final plat between the county departments specified in subsection A.1 above.

3. Review and approval of each required county official shall be memorialized on the final plat by a caption so stating, accompanied by the signature of the official, or agent of the official, authorized to give such approval.

4. An approval of a final plat shall constitute a determination that the plat satisfies all applicable state and local regulations, as well as the special conditions for approval as established by the decision of the review body.

B. **County Planning Director.** All final plats shall be submitted to the Planning Director for review, together with the prescribed fee. The Director shall review the tentative plan approval to determine whether all of the conditions for approval have been satisfied. In the case of final plats for planned unit development subdivisions, the Director shall forward to the County Counsel all documents related to the management of common areas for review and approval. The Director shall indicate compliance by signing the final plat. If any condition or conditions of tentative plan approval have not been satisfied, the Director shall provide the owner/developer with a statement of the unsatisfied condition

or conditions and the date upon which the tentative plan approval expires. The owner/developer may resubmit a revised plat any time prior to the expiration of the tentative plan approval.

C. **County Surveyor.** All final plats shall be submitted to the Surveyor for review, together with the prescribed fee. The Surveyor shall check the plats to determine compliance with the applicable requirements of state and local survey and plating laws. The Surveyor shall indicate compliance by signing the final plat. If a plat fails to conform to any applicable requirement, and changes to the plat can be made to correct the deficiency or deficiencies, the Surveyor shall provide a written statement to the property owner/developer specifying the modifications that must be made.

D. **County Assessor.** All final plats shall be submitted to the Assessor for review. The Assessor shall determine that all required deeds have been prepared and that all ad valorem taxes, special assessments and other charges required by law have been paid. The Assessor shall indicate compliance by signing the final plat.

E. **Board of Commissioners.** The Board of Commissioners shall review and approve all final plats for subdivisions and planned unit development subdivisions in a weekly business session.

F. **County Clerk.** All final plats and required deeds (if any) shall be recorded in the County Clerk's records within 90 days from the date the Planning Director signs the plat. Failure to record the required documents within this time limit shall render void all departmental and review body approvals, to include the tentative plan.

G. **Other Requirements.** The following additional process requirements shall apply to final plats:

1. An 8½ x 11 photocopy of the recorded final plat shall be submitted to the planning office within 30 days after the date of recording.

2. A copy of the survey shall be filed with the County Surveyor.

3. The original plat may not be corrected or changed after it is recorded with the county clerk.

56.070 - TIME LINE

Approval of a final plat or map by the review body shall not be deemed to constitute or affect an acceptance for maintenance by the county for any street or other proposed public way or area shown on the plat, unless such acceptance has been accomplished by a separate order of the Board of Commissioners.

56.080 - GUARANTEES TO CONSTRUCT REQUIRED IMPROVEMENTS

In lieu of the actual construction of required improvements and otherwise meeting the obligations referred to in this code, the county may accept a guarantee, at its option, from the developer setting the date upon which construction and acceptance shall be completed. The guarantee shall be in writing and shall specify the exact terms of the improvements to be completed. The guarantee shall meet the requirements of Article 14 of this code.

ARTICLE 57 - MONUMENTATION

57.010 - PURPOSE

The purpose of this Article is to ensure that the procedures used to survey and set monuments for all land divisions are standardized.

57.020 - REVIEW PROCEDURE

Monumentation shall be reviewed as a part of Final Plat requirements.

57.030 - MONUMENTATION REQUIREMENTS

All subdivision, partition, replats, property line adjustment, and planned unit development plats designating land within Josephine County shall, unless excepted in Sections 52.090.B, 53.090.B, and 54.080.B, be surveyed and all monuments erected shall comply with ORS 92 with the addition of the following:

A. The survey for the plat of the subdivision, planned unit development, partition, replat, or property line adjustment shall be done with reference to Federal Geodetic Control Committee guidelines for third order class II;

B. The initial point of all plats shall be on the exterior boundary of the plat and shall be marked with a monument, either of concrete, galvanized iron pipe, or an iron or steel rod:

   1. If concrete is used, it shall not be less than 6 inches by 6 inches by 24 inches and shall contain not less than five cubic inches of ferrous material permanently imbedded in the concrete;

   2. If galvanized iron pipe is used, it shall not be less than three-quarters of an inch least dimension and 30 inches long; and if an iron or steel rod is used it shall not be less than five-eighths of an inch least dimension and 30 inches long;

   3. The location of the monument shall be with reference by survey to a section corner, one-quarter corner, one-sixteenth corner, Donation Land Claim corner, monumented lot corner, or boundary corner of a recorded subdivision, partition, or condominium plat;

   4. The County Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable.

C. In subdivision and planned unit development plats, the intersections, points of curves, and points of tangents, or the point of intersection of the curve if the point is within the pavement area of the road, of the centerline of all public streets and roads, and all points on the exterior boundary where the boundary line changes direction, shall be marked with monuments either of concrete, galvanized iron pipe, or iron or steel rods:

   1. If concrete is used it shall be as described in Section 57.030.B.1;

2. If galvanized iron pipe is used it shall not be less than three-quarters of an inch least dimension and 30 inches long;

3. If iron or steel rods are used they shall not be less than five-eighths of an inch in diameter and 30 inches long;

4. In addition all P.C. and P.T. points on horizontal curves shall be referenced with a 5/8" x 30" steel rod driven 28 inches into the ground, when possible, set at the intersection of the R/W line and a line perpendicular to the tangent at the P.C. or P.T. point;

5. The County Surveyor may authorize the setting of another type of monument in circumstances where setting the required monument is impracticable.

D. All lot or parcel corners, except lot corners of cemetery lots, shall be marked with monuments of either galvanized iron pipe not less than one-half inch in least dimension and two feet long, or iron or steel rods not less than 5/8 inch in least dimension and not less than 24 inches long. The County Surveyor may authorize the setting of another type of monument in circumstances where setting the required monuments is impracticable;

E. Monuments shall be set with such accuracy that measurements may be taken between monuments within one-tenth of a foot or within 1/5,000 of the distance shown on the subdivision, partition or property line adjustment plat, whichever is greater;

F. All monuments for the exterior boundaries of a subdivision, shall be marked and such monuments shall be referenced on the plat before the plat is offered for recording;

G. Interior monuments for the subdivision need not be set prior to the recording of the plat or final map if the registered professional land surveyor performing the survey work certifies that the interior monuments will be set on or before a specified date as provided in ORS 92.070.2, and if the person subdividing the land furnishes to the county a bond, cash deposit, or other security consistent with Article 14, guaranteeing the payment of the cost of setting the interior monuments for the subdivision as provided in ORS 92.065;

H. All monuments on the exterior boundary and all parcel corner monuments of partitions and property line adjustments shall be placed before the partition or property line adjustment is offered for recording;

I. If the interior corners of a subdivision are to be monumented on or before a specified date after the recording of the plat of the subdivision, the person subdividing the land described in the subdivision plat shall furnish to the County Surveyor, prior to the approval of the subdivision plat by the County Surveyor, a bond, cash deposit, or other security, consistent with the requirements of Article 14, in an amount equal to 120 percent of the estimated cost of performing the work for the interior monumentation;

J. The County Surveyor may require that the setting of the interior corners of the subdivision be delayed, according to the provisions of this Section, if the installation of

street and utility improvement has not been completed, or if other conditions or circumstances justify the delay;

K. The person subdividing the lands described in Section 57.030.J shall pay the surveyor for performing the interior monumentation work and notify the County Surveyor of the payment:

1. The County Surveyor, within 3 months after the notice, shall release the bond or other required security or return the cash deposit upon finding that the payment has been made;

2. Upon written request from the person subdividing the land, the governing body may pay the surveyor from moneys within a cash deposit held by it for that purpose and return the excess of the cash deposit, if any, to the person who made the deposit;

3. If the subdivider has not paid the surveyor within 30 days of the final approval of the interior monumentation, the county may pay the surveyor from moneys held in a cash deposit, if any, or require payment to be made from other security.

L. In the event of the death, disability, or retirement from practice of the surveyor charged with the responsibility for setting interior monuments for a subdivision, or upon failure or refusal of the surveyor to set the monuments, the County Surveyor shall cause the monumentation to be completed and referenced for recording as provided in ORS 92.070:

1. If another surveyor completes the interior monumentation, the surveyor completing the interior monumentation shall place the surveyor's seal and signature on the original subdivision plat and any true and exact copies filed in accordance with ORS 92.120.3;

2. Payment of the fees for completing the monumentation shall be made by the subdivider within 30 days of the completion of the work;

3. In the event that the subdivider fails to pay the fees within 30 days, the bond, cash deposit, or other security may be used to pay the fees; and when such cash or other securities are inadequate to cover the cost incurred by the County Surveyor, the balance due will constitute a lien on any lots in the subdivision that are still in the ownership of the subdivider when recorded pursuant to ORS 93.600 to 93.800.

57.040 - FILING REQUIREMENTS

A. Except as otherwise provided in this Section, all subdivision, partition, and property line adjustment plats, designating the location of land within Josephine County, offered for record, shall include on the face of the plat a surveyor's certificate together with the seal and signature of the surveyor having surveyed the land represented on the plat, to the effect that they have correctly surveyed and marked with proper monuments the lands as represented, that they marked a proper monument as provided in ORS 92.060 indicating the initial point of such plat, and giving the dimensions and kind of monument, and its

location in accordance with ORS 92.060.1, and accurately describing the tract of land upon which the lots and blocks or parcels are laid out.

B. If the person subdividing or partitioning any land has complied with Article 57.030.H and Article 56.060 of this code, the surveyor may prepare the plat for recording with only the exterior monuments referenced thereon as submitted for recording:

1. There shall be attached to any such plat a certification of the surveyor that the interior monuments for the subdivision will be marked on or before the specified date in accordance with ORS 92.060, noting those monuments to be set on or before the specified date on the plat as approved by the review or hearing body.

C. After the interior corners for a subdivision have been monumented as provided in the certificate submitted under Section 57.040.B, the surveyor performing the work shall:

1. Within 5 days after completion of the work, notify the person subdividing the land involved and the County Surveyor; and

2. Upon approval of the work under ORS 92.100 by the County Surveyor, submit an affidavit for recording stating that the subdivision plat has been correctly surveyed and marked with proper monuments at the interior corners of the subdivisions as noted on the original subdivision plat:

a. Any monument that cannot be set shall be separately noted and a reference monument shall be set;

b. The affidavit shall be approved by the County Surveyor before recording;

c. The surveyor who prepared the affidavit shall cause the affidavit to be recorded in the office of the County Recorder;

d. The County Clerk shall promptly provide a recorded copy of the affidavit to the County Surveyor;

e. The County Surveyor shall note the monuments set and the recorder's information on the original subdivision and any true and exact copies filed in accordance with ORS 92.120.3.

D. The County Clerk, upon receipt of a plat copy filed pursuant to Section 57.040.C, shall record such copy and endorse the recording reference for the copy on the plat of the previously recorded subdivision.

CHAPTER 6 - LAND USE ZONES

ARTICLE 60 - BASIC PROVISIONS

60.010 - PURPOSE

The purpose of this of this Chapter are to establish land use zones required to implement the goals and policies of the Josephine County Comprehensive Plan, to define the purpose of each zone, and to specify the types of land uses appropriate for each zone. More specifically, the zones are formulated:

A. To permit orderly and beneficial development, while protecting the character of neighborhoods and communities, and the social and economic stability of the county;

B. To reconcile discordant land uses by identifying the relationship between compatible uses which minimize land use conflicts;

C. To support the protection and preservation of the agricultural and silvicultural industry and the natural resources essential to the conduct of those industries;

D. To support the protection and preservation of the natural and recreational resources while providing for appropriate development;

E. To provide areas where forestry, agricultural, residential, commercial, and industrial uses may be developed in harmonious patterns and with all the necessities for satisfactory living and working environments; and

F. To further the goals and policies of the Josephine County Comprehensive Plan.

60.020 - LIST OF BASIC ZONES

For the purposes of this code the following zones are established:

ZONE	MAP SYMBOL
Rural Residential - 1 acre	RR-1
Rural Residential - 2.5 acres	RR-2.5
Rural Residential - 5 acres	RR-5
Rural Commercial	RC
Tourist Commercial	TC
	Table Continues . . . .

ZONE	MAP SYMBOL
Rural Commercial Center	RCC
Light Industrial	LI
Rural Industrial	RI
Exclusive Farm	EF
Farm Resource	FR
Forest Commercial	FC
Woodlot Resource	WR
Aggregate Resource	AR
Mineral & Aggregate Resource	MZ
Serpentine	S
Limited Development	LD

60.030 - LIST OF OVERLAYS

The overlays include several groupings of requirements which allow or regulate certain uses, types of land development and land divisions. The overlay is delineated by a special line and\or a special symbol on the map. The overlays used in Josephine County are as follows:

Flood Hazard Overlay
Deer Overlay
Wild & Scenic Rivers Overlay
Airport Overlay
Water Hazard Overlay

60.040 - APPLICABILITY OF ZONE

A. The regulations, uses, and requirements which follow shall apply to all lands as zoned on the official zoning map for Josephine County under that zoning designation. A use, or structure which does not conform to these regulations and which lawfully existed at the time of adoption of this code may be continued subject to the requirements of Article 13.

B. Structures which are erected, altered, enlarged or moved, and land which is used or divided in any zone in this code shall comply with provisions of this code. Development Permits shall be issued pursuant to Article 41.

60.050 - MULTIPLE ZONED LOTS OR PARCELS

A. Whenever a lot or parcel has more than one zone, only one use shall be allowed on the entire parcel and the use shall be confined to only that portion of the property in which the zone allows such use.

B. When a lot or parcel is divided by an existing zone boundary, it may be divided along the zone boundary even though the resulting lots or parcels fail to meet the minimum lot size and dimension standards required by this code. This rule shall not apply when the lot or parcel is comprised of farm and forest zoned lands only, in which case the resulting new lots or parcels must meet the minimum parcel size requirements for the resulting areas covered by the applicable farm or forest zones. In all cases, the frontage and access requirements contained in this code shall be met, and the land division shall otherwise comply with all procedures, standards and criteria made applicable by the requirements of Chapter 5, Land Divisions.

60.060 - SIMILAR USES

A. The Planning Director may rule that an unlisted use, is an allowed use within a zone if the following criteria are met:

1. The proposed use is not listed as a use (Permitted, Conditional Use or Temporary Use) in any other zone;

2. The proposed use is similar to one or more listed uses. Uses are similar if their general activities are alike and the resulting impacts are similar in type and intensity; and

3. The request for a similar use is part of a specific development proposal for the zone.

B. The Planning Director shall review the similar use request as part of the specific development proposal which gives rise to it. If the development proposal includes more than one type of application, the highest level of review shall be used for all the applications including the proposed similar use. The similar use shall not be processed using a different type of review procedure than that required for the application package.

60.070 - POLICIES AND LEVELS OF SERVICE

The following table shall apply to the levels of service for public facilities for all land use actions:

Comprehensive Plan & Zone Designations	Comprehensive Plan Goals & Policies	Public Facilities*
Urban Growth Boundary	I 1; III 6; IV 4, 7, 8, 9, 10; V 2; VII 1, 2; VIII 3	1, 2, 3, 4, 5, 6a, 6b
		Table Continues . . . .
AG/Exclusive Farm	I 1, 2, 3, 4, 5, 6; III 1, 6; VII 1, 2, 3; VIII 1, 2	1, 2, 3, 6a

Comprehensive Plan & Zone Designations	Comprehensive Plan Goals & Policies	Public Facilities*
AG/Farm Resource	I 1, 2, 3, 4, 5, 6; III 1, 6; VII 1, 2, 3; VIII 1, 2	1, 2, 3, 6a
F/Forest Commercial	II 1, 2a, 2b, 2c, 3a, 3b, 3c, 4, 5, 6; III 1; VII 1, 2, 3, 4; IX 2	1, 2, 3, 6a
F/Woodlot Resource	II 1, 2a, 2b, 2c, 4, 5, 6; III 1; VII 1, 2, 3, 4; IX 2	1, 2, 3, 6a
AR/Aggregate Resource	VII 1, 4, 5; VIII 1, 2	1, 2, 3, 6a
S/Serpentine	II 7; VII 1; VIII 1, 2	1, 2, 3, 6a
R/Rural Residential	III 1, 3a, 3b, 3c, 3d, 4, 5, 6; IV 3; V 5; VI 3; VII 1; VIII 1, 2	1, 2, 3, 6a (4 & 5 in the sewer trans. line; water problem areas)
C/Rural Commercial	IV 1, 5; V 1, 2, 5; VII 1, 2, 7; VIII 1,2	1, 2, 3, 6a
C/Tourist Commercial	IV 1, 5; V 1, 2, 5; VII 1, 2, 7; VIII 1,2	1, 2, 3, 6a
C/Rural Commercial Center	III 2, 5; IV 5; VII 1; VIII 1, 2	1, 2, 3, 4 or 5, 6a
I/Light Industrial	IV 1, 5; V 1, 2, 5; VII 1, 2, 3, 5; VIII 1, 2	1, 2, 3, 4 or 5, 6a
I/Rural Industrial	IV 1, 5; V 1, 2, 5; VII 1, 2, 3, 5; VIII 1, 2	1, 2, 3, 4 or 5, 6a
Wilderness Area	IV 9; VII 1, 6	
Airport Hazard	IV 5; V 3	
Flood Hazard	VI 1; VII 1, 4; VIII 1	
Scenic Waterway	III 7; IV 9; VII 6, 7	

* 1. Sheriff; 2. Rural Fire Protection; 3. Public School; 4. Public Water System; 5. Public Sanitary Sewer System; 6. Transportation: a. Rural Road Standards, b. Urban Road Standards

ARTICLE 61 - RURAL RESIDENTIAL ZONES

61.010 - PURPOSE

The purpose of this zone is to preserve the rural character of Josephine County while providing areas for rural residential living. This zone provides a classification for lands already committed to residential development, or for lands which have been excepted from the statewide planning goals on agriculture and forest lands. Densities established by this zone for developing areas are intended to ensure that development does not exceed the carrying capacity of the land to support sewage disposal systems, consumptive groundwater withdrawal, and environmental quality.

61.020 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22). All uses shall also meet the applicable development standards listed in Section 61.060 of this Article. In all cases, a Development Permit (Article 41) is required as final permit approval.

A. Accessory buildings, including private garage or carport, guest house, greenhouse, stable, barn, pen, coop, or other similar buildings normally required in connection with a use specified in Section 61.020 and subject to the provisions of Sections 61.060 and 72.060

B. Agriculture, farming and farm use as defined in Section 11.030, subject to the standards provided in Section 61.060, and also subject to the further limitations that all products must be produced on the property and commercial feed lots are prohibited

C. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status

D. Farm and forest products stands limited to products produced on the land

E. Forest management, production and harvesting of timber resources, as defined in Section 11.030

F. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

G. Residential care home

H. Residential care facility

I. Single-family dwelling or manufactured dwelling

J. Single-family dwelling for a farm worker and the farm worker's immediate family

61.030 - CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). All uses shall also meet the applicable development standards listed in Section 61.060 of this Article. A Development Permit (Article 41) shall be required as the final permit approval.

A. Boat landings and docks

B. Campgrounds subject to Article 98

C. Cement and asphalt batching, rock processing and crushing subject to Article 91

D. Cemeteries

E. Churches, except applicable review standards and criteria are qualified as follows:

1. Churches shall be allowed the reasonable use of the site for all activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education unless the educational uses are authorized separately by other provision contained in this code; and

2. The review body may subject the church uses to reasonable regulations, including site review or design criteria concerning the physical characteristics of the uses only, or may prohibit or restrict the use of the site if it finds the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the uses.

F. Destination resort subject to Article 96

G. Exploration, mining and processing of aggregate and other mineral resources subject to Article 91

H. Home occupations subject to Article 92

I. Indoor animal husbandry, subject to the following criteria:

1. Demonstrate that the proposed development will have adequate, sanitary waste disposal facilities, by means of on-site or off-site disposal, or a combination of both which are approved by the Soil Conservation Service and Department of Environmental Quality, and are incorporated in a written animal waste management plan. The standards of the Soil Conservation Service shall include but not be limited to those pertaining to the carrying capacity of the soil in relation to the animal units to be present;

2. Demonstrate that the use will not impose nuisance conditions upon persons located within the neighborhood;

3. Reasonable conditions may be imposed in conjunction with the issuance of the Conditional Use Permit, including but not limited to those designed to minimize or eliminate any adverse affects on persons residing or working in the neighborhood arising from the disposal of waste, creation of odor, generation of traffic, and creation of noise;

4. Use shall be located on a parcel at least 5 acres in size.

J. Kennels, subject to the following additional standards:

1. Demonstrate that the kennel will not create nuisance conditions for adjoining properties due to noise or odor; and

2. Demonstrate that all animals will be confined to the property; and

3. Demonstrate adequate methods for sanitation and sewage disposal.

K. Parks, playgrounds and community centers

L. Public or private schools

M. Public facilities such as water storage reservoirs, pumping or treatment facilities, sewage disposal plants and fire stations

N. Real estate tract sales office subject to the following criteria:

1. The office must be located as part of a residential subdivision or planned unit development and no sales may be made for property other than lots contained within the same residential development;

2. Upon termination of the sales activity the structure shall be removed or converted to a use permitted by this zone.

O. Recreational resort subject to Article 97

P. Residential dormitories or housing in conjunction with public or private schools, conditioned upon, but not limited to, the following criteria:

1. Demonstrate that the housing is necessary to reduce energy and transportation costs due to the scattered location or distance to students' permanent residences, to provide a residential environment not otherwise available in the community, or to accomplish other purposes consistent with the intent of this code.

Q. Rodeo grounds and golf courses

R. Sanitary landfills, and non-hazardous waste disposal site subject to Article 86

S. Signs as authorized by Article 74

T. Storage that is open for up to 4 motor vehicles for non-commercial purposes when parts have not been removed and the vehicles are currently unlicenced; or when the stored vehicles are owned by an individual other than the resident or owner of the property

U. Utility and communication facilities including commercial power generation facilities, conditioned upon, but not limited to, the following criteria:

1. Submission of an acceptable site plan for landscaping and protection of adjoining residential properties;

2. Demonstration of compliance with applicable state air quality discharge permits.

61.040 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to temporary use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 61.060. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Mass gathering

B. Medical hardship dwelling (one additional dwelling only)

C. Temporary storage of an unoccupied manufactured dwelling

61.050 - CRITERIA FOR FARM USE

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

A. Farm uses shall not interfere with the use of adjoining residential properties;

B. All farm animals shall be confined to the property;

C. Any stall, barn, pig pen, chicken coop or similar structure in which animals are housed, excluding fenced pastures, shall be located no closer than 35 feet from any property line, in addition to the requirements of Article 72;

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

61.060 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20

2. Pre-Application Review – Article 21

3. Permit Review Procedures – Article 22

4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41

6. Site Plan Review – Article 42

7. Temporary Uses – Article 43

8. Variances – Article 44

9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - RR-5: 5 Acres
   RR-2.5: 2.5 Acres
   RR-1: 1 Acre*

2. Minimum lot width - RR-5: 300'
   RR-2.5: 250'
   RR-1: 150'

3. Minimum setbacks from property lines – Front (30') Side (10') Rear (25')

4. Access & transportation – See Articles 81

5. Airport overlay – See Article 69.4

6. Archeological resources – See Article 93

7. Building size, accessory heights, setbacks, yard dimensions – See Article 72

8. Erosion, sediment, storm drainage facilities – See Article 83

9. Fences, wall and screens – See Article 73

10. Flood hazard overlay – See Article 69.1

11. Historic resources – See Article 94

12. Mineral & aggregate resources – See Articles 72.040.A & 91

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* **REVISION NOTE:** Per Oregon Administrative Rule 660-004-0040, *Application of Goal 14 (Urbanization) to Rural Lands*, the minimum parcel size for new lots or parcels in all rural residential zones is 2 acres unless an exception is demonstrated for Goal 14 – Urbanization. This rule became effective statewide on October 3, 2000, and any applications submitted after this date to create parcels in the RR-1 zone below 2 acres in size must be supported by an approved exception. In any event, new lots or parcels cannot be sized less than the 1 acre minimum specified for lands within the RR-1 zone. In addition, changes in zoning to a higher density, for example, from RR-5 to RR-2.5, must also be supported by an exception to statewide Goal 14 – Urbanization.

13. Parking – See Article 75
14. RV Parks, lodges and campgrounds – See Article 98
15. Signs – See Article 74
16. Solid waste – See Article 86
17. Stream setbacks – See Article 72
18. Utilities – See Article 85
19. Water hazard overlay – See Article 69.5
20. Water standards – See Article 84
21. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 62 - RURAL COMMERCIAL ZONE

62.010 - PURPOSE

This zone is intended to provide for the establishment of a restricted commercial facility, to serve the conveniences and needs of the immediate neighborhood compatible with the rural character of the area.

62.020 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 62.040. In all cases, a Development Permit (Article 41) shall be required as the final permit approval.

A. Ambulance and emergency medical facility

B. Appliance, small engine, pump, and electronics sales and repair

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

D. Automobile repair

E. Bakery

F. Barber and beauty shop

G. Book or stationery store, including newsstand

H. Building materials store and hardware store

I. Bus stop

J. Church, except the review standards and criteria applicable to a church shall be qualified as set forth is subsections 1 and 2 below:

   1. Churches shall be allowed the reasonable use of the site for all activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education unless the educational uses are authorized separately by other provision contained in this code; and

   2. The review body may subject the church uses to reasonable regulations, including site review or design criteria concerning the physical characteristics of the uses only, or may prohibit or restrict the use of the site if it finds the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the uses.

K. Coin laundry

L. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status

M. Feed and fuel store

N. Frozen food store and lockers

O. Garden supply sales and service

P. General store

Q. Greenhouses, including retail sales

R. Grocery and food store

S. Manufactured dwelling shall only be allowed when in conjunction with a business located on the same parcel and when occupied by the owner/operator of the business. All services and requirements for both the dwelling and the business shall be located on the same lot. When the business ceases to operate, then the dwelling shall be removed.

T. Meat processing and packing, excluding slaughter house

U. Medical or dental clinic

V. Mini-warehouse which may include quarters

W. Off-street parking facility when operated in conjunction with the permitted use

X. Pharmacy

Y. Photo copying

Z. Print shop, including off-set, blueprinting and bindery

AA. Professional office

BB. Public facilities, including post office, fire and police substation and library

CC. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

DD. Recycling centers subject to Article 86

EE. Rental service stores and yards

FF. Replacement of existing single-family and/or manufactured dwellings

GG. Residential care home or residential care facility

HH. Restaurant

II. Service station including a minor repair garage, towing service and impound yard limited to 20 stored vehicles screened from view

JJ. Sewage transfer sites subject to Article 86

KK. Signs as authorized by Article 74

LL. Tavern

MM. Veterinary clinic

NN. Wholesale sales within a totally enclosed building with a 10,000 square foot maximum

62.030 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 62.040. A Development Permit (Article 41) is required as final permit approval.

A. Temporary roadside stand

62.040 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - ½ Acre
   1 Acre (when dwelling or quarters in conjunction with authorized commercial use)

2. Setbacks – Front (10') Side (10') Rear (10')
3. Access & transportation – See Articles 81

4. Airport overlay – See Article 69.4

5. Archeological resources – See Article 93

6. Building size, accessory height, setback, yard dimensions – See Article 72

7. Erosion, sediment control, storm drainage facilities – See Article 83

8. Fences, wall and screens – See Article 73

9. Flood hazard overlay – See Article 69.1

10. Historic resources – See Article 94

11. Mineral & aggregate resources – See Articles 72.040.A & 91

12. Parking – See Article 75

13. Signs – See Article 74

14. Solid waste – See Article 86

15. Stream setbacks – See Article 72

16. Utilities – See Article 85

17. Water hazard overlay – See Article 69.5

18. Water standards – See Article 84

19. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 62.1 - TOURIST COMMERCIAL ZONE

62.110 - PURPOSE

This zone is intended to provide for the needs of the traveling public, and to provide specialized commercial services to residents of Josephine County.

62.120 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 62.150. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. **Commercial – Traveler Accommodations**

1. Bed and breakfast inns
2. Boarding house
3. Campgrounds and conference grounds
4. Destination resort
5. Lodges
6. Motels
7. Recreational resort
8. Recreational vehicle parks
9. Signs as authorized by Article 74

B. **Commercial – Recreation**

1. Athletic club, club house
2. Automobile, go-carts or motorcycle race track when operating on Friday, Saturday, Sunday and holidays only
3. Carnival (transient in nature)
4. Circus
5. Community center
6. Drive-in theater
7. Guide service

8. Miniature golf course

9. Penny arcade

10. Rodeo grounds

11. Shooting gallery

12. Swimming pool

13. Taxidermy

14. Theater

15. Wildlife park

16. Signs as authorized by Article 74

C. **Commercial – General**

1. Antique shop

2. Art/craft studio, including ceramics, glassware, woodcarving, hand weaving and similar crafts

3. Art gallery and artists supply store

4. Automobile service station and garage, including car wash

5. Bakery

6. Bank

7. Barber and beauty shop

8. Book store, news dealer, newsstand

9. Camera and photographic store and gallery

10. Coin-operated laundry

11. Confectionery

12. Convenience store and delicatessen which may include gasoline sales and pumps

13. Farm or forest product sales stand

14. Gift, novelty, curio and souvenir shop, including myrtlewood products manufacture, and boutiques

15. Health spa

16. Lapidary shop

17. Manufactured dwelling, recreational vehicle, automobile retail sales and service

18. Music studio

19. Pharmacy

20. Real estate office

21. Restaurant and lounge

22. Sporting goods store, including rental or recreational equipment

23. Tavern

24. Signs as authorized by Article 74

D. **Institutional & Service**

1. Church, except the review standards and criteria applicable to a church shall be qualified as follows:

    a. Churches shall be allowed the reasonable use of the site for all activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education unless the educational uses are authorized separately by other provision contained in this code; and

    b. The review body may subject the church uses to reasonable regulations, including site review or design criteria concerning the physical characteristics of the uses only, or may prohibit or restrict the use of the site if it finds the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the uses.

2. Fire station

3. Museum or library

4. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

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

E. **Care Providers and Dwellings**

1. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status

2. Manufactured dwelling only when in conjunction with a business located on the same parcel and when occupied by the owner/operator of the business; all services and requirements for both the dwelling and the business shall be located on the same lot; when the business ceases to operate, then the dwelling shall be removed

3. Residential care home or residential care facility

4. Single-family and/or manufactured dwelling only when lawfully existing (alteration or replacement only, subject to the time limits contained in Section 13.030 of this code)

62.130 - CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). Uses shall also meet the applicable development standards listed in Section 62.150. In all cases, a Development Permit (Article 41) shall be required as the final permit approval.

A. Automobile, go-carts or motorcycle race track when operating all the time

B. Performance facility

62.140 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). Uses shall also meet the applicable development standards listed in Section 62.150. A Development Permit (Article 41) shall be required as final permit approval.

A. Mass gathering

B. Temporary roadside stand

62.150 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20

2. Pre-Application Review – Article 21

3. Permit Review Procedures – Article 22

4. Basic Application Requirements – Article 40

5. Administration of Permits – Article 41

6. Site Plan Review – Article 42

7. Temporary Uses – Article 43

8. Variances – Article 44

9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - ½ Acre
   1 Acre (when dwelling or quarters in conjunction with authorized commercial use)

2. Setbacks - Front (10') Side (10') Rear (10')

3. Access & transportation – See Article 81

4. Airport overlay – See Article 69.4

5. Archeological resources – See Article 93

6. Building size, accessory height, setback, yard dimensions – See Article 72

7. Erosion, sediment control, storm drainage facilities – See Article 83

8. Fences, wall and screens – See Article 73

9. Flood hazard overlay – See Article 69.1

10. Historic resources – See Article 94

11. Mineral & aggregate resources – See Articles 72.040.A & 91

12. Parking – See Article 75

13. RV Parks, lodges & campgrounds – Article 98

14. Signs – See Article 74

15. Solid waste – See Article 86

16. Stream setbacks – See Article 72

17. Utilities – See Article 85

18. Water hazard overlay – See Article 69.5

19. Water standards – See Article 84

20. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 62.2 - RURAL COMMERCIAL CENTER ZONE

62.210 - PURPOSE

This zone, is intended to provide for the commercial needs of rural residents in the county. The purpose of the zone is to encourage the development of services that support surrounding rural use, and to achieve the objectives of the Comprehensive Plan regarding rural development, transportation, and energy conservation.

62.220 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 62.250. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. **Commercial – Recreation**

1. Bowling alley
2. Clubs and courts, including tennis and racquetball
3. Dance hall
4. Golf course
5. Gymnasium
6. Ice skating rink
7. Indoor sports arena
8. Marina
9. Miniature golf course
10. Motion picture theater
11. Rodeo grounds
12. Roller skating rink
13. Signs subject to Article 74

B. **Commercial – General**

1. Appliance, radio, television and electronics sales and repair
2. Art studio, including painting, sculpting, printmaking, ceramics, glasswork, photography, pottery, woodcarving, and similar crafts

3. Bank

4. Barber and beauty shop

5. Bicycle shop

6. Book or stationer

7. Building materials store to include outdoor storage and sales on a lot that is adjacent and/or across the street from the main store

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

9. Cabinet shop

10. Camera and photographic store

11. Contractors' establishments, including retail sales and servicing, for uses such as carpentry, plumbing, sheet metal, electrical and pump shops

12. Dry goods or notions store

13. Farm implement and equipment store

14. Feed store

15. Florist and gift store

16. Frozen food store and lockers

17. Fuel depot and sales

18. Furniture repair and upholstery

19. Garden supply store

20. General store

21. Greenhouses, including retail sales

22. Grocery store

23. Gunsmith

24. Hardware and paint store

25. Hobby store

26. Hotels and motels

27. Jewelry store

28. Lapidary shop
29. Laundry
30. Manufactured dwelling, recreational vehicle, automobile retail sales, and repair
31. Meat processing and packing, excluding slaughter house
32. Medical and dental offices
33. Mini-warehouse which may include quarters
34. Monument or tombstone store
35. Music store
36. Pharmacy
37. Printing, publishing and copying services
38. Professional offices, including, but not limited to, real estate, insurance, attorneys, architects, engineers, planners, physicians, accountants, surveyors, psychiatrists, tax consultants, ministers, foresters, opticians, and similar professions
39. Recreational vehicle park
40. Religious goods store
41. Rental service stores and yards
42. Restaurant
43. Retail sale of food products, including groceries and bakeries
44. Roofing establishment
45. Saw shops, including sales and service
46. Septic tank installers
47. Service station and automobile or truck repair garage
48. Signs as authorized by Article 74
49. Sign painting shop
50. Special trade contractor establishment such as cleaning and janitorial service, furnace and chimney cleaning, masonry, and stove, ornamental iron work, plastering and similar contracting services
51. Sporting goods store
52. Tack and saddlery shop

53. Tailor or dressmaker
54. Tavern

55. Towing service with or without an impound yard that is limited to 20 stored vehicles screened from view

56. Tractor dealers, repairing and service

57. Variety store

58. Veterinary hospital or clinic

59. Welding and blacksmith shop

C. **Institutional and Service**

1. Ambulance and emergency medical facilities

2. Church, except the review standards and criteria applicable to a church shall be qualified as follows:

   a. Churches shall be allowed the reasonable use of the site for all activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education unless the educational uses are authorized separately by other provision contained in this code; and

   b. The review body may subject the church uses to reasonable regulations, including site review or design criteria concerning the physical characteristics of the uses only, or may prohibit or restrict the use of the site if it finds the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the uses.

3. Fraternal lodges

4. Historical preservation project

5. Library or museum

6. Police and fire stations, post offices

7. Public and private schools, including day care facility

8. Public parks and recreation sites

9. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)
10. Recycling centers subject to Article 86

11. Road maintenance shops

12. Transportation terminal or depot

13. Utility facilities, including hydroelectric and transmission facilities

14. Signs as authorized by Article 74

D. **Care Providers and Dwellings**

1. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status

2. Manufactured dwelling only ~~and single-family dwelling~~ shall ~~only~~ be allowed when in conjunction with a business located on the same parcel and when occupied by the owner/operator of the business, and the parcel is at least 1 acre in size. All services and requirements for both the dwelling and the business shall be located on the same lot. When the business ceases to operate, then the manufactured dwelling shall be removed. A waiver of remonstrance shall be recorded with the deed which recognizes the right of commercial operations to exist and that the normal conduct of business shall not be considered a nuisance.

3. Residential care home or residential care facilities

4. Single-family and/or manufactured dwelling only when lawfully existing (alteration or (replacement only, subject to the time limits contained in Section 13.030 of this code)

62.230 - CONDITIONAL USES

The following uses, with accessory uses, shall be permitted using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). Uses shall also meet the applicable development standards listed in Section 62.250. In all cases, a Development Permit (Article 41) shall be required as the final permit approval.

A. Sewage treatment plants

B. Water treatment plants, water reservoirs

62.240 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). Uses shall also meet the applicable development standards listed in Section 62.250. A Development Permit (Article 41) shall be required as final permit approval.

A. Temporary roadside stand

62.250 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - ½ Acre
   1 Acre (when dwelling or quarters in conjunction with authorized commercial use)
2. Setbacks – Front (10') Side (10') Rear (10')
3. Access & transportation – See Article 81
4. Airport overlay – See Article 69.4
5. Archeological resources – See Article 93
6. Building size, accessory height, setback, yard dimensions – See Article 72
7. Erosion, sediment control, storm drainage facilities – See Article 83
8. Fences, wall and screens – See Article 73
9. Flood hazard overlay – See Article 69.1
10. Historic resources – See Article 94
11. Mineral & aggregate resources – See Articles 72.040.A & 91
12. Parking – See Article 75
13. RV parks, lodges and campgrounds – Article 98

14. Signs – See Article 74
15. Solid waste – See Article 86
16. Stream setbacks – See Article 72
17. Utilities – See Article 85
18. Water hazard overlay – See Article 69.5
19. Water standards – See Article 84
20. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 63 - LIGHT INDUSTRIAL ZONE

63.010 - PURPOSE

This zone is intended to provide a classification for lands appropriate for light manufacturing, research or development in a rural setting without the need for full urban services.

63.020 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 63.030. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Administrative, educational and other related activities and facilities in conjunction with a permitted use

B. Airports and related uses, including hanger and maintenance facilities

C. Ambulance service and fire station

D. Assembly, manufacture, or preparation of articles and merchandise from the following previously prepared types of materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, precious or semi-precious metal or stones, shell, textiles, tobacco, wax, wire, wood (excluding sawmills, lumber mills, planing mills and molding plants), yarns and paint not employing a boiling process

E. Automobile and truck service stations

F. Caretaker or night watchman (quarters or manufactured dwelling). The unit must be related to the business, and the manufactured dwelling must be removed when the business ceases to operate. The resident must be an employee of the business, rent must not be charged and employee status must be documented.

G. Cold storage plants including storage and office

H. Commercial parking lots

I. Equipment sales, service, rental and repair

J. Fuel oil distributors

K. Light manufacturing, assembly, fabricating or packaging of products from previously prepared materials such as cloth, plastic, paper, leather, precious or semi-precious metals or stones

L. Light fabrication and repair shops such as blacksmith, cabinet, electric motor, heating, machine, sheet metal, sign, stone monuments, upholstery and welding

M. Manufacture, compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, dairy products and meat, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, excluding the rendering of fats and oils, fish and meat slaughtering, and fermented foods such as sauerkraut, vinegar and yeast

N. Manufacturing of electric, electronic, or optical instruments or devices

O. Manufacturing of musical instruments, novelties, rubber or metal stamps, toys, optical goods or precision instruments or equipment

P. Manufacturing of artificial limbs, dentures, hearing aids, surgical instruments and dressings, and other devices employed by the medical and dental professions

Q. Printing, publishing and book bindings

R. Processing uses such as bottling plants, creameries, laboratories, blue-printing and photocopying, laundries, carpet and rug cleaning plants, cleaning and dyeing plants, tire retreading, recapping and rebuilding

S. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

T. Public uses and buildings and public utility structures and yards

U. Recycling centers subject to Article 86

V. Scientific research or experimental development of materials, methods or products including engineering and laboratory research

W. Service commercial uses such as restaurants, cafes, lounges, and refreshment stands

X. Signs as authorized by Article 74

Y. Storage or sale yard for building materials, contractors equipment, house mover, delivery vehicles, transit storage, trucking terminal and used equipment in operable condition

Z. Taxicab dispatch office

AA. Truck sales, service, repair and rental

BB. Veterinary clinic and hospitals operated entirely within an enclosed building

CC. Warehousing and storage including mini warehouses which may include quarters

DD. Wholesale distribution of all standard types of prepared or packaged merchandise such as automobile supplies, drugs, electrical supplies, furniture, food products, hardware, leather goods, plumbing supplies, textiles and fabrics and general merchandise

63.030 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - ½ Acre
   1 Acre (when dwelling or quarters in conjunction with authorized industrial use)
2. Setbacks – Front (10') Side (20') Rear (20')
3. Access & transportation – See Article 81
4. Airport overlay – See Article 69.4
5. Archeological resources – See Article 93
6. Building size, accessory height, setback, yard dimensions – See Article 72
7. Erosion, sediment control, storm drainage facilities – See Article 83
8. Fences, wall and screens – See Article 73
9. Flood hazard overlay – See Article 69.1
10. Historic resources – See Article 94
11. Mineral & aggregate resources – See Articles 72.040.A & 91

12. Parking – Article 75
13. RV Parks, lodges and campgrounds – See Article 98
14. Signs – See Article 74
15. Solid waste – See Article 86
16. Stream setbacks – See Article 72
17. Utilities – See Article 85
18. Water hazard overlay – See Article 69.5
19. Water standards – See Article 84
20. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 63.1 - RURAL INDUSTRIAL ZONE

63.110 - PURPOSE

The Rural Industrial zone is intended to provide appropriate areas for the development of industrial uses which, by their nature, are essential to a balanced economic base in the county and do not require full urban services. The zone is generally intended to be applied in areas which can provide the limited services necessary or in areas which are already committed to industrial use.

63.120 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 63.140. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Airports and related uses, including hanger and maintenance facilities

B. Automobile, truck and heavy equipment parts and accessory stores

C. Automobile wrecking yard

D. Automotive, truck and heavy equipment garages and repair, including paint and body shops, towing services and impound yard

E. Building maintenance services

F. Caretaker or night watchman (quarters or manufactured dwelling); the unit must be related to the business, and the manufactured dwelling must be removed when the business ceases to operate; the resident must be an employee of the business, rent must not be charged and employee status must be documented

G. Cement and asphalt batching, rock processing and crushing

H. Commercial power generating facilities

I. Compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, toiletries, soft drinks, or other food products

J. Freight, train or bus terminals

K. Fuel distribution facility

L. General laboratories and research facilities

M. Heavy equipment and farm implement sales and repair

N. Lockers, ice houses and cold storage facilities

O. Manufacture of textiles, cloth, or fiber products

P. Manufacture, repair or storage of ceramic products, musical instruments, novelties, rubber or metal stamps, toys, optical goods, scientific or precision instruments, medical, dental, electric or electronic supplies or equipment, business machines, watches or timing devices, luggage, photographic equipment, cabinets, furniture, or signs

Q. Metal reduction, milling, and refining

R. Metal fabrication and repair

S. Photographic film processing, photo engraving, photocopying establishments

T. Plumbing and sheet metal shops

U. Printing, lithographing, blueprinting or publishing and distribution facilities

V. Processing or packaging of products including breweries, distilleries, slaughter houses, and canneries

W. Public and semi-public buildings including fire stations

X. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

Y. Recycling centers subject to Article 86

Z. Resource recovery facilities subject to Article 86

AA. Restaurant and lounges

BB. Saw shops, including sales and repair

CC. Sewage disposal plants, pumping or treatment facilities, water storage reservoirs and other similar public facilities

DD. Sewage transfer sites subject to Article 86

EE. Signs as authorized by Article 74

FF. Smelting

GG. Tavern

HH. Taxidermy

II. Tire store, repair and recapping

JJ. Upholstery, automobile and furniture

KK. Warehousing

LL. Waste transfer centers subject to Article 86

MM. Wholesale distribution and retail sales facility or agricultural cooperative

NN. Wood products manufacturing, including secondary and tertiary processing

63.130 - CONDITIONAL USES

The following uses, with accessory uses, shall be permitted using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). Uses shall also meet the applicable development standards listed in Section 63.140. In all cases, a Development Permit (Article 41) shall be required as the final permit approval.

A. Fireworks, the assembly, manufacture or preparation (see Article 11.030)

63.140 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - ½ Acre
   1 Acre (when dwelling or quarters in conjunction with authorized industrial use)
2. Setbacks – Front (10') Side (10') Rear (10')
3. Access & transportation – See Article 81
4. Airport overlay – See Article 69.4

5. Archeological resources – See Article 93
6. Building size, accessory height, setback, yard dimensions – See Article 72
7. Erosion, sediment, storm drainage facilities – See Article 83
8. Fences, wall and screens – See Article 73
9. Flood hazard overlay – See Article 69.1
10. Historic resources – See Article 94
11. Mineral & aggregate resources – See Articles 72.040 & 91
12. Parking – See Article 75
13. RV parks, lodges and campgrounds – See Article 98
14. Signs – See Article 74
15. Solid waste – See Article 86
16. Stream setbacks – See Article 72
17. Utilities – See Article 85
18. Water hazard overlay – See Article 69.5
19. Water standards – See Article 84
20. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 64 - EXCLUSIVE FARM & FARM RESOURCE ZONES

64.010 - PURPOSE

The purposes of the Exclusive Farm and Farm Resource Zones (hereinafter called "Farm Zones") are to preserve agricultural land most appropriate for farm use and to provide beneficial uses for lands not capable of farming without creating conflicts between suburban expansion and farm use. The uses established by this zone are the ones authorized by the Oregon Revised Statutes, Chapter 215, and which are acknowledged to be in compliance with the statewide Planning Goal #3 for Agricultural Lands which are potentially productive for farm use. The Farm Zones are intended to guarantee the right to conduct normal farm practices and to facilitate and encourage resource management activities. Normal resource management practices shall not be considered a nuisance in the Farm Zones or adjacent Zones. Nothing in this regulation is intended to interfere with normal resource management practices that might result in conditions such as noise, dust or odor. Residents of the Farm Zones should recognize that the intent of the Farm Zones is to protect resource activities, and in the event of a conflict between residential use and resource practices, this code will be interpreted in favor of resource practices.

64.020 - OUTRIGHT USES

The following uses shall be allowed outright on lands in the Farm Zones. No permit or authorization is required to conduct the uses. Structures placed in conjunction with outright uses (except film sets authorized by subsection C below) shall be permitted using Ministerial Review Procedures (Article 22), be subject to the applicable development standards of 64.095, and require a Development Permit (Article 41) for final permit approval.

A. Agriculture, farming and farm use, as these uses are defined in Section 11.030 of this code

B. Detours of public road and highways that will be temporary and will be abandoned and restored to original condition or use at the time they are no longer needed

C. Filming – onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306

D. Forest product propagation or harvesting

E. Public roads and highways, the reconstruction or modification thereof, including the placement of utility facilities overhead and in the subsurface of public roads, and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result

F. Wetlands—the creation, restoration or enhancement thereof

64.030 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22). All uses shall also meet the applicable development standards listed in Section 64.095 of this Article. In all cases, a Development Permit (Article 41) is required as final permit approval.

A. Accessory buildings, including private garage or carport, personal use shop, personal storage building, boat landings and docks for personal use or other similar building, but not including a guest house

B. Dwelling replacement for a dwelling listed on the National Register of Historic Places when the land owner signs and records a waiver of claim or cause of action as described in Section 64.060.B.

C. Dwelling alteration, restoration or replacement when the dwelling exists and was lawfully established, subject to the following requirements:

1. The dwelling has the following features:

a. Intact exterior walls and roof structure;

b. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

c. Interior wiring for interior lights;

d. A heating system; and

2. The old dwelling shall be removed, demolished or converted into an allowable non-residential use within three months of the completion of the replacement dwelling; and

3. The landowner shall sign and record a waiver of claim or cause of action as described in Section 64.060.B.

D. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505

E. Roads and highways – development within roads and highways may occur as follows:

1. The reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels would result;

2. Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;

3. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways; and

4. The creation of traffic lanes used for climbing and passing within a right-of-way existing as of July, 1987

F. Signs, subject to Article 74

G. Utility facility service lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

1. A public right of way;

2. Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

3. The property to be served by the utility.

64.035 - PERMITTED USES SUBJECT TO STANDARDS ONLY

The following permitted uses shall be allowed using Ministerial Review Procedures (Article 22) and site plan review (Article 42). Review shall be limited to a determination of compliance with applicable standards of development only. The standards for review shall be those listed in Section 42.050.A and those otherwise made applicable by Section 64.095. As a condition of approval for any use listed in this Section, the landowner shall sign and record a waiver of claim or cause of action as described in Section 64.060.B. In all cases, a Development Permit (Article 41) is required as final permit approval.

A. Application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed by this Article, subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under the Oregon Revised Statutes, and other specific operational and process requirements contained in the Oregon Revised Statutes.

B. Churches, which may include a parsonage and a cemetery in conjunction with the church subject to the following special standards of approval:

1. Churches shall be allowed the reasonable use of the site for all activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education unless the educational uses are authorized separately by other provision contained in this code; and

2. The review body may subject the church uses to reasonable regulations, including site review or design criteria concerning the physical characteristics of the uses

only, or may prohibit or restrict the use of the site if it finds the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the uses; and

3. The church must be located more than 3 miles from an Urban Growth Boundary unless an exception is taken pursuant to Oregon Administrative Rules, Chapter 660, Division 4; and

4. New churches shall not be authorized on property which is high-value farmland as defined in Section 11.030; existing facilities may be maintained, enhanced or expanded subject to other requirements of law.

C. **Dwellings In Conjunction With Farm Use.** Primary or accessory dwellings customarily provided in conjunction with farm use must meet one of the following tests:

1. **TEST 1 - MINIMUM SIZE.** A dwelling may be considered customarily provided in conjunction with farm use if:

   a. The parcel on which the dwelling will be located is at least 160 acres; and

   b. The subject tract is currently employed for farm use, as defined in ORS 215.203, where the day-to-day activities on the subject land are principally directed to the farm use of the land; and

   c. Except for an Accessory Farm Dwelling authorized pursuant subsection C.4 below, there is no other dwelling on the subject tract; and

   d. The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

   e. The parcel is not considered high-value farmland as defined in Section 11.030.

2. **TEST 2 - PRODUCTION CAPABILITY.** A dwelling may be considered customarily provided in conjunction with farm use if:

   a. The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least $10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract; and

   b. The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in Section 64.035.C.2.a; and

   c. The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in Section 64.035.C.2.a; and

d. Not withstanding Section 64.035.C.2.a, the subject lot or parcel on which the dwelling is proposed is not less than 10 acres; and

e. Except as permitted in Section 64.035.C.4, there is no other dwelling on the subject tract; and

f. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by Section 64.035.C.2.c; and

g. The parcel is not considered high-value farmland as defined in Section 11.030;

h. The information utilized in addressing the criteria in Sections 64.035.C.2.a & b, will be provided in a technical memorandum utilizing formulas detailed in OAR Chapter 660, Division 33. The technical memorandum is incorporated by reference herein and will be appended to this code as an Appendix.

3. **TEST 3 - ACTUAL INCOME.** A dwelling may be considered customarily provided in conjunction with farm use if:

a. On a tract not defined in Section 11.030 as High-Value Farmland, the subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years, or three of the last five years, the lower of the following:

[1] At least $40,000 (1994 dollars) in gross annual income from the sale of farm products; or

[2] Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon; or

b. On a tract defined in Section 11.030 as High-Value Farmland, the subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least $80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years; and

c. Except as permitted in Section 64.035.C.4 there is no other dwelling on the subject tract; and

d. The dwelling will be occupied by the person or persons who produced the commodities which grossed the income in Section 64.035.C.3.a. or b.; and

e. The structures shall be located on the least suitable portion of the property for farm use; and

f. In determining the gross income required by Section 64.035.C.3.a or b, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract. Only gross income from land owned, not leased or rented, shall be counted, and gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.

g. For the purpose of making the income determinations required in subsections 3.a and 3.b above, noncontiguous lots or parcels zoned for farm use in Josephine County or in a contiguous county may be used to meet the gross income requirements.

4. **ACCESSORY FARM DWELLING**. An accessory farm dwelling may be authorized if it meets the following requirements:

a. The accessory dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing; and

b. The accessory dwelling will be located:

[1] On the same lot or parcel as the dwelling of the principal farm dwelling; or

[2] On the same tract as the principle farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other continuous lots and parcels in the tract; or

[3] On a lot or parcel on which the principal farm dwelling is not located, when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this rule may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under these rules; and

c. There is no other dwelling on the land designated in a Farm Zone owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and

d. The principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following circumstances:

[1] On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years, or three of the last five years, the lower of the following:

(a) At least $40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(b) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of $10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

[2] On land identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least $80,000 (1994 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

e. The governing body of a county shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this subsection.

f. An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use.

5. **RELATIVE FARM HELP DWELLING.** A farm use dwelling for a relative shall be approved when the following standards are met:

a. Located on the same lot or parcel as the dwelling of the farm operator; and

b. Occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, step-parent, grandchild, grandparent, step-grandparent, sibling, step-sibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use; and

c. The farm operator shall continue to play the predominant role in the management and farm use of the farm. A farm operator is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting harvesting, feeding and marketing; and

d. The landowner signs and records a waiver of claim for relief or cause of action as provided for in Section 64.060.B.

6. The structures shall be located on the least suitable portion of the property for farm use.

7. Notwithstanding the requirements of Section 41.030 (*Time Limit, Extension & Expiration of Permits*), land use permits approvals for farm dwellings shall be valid for 4 years from the date findings of approval are signed, and an extension of the permit shall be valid for two years.

D. Farm crop processing facility located on a farm operation that meets the following requirements:

1. The on-site farm operation provides at least one-quarter of the farm crops to be processed; and

2. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use, or devote more than 10,000 square feet to the processing activities within another building supporting farm uses; and

3. The processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility; and

4. No land division shall be approved that separates a processing facility from the farm operation on which it is located.

E. Farm stands, if:

1. The structures are designed and used for the sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25% of the total annual sales of the farm stand; and

2. The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

F. Fire service facilities providing rural fire protection services

G. Geothermal resource exploration and production as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead

H. Kenneling, breeding and training of greyhounds for racing (new facilities shall not be authorized on property which is high-value farmland as defined in Section 11.030; existing facilities may be maintained, enhanced or expanded subject to other requirements of law)

I. Mineral exploration, as such operations are defined by ORS 517.750

J. Model aircraft site used for the takeoff and landing of models, including such buildings or facilities as may reasonably be necessary, subject to the following rules:

1. Buildings and facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this Section, and the site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section; and

2. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and controlled by radio, lines or design by a person on the ground.

K. Residential home or facility in an existing dwelling as defined by ORS 197.660

L. Schools (public or private) subject to the following requirements:

1. The school must be located more than 3 miles from an Urban Growth Boundary, unless an exception is taken pursuant to Oregon Administrative Rules, Chapter 660, Division 4; and

2. New public or private schools shall not be authorized on property which is high-value farmland as defined in Section 11.030 (existing facilities may be maintained, enhanced or expanded subject to other requirements of law).

M. Solid waste disposal site that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation; new disposal sites shall not be authorized on property which is high-value farmland as defined in Section 11.030

N. Utility facilities necessary for public service, including wetland waste treatment systems, but not including commercial facilities for the purpose of generating electrical power for

public use by sale or transmission towers over 200 feet in height, subject to the following rules:

1. A utility facility is necessary for public service if the facility must be sited in a Farm Zone in order to provide the service; and

2. To demonstrate a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and the facility must be sited in a Farm Zone due to one or more of the following factors:

    a. Technical and engineering feasibility;

    b. The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for Farm Use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

    c. Lack of available urban and nonresource lands;

    d. Availability of existing rights of way;

    e. Public health and safety; and

    f. Other requirements of state and federal agencies.

3. Costs associated with any of the factors listed in subsection 64.035.N.2 above may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

4. The owner of a utility facility approved under this Section shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

5. The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.

6. In addition to the foregoing requirements, the establishment or extension of a sewer system shall meet the requirements of Statewide Goal 11 and implementing Oregon Administrative Rules.

7. The provisions of subsections 1 through 5 listed above do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

O. Winery when the following requirements are met:

1. The Planning Director adopts findings for each of the requirements contained within the definition for winery as set forth in Section 11.030 of this code are met; and

2. The standards imposed on the operation on the siting of the winery are limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:

   a. Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and

   b. Provision of direct road access, internal circulation and parking; and

   c. Compliance with local standards and criteria regarding flood plains, geologic hazards, airport safety or other regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

64.040 - CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). All uses shall also meet the applicable development standards listed in Section 64.095 of this Article. A Development Permit (Article 41) shall be required as the final permit approval.

A. Airports and helicopter pads for personal use, including associated hanger, maintenance and service facilities, subject to the following rules:

1. A personal use airport means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances.

2. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

B. Animal shelter expansion or replacement of an existing shelter as defined in ORS 609.500, if the shelter is tax exempt pursuant to Section 501(c)(3) of the Internal Revenue code as amended and in effect on January 1, 1999

C. Aquatic or insect species — the propagation, cultivation, maintenance and harvesting thereof, subject to:

1. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture.

2. Notice shall be provided to the State Department of Agriculture. The notice shall be provided in accordance with Article 31 for quasi-judicial land use decisions, but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

D. Armed forces reserve center, to include an armory or National Guard support facility

E. Commercial activities that are in conjunction with farm uses, as such activities are defined in Section 11.030

F. Community centers owned by a government agency or a nonprofit community organization and operated primarily by and for residents of the local rural community

G. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-96-024(1), (2) or (3), subject to the following special rules:

1. Composting facilities that are a "farm use" as defined by OAR 660-033-0027(7) shall not be limited by the requirements of this listing;

2. New composting facilities shall not be authorized on property which is high-value farmland as defined in Section 11.030; and

3. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility; and

4. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle.

H. County fairgrounds expansion, and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210; for existing county fairgrounds only

I. Destination resort which is approved consistent with the requirements of Goal 8; new destination resorts shall not be authorized on property which is high-value farmland as defined in Section 11.030

J. Dog kennels (new dog kennels shall not be authorized on property which is high-value farmland as defined in Section 11.030; existing facilities may be maintained, enhanced or expanded subject to other requirements of law)

K. Filming – onsite filming and activities accessory to onsite filming that exceed 45 days, as provided for in ORS 215.306

L. Firearms training facility as provided in ORS 197.770

M. Forest products processing facility, subject to the following requirements:

1. The primary use of the facility is for the processing of forest products;

2. The facility does not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203(2);

3. The approval period for the permit shall be one year which is renewable;

4. The facilities are intended to be portable or temporary in nature;

5. The primary processing of forest products 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;

6. Forest products means timber grown on the parcel of land or contiguous land where the primary processing facility is located.

N. Geothermal resource mining and processing as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise authorized by Section 64.035.G

O. Golf courses (regulation only) subject to the following special rules:

1. New golf courses shall not be authorized on property which is high-value farmland as defined in Section 11.030, but existing facilities may be maintained, enhanced or expanded, but shall not be expanded to contain more than 36 holes; and

2. A regulation golf course means an area of land with highly maintained natural turf laid out for the game of golf with a series of 9, 18 or a combination of 9 or 18 holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards, to include:

a. For a 9 hole golf course, a site that generally consists of 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

b. For a 18 hole a golf course, a site that generally consists of 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes.

3. A non-regulation golf course means a golf course or golf course-like development that does not meet the definition for a regulation golf course set out above, including but not limited to executive golf course, par 3 golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.

4. Uses accessory to a golf course shall meet the following standards:

   a. An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing; and

   b. Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings.

   c. Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

P. Home occupation business subject to the provisions of Article 92

Q. Mass Gatherings that are outdoor and subject to county planning commission review per ORS 433.763 because they involve more than 3,000 persons or are anticipated to last more than 120 hours in any three month period

R. Mining, crushing, stockpiling, and processing of aggregate into asphalt or Portland cement and other mineral resources and other subsurface resources, subject to the following requirements where applicable:

   1. The minimum amount of material to be mined shall be 1,000 cubic yards;

   2. The minimum surface area of disturbance for the mining shall be one acre;

   3. For the purpose of this administering this use, the definition of mining shall be the one provided in ORS 215.298(3);

4. The site to be mined must be included on an inventory in an acknowledged comprehensive plan;

5. New uses that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard, and a planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.

S. Museum for living history, subject to the following rules:

1. A "living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.

2. The museum shall be related to resource based activities owned and operated by a governmental agency or a local historical society. It may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historical period or the museum administration building, if areas other than ones located with the Farm Zones cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one-quarter mile of an urban growth boundary; and

3. A local historical society means the local historical society recognized as such by the Josephine County Board of Commissioners and organized under the requirements of ORS Chapter 65.

T. Private parks, playgrounds, hunting and fishing preserves, and campgrounds, subject to the following requirements:

1. New developments shall not be authorized on property which is high-value farmland as defined in Section 11.030, but existing facilities may be maintained, enhanced or expanded subject to other requirements of law;

2. Private campgrounds may provide yurts for overnight camping, but no more than one-third or a maximum of 10 campsites, whichever is less, may include a yurt; the yurt shall be located on the ground or on a wood floor with no permanent foundation; and, for this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance;

3. Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is taken pursuant to Oregon Administrative Rules, Chapter 660, Division 004;

4. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes, and is

established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground;

5. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;

6. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations, and overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period;

7. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts.

U. Parks and playgrounds (a public park may be established consistent with the provisions of ORS 195.120, and include only the uses specified under Oregon Administrative Rule 660-034-0035 or 0040)

V. Road and highway facilities (improvement only), affecting facilities such as maintenance yards, weight stations and rest areas, where additional right of way is required but not resulting in the creation of new land parcels

W. Road, highway and other transportation facilities and improvements not allowed under Sections 64.030 may be established subject to the adoption of an exception to Goal 3 and to any other applicable statewide planning goal with which the facility or improvement does not comply

X. Room and board arrangements for a maximum of five unrelated persons in existing residences

Y. Solid waste disposal site approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation (new disposal sites shall not be authorized on property which is high-value farmland as defined in Section 11.030)

Z. Towers for transmitting signals that are over 200 feet in height

AA. Utility facilities for the purpose of generating power for public use by sale; a power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and Oregon Administrative Rules, Chapter 660, Division 004

BB. Water extraction and bottling

CC. Wildlife habitat conservation and management plan pursuant to ORS 215.804

64.050 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 64.095. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Medical hardship dwelling (one additional dwelling only), when the landowner signs and records a waiver of claim for relief or cause of action as provided for in Section 64.060.B

B. Outdoor mass gathering involving less than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period

64.060 - GENERAL REQUIREMENTS FOR CONDITIONAL USES & NEW DWELLINGS

In addition to the standards and criteria for conditional uses contained in Article 45 of this code, all conditional uses (Article 64.040) and new dwellings (Article 64.070) in the Farm Zones shall be reviewed against the following additional requirements:

A. The use or activities associated with the use will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

B. As a condition of approval of the use, the landowner for the dwelling shall sign and record in the county deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

64.070 - STANDARDS & CRITERIA FOR NON-FARM DWELLINGS

Non-farm single-family dwellings may be authorized in the Farm Zones using Quasi-Judicial Review Procedures (Article 22.040). The governing standards and criteria for review and approval shall be those listed in Section 64.060 of this Article, and the ones that are identified pursuant to the applicable requirements listed below. New non-farm dwellings are also subject to applicable development standards contained in Section 64.095. In all cases, a Development Permit (Article 41) is required for final permit approval.

A. **Dwellings Not in Conjunction with Farm Use (Non-Farm Dwellings)**. One single family residential dwelling not provided in conjunction with commercial farm use, based on findings demonstrating that all of the following requirements are met:

1. The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions,

drainage and flooding, vegetation, location and size of the tract, subject to the following additional rules:

a. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

b. A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable." A lot or parcel or portion of a lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

c. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. In addition:

[1] If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable."

[2] If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year.

d. If a lot or parcel is under forest assessment, a finding must be made that the dwelling is compatible with and will not seriously interfere with forest uses on surrounding lands, and will not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding lands.

2. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards contained in Oregon Administrative Rule 660-033-0130(4)(c)(C). If the application involves the creation of a new parcel for the nonfarm dwelling, the standards contained in the administrative rule shall also be applied to determine whether creation of the parcel will lead to creation of other

nonfarm parcels, which cumulatively will result in the material alteration of the overall land pattern in the area.

3. The dwelling will be sited on a lot or parcel created before January 1, 1993, or on a lot or parcel created after January 1, 1993, when the lot or parcel was created in conformance with the requirements of Section 64.090.C.

4. A non-farm dwelling may not be approved on a lot or parcel that is already established with a single-family dwelling is established on a lot or parcel as a lot of record dwelling per subsection B below.

5. Submit proof that the lot or parcel has been disqualified for valuation for farm use pursuant to the requirement of ORS 215.236.

B. **Lot of Record Dwellings.** A dwelling may be approved as a limited lot of record dwelling, subject to the following requirements:

1. **GENERAL REQUIREMENTS.**

a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner:

[1] Before and after January 1, 1985; or

[2] By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel before and after January 1, 1985.

b. The tract on which the dwelling will be sited does not include a dwelling;

c. The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law;

e. The lot or parcel on which the dwelling will be sited is not high-value farmland unless the further requirements of subsection 64.070.B.2, as set forth below, are satisfied;

f. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling is consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

g. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed;

2. **HIGH-VALUE FARMLAND – OPTION #1.** Notwithstanding the general requirement of subsection 64.070.B.1.e above, a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of subsections B.1.a-b of this Section;

b. The lot or parcel is protected as high-value farmland as defined in OAR 660-033-0020(8)(a); and

c. A hearings officer of a county determines that:

[1] The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this Section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use.

[2] The dwelling will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

[3] The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the requirements contained in subsection 64.070.A.2.

d. Written notice shall be mailed at least 20 calendar days prior the public hearing before the hearings officer to the State Department of Agriculture.

3. **HIGH-VALUE FARMLAND – OPTION #2.** Notwithstanding the general requirement of subsection 64.070.B.1.e above, a single-family dwelling may be sited on high-value farmland if:

a. It meets the other requirements of subsections B.1.a-b of this Section;

b. The tract on which the dwelling will be sited is:

[1] Not high-value farmland defined because the land in the tract is composed of soils that are classified other than prime, unique, or Class I or II, when either irrigated or not irrigated.

[2] Twenty-one acres or less in size.

c. The tract meets one of the following locational requirements:

[1] It is bordered on at least 67 percent of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or

[2] The tract is not a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within 1/4 mile of the center of the subject tract. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary; or

[3] The tract is a flaglot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. The governing body of a county must interpret the center of the subject tract as the geographic center of the flaglot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flaglot. Up to two of the four dwellings may lie within the urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subparagraph:

(a) "Flaglot" means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract.

(b) "Geographic center of the flaglot" means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flaglot, at a 90-degree angle to that side, and the second line crosses the midpoint of the longest adjacent side of the flaglot.

4. **MISCELLANEOUS REQUIREMENTS.** The following additional requirements shall apply to the review and approval of all lot of record dwellings:

a. For purposes of administering the Lot of Record test, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members;

b. The county assessor shall be notified that the governing body intends to allow the dwelling.

c. When a local government approves an application for a single-family dwelling under the Lot of Record test, the application may be transferred by the owner to any other person after the effective date of the land use decision.

C. **Time Limit & Extension of Dwelling Permits.** Notwithstanding the requirements of Section 41.030, *Time Limit, Extension & Expiration of Permits*, land use permits approvals for dwellings within the Farm Zones shall be valid for 4 years from the date findings of approval are signed, and an extension of the permit shall be valid for two years.

64.080 - SITING STANDARDS

The placement of dwellings shall be located on the least productive, buildable portion of the parcel taking into consideration terrain, adverse soil or land conditions, drainage and flooding, access, vegetation, location and the size of the tract. If the parcel is under forest assessment, the dwelling shall be sited upon generally unsuitable land for the production of merchantable tree species recognized under the Forest Practice Rules. The following will be required:

A. **Drawing Requirements:**

1. A site map of the property which shows the township, range, section and tax lot numbers held in ownership by the property owner;

2. All physical features on the site which are of significance with regard to review of the above application process including steep slopes, access roads, existing buildings and structures, and other improvements;

3. The proposed location of new dwellings to be placed on the site.

B. **Siting Requirements:**

1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use; and

2. The placement of dwellings shall be located on the least productive, buildable portion of the parcel taking into consideration terrain, adverse soil or land conditions, drainage and flooding, access, vegetation, location and the size of the tract;

3. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

4. If the parcel is under forest assessment, the dwelling shall be sited upon generally unsuitable land for the production of merchantable tree species recognized under the Forest Practice Rules considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel; and

5. The dwelling will not materially alter the stability of the overall land use pattern of the area; and

6. If the dwelling is established under Sections 64.070.A or B, then additional dwellings may not be approved or sited.

64.090 - SPECIAL REQUIREMENTS FOR LAND DIVISIONS

The minimum parcel size for all new land divisions in the Farm Zones shall be 80 acres unless a smaller size is authorized by an applicable provision of this Section. In addition to the land division requirements contained elsewhere in this Article, or in Chapter 5 of this code, the following additional rules shall apply to land divisions within the Farm Zones. Also, no land division for the uses described in subsections B, C, D and E, shall be approved unless any additional tax imposed for the change in use has been paid.

A. **Parcels for Farm Uses.** A land division to create a parcel for farm use (as defined in ORS 215.203) shall result in parcels that are 80 acres or larger.

B. **Parcels for Non-Farm Uses.** A land division to create a parcel for any use listed Section 64.040 *(Conditional Uses)* may be for a size less than 80 acres provided a finding is made the smaller size is not larger than the minimum size necessary for the use.

C. **Parcels for Dwellings Not in Conjunction with Farm Uses.** Land divisions for a dwellings not in conjunction with farm uses may be approved to create:

1. Up to two new parcels smaller than the minimum size of 80 acres if:

a. The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

b. The parcels for the non-farm dwellings are divided from a lot or parcel that complies with the minimum size of 80 acres or larger;

c. The remainder of the original lot or parcel that does not contain the non-farm dwellings remains 80 acres or larger; and

d. The parcels for the non-farm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

2. Two parcels if:

a. The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;

b. The parcels for the non-farm dwellings are divided from a lot or parcel that is equal to or smaller than 80 acres but not less 40 acres;

c. The parcels for the non-farm dwellings are:

[1] Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and

[2] Composed of at least 90 percent Class VI through VIII soils;

d. The parcels for the non-farm dwellings do not have established water rights for irrigation; and

e. The parcels for the non-farm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land.

3. This Section does not apply to the creation or sale of cemetery lots if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established. This Section also does not apply to divisions of land resulting from lien foreclosures or from foreclosure of recorded contracts for the sale of real property.

D. **Parcels for Residential Homes.** A land division may be approved for an existing residential home as described in ORS 197.660(2) if the dwelling has been or is approved as a dwelling not in conjunction for farm use, or the dwelling is a replacement for a dwelling that is listed in the county's inventory as a historic property pursuant to Section 64.030.B.

E. **Parcels for Providers of Public Parks or Open Spaces or Conservation Organizations.** A land division may be allowed for a provider of a public park or open

space, or a not-for-profit land conservation organization, to permit the purchase at least one of the resulting parcels when:

1. One of the parcels is large enough to support the continued residential use of contain an existing dwelling; and

2. The parcel that does not contain a dwelling meets the following requirements:

   a. It is not eligible for siting a dwelling except as may be authorized within state parks pursuant to ORS 195.120; and

   b. May not be considered in approving or denying an application for siting any other dwelling; and

   c. May not be considered in approving a redesignation or rezoning to allow a public park, open space or other natural resource use; and

   d. May not be smaller than 25 acres unless the purpose of the land division is:

      [1] To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

      [2] To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

F. **Churches.** A land division may be approved to establish a church, including cemeteries in conjunction with the church, at sizes less than 80 acres if:

1. The church has been approved pursuant to Section 64.035.B of this Article; and

2. The newly created lot or parcel is not larger than five acres; and

3. The remaining lot or parcel, not including the church, is 80 acres or larger either by itself or by consolidation with another lot or parcel.

64.095 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20

2. Pre-Application Review – Article 21

3. Permit Review Procedures – Article 22

4. Basic Application Requirements – Article 40

5. Administration of Permits – Article 41

6. Site Plan Review – Article 42

7. Temporary Uses – Article 43

8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - 80 Acres (some exceptions allowed per Section 64.090)

2. Minimum lot width for new parcels

   a. 200' for non-farm dwellings

   b. 300' for all farm and forest uses

   c. Minimum width necessary to accommodate conditional uses approved per Section 64.090.B

3. Setbacks – Front (30') Rear (30') Side (30')

4. Access & transportation – See Article 81

5. Airport overlay – See Article 69.4

6. Archeological resources – See Article 93

7. Building size, accessory heights, setbacks, yard dimensions – See Article 72

8. Erosion, sediment, storm drainage facilities – See Article 83

9. Deer Overlay – See Article 69.2

10. Fences, wall and screens – See Article 73

11. Flood hazard overlay – See Article 69.1

12. Historic resources – See Article 94

13. Mineral & aggregate resources – See Articles 72.040.A & 91

14. Parking – Article 75

15. RV parks, lodges and campgrounds – See Article 98

16. Signs – See Article 74

17. Solid waste – See Article 86

18. Stream setbacks – See Article 72

19. Utilities – See Article 85

20. Water hazard overlay – See Article 69.5

21. Water standards – See Article 84

22. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 65 - FOREST COMMERCIAL & WOODLOT RESOURCE ZONES

65.010 - PURPOSE

The Forest Commercial and Woodlot Resource Zones (hereinafter called "Forest Zones") are intended to implement the Goals and Policies of the Josephine County Comprehensive Plan by conserving and protecting lands for forest uses. The Forest Zones are designed to provide a classification for commercial forest lands in private ownerships and for public lands administered by forest management agencies, encourage the management of commercial forest lands as a stable timber base, and to conserve natural resources by reducing hazards. This zone is consistent with Statewide Planning Goal #4 for conservation of forest lands. The Forest Zones are intended to facilitate the right to conduct forest practices consistent with the Forest Practices Act and to encourage and promote the development and conservation of natural resources. Normal forest management, mining, or agricultural practices shall not be considered a nuisance condition in these zones or bordering zones, provided that such actions are consistent with the standards of the Oregon Forest Practices Act and do not extend beyond the boundaries of the Forest Zones. 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. Residents of this zone must recognize that the intent of the zone is to protect resource management activities and that in the event of a conflict between residential use and normal forestry or agricultural practices, this code will be interpreted in favor of the resource management practice.

65.020 - OUTRIGHT USES

The following uses shall be allowed outright on lands in the Forest Zones. No permit or authorization is required to conduct the uses. Structures placed in conjunction with outright uses shall be permitted using Ministerial Review Procedures (Article 22), be subject to the applicable development standards of 65.095, and require a Development Permit (Article 41) for final permit approval for structures only.

A. **Outright Uses Pursuant to Forest Practices Act.**

1. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash

2. Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation

3. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities

4. For the purposes of subsections A.2 and A.3 above, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located

on site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

B. **Other Outright Uses.**

1. Caretaker residences for public parks and public fish hatcheries

2. Conservation of soil, air and water quality and to provide for wildlife and fisheries resources

3. Destination resorts per ORS 197.435 to 197.465 and Statewide Goal 8

4. Geothermal, gas, oil and other associated hydrocarbons exploration, including placement and operation of compressors, separators and other customary production equipment for individual well adjacent to the well head

5. Farm use as defined in ORS 215.203

6. Fish and wildlife enhancement structures (uninhabitable)

7. Forest labor temporary camps

8. Forest products, primary processing with temporary portable facility

9. Hunting and fishing private operations without lodging

10. Mineral and aggregate resources exploration as defined in ORS Ch. 517

11. Solid waste disposal site ordered by DEQ per ORS 259.049 (with equipment, facilities or buildings necessary for its operation)

12. Towers and fire stations for forest fire protection

13. Utility distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups

14. Water intake facilities, canals and distribution lines for farm irrigation and ponds

15. Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans including public road and highway projects as follows:

    a. Climbing and passing lanes within the right of way existing as of July 1, 1987;

    b. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the

addition of travel lanes, where no removal or displacement of buildings would occur, or no new parcels of land result;

c. Temporary public roads and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed; or

d. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

65.025 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22). All uses shall also meet the applicable development standards listed in Section 65.095 of this Article. In all cases, a Development Permit (Article 41) is required as final permit approval.

A. Alteration, restoration or replacement of a lawfully established dwelling that:

1. Has intact exterior walls and roof structures;

2. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

3. Has interior wiring for interior lights;

4. Has a heating system; and

5. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

B. Forest labor camps (temporary)

65.030 - CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). All uses shall also meet the applicable development standards listed in Section 65.095 of this Article. A Development Permit (Article 41) shall be required as the final permit approval.

A. Airport expansions (existing only)

B. Asphalt and concrete batch plants as accessory uses to specific highway projects that are temporary

C. Cemeteries

D. Communication facilities for television, microwave and radio facilities, to include transmission towers

E. Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465, statewide Goal 8 and Article 96 of this code

F. Electric transmission lines that are new, to include right of way widths of up to 100 feet as specified in ORS 772.210

G. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head

H. Exploration for mineral and aggregate resources as defined in ORS Chapter 517

I. Fire stations and towers for forest fire protection

J. Fire stations for rural fire protection

K. Firearms training facility

L. Fishing accommodations for private use occupied on a temporary basis may be allowed subject to the following requirements:

1. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Speciality Code;

2. Only minor incidental and accessory retail sales are permitted;

3. The accommodations are occupied temporarily only for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

4. The accommodations must be located within 1/4 mile of fish bearing Class I waters.

M. Forest products processing — a permanent facility for primary processing

N. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations

O. Home occupations as defined in ORS 215.448, and subject to the requirements of Article 92 of this code

P. Hunting operations for private use that include seasonal accommodations, subject to the following special requirements:

1. The accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Speciality Code;

2. Only minor incidental and accessory retail sales are permitted; and

3. The accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

Q. Hunting and fishing operations for private use without lodging accommodations

R. Log scaling and weigh stations

S. Logging equipment repair and storage that is permanent

T. Mass gatherings of more than 3000 persons which continue or can reasonably be expected to continue for more than 120 hours within any three month period and any part of which is held in open spaces, subject to planning commission review under Article 24, as authorized by ORS 433.763

U. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517

V. Navigation and aviation aids

W. Parks and campgrounds for private use, subject to the following special rules regarding campgrounds:

1. Campgrounds in private parks shall only be those allowed by this subsection;

2. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4;

3. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground;

4. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;

5. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites, and intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations are prohibited;

6. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

7. Separate sewer, water or electric service hook-ups may be provided to individual yurts when they meet the following requirements:

   a. No more than one-third of a maximum of 10 campsites, whichever is smaller, may include a yurt; and

   b. The yurt shall be located on the ground or on a wood floor with no permanent foundation; and

   c. The Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in Josephine County if the Commission determines that the increase will comply with the standards described in ORS 215.296(1).

   d. As used here, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

X. Parks for public use that include only those uses specified under OAR 660-034-0035 or 0040, whichever is applicable

Y. Public road and highway projects and transportation facilities and improvements not allowed under Section 65.020.B.5

Z. Reservoirs and water impoundments

AA. Solid waste disposal site approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation

BB. Utility facilities for the purpose of generating power (a power generation facility shall not preclude more than ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR Chapter 660, Division 4)

CC. Utility distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width

DD. Water intake facilities, related treatment facilities, pumping stations, and distribution lines

EE. Youth camps, subject to the limitations and requirements contained in Oregon Administrative Rule 660-006-0031

65.050 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 61.040. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Medical hardship dwelling (one additional dwelling only), subject to a written conflict statement or contract as specified in Section 65.060.D below.

B. Outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period

65.060 - GENERAL CRITERIA FOR CONDITIONAL USES & NEW DWELLINGS

In addition to the criteria for conditional uses contained in Article 45 of this code, all conditional uses in the Forest Zones shall be reviewed against the following additional requirements:

A. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

C. For private parks and campgrounds, reservoirs and water impoundments, home occupations, medical hardship dwellings, and fishing accommodations for private use, a written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules.

65.070 - STANDARDS & CRITERIA FOR NEW DWELLINGS

New single-family dwellings may be authorized in the Forest Zones using Quasi-Judicial Review Procedures. The governing standards and criteria for review and approval shall be those listed in Section 65.060 of this Article, and the ones that are identified pursuant to the applicable requirements listed below. All uses shall also meet the applicable development standards listed in Section 65.095 of this Article. A Development Permit shall be required as the final permit approval (Article 41).

A. **The Lot-of-Record Test.** A dwelling may be sited under the lot of record test when the following rules are met:

1. The lot or parcel on which the dwelling will be sited was lawfully created and either:

a. The present owner acquired the lot or parcel before January 1, 1985, and has continuously owned it since then; or

b. The present owner acquired the lot or parcel by devise or by intestate succession after January 1, 1985, from someone who continuously owned the same lot or parcel from before January 1, 1985; and

2. Tract ownership requirements:

a. If the lot or parcel is currently part of a tract, then a lot of record dwelling can be approved only if all of the other lots or parcels within the tract are not improved with dwellings; and

b. If the lot or parcel existed as part of a tract on November 4, 1993, but is no longer a part of that tract, then a lot of record dwelling can be approved only if all of the other lots or parcels that were a part of the tract are unimproved with dwellings; and

c. When the lot or parcel upon which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed; and

3. The tract upon which the dwelling will be located is composed of soil that is not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road, as defined under ORS 368.001, that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:

a. A United States Bureau of Land Management road; or

b. A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency; and

4. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based; and

5. For the purposes of the Lot of Record test, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one combination of these family members.

B. **The Large Tract Test.** If a dwelling is not allowed under the Lot of Record test, a dwelling may be allowed on land zoned for forest use if:

1. It complies with all applicable provisions of law and is sited on a tract that does not include a dwelling; and

2. The tract consists of at least 160 contiguous acres, or 200 non-contiguous acres in one ownership in the same county or contiguous counties; and

3. A deed restriction has been executed and recorded that complies with the requirements of subsection 65.070.F that encumbers all other lots or parcels that comprise the tract used to meet the acreage test.

C. **The Template Test.** If a dwelling is not allowed under the Lot of Record or the Large Tract tests, a dwelling may be allowed only if the following rules are met:

1. The parcel is primarily composed of soils that are:

a. Capable of producing 0 to 49 cubic feet per acre per year of wood fiber and:

[1] All or part of at least 3 other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the subject tract; and

[2] At least 3 dwellings existed on January 1, 1993, and continue to exist, on the other lots or parcels; or

b. Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

[1] All or part of at least 7 other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the subject tract; and

[2] At least 3 dwellings existed on January 1, 1993, and continue to exist, on the other tracts or parcels; or

c. Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

[1] All or part of at least 11 other lots or parcels that existed on January 1, 1993 are within a 160 acre square centered on the subject tract; and

[2] At least 3 dwellings existed on January 1, 1993, and continue to exist, on the other tracts or parcels.

2. Lots or parcels within an urban growth boundary shall not be used to satisfy the template test.

3. A proposed dwelling is not allowed if the tract upon which the dwelling will be sited already includes a dwelling.

4. If a tract abuts a road that existed on January 1, 1993, or a perennial stream, the measurement may be made by creating a 160 acre rectangle that is one mile long and one-fourth mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road or stream. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

   a. Be located within a 160 acre rectangle that is one mile long and one-fourth mile middle wide centered on the center of the subject tract and that is, to the maximum extent possible, aligned with the road or stream; or

   b. Be within one-fourth mile from the edge of the subject tract but not outside the length of the 160-acre rectangle, and on the same side of the road or stream as the tract.

5. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

6. The dwelling must comply with the wildfire safety siting standards contained in Article 76

7. A deed restriction shall be executed and recorded as required by subsection 65.070.F that encumbers all other lots or parcels that comprise the tract used to meet the template test.

D. **Dwelling for Caretaker in a Public Park or Fish Hatchery.** A single family dwelling may be authorized within the Forest Zones for a caretaker's residence when the residence will be located on land dedicated and developed as a public park, and the residence is to be occupied by a caretaker and caretaker's family only.

E. **Definitions.** The following definitions shall apply when reviewing applications for new dwellings within the Forest Zones:

1. **COMMERCIAL TREE SPECIES**. Trees recognized under rules adopted pursuant to ORS 527.715 for commercial production.

2. **CUBIC FOOT PER ACRE PER YEAR**. The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service (SCS). Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and must be approved by the Department of Forestry.

3. **CUBIC FOOT PER TRACT PER YEAR.** The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service (SCS). Where SCS data are not available or are shown to be inaccurate, an alternative

method for determining productivity may be used. An alternative method must provide equivalent data and must be approved by the Department of Forestry.

4. **DATE OF CREATION AND EXISTENCE**. When a lot, parcel or tract is reconfigured, pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

5. **TRACT**. One or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

F. **Covenants, Conditions & Restrictions.** In cases where new dwellings are approved using the large tract or template tests, a *Covenants, Conditions & Restrictions* in conformance with Exhibit A of Oregon Administrative Rule 660-006 has been recorded in the deed records for the county where the property or properties are located. In addition:

1. The *Covenants, Conditions & Restrictions* shall provide that it is irrevocable unless a statement of release is signed by an authorized representative of the appropriate county or counties, and then recorded in the deed records; and

2. Enforcement of the *Covenants, Conditions & Restrictions* may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property is located that is subject to the recorded form; and

3. The failure to follow the requirements of this Section shall not affect the validity of the transfer of property or the legal remedies available to buyers of property which is subject to the recorded form; and

4. The county planning director shall maintain a copy of the *Covenants, Conditions & Restrictions* filed in the county deed records pursuant to this Section and a map or other record depicting tracts which do not qualify for the siting of new dwellings because of the recorded form.

G. **Time Limits, Extensions & Expiration of Permits.** Notwithstanding the requirements of Section 41.030, *Time Limit, Extension & Expiration of Permits*, land use permits approvals for dwellings within the Forest Zones shall be valid for 4 years from the date findings of approval are signed, and an extension of the permit shall be valid for two years.

65.080 - SITING STANDARDS

The placement of dwellings shall be located on the least productive, buildable portion of the parcel taking into consideration terrain, adverse soil and land conditions, access, vegetation,

location and the size of the parcel. In making a placement determination, the following requirements shall apply.

A. **Drawing requirements:** A site map that meets the following requirements shall be submitted and approved as a condition for the placement or replacement of dwellings in the Forest Zones:

1. The site map for the property shall show the township, range, section and tax lot numbers for all contiguous properties held in ownership by the property owner;

2. The site map shall show all physical features on the site which are of significance with regard to review of the above application process including steep slopes, access roads, existing buildings and structures, and other improvements;

3. The proposed location of the new or replacement dwelling, to include septic systems, water supplies and other utilities that will serve the dwelling.

B. **Siting requirements.** New or replacement dwellings shall be sited so the site will:

1. Have the least impact on nearby or adjoining forest or farm lands;

2. Ensure adverse impacts on forest operations and accepted farm practices on the tract will be minimized;

3. Minimize the amount of forest lands used to site access roads, service corridors, the dwelling and structures; and

4. Minimize the risks associated with wildfire;

5. Meet the siting and fire safety requirements of Article 76.

C. **Access Requirements.** As a condition of approval, if the road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

D. **Stocking Requirements.** Approval of a dwelling shall be subject to the following stocking requirements:

1. Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules, and the planning director shall notify the county assessor of this condition at the time the dwelling is approved; and

2. If a lot or parcel is more than 10 acres in size, the dwelling shall not be approved until the owner submits a stocking survey report to the assessor and the assessor

verifies the minimum stocking requirements have been met by the time required by Department of Forestry rules; and

3. Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372; and

4. As a condition of approval for a new dwelling, the landowner shall sign and record in the Josephine County deed records a document that binds that landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

65.090 - STANDARDS FOR NEW OR RECONFIGURED LOTS OR PARCELS

In addition to the requirements of Chapter 5 of this code, the following standards shall apply to the creation or reconfiguration of lots or parcels within the Forest Zones.

A. The minimum lot size shall be 80 acres.

B. The minimum lot size of 80 acres may be reduced for the following outright uses listed in subsections 65.020.B.3, 4 and 11, and the following conditional uses listed in subsections 65.030.D, J, K, M, R, S, U, V, W, X, Z, AA, BB, and DD, provided such uses have been approved and the land division thus created is the minimum size necessary for the use.

C. The minimum size for a parcel for an existing dwelling may be less than 80 acres when the following requirements are satisfied:

1. The parcel shall not be larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres; and

2. The dwelling existed prior to June 1, 1995; and

3. The remaining parcel, not containing the dwelling, meets the minimum land division standards of the Forest Zones; or

4. The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the Forest Zones; and

5. The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless authorized by subsequent law or goal; and

6. The minimum tract eligible under this subsection is 40 acres; and

7. The tract shall be predominantly in forest use and that portion in forest use qualified for special assessment under a program under ORS chapter 321; and

8. The remainder of the tract shall not qualify for any uses allowed under ORS 215.283 that are not allowed on forest land.

D. The minimum size for a parcel for an existing dwelling may be less than 80 acres when the following requirements are satisfied:

1. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
2. Each dwelling complies with the criteria for a replacement dwelling pursuant to Section 65.025.A;

3. Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;

4. At least one dwelling is located on each lot or parcel created under this paragraph; and

5. The landowner of the resulting lots or parcels created under this subsection shall provide evidence that deed restrictions complying with the requirements of subsection 65.070.F have been executed and recorded.

6. A lot or parcel may not be divided under this subsection if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.

E. The minimum size for a lot or parcel may be reduced to facilitate a forest practice as defined in ORS 527.620; however, the resulting parcels:

1. Shall not be eligible for siting of new dwelling;

2. Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

3. Shall not result in a parcel of less than 35 acres, except:

   a. Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency; or
   b. Where the purpose of the land division is to allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and

4. If the division is made in conjunction with the creation of another parcel for a dwelling, the dwelling parcel shall not be less than a minimum lot or parcel size otherwise authorized by this Article.

F. The owner(s) of any land that is divided below 80 acres pursuant to any of the provisions contained in this Section, except those approved for development of a dwelling, shall record in the deed records for Josephine County a restriction that prohibits dwellings from being allowed on the parcel or parcels thus created, unless authorized by law or goal affecting land zoned for forest use.

G. The owner(s) of any land that is divided pursuant to any of the provisions contained in this Section, shall sign and record in the deed records for Josephine County a statement that declares the owner(s) will not complain in the future about accepted farming or forest practices on nearby lands devoted to farm or forest use.

H. Width:

1. Every lot or land parcel shall have a minimum average width appropriate to the size of the parcel divided but ln no case shall a lot be created with a width of less than 300 feet;

2. A vacant lot or land parcel having a width of less than 300 feet of record at the time of the passage of this code may be occupied by any use permitted in this Section, provided all other laws and code requirements are met including Lot of Record requirements and setbacks.

65.095 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20

2. Pre-Application Review – Article 21

3. Permit Review Procedures – Article 22

4. Basic Application Requirements – Article 40

5. Administration of Permits – Article 41

6. Site Plan Review – Article 42

7. Temporary Uses – Article 43

8. Variances – Article 44

9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum setback from property lines – Front (30'); Rear (30'); Side (30')

2. Access & transportation – See Article 81
3. Airport overlay – See Article 69.4
4. Archeological resources – See Article 93
5. Building size, accessory heights, setbacks, yard dimensions – See Article 72
6. Erosion, sediment, storm drainage facilities – See Article 83
7. Deer Overlay – See Article 69.2
8. Fences, wall and screens – See Article 73
9. Flood hazard overlay – See Article 69.1
10. Historic resources – See Article 94
11. Mineral & aggregate resources – See Articles 72.040.A & 91
12. Parking – See Article 75
13. RV parks, lodges and campgrounds – See Article 98
14. Signs – See Article 74
15. Solid waste – See Article 86
16. Stream setbacks – See Article 72
17. Utilities – See Article 85
18. Water hazard overlay – See Article 69.5
19. Water standards – See Article 84
20. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 66 - AGGREGATE RESOURCE ZONE

66.010 - PURPOSE

The purpose of this zone is to implement the objectives of the Josephine County Comprehensive Plan to facilitate the use and development of aggregate resources. This zone sets out the standards which will allow the use and development of all land which is identified as aggregate resources consistent with Oregon Statewide Planning Goal #5. Josephine County recognizes the importance of protecting and utilizing the mineral and aggregate resources in the County. Residents of this zone should recognize that the intent of this zone is to protect resource activities and that in the event of a conflict between residential use and resource practices, this code will be interpreted in favor of the resource practice.

66.020 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 66.030. In all cases except farm uses, a Development Permit shall be required as the final permit approval (Article 41).

A. Boat landings and docks

B. Exploration, mining and processing of aggregate and other mineral resources or other subsurface resources, including development of geothermal resources

C. Farm use

D. Fire station

E. Manufactured dwelling for a caretaker or night watchman

F. Park and recreation facilities open to public use, excluding overnight camping facilities, but including golf courses and temporary marinas

G. Permanent placement of cement and asphalt batching, rock processing and crushing

H. Personal use landing strips, with the restriction that, due to the proximity of streams, the loading or unloading of toxic chemicals is prohibited

I. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

J. Public utilities such as pipelines or transmission (lines) facilities, provided such utilities are flood-proofed and stabilized from flotation

66.030 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - None
2. Access & transportation – See Article 81
3. Airport overlay – See Article 69.4
4. Archeological resources – See Article 93
5. Building size, accessory height, setback, yard dimensions – See Article 72
6. Erosion, sediment control, storm drainage facilities – See Article 83
7. Fences, wall and screens – See Article 73
8. Flood hazard overlay – See Article 69.1
9. Historic resources – See Article 94
10. Mineral & aggregate resources – See Articles 72.040.A & 91
11. Parking – See Article 75
12. RV Parks, lodges and campgrounds – See Article 98

13. Signs – See Article 74
14. Solid waste – See Article 86

15. Stream setbacks – See Article 72

16. Utilities – See Article 85

17. Water hazard overlay – See Article 69.5

18. Water standards – See Article 84

19. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 66.1 - MINERAL & AGGREGATE RESOURCE ZONE (MARZ)[1]

66.110 - PURPOSE

The purpose of this zone is to implement the objectives of the state of Oregon and the Josephine County Comprehensive Plan to conserve, protect and facilitate the use and development of aggregate resources within the county. It is the intent of this zone to provide county compliance with OAR 660-23-180 (*Mineral and Aggregate Resources*) and to prescribe, through the process for adopting the MARZ, standards for the development of individual aggregate mine sites which reasonably mitigate impacts to surrounding lands and conflicting resources while allowing the fullest utilization possible of the county's mineral and aggregate resources.

66.120 - OUTRIGHT USES

The following uses shall be allowed outright on lands in the Mineral and Aggregate Resource Zone. No permit or authorization is required to conduct the uses. Structures placed in conjunction with outright uses shall be permitted using Ministerial Review Procedures (Article 22), be subject to the applicable development standards of 66.180, and require a Development Permit (Article 41) for final permit approval for structures only.

A. Agriculture, farming, and related farm use, as defined in ORS 215.203

B. Conservation and management of fish and wildlife resources

C. Conservation and management of soil, air and water quality and watersheds

D. Fish and wildlife habitat enhancement

E. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvest of forest tree species, application of chemicals, and the disposal of slash where such uses pertain to commercial forest activity:

   1. If the volume of wood exceeds 8 commercial truck loads per day, any access road, service road, or unpaved public road, while used for log-hauling, shall receive daily dust abatement or shall be treated with an oil surfacing by the operator, for a distance of 500 feet from a surfaced road or highway or residence located on adjoining property;

   2. 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.

F. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

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[1] Article 66.1 was created by Ordinance 2000-8, effective April 17, 2001

G. Temporary on-site structures and physical alterations to the land which are auxiliary to and used during the term of a particular forest operation or practice. Alterations include but are not limited to those made for the purposes of mineral exploration, mining, gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities. For the purposes of this subsection, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, is temporary in nature, and is not designed to remain for the forest's entire growth cycle. An auxiliary structure is removed when a particular forest practice has concluded.

H. Wetlands, the creation of, restoration of or enhancement

66.130 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 66.030. In all cases except farm uses, a Development Permit shall be required as the final permit approval (Article 41).

A. Exploration for mineral and aggregate resources as defined in ORS Chapter 517

B. Mining and processing of aggregate resources. Aggregate mining is subject to the conditions under which aggregate mining is permitted in the MARZ approval, or the Special Property Development Standards contained in Article 91.030 (*Special Property Development Standards for Aggregate Operations)*

C. Private hunting and fishing operations without any lodging accommodations

D. Temporary, portable facilities for the primary processing of forest products

E. Uninhabitable structures accessory to fish and wildlife enhancement

F. Water intake facilities, canals and distribution lines for farm irrigation and ponds

66.140 - CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). All uses shall also meet the applicable development standards listed in Section 65.095 of this Article. A Development Permit (Article 41) shall be required as the final permit approval.

A. Caretaker or night watchman’s manufactured dwelling when used in conjunction with the uses listed in Articles 66.120 (*Outright Uses*) 66.130 (*Permitted Uses*) and 66.140 (*Conditional Uses*)

B. Cement and asphalt batching, rock processing and crushing (requested independently of a mining operation approved under Article 66.150, and subject to the special property development standards for aggregate operations specified in Article 91.030 of this code)

C. Dog kennels

D. Home occupation

E. Log scaling and weight stations

F. Permanent facility for the primary processing of forest products

G. Personal use landing strips used in conjunction with a use permitted by this Section

H. Propagation, cultivation, maintenance and harvesting of aquatic species

I. Public and private utilities

J. Solid waste disposal at site approved by the governing body of the county and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation

K. Mining and processing of mineral resources.

66.150 - ESTABLISHING THE MINERAL AND AGGREGATE RESOURCE ZONE

The Mineral and Aggregate Resource Zone implements a decision to allow aggregate mining for a site that has been determined to be a significant aggregate site conforming to the definition in Article 11.030 of this Code. The MARZ shall be applied only to the property containing a significant aggregate site and associated on site buffer area (mine site) in the control of the aggregate mine operator or owner, and not to adjoining lands that may be within the impact area. A Mineral And Aggregate Resource Zone shall be established with approval of a PAPA which demonstrates compliance with OAR 660-23-180 (*Mineral and Aggregate Resources*) and including the following provisions:

A. In addition to the requirements for an adequate PAPA found at OAR 660-23-180(6), an application for a PAPA and zone change for the Mineral and Aggregate Resource Zone shall contain an impact area agreement between the proposed aggregate mine operator and those owner's of property within the impact area of the aggregate mining site, or meet the requirements of subsection C below. The impact area agreement or evidence of compliance with subsection C below may be submitted up to 60 days subsequent to submission of the PAPA to complete the application.

B. At a minimum an impact area agreement shall provide for the following:

1. Mitigation of significant potential conflicts with properties within the impact area;

2. Whether new conflicting uses shall be allowed, limited, or prohibited within the impact area;

3. Post mining use of the mine site in compliance with OAR 660-23-180 (4) (f) (*Local Government Determination and Provisions for Post-Mining Use*);

4. Operational standards in addition to or which modify those in Article 91.030 (*Special Property Development Standards for Mineral and Aggregate Operations*);

5. A process for modifying the agreement;

6. Duration of the agreement;

7. A method to resolve conflicts between the parties to the agreement; and

8. The agreement shall be binding on the property owners involved and their successors in interest.

C. Where the aggregate mine operator has made an effort to enter into an impact area agreement, but has been unable to reach an agreement with property owners within the impact area, his effort shall be supported with the following documentation in the application:

1. Copies of certified mail receipts to all impact area property owners showing the arrangement of at least three meetings between the mine operator and impact area property owners; and,

2. Copies of written or recorded minutes from the meetings described in paragraph 1. above, together with a written itemization of the time, date, location, list of attendees. The minutes shall accurately represent the discussion and shall document any issues raised by parties and any response to these issues; and,

3. The Board of Commissioners may require a written report by an independent and qualified professional mediator setting forth the history of the meetings and other relevant communications between the participants, to include a explanation and analysis of the unresolved issues.

D. Owners of properties within the impact area including the owner of the aggregate mine site which do not participate in the impact area agreement shall be subject to the provisions of Article 72.040 (A) (*Significant Aggregate Site Protection Area*), Article 91.030 (*Special Property Development Standards for Aggregate Operations*), and provisions for limiting or preventing new conflicting uses within the impact area of a significant aggregate site adopted in compliance with OAR 660-23-180(5).

66.160 - SPECIAL MULTI-AGENCY REVIEW CONFERENCE

In addition to the requirements for a pre-application review contained in Article 21, the applicant is encouraged to hold a conference with the planning office and DOGAMI, DSL, DEQ and ODFW to determine the scope of issues, the need for any special studies (such as archaeologic surveys, sensitive species inventories, or a channel stability analysis), and coordination of the application between involved agencies regarding the PAPA. A goal of this conference is to minimize the

applicant's expense during the initial county approval process while making all of the information developed for the proposal available to all of the involved agencies.

66.170 - SITE RECLAMATION

No mining operation authorized pursuant to this Article shall commence without the operator furnishing to the Planning Director a copy of a DOGAMI operating permit and approved reclamation plan, or a certificate of exemption, issued pursuant to the requirements of ORS 517.750 through 517.900 (*Reclamation of Mining Lands*) and implementing administrative rules. The county shall defer to DOGAMI regarding all aspects of the reclamation plan and its administration (per ORS 517.780). However, the reclamation plan shall be substantially consistent with the conceptual reclamation plan presented to the county during the PAPA proceedings to comply with OAR 660-23-180 (*Mineral and Aggregate Resources*). For these reasons the applicant is encouraged to make concurrent applications with the county and DOGAMI.

66.180 - GENERAL PROPERTY DEVELOPMENT STANDARDS

All uses authorized by the Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this Code. The following is a list of Articles that are or may be applicable:

A. Permit Review Requirements

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Variances – Article 44
8. Conditional Uses – Article 45

B. Property Development Standards

1. Access - See Article 81
2. Aggregate standards - Article 91
3. Erosion and sediment control - See Article 83
4. Flood hazard overlay - See Article 69.1
5. Minimum lot size – *No Requirement*
6. Parking - See Article 75

7. Setback requirements - See Section 72.040

8. Utilities - See Article 85

9. Water standards - See Article 84

ARTICLE 67 - SERPENTINE ZONE

67.010 - PURPOSE

The purpose of designating lands underlain by serpentinite or peridotite geologic units is to provide a management classification that will permit treatment of such lands based on land capability. The lands included in the Serpentine Zone are not commonly classified as commercial forest lands, agricultural lands, or rural residential lands, although, depending upon ownership and management objectives, serpentines have historically been used for all these purposes. This zone is designed to provide for the beneficial use of such lands as distinguished from other land types in Josephine County.

67.020 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 67.050. In all cases except farm and forest uses, a Development Permit shall be required as the final permit approval (Article 41).

A. Cement and asphalt batching, rock processing and crushing

B. Exploration, mining and processing of aggregate and other mineral resources or other subsurface resources, including development of geothermal resources

C. Family day care dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status

D. Farm use

E. Forest management

F. Log scaling and log storage

G. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

H. Recycling centers subject to Article 86

I. Residential care facility

J. Residential care home

K. Resource recovery facilities subject to Article 86

L. Sewage disposal plants, pumping or treatment facilities, water storage reservoirs and other similar public facilities

M. Sewage transfer sites subject to Article 86
N. Signs subject to Article 74

O. Single-family dwelling or manufactured dwelling

P. Temporary facilities for the primary processing of forest products produced on the property, including portable mills, portable chippers and portable processors

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

R. Waste transfer centers subject to Article 86

67.030 - CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). All uses shall also meet the applicable development standards listed in Section 67.050 of this Article. A Development Permit shall be required as the final permit approval (Article 41).

A. Destination resort

B. Fire attack landing strips for airplanes and helicopter pads, emergency protection facilities, fire towers, public work yards, and temporary logging labor camps

C. Home occupations subject to the requirements of Article 92

D. Hunting and fishing preserves, archery, rifle, and pistol target ranges

E. Open, non-commercial storage of up to 4 motor vehicles, from which parts have not been removed, when such vehicles are currently unlicenced or when such stored vehicles are owned by an individual other than the resident or owner of the property

F. Recreation sites, including parks, campgrounds, and conference grounds

G. Research and interpretive facilities related to the preservation of unique natural conditions or communities and the conservation and management of wildlife resources

67.040 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 67.050. In all cases, a Development Permit shall be required as final permit approval (Article 41).

A. Mass gathering

B. Medical hardship dwelling (one additional dwelling only)

C. Temporary storage of an unoccupied manufactured dwelling

67.050 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size is 20 acres, or 5 acres for residential purposes, both subject to the following:

   a. A site approval has been granted for each lot or parcel for subsurface sewage disposal or an alternative sewage disposal system;

   b. The lot size reduction shall not interfere with the rights of adjoining property owners to fully develop the mineral resources of the Serpentine Zone;

   c. Water Supply:

      [1] Has available a domestic water source capable of delivering a minimum of 3 gallons per minute of potable water for a period of 1 hour;

      [2] A domestic water source may be a drilled and cased groundwater well or a surface source such as shallow well, spring, or perpetual stream;

      [3] If a surface water source is to be used, the source must be developed, prior to partitioning in compliance with applicable Oregon

Administrative Rules governing domestic water quality, to include a system for water treatment.

d. No Development Permit or building permit, shall be issued for residential construction on any lot created after the adoption of this code unless the lot or parcel has available a domestic water source as required by this Section;

e. In order to demonstrate compliance with the above requirements the following shall be submitted:

[1] For surface water systems: approval from the Environmental Health Department showing that the water source meets domestic water standards and confirmation from the Watermaster's Office that water rights are approved; or

[2] For ground water systems: confirmation from the Watermaster's Office that a well has been constructed that at a minimum meets the water delivery rate and a report from a certified water laboratory that the water meets state water standards for potability;

[3] If the water source identified above is or will be located on an adjacent lot or parcel, must have written proof of an easement.

2. Minimum lot width shall be 500' for lots sized above 5 acres and 300' for lots sized 5 acres or smaller.

3. Access & transportation – See Article 81

4. Airport overlay – See Article 69.4

5. Archeological resources – See Article 93

6. Building size, accessory heights, setbacks, yard dimensions – See Article 72

7. Deer Overlay – See Article 69.2

8. Erosion, sediment control, storm drainage facilities – See Article 83

9. Fences, wall and screens – See Article 73

10. Flood hazard overlay – See Article 69.1

11. Historic resources – See Article 94

12. Mineral & aggregate resources – See Articles 73.040.A & 91

13. Parking – See Article 75

14. RV parks, lodges and campgrounds – See Article 98

15. Signs – See Article 74

16. Solid waste – See Article 86

17. Stream setbacks – See Article 72

18. Utilities – See Article 85

19. Water hazard overlay – See Article 69.5

20. Water standards – See Article 84

21. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 68 - LIMITED DEVELOPMENT ZONE

68.010 - PURPOSE

The purpose of this zone is to allow the full range of outdoor recreational activities. The lands included in the Limited Development Zone are not commonly classified as commercial forest lands, agricultural lands, or rural residential lands, although, depending upon ownership and management objectives, such lands have historically been used for all these purposes. This chapter is designed to provide for the beneficial use of land for outdoor recreation activities in Josephine County.

68.020 - PERMITTED USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 68.050. In all cases except farm and forest uses, a Development Permit shall be required as the final permit approval (Article 41).

A. Family Day Care Dwelling for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status

B. Farm use

C. Forest Management

D. Forest Products Processing (temporary facilities for the primary processing of forest products produced on the property, including portable mills, portable chippers and portable processors)

E. Hunting and fishing preserves, archery, rifle, and pistol target ranges

F. Log scaling and log storage

G. Public road and highway construction and reconstruction projects, to include temporary detours and temporary maintenance and material yards during projects, and permanent weigh stations and rest areas (road and highway projects may include the placement of utility facilities)

H. Recreation sites, including parks, campgrounds, and conference grounds

I. Research and interpretive facilities related to the preservation of unique natural conditions or communities and the conservation and management of wildlife resources

J. Residential Care Facility

K. Residential Care Home

L. Signs subject to Article 74

M. Single-family dwelling or manufactured dwelling

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

68.030 - CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). All uses shall also meet the applicable development standards listed in Section 61.060 of this Article. A Development Permit shall be required as the final permit approval (Article 41).

A. Cement and asphalt batching, rock processing and crushing

B. Destination Resort

C. Fire attack landing strips for airplanes and helicopter pads, emergency protection facilities, fire towers, public work yards, and temporary logging labor camps

D. Home Occupations subject to Article 92

E. Lodges and Conference Grounds

F. Mining and processing of aggregate and other mineral resources or other subsurface resources (to include the exploration thereof), and the development of geothermal resources

G. Racetrack

H. Recreational Resort

I. Shooting Range or Gun Club

J. Storage of motor vehicles that is open (the vehicles must be unlicenced and from which parts have not been removed, and the storage cannot be for commercial purposes; storage is limited to a maximum of 4 motor vehicles)

68.040 - TEMPORARY USES

The following uses, with accessory uses, shall be permitted using Ministerial Review Procedures (Article 22), subject to Temporary Use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 68.050. In all cases, a Development Permit shall be required as final permit approval (Article 41).

A. Mass gathering

B. Medical Hardship dwelling

C. Temporary storage of an unoccupied manufactured dwelling

68.050 - PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. **Permit Review Requirements**

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. **Property Development Standards**

1. Minimum lot size - 20 Acres
2. Minimum lot width – 500'
3. Access & transportation – See Article 81
4. Airport overlay – See Article 69.4
5. Archeological resources – See Article 93
6. Building size, accessory heights, setbacks, yard dimensions – See Article 72
7. Deer Overlay – See Article 69.2
8. Erosion, sediment control, storm drainage facilities – See Article 83
9. Fences, wall and screens – See Article 73
10. Flood hazard overlay – See Article 69.1
11. Historic resources – See Article 94
12. Mineral & aggregate resources – See Articles 72.040.A & 91
13. Parking – See Article 75
14. RV parks, lodges and campgrounds – See Article 98

15. Signs – See Article 74

16. Solid waste – See Article 86

17. Stream setbacks – See Article 72

18. Utilities – See Article 85

19. Water hazard overlay – See Article 69.5

20. Water standards – See Article 84

21. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 69 - OVERLAYS

69.010 - PURPOSE

The purpose of this Article on overlays is to provide additional standards and requirements in response to specific conditions, situations or circumstances, both natural and human caused, so that development can occur while mitigating the specific conditions, situations and circumstances the specific overlays are designed to cover.

69.020 - APPLICABILITY

The requirements set out in each of the overlays shall be in addition to the requirements of the underlying zone. Where a conflict exists between the requirements of the underlying zone and the overlay, the more restrictive shall apply.

ARTICLE 69.1 - FLOOD HAZARD OVERLAY

69.110 - PURPOSE

A. The purpose of this Article is to provide overlay regulations in areas that are subject to known flood hazards that accomplish the following specific purposes:

1. To promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed;

2. To protect human life and health;

3. To minimize expenditure of public money and costly flood control projects;

4. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

5. To minimize prolonged business interruptions;

6. To minimize damage to public facilities and utilities including water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

7. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

8. To ensure that potential buyers are notified property is in an area of special flood hazard;

9. To ensure that those who occupy the areas of special flood hazard assure responsibility for their actions; and

B. The purposes described in subsection A above shall be accomplished using any one or combination of the following methods:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Require that uses and related structures and facilities which are vulnerable to floods, are protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage; and

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

69.120 - FLOOD HAZARD AREA DEFINED

A. This Article shall apply to all areas of special flood hazards within the jurisdiction of Josephine County identified in the Flood Insurance Study.

B. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the County of Josephine, State of Oregon," dated December 1, 1981, with the accompanying Flood Insurance Maps, including any revision(s), is adopted by reference as part of this code. The Flood Insurance Study is on file in the Josephine County Planning Department.

C. The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within those areas will be free from flooding and flood damage. This Article shall not create liability on the part of Josephine County including any officer or employee, or the Federal Insurance Administration, for any flood damages that result from reliance on this Article or any administrative decision lawfully made under the provisions of this code or Article.

69.130 - INTERPRETING FLOOD MAPS

A. The Planning Director shall be authorized to make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The following information shall be submitted to support the request for an interpretation:

1. The developer shall obtain certification by a qualified professional (i.e., soil geologist, engineer, surveyor) that the development is reasonably safe from flooding;

2. The test of reasonableness is a local judgement and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

B. In the interpretation and application of this Article, all provisions shall be:

1. Considered as minimum requirements;

2. Literally construed in favor of the governing body; and,

3. Where conditions imposed by this Article are less restrictive than comparative conditions imposed by any other local code, ordinance, resolution or regulations, or by the provision of State law or State Administrative regulation, now or in future, then the more restrictive shall govern, and is deemed neither to limit nor repeal any other powers granted under State Statutes.

69.140 - DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 69.120. The permit shall be for all structures including manufactured dwellings, as defined in Section 11.030, and for all development including fill and other activities, also as defined in Section 11.030.

69.150 - SITE PLAN REVIEW

A. Application for a Development Permit shall be made on the same forms as required by the applicable zoning request. Specifically the following information is required:

1. A plot plan which meets the requirements of Section 41.020 in duplicate, which shows the following additional information:

    a. The nature, location, dimensions, and elevations of the area in question;

    b. The location of existing or proposed structures, fill, storage of materials, drainage facilities.

2. The developer shall obtain certification by a qualified professional (i.e., soil geologist, engineer, surveyor) that the development is reasonably safe from flooding;

3. A description of the on-site waste disposal systems which shall be located to avoid impairment to them or contamination from them during flooding;

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

5. A site plan meeting the requirements of Section 42.050 shall be submitted for all development proposed within the floodway.

B. An application for a Development Permit shall be processed:

1. As a Ministerial Review Procedure under Section 22.030, if the proposed development is located in the floodplain;

2. As a Quasi-Judicial Review Procedure under Section 22.040, if it is located in the floodway. Development proposed in the floodway shall include review by the Site Plan Review Committee under the provisions of Article 42 and shall determine if the following standards have been met:

    a. Review the application to determine if the proposed development is located in the floodway;

    b. If located in the floodway, assure that the encroachment provisions of Section 69.180, are met;

    c. To ensure that all standards in Section 69.160 and 69.170, have been met.

69.160 - SITE DESIGN STANDARDS

A. **General Siting Standards:**

1. All dwellings and substantial improvements to dwellings, to be placed (or substantially improved) within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the dwelling is at least one (1) foot above the base flood elevation;

2. Structures shall be located on the area least impacted by inundation taking into consideration terrain, adverse soil and land conditions, access, location of structures on adjoining lots, and the size and shape of the parcel.

B. **Encroachments.** Where base flood elevations have been provided, but floodway elevations have not, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

69.170 - GENERAL DEVELOPMENT STANDARDS

All proposals for a subdivision within a flood zone shall comply with all of the following:

A. All subdivision proposals shall be consistent with the need to minimize flood damage;

B. All subdivision proposals shall have public utilities and facilities including sewer, gas, electrical and water systems located and constructed to minimize flood damage;

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;

D. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

69.180 - FLOODWAY

Located within areas of special flood hazard established in Section 69.120 are areas designated as floodway. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification in form of a technical study by a registered professional engineer or architect is provided which demonstrate that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

B. All new construction and substantial improvements meeting the requirements of Section 69.180.A, shall comply with all applicable flood hazard reduction provisions of Sections 69.160 and 69.170 of this Article.

69.190 - UNAVAILABLE ELEVATION DATA

When base flood elevation data has not been provided in accordance with Section 69.120, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 69.160, 69.170, and 69.180.

69.191 - ALTERATION OF WATER COURSES

A. Notify adjacent communities and the Division of State Lands and the Water Resources Board prior to any alteration or relocation of a watercourse, and submit evidence of the notification to the Federal Insurance Administration.

B. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

69.192 - VARIANCE APPLICATION

A. Variances as interpreted in the National Flood Insurance Program are based on the principle that they pertain to a physical piece of property, are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. The variance primarily addresses small lots in densely populated neighborhoods and so variances from the residential flood elevations should be quite rare.

B. The application for a variance from the flood standards shall contain the following information:

1. A description of the variance requested, why it is necessary, and that failure to grant the variance will result in exceptional hardship to the applicant;

2. A plot plan which meets the requirements of Section 41.020 in duplicate, which shows the following additional information:

   a. The nature, location, dimensions, and elevations of the area in question;

   b. Existing or proposed structures, fill, storage of materials, drainage facilities.

3. The developer shall obtain certification by a qualified professional (i.e., soil geologist, engineer, surveyor) that the development is reasonably safe from flooding;

4. A description of the on-site waste disposal systems which shall be located to avoid impairment to them or contamination from them during flooding;

5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development;

6. A statement discussing if the Variance will grant a special privilege not normally enjoyed by property owners in the vicinity.

69.193 - VARIANCE PROCEDURE

A. An application for a variance under this Section shall be processed as follows:

1. The application shall be processed using Quasi-Judicial Review Procedure subject to the requirements of Article 22 and shall be subject to the standards set out in Section 69.195;

2. Upon consideration of the factors of this Section and the purposes of this Article, the review body may attach any conditions deemed necessary to further the purposes of this Article;

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased rise resulting from the reduced lowest floor elevation.

B. A decision of the review body may be appealed as outlined in under Article 33 of this code.

C. The review body shall maintain the records of all variances, including technical information, and shall report any variances to the Federal Insurance Administration upon request.

69.194 - VARIANCE STANDARDS & CRITERIA

The following criteria shall be considered before granting a variance:

A. All technical evaluations, all relevant factors, and standards specified in other sections of this Article;

B. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the items listed below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of any damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

C. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure;

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result;

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

F. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 69.194.B, or conflict with existing local laws or codes; and

4. A finding that the variance will not result in special privileges not normally enjoyed by property owners in the vicinity.

G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 69.194.B and the standards required by the Building and Safety Department.

69.195 - PROPERTY DEVELOPMENT STANDARDS

The property development standards in the underlying zone shall apply to all development in this overlay. The standards contained in this Article shall be in addition to the standards of the underlying zone.

ARTICLE 69.2 - DEER OVERLAY

69.210 - PURPOSE

The purpose of this overlay is to restrict development so that critical deer winter range habitat is protected.

69.220 - DENSITY REQUIREMENTS

In areas identified as critical deer winter range habitat, findings must be made to show that a residence will not cause the density of dwellings within winter range to exceed 32 homes per 2 square miles. The calculation will include the area outside impacted lands below 2500 feet elevation.

69.230 - PROPERTY DEVELOPMENT STANDARDS

The property development standards in the underlying zone shall apply to all development in this overlay. The standards contained in this Article shall be in addition to the standards of the underlying zone.

ARTICLE 69.3 - WILD & SCENIC RIVERS OVERLAY

69.310 - PURPOSE

The purpose of this overlay is to facilitate development which is compatible with the requirements of the State and Federal Scenic Waterways Program.

69.320 - SITING STANDARDS

Any use permitted in a zone shall be allowed on lands adjacent to the Rogue River and Illinois River Scenic Waterways, provided that:

A. If the property is located within one-quarter mile of the mean high water line of the river, or within the river proper between the high water marks, no Development Permit shall be issued unless the applicant has obtained a Notice to Proceed from the Scenic Rivers Program, Parks Division, Oregon Department of Transportation; or the time limit for state acquisition has expired;

B. If the property is located within the legal boundaries of the Rogue River/Illinois River National Wild and Scenic River, as established by Act of Congress, a copy of the proposed application shall be transmitted to the administering federal agency. If the property is subject to a scenic easement, no Development Permit shall be issued unless the applicant has obtained an authorization from the administering agency;

C. No building located within 1/4 mile of the mean high water line of the river or within the river proper between the high water line, shall exceed a height of 30 feet, except as provided in Section 72.030.B, or the structure is screened from the river by topography or vegetation.

69.330 - PROPERTY DEVELOPMENT STANDARDS

The property development standards in the underlying zone shall apply to all development in this overlay. The standards contained in this Article shall be in addition to the standards of the underlying zone.

ARTICLE 69.4 - AIRPORT OVERLAY

69.410 - PURPOSE

An airport overlay is applied to an area which is in the proximity of active air fields where aircraft operations occur on a regular basis. The perimeter of this overlay signifies a measure of noise level (sound measured in decibels), dust, engine exhaust, and visual impact, surrounding the airport. In order to prevent the creation of hazards, special airport zoning regulations controlling and limiting the use of land, are established within the airport overlay. The provisions of this Section are not intended to abrogate any other section of this code and when it appears that there is a conflict, the most restrictive requirements shall apply.

69.420 - APPLICATION OF OVERLAY

A. In any zone where an airport overlay is combined with a primary zone and any conflict in regulations or procedure occurs between the zone and the overlay, the most restrictive shall govern.

B. The boundaries of the overlay shall be designated on the official zoning maps for Josephine County. Height, and land use limitations shall be imposed within the overlay. Height and other standards shall be consistent with the requirements of the Federal Aviation Administration, the Oregon State Department of Transportation, the Josephine County Airport Master Plan.

69.430 - USE RESTRICTIONS

The following use restrictions shall apply within the areas designated as airport overlay on the official zoning map:

A. Airport Clear Zone – No use other than those listed under Section 69.440 is permitted;

B. Airport Approach Zone – Any use listed in the primary zone, except for places of public assembly accommodating more than 100 persons, may be permitted within the approach zone, subject to the regulations of this Article. A declaration of record shall be made on the permit recognizing the preexistence of the airport;

C. Airport Overlay Zone – Any use listed in the primary zone, subject to the requirements of this Article, may be permitted; and

D. No use may be made of land within the airport overlay that will result in interference with communications and/or visibility between airport and aircraft. No illumination of signs or material of a reflective nature used on exterior construction shall be installed which would result in glare or confusion with aeronautical lighting that may impair visibility from aircraft.

69.440 - PERMITTED USES

The following uses are permitted unless the use would penetrate the elevations of the approach and transitional zones. The uses shall be reviewed using Ministerial Review Procedures (Article 22),

may be subject to Site Plan Review (Article 42), the issuance of a Development Permit (Article 41), and the property development standards listed in Section 69.480 of this Article.

A. Agriculture, excluding the commercial raising of animals which would be adversely affected by aircraft passing overhead

B. Airports and heliports, subject to the approval of a master plan by the Board of County Commissioners, providing that FAA permits have been obtained, and lines, towers, structures or poles do not penetrate the air space of a clear zone approach or transitional surface of an airport

C. Landscape nursery, cemetery, or recreation areas which do not include buildings or structures

D. Pipeline

E. Roadways, parking areas, and storage yards while allowed shall not be located so that the lighting will make it difficult for pilots to distinguish between landing lights and other lights, result in glare, or in any other way impair visibility in the vicinity of the landing approach

F. Underground utility wire

69.450 - CONDITIONAL USES

The uses listed as Conditional Uses within the primary zone, shall be subject to Sections 69.430, 69.460, and 69.470 in addition to the requirements of the primary zone.

69.460 - HEIGHT LIMITATIONS

The allowable height of any building, structure, or tree within the airport overlay shall conform to the following: the ground level elevation plus the height of any structure, building, use, or tree at its proposed location shall not penetrate any approach, transitional, horizontal, conical surface of an airport as indicated on the Josephine County Airport Master Plan and/or County document, unless specifically allowed by the FAA and Josephine County as part of a Conditional Use Permit review.

69.470 - NEW DEVELOPMENT

A. All new airports, heliports, or landing fields shall be designed so that the incidence of aircraft passing in the vicinity of preexisting dwellings or places of public assembly is minimized.

B. They shall be located so that air traffic shall not constitute a nuisance to neighboring uses.

C. The applicant shall show that adequate controls or measures will be taken to reduce noise levels, vibrations, dust, or bright light, as required by the Oregon Department of Environmental Quality rules and regulations.

69.480 - PROPERTY DEVELOPMENT STANDARDS

The property development standards in the underlying zone shall apply to all development in this overlay. The standards contained in this Article shall be in addition to the standards of the underlying zone.

CHAPTER 7 - GENERAL DEVELOPMENT STANDARDS

ARTICLE 70 - BASIC PROVISIONS

70.010 - PURPOSE

The purpose of this Chapter is to develop standards for the development and division of property. The standards are designed to protect the public health, safety, and welfare.

70.020 - APPLICATION

The standards established in this Chapter shall apply to all new development, expansion or change to existing development, and to all land divisions in the rural area of Josephine County. The area involved includes all land outside of the Urban Growth Boundary for the City of Grants Pass as shown on the official map of Josephine County.

ARTICLE 71 - LOT SIZE & SHAPE

71.010 - LOT SIZE & SHAPE

A. All proposed lots or parcels in a subdivision, partition, replat, property line adjustment, or planned unit development, shall not be divided to a size less than the minimum requirements for the zone the lot or parcel is located in. Lots or parcels containing less than the minimum lot size requirements may be approved provided that:

1. Not more than 20 percent of the lots, up to a maximum of five (5) deficient lots or parcels, are created from an original tract; and

2. The area deficiency is contained within the public road right-of-way; and

3. The applicant provides a written statement from the Department of Environmental Quality stating that the smaller lots do not constitute a public health, safety, and welfare hazard.

B. Each lot shall not be greater than four times deeper than it is wide, exclusive of the "pole" of a flaglot.

71.020 - FLAG LOTS

A. It shall be the policy of the county to encourage the construction of public roads to provide safe and identifiable access to properties. Flaglots shall not be approved unless, it can be shown that:

1. The creation of a road is not practical because of extra-ordinary physical limitations of the parcel for construction;

2. It will represent an efficient use of land;

3. It will not endanger the public health, safety, or welfare;

4. In no case shall flaglots be approved where the extension of a public road is shown on an official map and the extension will provide necessary access.

B. The following requirements shall apply to flaglots:

1. The "flagpole" shall maintain a width of at least 25 feet as minimum access at the point of abutment to a public road and throughout its length;

2. The "flagpole" shall not cross a live stream, ravine, irrigation ditch, or similar topographic feature without construction of a structure or fill and culvert capable of providing access for emergency vehicles. The review body may require certification from a registered engineer that the structure or fill and culvert has been constructed to support emergency vehicles;

3. The "flagpole" may alter course or direction as long as the view of the location and the address of the structure or use will not be confusing for mail delivery or

emergency vehicle access; and provided that a driveway can be constructed wholly within the "flagpole" with a turn that does not exceed a 50 foot radius;

4. The grade of the flagpole shall not exceed a grade of 12% for an unsurfaced driveway or a maximum grade of 18% for a driveway surfaced with asphaltic concrete or Portland Cement:

   a. The review body may require grading and construction which meets these standards as a part of final approval of any land division; or

   b. When immediate construction of the driveway is not possible because of practical difficulties, the final map shall note the work has not been completed, and driveway construction shall become part of the performance agreement filed with the final plat.

5. The "flagpole" shall not exceed in length twice the width of the lot or twice the length of the lot, whichever dimension is the lesser;

6. Not more than one flaglot shall be created in the same subdivision or partition and it shall not abut any other flaglot.

C. The review body may permit flaglotting, contrary to Sections 71.020.B.1, 5 & 6, where the proposed development meets the criteria set out in 71.020.A.

ARTICLE 72 - HEIGHTS, SETBACKS & ACCESSORY STRUCTURES

72.010 - PURPOSE

The purpose of this Article is to establish and maintain minimum requirements for accessary structures, for structure heights, and for setbacks from property lines in order to provide a measure of buffering between uses, ensure adequate privacy, maintain safe visibility at road intersections, ensure access to and around buildings, and to provide access to natural light, ventilation, and sunlight.

72.020 - STRUCTURE HEIGHT & SETBACK REQUIREMENTS

A. The following minimum requirements shall be applied to all permitted, conditional, and accessory structures allowed by this code unless specified otherwise. All requirements are specified in feet:

STRUCTURE		SETBACK FROM PROPERTY LINE		
ZONE	HEIGHT	FRONT	SIDE	REAR
RR*	35	30	10	25
RC**	35	10	10	10
TC**	35	10	10	10
RCC**	35	10	10	10
LI**	35	10	20	20
RI**	35	10	10	10
EF*	35	30	30	30
FR*	35	30	30	30
FC*	none	30	30	30
WR*	35	30	30	30
LD*	35	30	30	30
AG	none	30	30	30
S*	35	30	30	30

* The restriction does not apply to agricultural buildings (See Section 72.030.B.3).
** The setbacks may be reduced (See Section 72.020.C).

B. The height of a building shall be measured using the definition in Section 11.030.

C. The side and rear setback in a commercial or industrial zone may be reduced to 0 feet when the side and rear property lines abut a commercial or industrial zone, provided any

walls of a structure placed upon the side or rear lot line are constructed to meet the fire resistance requirements of the most current edition of the building codes.

D. In the Aggregate Resource zone, pipelines, landings, docks, bridges, hydro-electric facilities, and pumping or treatment facilities may be located closer than 30 feet to any property line.

E. In all zones except the commercial and industrial zones, all buildings shall be setback at least 60 feet from the centerline of any public street, road, or right-of-way which is surveyed and established. The review body may vary this standards where necessary for corner lots.

F. Decks, paved or concrete slabs, patios or walkways which are 30 inches or higher above grade shall comply with the setback requirements set out in Article 72; decks, paved or concrete slabs, patios or walkways which are lower than 30 inches above grade are exempted from yard setback requirements, but shall comply with the special stream setbacks in Section 72.040.A.

72.030 - SPECIAL HEIGHT REQUIREMENTS

A. The structures exempted from height requirements shall comply with the requirements in the Wild & Scenic Rivers Overlay, Article 69.3; the Airport Overlay, Article 69.4; and the requirements set out in Article 74.

B. The following may be erected above the height limits prescribed in Section 72.020.A of this code:

1. Roof structure for the housing of elevators, stairways, tanks, ventilating fans, and similar equipment required to operate and maintain a building;

2. Fire or parapet walls, skylights, towers, flagpoles, chimneys, smokestacks, radio masts, and T.V. antennas;

3. Agricultural buildings including barns and silos;

4. Wood waste burners, kiln drying racks, veneer dryers, lumber storage sheds, sorting sheds, sawmills, aeration towers, pollution control equipment, water reservoirs, incinerators, conveyers, hoppers, cooling towers, electrical transmission towers, structural dams, power generator plant, aircraft beacons, and air traffic control towers;

5. Other similar structures.

72.040 - SPECIAL SETBACK REQUIREMENTS

The following special setback requirements shall apply to development within protected areas for significant aggregate sites:

A. **Significant Aggregate Site Protection Area.** The following special rules relate to aggregate mining or processing at significant aggregate sites. These setbacks are intended to provide a minimum level of protection from future conflicting uses at those significant aggregate sites existing on the date of the adoption of this provision where the application of OAR 660-023-180 (5) (ESEE for new conflicting uses) has not resulted in the adoption of different measures. Property owners within the vicinity of an aggregate operation should assume the effects of mining on other properties may extend beyond the protected area around the mine.

1. The protected area around a significant aggregate site that is or has been in lawful operation shall extend from the mine area out to 500 feet, where the mine owner or operator has provided the planning office with a map designating the mining area.

2. In all cases involving the permitting of new conflicting uses or structures, or the modification of existing conflicting uses or structures, within the protected area, the permit shall be conditioned upon the execution by the landowner of a restrictive covenant containing an agreement not to object to the mining or processing of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

3. There shall be no protected area around a significant aggregate site which has not been in lawful operation and where the mine owner or operator has not provided the planning office with a map designating the mining area.

   a. At such sites, when mining is authorized, the mine area shall be a minimum of 500 feet from the nearest existing conflicting use.

   b. Once mining is authorized within the protected area of these sites the permitting of any new conflicting use shall be conditioned on the execution by the landowner of a Restrictive Covenant containing an agreement not to object to the mining or processing of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

   c. The above provisions may be modified or waived subject to:

      [1] An aggregate impact area agreement between the operator or owner of the significant aggregate site and the owner or owners of any property within the aggregate impact area determined under OAR 660-023-180(5) (ESEE for new conflicting uses) and demonstration that conflicts with mining have been minimized; or

      [2] Measures determined during the adoption of a PAPA to minimize conflicts or address new conflicting uses.

B. **Stream Setbacks.** No structure, excluding fences, boat landings, docks, bridges, hydroelectric facilities, pumping, or water treatment facilities, shall be located closer than

50 feet to the banks of any Class 1 stream, or 25 feet to the banks of Class 2 water courses as defined by the Oregon State Department of Fish and Wildlife:

1. This setback area shall be maintained, to the greatest extent feasible, in stabilized vegetation;

2. Streamside vegetation that provides shading of the surface waters shall be retained;

3. Existing streamside vegetation shall be maintained to the greatest extent possible during construction and development.

C. **Rookeries or Nest Sites.** There shall be a structure setback of 300 feet from significant rookeries or nest sites identified by the Oregon Department of Fish and Wildlife and located as a Goal 5 Resource on the Official Zoning maps for Josephine County. The Department of Fish and Wildlife has mandated consultation with them to mitigate adverse impacts for all development closer than 300 feet.

72.050 - YARDS

A. Yard requirements for property abutting partial or future street right-of-way:

1. Except as provided in Section 72.050.B, no building shall be erected on a lot which abuts a street having only a portion of its required width dedicated unless the yards provided and maintained in connection with the building have a width and/or depth needed to complete the street width, plus the width and/or depth of the yards required on the lot by this code;

2. Where an official map of the Comprehensive Plan 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 establishment of yards shall relate to the future street boundaries as determined by the official map.

B. No yard or open space provided around any building for the purpose of complying with the provisions of this Section shall be considered as providing a yard or open space for any other building.

C. No yard or open space on adjoining property shall be considered as providing required yard or open space for another lot or development site.

D. No front yards provided around any building for the purpose of complying with the regulations of this code shall be used for public or private parking areas, garages, or other accessory buildings, except as specifically provided in this code.

E. If a building or group of buildings is located on two or more contiguous lots or parcels, so that the required setbacks and yards on each side of the property lines cannot be met, the lots or parcels shall be considered a single development site and the setback and yard requirements shall apply to the properties as a whole.

F. The following intrusions may project into required yards as follows:

1. **DEPRESSED AREAS**. In any zone, open work fences, hedges, guard railings, or other landscaping or architectural devices for safety protection around depressed ramps, stairs, or retaining walls, may be located in required yards, provided that such devices are not more than 3 ½ feet in height;

2. **PROJECTING BUILDING FEATURES**. The following building features may project into the required front yard no more than 5 feet, and into the required interior yards no more than 2 feet, provided that the projections are no closer than 3 feet to an interior lot line:

   a. Eaves, cornices, belt courses, sills, awnings, buttresses, ramada, or other similar features;

   b. Chimneys, fireplaces, and heating and cooling equipment, provided they do not exceed eight feet in width;

   c. Porches, platforms, or landings which do not extend above the level of the first floor of the building;

   d. Signs conforming to Article 74;

   e. Access facilities for the handicapped, including wheelchair ramps, may be located in any required yard, provided that the facilities do not obscure moving vehicle traffic.

G. Front Yards:

1. If dwellings on both abutting lots are located within the front setback area, the front yard for the center lot need not exceed the average of the abutting lots;

2. If there is a dwelling on 1 abutting lot with a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth of one-half way between the depth of the abutting lot and the required front yard depth;

3. When an attached or detached garage is to be built on a lot having an average elevation of at least 10 feet higher or lower than street level, the front of the garage may be located 5 feet from the front property line or at the point where ground elevation is 5 feet higher or lower than the street level, whichever is greater. The garage and driveway shall be constructed in a manner as to minimize traffic hazards.

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

1. Submersible pump insulation covers not exceeding 36 inches in height may be located in a front yard setback;

2. The following may be located in a side or rear yard setback: submersible pump insulation covers not exceeding 36 inches in height; portable storage buildings not to exceed 200 square feet (without plumbing); metal patio covers; carports,

provided that no more than one side is enclosed; or similar noncombustible or ornamental fixtures.

72.060 - ACCESSORY STRUCTURE STANDARDS

A. The cumulative size of all accessory structures (including attached garages, carports and shops) shall be limited based on the size of the lot or parcel on which they are to be constructed:

1. Smaller than one acre: 2500 square feet;

2. One acre but smaller than three acres: 3500 square feet;

3. Three acres but smaller than five acres: 4000 square feet;

4. Five acres and larger: 6000 square feet.

B. The review body shall review larger accessory structures using Site Plan Review procedures as set forth in Section 42.030 of this code.

ARTICLE 73 - FENCES, WALLS & SCREENS

73.010 - PURPOSE

The purpose for establishing and maintaining standards for fences, walls, and screening is to protect certain uses from intrusion, to protect the public from uses which may be hazardous, and to increase compatibility of different land uses.

73.020 - VISION CLEARANCE

On all corner lots and lots located at the intersection of alleys and streets, vision clearance areas shall be triangular in shape with the following minimum distances establishing two legs of the triangle: 15 feet for corner lots and 7½ feet for lots at the intersection of alleys and streets. No fences, walls, hedges or vegetation exceeding 3 feet in height when measured from the edge of the improved roadway may be located within the vision clearance area.

73.030 - PERMITTED FENCES, WALLS & HEDGES

A. In any residential zone a retaining wall not over 4 feet in height as measured from the bottom of the footing, and a sight obscuring fence or wall, not to exceed 6 feet in height, may be located or maintained in any interior yard except where the requirements of the vision clearance area, pursuant to Section 73.020, apply:

   1. Sight-obscuring fences or walls may be placed in front yards provided such fences or walls do not exceed 3½ feet in height;

   2. Fences which are not sight-obscuring may be placed on property lines.

B. In any commercial or industrial zone, a retaining wall not over 4 feet in height as measured from the bottom of the footing, and a sight obscuring fences or walls not to exceed 8 feet in height, may be located or maintained in any interior yard except where the requirements of the vision clearance area, pursuant to Section 73.020, apply:

   1. Sight obscuring fences or walls may be placed in front yards provided such fences or walls do not exceed 3½ feet in height.

   2. Fences which are not sight-obscuring may be placed on property lines.

ARTICLE 74 - SIGNS

74.010 - PURPOSE

The purpose of sign regulations is to support the use of signing which is maintained in a safe and attractive condition, and to preserve and enhance the county's visual environment.

74.020 - SIGN STANDARDS

A. The following shall be considered the maximum size and height limitations for a sign. The size limits are in square feet and shall be considered the maximum for the total sign area:

ZONE	TYPE OF SIGN	ON	OFF	AREA	HEIGHT
RR	PROPERTY IDENTIFICATION	X		16	
RR	ADVERTISING AGRICULTURAL PRODUCTS	X		16	
RR	SALE FARM PRODUCTS - TEMPORARY	X		16	
RR	HOME OCCUPATION	X		6	
RR	SALE OF PROPERTY	X		8	
RC	IDENTIFICATION	X		80	40
RC	RENTAL OF PREMISES (TEMPORARY)	X		3	40
RC	DIRECTIONAL OR REGULATOR	X	X	6	40
RC	SALE OF PROPERTY	X		8	40
TC	IDENTIFICATION	X		200	40
TC	RENTAL OF PREMISES (TEMPORARY)	X		3	40
TC	ADVERTISING		X	150	40
TC	SALE OF PROPERTY	X		8	40
RCC	RENTAL OF PREMISES (TEMPORARY)	X		3	40
RCC	ATTACHED TO BUILDING	X		150	25

Continued on next page . . . .

ZONE	TYPE OF SIGN	ON	OFF	AREA	HEIGHT
RCC	DETACHED	X		100	25
RCC	ADVERTISING		X	150	40
RCC	DIRECTIONAL OR REGULATOR	X	X	6	40
RCC	SALE OF PROPERTY	X		8	40
LI	DETACHED	X		200	40
LI	ATTACHED TO BUILDING	X		50	20
LI	ADVERTISING		X	150	40
RI	DETACHED	X		200	40
RI	ATTACHED TO BUILDING	X		50	20
RI	ADVERTISING		X	150	40

B. The size limits below shall be considered the maximum allowed for the following resource zones: the Forest Commercial zone, the Woodlot Resource zone, the Exclusive Farm zone, the Farm Resource zone, the Serpentine zone, and the Limited Development zone. The size limits are in square feet:

TYPE OF SIGN	ON	OFF	AREA	HEIGHT
PROPERTY IDENTIFICATION	X		32	
ADVERTISING AGRICULTURAL PRODUCTS	X		32	
SALE FARM PRODUCTS - TEMPORARY	X		32	
HOME OCCUPATION	X		6	
SALE OF PROPERTY	X		8	

C. When a piece of property which fronts two or more roads and is for sale, one sign meeting the size criteria for that type of sign may be placed on each street.

D. All sale and rental signs shall be setback 10 feet from the front property line and from any side property line which abuts a street.

E. The attached sign for the RCC zone shall be placed flat against the building. The size of the sign shall be calculated to allow 1½ square feet in sign area for each linear foot of building frontage paralleling a street or the maximum area listed in the table, whichever is less.

F. The on-premises detached sign in the RCC zone shall identify a group of businesses combined as a shopping center, in addition to permitted sign areas for individual businesses in the shopping center.

G. In the LI and RI zones, one sign, attached to the building, shall be allowed for the building frontage which faces a street, when the street frontage exceeds 200 feet. The sign shall be placed flat against the wall of a building, shall not exceed the size requirements listed in Section 74.020.A, and shall not exceed 10% of the gross wall area of a building which faces the street.

H. Signs in the commercial and industrial zones may be illuminated but shall have no flashing or moving parts.

I. Signs for a home occupation may not be illuminated.

J. Signs for a bed and breakfast Inn may be illuminated from the exterior of the sign.

K. Property identification signs may be illuminated from the exterior of the sign.

L. On-premises identification signs shall indicate the name and nature of any occupancy and/or the name and address of the building.

M. Subdivision or planned unit development identification sign not exceeding 32 square feet.

74.030 - GENERAL PROVISIONS

In addition to specific sign standards listed in Section 74.020, the following provisions shall apply to all zones:

A. Signs erected and maintained by or under authority of any federal, state, county, city, or public utility for the purpose of conveying information, warnings, distances, or directions are exempt from sign requirements;

B. Temporary political signs are permitted in accordance with the ORS;

C. No permanent or temporary signs shall be erected or placed in such a manner so that by reason of the position, shape, or color of the sign, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign including "Stop", "Look", "Caution", "Warning", or any other phrase, word, or symbol in such a manner as to interfere with, mislead, or confuse traffic;

D. Signs shall be maintained in a neat, clean, and attractive condition;

E. Signs shall be removed within 6 months after the business, product, or service is abandoned or no longer used;

F. Signs cannot be located within a county, state, or federal right-of-way;

G. The area of all signs shall be calculated using a measuring traverse. The measuring traverse shall be as follows:

1. A rectangle to be placed on the sign face so that the top and bottom sides are parallel to the ground grade, and whose four sides touch the extreme points of the outer edge of the sign frame and background;

2. If the sign is of a different geometric shape than a rectangle, then the measuring traverse is the same shape as the sign to be measured.

ARTICLE 75 - OFF-STREET PARKING

75.010 - PURPOSE

The purpose of off-street parking is to establish and maintain areas for efficient and convenient parking for residential, civic, commercial, and industrial uses and to provide a safe means for discharging people and products from ground transportation.

75.020 - APPLICATION

When a structure is erected or enlarged, or the use of an existing structure is changed, off-street parking spaces, loading areas, and access shall be provided as set out in this Article. Off-street parking shall not occur in any right-of-way required by this code. If parking facilities have been provided in conjunction with an existing use, the facilities shall not be reduced.

75.030 - OFF-STREET PARKING

Off-street parking shall be provided on the development site or within 400 feet of the development site to be served by the parking facility. All parking must be located on the same lot or parcel as the development or on a lot or parcel under the same ownership as the development site unless a special covenant or agreement is approved by the review body, which will dedicate the parking to the development.

75.040 - PARKING AREA DESIGN

A. All public or private parking areas and parking spaces, except those required in conjunction with a single-family dwelling on a single lot, shall be designed and laid out to conform to the minimum standards as set forth in this Section and the property development standards of the zone in which the parking area is located.

B. Groups of 3 or more parking spaces on a single lot, except those in conjunction with single-family dwellings, shall be served by a service road so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. Service roads shall be designed and constructed to facilitate the flow of traffic, provide maximum safety in traffic ingress and egress, ensure the maximum safety of pedestrians and vehicular traffic on the site, but in no case shall two-way and one-way driveways be less than 20 feet and 12 feet wide respectively.

C. Public parking areas which are a permitted use shall be designed and laid out in conformance with this Section.

D. Parking space dimensions shall be as follows:

1. Truck or recreational vehicle parking space shall be designed to adequately accommodate the proposed use;

2. Standard parking space shall be no less than 9 feet wide by 20 feet long;

3. Compact parking space shall be no less than 8 feet wide by 17 feet long.

E. Bicycle racks or designated handicapped parking may be required when parking exceeds 20 spaces per parking area.

75.050 - PARKING SPACES

The actual number of parking spaces required for a development or use will be set by the applicant.

75.060 - PARKING AREA IMPROVEMENTS

All public or private parking areas which contain 3 or more parking spaces and outdoor vehicle sales areas, shall be improved according to the following:

A. If the parking area is not paved, then it shall be rocked or shaled;

B. All parking areas, except those in conjunction with a single-family dwelling, shall be graded so as not to drain storm water over the public sidewalk or onto any abutting public or private property without the express permission of the property owner;

C. All parking areas, except those required in conjunction with a single-family dwelling, shall provide a substantial bumper which will prevent cars from encroachment on abutting private or public property;

D. Except for single-family dwellings and vehicle sales areas, all parking areas, including service roads, which do not abut a commercial or industrial zone shall be enclosed along all interior property lines which do not abut the commercial or industrial zone, by a fence or wall not less than 4 feet and not more than 6 feet in height. The fence or wall shall meet the standards for visual clearance and front and interior yard requirements as established for the zone in which it is located:

   1. If the fence or wall is not located on the property line, the area between the fence or wall and the property line shall be landscaped with lawn or low-growing evergreen ground cover or vegetative or rock mulch; and

   2. All plant vegetation in this area shall be adequately maintained and any fence or wall shall be maintained in good condition. Adequate provisions shall be maintained to protect walls, fences, or plant materials from being damaged by vehicles using the parking area;

E. Any lights provided to illuminate any public or private parking area or vehicle sales area shall be shielded or so arranged as to reflect the light away from any abutting or adjacent residential zone.

ARTICLE 76 - RURAL/WILDLAND FIRE SAFETY STANDARDS

76.010 - PURPOSE

The purpose of this Article is to establish standards for the placement of structures, and access to properties in areas where wildfires pose a risk to property and human lives.

76.020 - APPLICATION OF STANDARDS

A. The provisions of this Article shall apply to all lands zoned Forest Commercial and Woodlot Resource in Josephine County.

B. Replacement or substantial improvement of legally pre-existing dwellings requires compliance with the development standards set out in Sections 76.030(C), (D), (E), (I), (J) and (L).

C. Other mandatory fire safety provisions of this code will not be required for replacement or substantial improvements unless the structure has not been habitable for more than one year, or the building is not being replaced at its pre-existing location.

D. The provisions of Section 76.050 shall apply to any fireworks operation in the Rural Industrial zone.

76.030 - DEVELOPMENT STANDARDS

All site development will meet or exceed all of the following standards:

A. A plot plan shall be submitted to the review body in conformance with the standards of this Section;

B. No dwelling shall be sited on slopes greater than 40%;

C. All structures shall be placed or constructed with a minimum separation as described in the adopted building codes to reduce the risk of fire spreading from one structure to another;

D. All dwellings shall have a fire retardant roof and each chimney must have a spark arrestor;

E. Adequate access for fire-fighting vehicles shall be provided to within 50 feet of all habitable structures including manufactured dwellings and other significant buildings constructed or placed, after the effective date of this code:

1. A structure or fill and culvert shall be provided to cross a live stream, ravine, irrigation ditch, or similar topographic feature in order to provide access for emergency vehicles;

2. While the responsibility to provide adequate access rests with the property owner, the review body may require certification from an engineer registered in the state

of Oregon that the structure or fill and culvert has been constructed to support emergency vehicles grossing a minimum of 50,000 lbs;

3. Any structure or fill and culvert shall be maintained to the design capacity by the owner of the property;

F. Adequate horizontal and vertical clearance shall be created and maintained on driveways to permit emergency vehicles access to the dwelling;

1. Minimum surface width shall not be less than 12 feet. Width shall be increased to a minimum of 14 feet in curves with a centerline radius of less than 150 feet to ensure emergency vehicles remain on an all weather surface;

2. An all weather surface does not require paving;

3. As a rule, shrubbery and brush should be cleared from each side of the right-of-way, and tree branches should be trimmed to 14 feet above the road;

G. Grades on driveways shall not exceed 18% as described in Josephine County Land Development Code. In addition:

1. An unsurfaced driveway shall not exceed a grade of 12%, or a driveway surfaced with asphaltic concrete or Portland Cement shall not exceed a maximum grade of 18%;

2. Grade transitions shall not exceed 1% in 3 feet, on driveways in excess of 100 feet;

3. There shall be a turnout for every 400 feet of driveway length;

4. Driveways shall be extended to within 50 feet of habitable structures including manufactured dwellings and other significant buildings, and shall terminate in an approved cul-de-sac, clear area, or other turnaround arrangement;

5. Gate widths shall be a minimum of 14 feet unless on a curve where minimum driveway width is 14 feet, then the gate shall be a minimum of 16 feet;

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

I. The dwelling must be located as follows:

1. In a fire protection district protecting structures or the applicant must provide evidence of a contract providing residential fire protection for the dwelling; or

2. If the dwelling is not located in a fire protection district protecting structures, the applicant provides evidence that they have requested being included in the district; or

3. If subsections 1 and 2 are not practical, an alternative may be developed utilizing a fire sprinkling system, on-site equipment and water storage, or other methods that are reasonable given site conditions;

J. The applicant must provide evidence of a domestic water supply from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of groundwater or surface water and not from a class II stream as designated by the Oregon Department of Forestry. For the purpose of this subsection, evidence of a domestic water supply means;

1. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or

2. A water use permit issued by the Water Resources Department for the use described in the application; or

3. Verification from the Water Resources Department that a water use permit is not required for the use described in the application;

4. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well;

K. If a water supply is required for fire protection, it shall be a pond, swimming pool, lake, or similar body of water containing at least 4000 gallons or a stream having a continuous year round flow of at least 1 cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access to within 15 feet of the water's edge shall be provided for pumping units:

1. The road access shall accommodate the turnaround of fire fighting equipment during the fire season;

2. Permanent signs shall be posted along the access route to indicate the location of the emergency water source, as required by OAR 660-06-035.1, as adopted March 1, 1990;

L. The primary safety zone shall be delineated in Section 76.030.L.6 around structures, and shall be maintained as follows:

1. Use of landscape plants within the primary safety zone shall be of a low fuel and low growing variety;

2. Trees should be pruned to remove dead and low (less than 8 feet) branches and remove any limbs that are touching any structure;

3. Trees should be pruned to provide an 8 foot clearance between branches and chimneys and stovepipes. No branches overhanging a roofline;

4. Trees shall be thinned to 15 feet spacing between trunks;

5. Underbrush, dry leaves, twigs, weeds and debris shall be removed, and combustible materials limited;

6. The goal within the primary zone should be to exclude fuels that will produce flame lengths in excess of one foot:

Size of the Primary Safety Zone

SLOPE	SAFETY ZONE IN FEET	SAFETY ZONE DOWN SLOPE IN FEET
0%	100	0
10%	100	50
20%	100	75
25%	100	100
40%	100	150

76.040 - IDENTIFICATION NUMBERS

House numbers shall be posted on lots in a manner to clearly direct emergency equipment to the location of the dwelling. Numbers shall be at least 3" high, light reflective, and posted at driveway entrance and all intersections thereafter.

76.050 - FIREWORKS

The assembly, manufacturing, or preparation of products included in the definition of fireworks as provided in ORS 480.110.1 shall be conditioned upon the following in addition to all other requirements of this code:

A. At no time shall more than five pounds of any active ingredient of the products be compounded or present on the premises in an unpackaged form;

B. Fire flow capability, shall be provided for the use at a rate of 500 gallons per minute and that water shall be provided from a municipal source or on-site storage with a minimum capacity as determined by the fire protection agency or company providing fire protection;

C. A fuel break shall be provided around the facility for a distance of at least 100 feet in all directions. The fuel break shall be maintained at all times;

D. The fuel break shall be wholly on the subject property or easements and shall be secured to provide for the maintenance of the fuel break;

E. All license and permit requirements from state and federal agencies shall be obtained prior to the commencement of operation of the facility;

F. The operation shall be conducted in accordance with the most current edition of the National Fire Protection Association Standards 1124 as adopted in 1984;

G. The facility shall be built to the standards required for any facility using Class "A" explosives as set forth in the most current edition of the National Fire Protection Association Standards 1124 as adopted in 1984;

H. A direct alarm system to emergency services shall be installed and maintained at all times;

I. There shall not be on-site testing of the products being assembled, manufactured, or prepared;

J. A binding contract with a fire protection service shall be in effect at all times for any facility located outside of a fire protection district.

CHAPTER 8 - PUBLIC FACILITY STANDARDS

ARTICLE 80 - BASIC PROVISIONS

80.010 - PURPOSE

The purpose of this Chapter is to establish standards for the design and development of property in order to protect the public health, safety, and welfare.

80.020 - APPLICATION OF CHAPTER

A. All land divisions approved pursuant to the requirements of Chapter 5 shall conform to, and be in harmony with, the county's comprehensive plan (text and maps) as it applies to the area affected by the land division. Specifically, approval shall require the dedication of all additional right of way or other development called for by this code or any adopted road or facility plan applicable to the area covered by the land division.

B. The requirements and standards set forth in this Chapter are the minimum which a subdivision, partition, replat, property line adjustment, or planned unit development must conform to before approval by the review body, except as otherwise provided in this code.

C. The term land division shall apply to all subdivisions, partitions, replats, property line adjustments, or planned unit developments.

D. The standards in this Chapter shall apply to any relevant land use application and procedure.

80.030 - IMPROVEMENT PROCEDURES

Improvements required by this Chapter shall conform to the requirements of this code, the county's Roadway and Traffic Management Plan, Standards and Specifications for Design and Construction of County Roads, AASHTO standards, and any technical manuals used by the Public Works Department in road development and plan review. These manuals, as revised, are incorporated into this code by reference. The following procedures shall be used:

A. Construction work shall not be commenced until all required plans, profiles, and specifications have been reviewed and approved by the Public Works Director and the appropriate state agency. All plans, profiles, and specifications shall be submitted prior to final development approval;

B. Construction work shall not be commenced until the Public Works Director has been notified; and

C. Required improvements shall be constructed in accordance with specifications as set forth by the Public Works Director and inspected for conformance. The county may require

changes in typical sections and details if unusual conditions arising during construction warrant such change. Any similar changes initiated by the developer must be reviewed with, and approved by, the Public Works Director.

80.040 - PARCELS SPLIT BY AN URBAN GROWTH BOUNDARY

When a parcel proposed for division lies partly within and partly outside an Urban Growth Boundary, only that portion of the parcel which lies outside of the Grants Pass Urban Growth Boundary shall be subject to the applicable rural area standards.

ARTICLE 81 - ACCESS STANDARDS

81.010 - PURPOSE

The purpose of these standards is to ensure safe ingress and egress to and from properties; to minimize street congestion and traffic hazards, to protect the future operation of transportation facilities, to provide safe and convenient access to businesses, public services, and places of public assembly; and to make vehicular circulation more compatible with surrounding land uses.

81.020 - ACCESS STANDARDS

A. Every lot or parcel created by a new land division shall abut a maintained county road or street for at least 25 feet, or shall abut a state highway where the Oregon Department of Transportation has issued an access permit to each lot or parcel. Lots or parcels that do not abut such a road or highway may be approved by the review body when the following conditions exist:

   1. When a parcel of land is an isolated ownership, where not more than 2 lots can be developed from the original parcel or from adjoining lands, and where access is by easement which has been created prior to June 29, 1973, the existence of an easement to the property line shall be deemed to continue to the proposed parcel;

   2. When a parcel of land receives access by a public usage road declared by a court of competent jurisdiction or by a non-maintained county road, and where the review body finds that acceptance of such road for partitioning purposes is in the public interest, any partitioning using those roads shall be conditioned upon the dedication of additional right-of-way and improvement as required by the review body.

B. No partitioning or subdivision of land shall be authorized using any special purpose roads, including ways of necessity, special access roads under the permit control of the Secretaries of Agriculture or the Interior, timber access roads, or other roads in which the rights of the public for access may be restricted.

81.030 - GENERAL ROADWAY DESIGN CRITERIA & STANDARDS

The location, width, and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public safety, and to the proposed use of the land to be served by the street.

81.040 - STREET CREATION WITHIN A LAND DIVISION

The creation of a street within a subdivision, partition, replat, or planned unit development, shall be in full compliance with the platting requirements contained in this code and applicable state regulations. No person shall create a street or road for the purpose of subdividing, partitioning, replatting, or creating a planned unit development, on an area or tract of land without county approval.

81.050 - STREET CREATION OUTSIDE A LAND DIVISION

A. The provision of right-of-way for creation of streets outside of a subdivision, partition, replat, or planned unit development, where streets are not shown on an adopted transportation plan shall be in conformance with the county road standards, except the review body may approve the creation of a street by deed without full compliance with platting regulations provided any of the following conditions exist:

1. The establishment of the street is initiated by the Board of County Commissioners and is declared essential for the general traffic circulation;

2. The street is to provide access to parcels that were created prior to the enactment of this code;

3. The street is necessary to provide access intervening between a proposed subdivision, partition, replat, or planned unit development and a public road;

4. The street may be established as a condition of site plan review to facilitate the safe ingress and egress of a particular use.

B. In all cases, the creation of a street shall be consistent with the elements of the comprehensive plan; shall not disrupt the stability of the land use pattern in the area; and will promote and conserve the public health, safety, and welfare. The review body may deny the request or refer the request for the creation of a street to a public hearing where, in the opinion of the review body, the request would be in conflict with the provisions in Section 81.050.A.

81.060 - SUBMISSION OF PROPOSED DEED

A. In those cases where approval of a street is to be without full compliance with the regulations applicable to subdivisions, partitions, replats, property line adjustments, or planned unit developments, a copy of the proposed deed shall be submitted to the review body.

B. The deed and any information which may be submitted, shall be reviewed by the review body and the County Engineer, and, if not in conflict with the design standards of this code, may be approved with any conditions necessary to comply with these standards.

C. Requirements for the creation of a street by deed must include engineering data, plan and profile, and the construction of the street to the appropriate standards.

81.070 - EASEMENTS

Easements for public facilities, public or private utilities, slopes, drainage, etc., shall be dedicated wherever necessary. The review body may require the developer to acquire and dedicate easements on adjoining property when necessary to protect the public health, safety, and general welfare.

81.080 - RELATION TO ADJOINING STREET SYSTEM

A. Applicants for a subdivision, partition, replat, property line adjustment, planned unit development or site plan review shall provide for the continuation of the principal streets existing in adjoining subdivisions or of their proper projection when the adjoining property is not subdivided. The streets shall be a width not less than the minimum requirements for streets set out in Sections 81.130.A and 81.200.F.

B. Where, in the opinion of the review body, topographic conditions make the continuation or conformity impractical with the existing, principal streets, an exception may be made.

C. Where an adopted neighborhood, area, or rural community plan is in place, the subdivision partition, replat, property line adjustment, or planned unit development shall conform to the adopted plan.

D. Where the plat submitted covers only a part of the developer's tract, a drawing of the prospective future street system on the part submitted shall be considered in light of its conformity to the street system of the entire tract.

E. Loop road systems are to be provided where possible in order to provide more than one route for traffic in the case of an emergency. Cul-de-sac roads are to be kept as short as practical to facilitate better emergency access.

81.090 - FUTURE EXTENSION OF STREETS

A. Where necessary to give access to, or permit a satisfactory future subdivision, partition, replat, or planned unit development, on adjoining land, the review body may require that streets be extended to the boundary of the subdivision or partition and the resulting dead-end streets may be approved without a turnaround.

B. Street plugs may be required to preserve the objectives of street extensions, the control of which shall rest with the Board of County Commissioners according to their sole discretion.

81.100 - HALF STREETS

A. While generally not acceptable, half streets may be approved where they can be shown to be essential to the reasonable development of the subdivision, partition, replat, or planned unit development. The use of half streets must be in conformity with any other requirements of this code, and when possible, shall require the dedication for construction of the other half, at the time any adjoining property is subdivided, partitioned, replatted, or a planned unit development is created.

B. Whenever an existing half street is adjacent to land to be subdivided, the remaining half of the street shall be dedicated and constructed within the subdivision, partition, replat, or planned unit development. Street plugs may be required to ensure the objectives of obtaining full-width streets.

81.110 - ALIGNMENT AT INTERSECTIONS

As far as practical, streets shall be in alignment with existing streets by continuing the center lines. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 260 feet between the center lines of streets having approximately the same direction.

81.120 - STREETS ABUTTING A LAND DIVISION

A. At a minimum, applicants for subdivisions, partitions, replats, property line adjustments, planned unit developments and site plan review, shall provide streets, of the appropriate standards, connecting directly to an existing publicly maintained street.

B. Where the right-of-way of an existing street, which directly abuts any land division, does not meet the appropriate rural standard, the applicant shall dedicate the right-of-way required to meet the standard unless exempted by another section of this code.

C. At county discretion, street improvements shall be constructed to an equivalent dollar amount of the half-width rural standard. Design standards for rural roads shall be in conformance with this code, the county's Roadway and Traffic Management Plan, the Standards and Specifications for Design and Construction of County Roads, AASHTO standards, and any technical manuals used by the Public Works Department in road development and as provided in Section 81.130.A.

81.130 - ROAD DESIGN, CONSTRUCTION & IMPROVEMENT STANDARDS

A. **Road Design and Construction Standards.** Road design and construction standards shall be established and maintained under the authority of the Director of Public Works pursuant to order of the Josephine County Board of Commissioners. A separate publication of current road design and construction standards can be obtained from the Josephine County Public Works Department or the Planning Office. Users should exercise appropriate caution in using these standards outside of formal application review.

B. **Road Construction Improvements.** Road construction improvements shall be made by the developer prior to submission of the final plat or by an agreement to improve roadways which shall be executed as provided in Article 14 of this code. Roads proposed for construction will be categorized by location.

81.140 - BLOCKS

The length, width, and shape of blocks shall be designed to provide adequate building sites suitable for the proposed uses, to satisfy any need for convenient access, circulation, control, and safety of street traffic, and the limitations and opportunities of the topography of the site.

81.150 - BICYCLE LANES

The review body may require the installation of separate bicycle lanes within arterial and collector streets and/or separate bicycle paths, if necessary to extend an existing or planned system of bicycle routes, shown on the adopted bicycle route plan, or if a need is otherwise indicated. Such paths shall meet the standards of the state of Oregon.

81.160 - ALLEYS

The minimum width of alleys, when provided in residential blocks, shall be 20 feet. Alleys shall be provided in commercial and industrial zones and shall not be less than 20 feet in width.

81.170 - CUL-DE-SACS

Dead-end streets shall terminate in a cul-de-sac turnaround with a minimum radius as listed in the road standards adopted by the Board of County Commissioners or standards adopted by AASHTO.

81.180 - STREET INTERSECTIONS

A. All streets shall intersect at right angles (90 degrees); where an intersection of 90 degrees cannot be secured because of physical constraints of the site, an angular intersection of not less than 60 degrees may be permitted.

B. Right-of-way lines at street intersections shall be rounded with an arc parallel to the curb or shoulder arc.

C. Collector and arterial intersections shall have roadway curb or road shoulder radii of not less than 25 feet; all other street intersections shall have roadway curb radii of not less than 20 feet.

81.190 - STANDARD DRIVE APPROACHES

Standard drive approaches shall be installed pursuant to design standards administered by the Director of Public Works.

81.200 - RESTRICTED RESIDENTIAL ROADS

A. Design and construction standards for restricted residential roads shall be established and maintained under the authority of the Director of Public Works pursuant to order of the Josephine County Board of Commissioners. A separate publication of current restricted residential road design and construction standards can be obtained from the Josephine County Public Works Department or the Planning Office. Users should exercise appropriate caution in using these standards outside of formal application review.

B. When 5 or fewer lots or parcels are to be served by a public road, the developer may construct a restricted residential road. Restricted residential roads will be developed to design and construction standards as established and maintained under the authority of the Director of Public Works. Restricted residential roads will not be accepted for

maintenance by the Board of County Commissioners unless improved to the specific maintenance standards and specifications for the appropriate county maintained rural.

C. If the restricted residential road cannot ultimately be extended to serve more than 5 lots or parcels based on existing zoning, the sub-grade may be constructed to a single lane width.

D. If the restricted residential road has the potential to serve more than 5 lots or parcels based on existing zoning, the sub-grade shall be constructed to a double lane width to allow future improvements to the appropriate county maintained road standards.

E. Surfacing for restricted residential roads that may ultimately serve more than 5 lots or parcels may be limited to one lane with turnouts intervisible or 800 feet maximum, 50 feet in length plus 25 foot tapers until the road serves more than 5 lots or parcels, at which time the road shall be improved to the appropriate county maintained standard.

F. If a road is developed to restricted residential road design and construction standards, the final plat shall contain covenants for a road maintenance agreement that binds the property owners for the lots or parcels that receive access from the road (and their successors and assignees) to maintain the road to restricted residential road standards, subject to all of the following specific requirements:

1. The agreement shall provide for monetary contributions toward maintenance expenses that are equally divided, or proportionally divided based upon road frontage or acreage. The road maintenance agreement shall be enforceable by any property owner obligated under the agreement and by Josephine County. The agreement shall provide for the recovery of attorney fees and court expenses by prevailing party or parties to any civil action to enforce maintenance responsibilities.

2. Road maintenance shall be performed whenever deterioration results in exposure of the sub-grade, failure of the foundation, erosion of ditches or road shoulders, or blockage of culverts.

3. If the road includes a structure (such as a culvert or bridge), the agreement shall require that the structure(s) shall be continually maintained at the specified loading standard, and the structure shall be inspected at a minimum of every ten years by a registered professional engineer, who shall certify the structure loading standard continues to be met. A copy of the certificate shall be furnished to all parties to the agreement and to the Director of Public Works.

4. The road maintenance agreement shall not be required, but may be obtained, in the following situations:

   a. Access is provided by a non-maintained county road that was established prior to the implementation of land division requirements, and no further land division is being proposed pursuant to this code;
   b. Access is provided by a restricted residential road that was previously developed pursuant to an approved land division that did not require a

road maintenance agreement, and no further land division is being proposed pursuant to this code; and

c. Access is provided by a new restricted residential road developed over a pre-existing private access, and the pre-existing access serves other lots or parcels that are not a part of the land division that creates the new road. In this case, a road maintenance agreement shall be required only for lots or parcels being created by the new land division, but owners of the other lots or parcels that use the road may also join the agreement.

5. In any case, future land divisions utilizing existing non-maintained county roads or restricted residential roads, may be required to improve these roads or obtain road maintenance agreements as a condition for land division approval.

G. The owner or developer may request that a gravel surface be constructed in lieu of the required oil mat surface. The review body may approve a request if all the following conditions exist:

1. The road cannot be extended to serve more than five lots, counting lots in and out of the proposed land division;

2. The road will be constructed over soils that are capable of supporting a gravel surface that will not deteriorate under normal weather and traffic conditions;

3. The parcels to be served are relatively isolated from a maintained county road;

4. The construction of an oil mat surface is not practical because terrain conditions at the site result in extraordinary construction costs or complications;

5. The gravel road will support orderly and efficient development of the subject property and surrounding properties.

81.210 - STREETS SHOWN ON MASTER TRANSPORTATION PLAN

A. Streets shown on the adopted master transportation plans are created at the time of adoption of the plans.

B. Improvements and engineering data necessary for the completion of roads shall be submitted as reasonably requested by the County Engineer.

C. The review and approval of documents shall be performed by the review body and County Engineer to assure compliance with street improvements standards. Decisions made by the review body and County Engineer may be appealed as part of the original application under the provisions of Article 33.

ARTICLE 82 - SUBDIVISION & STREET NAMES & STREET SIGNS

82.010 - SUBDIVISION NAMES

The name of any subdivision or planned unit development shall not be the same as, similar to, or pronounced the same as the name of any other subdivision or planned unit development within the county, unless the development is contiguous to and an extension of another land division which was platted by the same developer; or the developer files and records the consent of the original developer that platted the contiguous subdivision or planned unit development bearing that name. Adjacent plats shall continue the lot numbers and, if used, the block numbers of the subdivision or planned unit development plat of the same name last filed.

82.020 - STREET NAMES

The name of any proposed road shall not duplicate or be so similar as to be confused with the name of any existing road within the county.

82.030 - STREET SIGNS

Arrangements shall be made by the developer for the Public Works Department to furnish and install all required signs and traffic control devices. All costs of materials, labor, and equipment shall be paid by the developer.

ARTICLE 83 - EROSION CONTROL & STORM DRAIN FACILITIES

83.010 - PURPOSE

The standards and criteria for erosion and sediment control provide for the design of projects so as to minimize the harmful effects of stormwater runoff and the resultant inundation and erosion from projects, and to protect neighboring downstream and downslope properties from erosion and sediment impacts.

83.020 - APPLICATION OF STANDARDS

A. These standards shall apply to any land division or land use application including development and construction which would require any grading or filling on slopes that are 15% or greater or soils that are granitic in composition as mapped by the Natural Resource Conservation Service except when authorized or regulated by the Oregon Forest Practices Act.

B. An erosion and sediment control plan to prevent or mitigate possible hazards to life, property, or the natural environment shall be required.

83.030 - PLAN REQUIREMENTS

A. An operation plan shall be submitted prior to any grading or filling on slopes 15% or greater, or on granitic soils.

B. The plan shall be prepared by a registered civil engineer, and shall provide the following information:

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

2. An accurate plot plan showing the exterior boundaries of the property on which the modification is to be performed, including the following:

   a. Flow lines of surface waters onto and off of the site;

   b. Existing and proposed contours at 2 foot intervals;

   c. Location, amount, and extent of cuts, fills, or contouring;

   d. Existing and proposed drainage ways;

   e. Building corner and street elevations for existing and proposed improvements;

   f. Existing and proposed retaining walls;

   g. The location and design of facilities for storage or conveyance of surface water runoff;

h. Estimates of existing and proposed runoff on the site.

3. The plan shall include an evaluation of the effects of projected runoff on adjacent properties and existing drainageways;

4. A list 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;

5. The plan shall include information detailing the final ground cover, landscaping, erosion and drainage controls, and requirements for stable cut and fill slopes which will be based on detailed stability analysis. For the purposes of determining appropriate soil losses, the Natural Resource Conservation Service's publication, *Soil Interpretations for Oregon*, shall be used.

83.040 - EROSION & SEDIMENT CONTROL PLAN REVIEW

The erosion and sediment control plan shall be submitted as part of the land division or land use application and shall be reviewed as part of the application. The review body or the County Engineer where roads may be effected, shall review the plan and may recommend the installation or construction of improvements necessary to mitigate the impacts of the potential erosion and runoff.

83.050 - STORM DRAINAGE FACILITIES

Drainage facilities shall be provided for subdivisions, partitions, replats, or planned unit developments, and shall be connected directly to existing drainage ways or storm sewers outside of the proposed land division that have an adequate capacity to accept drainage water from the subdivision, partition, replat, or planned unit development as provided below:

A. Design of drainage within the subdivision, partition, replat, or planned unit development shall be approved by the County Engineer, consistent with the county's Master Storm Drainage Plan, and shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision, partition, replat, or planned unit development, and to allow extension of the system outside the subdivision, partition, replat, or planned unit development;

B. Drainage for the individual lots of the proposed subdivision, partition, replat, or planned unit development, and the proposed subdivision, partition, replat or planned unit development as a whole, shall be accomplished in such a manner so as to prevent the excessive flow of water across property lines, sidewalks, and other public right-of-ways;

C. When in the opinion of the County Engineer, land in a subdivision, partition, replat, or planned unit development which is or will be periodically subject to accumulations of surface water or is traversed by any water course, channel, stream, or creek, shall be required as a condition of approval to provide for adequate unrestricted drainage by the developer;

D. Provision for drainage shall be shown on a drainage plan both within and adjacent to the subdivision, partition, replat, or planned unit development. The plan shall show all easements and any improvements to be constructed;

E. Public improvements shall be approved by the review body as adequate for the drainage needs of the area. Where necessary, for protection of any needs, the review body may condition the tentative plan approval on the conveying of ownership of a drainage easement for drainage purposes to the county.

ARTICLE 84 - WATER STANDARDS

84.010 - PURPOSE

The purpose of this Article is to require prior testing and approval of development in order to reasonably assure an adequate and safe water supply for all citizens of Josephine County. A related purpose is to determine the availability, impact, and water quality for the users of ground water in Josephine County.

84.020 - APPLICATION

This Article shall apply to the following land divisions and uses when the owner/developer intends to use a groundwater source as a water supply. In addition, this Section shall apply to newly constructed and existing wells as outlined in Sections 84.070 and 84.080 of this code. To implement this Article, the following shall apply:

A. All subdivisions proposing 1 or more lots less than 1 acre in size shall, successfully complete an aquifer test or a major pump test, as determined by the Water Resources Director, as a condition of final platting;

B. All land partitions creating 1 or more lots less than 1 acre in size shall successfully complete a major pump test or a minor pump test as, determined by the Water Resources Director, a condition of final platting;

C. New construction of planned unit developments, shall successfully complete a major pump test or a minor pump test (for 3 units) as a condition of final platting;

D. New construction of RV Parks shall successfully complete a major pump test or a minor pump test (for 3 units) as a condition of site plan review and prior to the issuance of a Development Permit;

E. Any change in the use of commercial or industrial zoned property, or a change in the use of any property to a commercial or industrial use, after the effective date of this code requiring more than 1600 gallons per day total, shall successfully complete a major or minor pump test, as determined by the Water Resources Director as a condition of site plan review and prior to the issuance of a Development Permit;

F. Any new well for institutional use, other than a replacement well, or a change in use of the property to an institutional use, requiring more than 1600 gallons per day, shall successfully complete a major or minor pump test as determined by the Water Resources Director as a condition of site plan review and prior to the issuance of a Development Permit;

G. Any proposed land divisions in which a new well may threaten existing, properly constructed wells in documented water quantity problem areas, as shown on an official groundwater problem area map, shall successfully complete a major or minor pump test and submit the results to the review or hearing body prior to the dates set out in Section 30.020.A & B;

H. An application for a land use or a land division shall include a Statement of Intended Water Use signed by the applicant, and reviewed and signed by the Water Resources Department;

I. A land use or land division application which will require a state water use permit under ORS 537.545, may be required to conduct an aquifer test instead of a major or minor pump test. The following uses are exempt from this requirement:

1. Watering of livestock;

2. Watering any lawn or non-commercial garden not exceeding ½ acre in size;

3. Any single or group domestic purposes whose use will not exceed 15,000 gallons of water per day;

4. Down-hole heat exchange;

5. Any single industrial or commercial purpose whose use will not exceed 5000 gallons of water per day.

J. A water well permit shall be obtained prior to the commencement of any work for each of the following:

1. Construction of any well;

2. Alteration of any well;

3. Abandonment of any well.

84.030 - ADMINISTRATION

A. The standards in this Article shall be administered as a part of a land use or land division application.

B. If the Water Resources Department has determined that a pump test has failed, and subsequent appeal to a hearings officer confirms failure, the land developer may appeal as follows:

1. The developer may hire a qualified geologist to consult with the county's geologist to work toward an acceptable solution;

2. If the county’s geologist and developer's geologist cannot arrive at a solution acceptable to the developer, they may hire another consulting geologist acceptable to both parties, to consult with on this matter. A majority decision by these three experts will become a final recommendation to the Water Resources Department;

3. The land developer is responsible for all costs other than the cost of the county's geologist.

84.040 - TEST REQUIRED

A. No person shall use groundwater or install a new water system utilizing a groundwater source for any land use or division specified in Section 84.020, without successfully completing a major pump test, a minor pump test, or an aquifer test.

B. Any subsequent uses, not specified on the application for a land use or land division may not be covered by the test results or recommendations from the major pump test, the minor pump test or the aquifer test.

84.050 - TEST OBJECTIVE

The following objectives, standards, methods and procedures shall be utilized in conducting any testing required by this Article:

A. **Test Objectives.** A major and minor pump test shall accomplish two or more of the following objectives:

1. Obtain sufficient data for the calculations of aquifer performance, including the coefficients of transmissivity and storage, specific yield, and hydraulic conductivity;

2. Determine the location and character of geologic boundaries;

3. Develop data concerning the effects of well interference;

4. Produce information that will ensure that sufficient groundwater of acceptable quality, is available to serve the intended use.

B. **Test Standard.** The tests shall meet the following standards:

1. **AQUIFER TEST**. The test shall be designed and supervised by a qualified professional geologist who has first-hand knowledge of standard testing procedures. The test design must be approved by the Director of the Water Resources Department prior to beginning the test. When the test has concluded, a report shall be submitted to the Water Resources Department which details the conclusions and recommendations reached as a result of the test including whether there is adequate water and the potential for interference with other wells in the area;

2. **MAJOR PUMP TEST**. The requirements specified in Section 84.050.B.3 shall apply to the first 3 proposed dwelling units (5 g.p.m./dwelling unit):

   a. For any additional dwelling units proposed, the well(s) shall be capable of supplying 400 gallons per day per dwelling unit, in addition to existing uses, over a period of 12 hours;

   b. If the well(s) for a development will not supply water at the quantity specified in Section 84.050.B.2.a, the developer may test at a lesser

amount provided the water systems are engineered and approved by the Oregon Health Division;

c. Well(s) proposed to supply water for industrial or commercial developments shall meet, or exceed, the estimated needs of the development.

3. **MINOR PUMP TEST**. The test shall establish the proposed well(s) is (are) capable of supplying water at a minimum rate of 5 gallons per minute per proposed dwelling unit in addition to existing uses, even though during testing a greater amount may be observed:

   a. If the proposed well(s) is (are) not capable of producing the minimum amount of water specified in Section 84.050.B.3, the developer has the option to drill a well on each lot to be created;

   b. The wells drilled on each lot shall be capable of producing water at a minimum rate of 3 gallons per minute per proposed dwelling unit for 4 hours;

   c. The method of testing must be approved by the Water Resources Department;

   d. In addition, any well(s) being used for a commercial or industrial development shall be capable of supplying water to meet or exceed the estimated needs of the development.

4. For major and minor pump tests, the production well drawdown shall be as great as possible.

   a. The pumping rate shall be approved by the Water Resources Department prior to the beginning of the test so that, where possible, a drawdown goal of at least 20% of the initial standing column of water is achieved;

   b. In the case of unusually high capacity wells, the Water Resources Director may approve a lesser drawdown standard.

5. Any observation well shall not have the water level reduced to less than 25% of the initial standing water column;

6. All wells involved in a major or minor pump test shall be static with regard to water level at time of test start-up and, with the exception of the production well, shall be disconnected from the power source for the duration of the test;

7. Any observation well in which drawdown does not exceed 75% of the initial column of water shall have a recovery of, at least, 80% of the drawdown within 12 hours.

C. **Procedures Prior to the Test.**

1. The certified pump tester shall submit a preliminary report outlining the proposed test, including a map showing locations of all wells involved in the test, on a form supplied by Water Resources Department, no later than 10 working days prior to the pump test;

2. At least 24 hours prior to the pump test, a pre-test no less than 1 hour in length, shall be conducted to determine well capacity and an adequate rate of flow for the test. At least 3 water level measurements shall be taken and recorded during the pre-test. The first measurement shall be taken prior to pump start-up (well must be static); second during pumping; and, third, just prior to pump shutdown;

3. For a major or minor pump test all wells shall be shut off no less than 1 hour prior to the test. At least, 3 water level measurements, no less than 20 minutes apart, shall be taken on all wells prior to test start-up. All wells must be static before beginning the pump test;

4. A pre-test information form, documenting pre-test results, shall be submitted to the test supervisor, prior to the beginning of a major or minor pump test;

5. Prior to the test, the certified pump tester shall attempt to notify all property owners, and occupants within a 500 foot radius of the proposed production well, of the upcoming test, and that the property owner will have the opportunity to participate by volunteering their well as an observation well. The notice shall also include a request to curtail or restrict water use during the pump test. Notification shall be in writing, mailed or hand delivered. Initial contact may be by phone providing a follow up letter is delivered.

D. **Test Standards and Procedure.**

1. **MAJOR PUMP TEST.** A major pump test shall be conducted using the well and pump, or a comparable pump, intended to accommodate whatever land uses are proposed:

   a. A major pump test will be conducted, in the same manner as the minor pump test, except the test duration will be twelve (12) hours minimum of pumping discharge;

   b. The minimum acceptable amount to be pumped shall be determined as outlined in Section 84.050.B.2.b;

   c. The withdrawal of water during the test must be as great as possible in order to develop a cone of depression;

   d. The drawdown readings, after 240 minutes, will be read every 60 minutes;

e. The recovery readings will follow the minor pump test criteria for the first 240 minutes; thereafter, readings will be taken every 60 minutes, until 80% recovery or until 720 minutes has been reached.

2. **MINOR PUMP TEST.**

a. Discharge shall be solely from the well and is to be measured in gallons per minute (g.p.m.), by an approved method, and recorded on a standard form approved by the Water Resources Department;

b. The pumping rate must be controlled with an adjustable valve. The size of the discharge pipe and valve shall be such that the valve will be from ½ to 3/4 open when pumping at the desired rate. Changing pump speed shall not be used as a method of controlling the discharge rate;

c. At least 2 of the following methods shall be used to measure the discharge flow rate:

[1] Observing time required to fill a container of known volume;

[2] Commercial type water meter to measure amount pumped in a given time (i.e., gallons in a minute);

[3] Non-invasive type flow meters (i.e., ultrasonic);

[4] Circular orifice weir;

[5] Orifice bucket;

[6] <u>Open pipe flow</u>:

(a) horizontal pipe method (trajectory)

(b) vertical pipe method

[7] Several methods should be used to ensure accuracy (i.e,, 1 and 6, 1 and 4, 3 and 1, 2 and 1, etc.). Methods must be approved by the Water Resources Department prior to the test.

d. Using the pump or a comparable pump, intended to accommodate whatever land uses are proposed, measure static water level, and start pump at maximum flow which can be sustained by the pump and supported by the well constantly throughout the test.

[1] The first well water measurement shall be taken 1 minute after pump is started with measurements taken every 1 minute for the next 10 minutes and every 2 minutes for the following 10 minutes until 20 minutes have elapsed;

[2] The next measurement is taken at 30 minutes and measurements are taken every 15 minutes from 30 minutes to 240 minutes;

[3] Shut down pump and start recovery, recording in the same manner as pump drawdown;

[4] Continue for 4 hours or until there is an 80% recovery on all wells;

[5] If an 80% recovery has not been reached in 4 hours, consult with the test supervisor;

[6] A spot check may be required every 4 hours, on all wells until 80% recovery has been reached. In no case shall recovery be measured less than 1 hour;

[7] Any deviation from the measurement schedule must be approved by the Water Resources Director prior to beginning the test.

e. The time each measurement is taken must be recorded;

f. Pumping is to be conducted a minimum of 4 hours. The time span will be determined by the requirements in Section 84.050.C, but in no case for less than 4 hours;

g. There shall be at least 2 observation wells used within a 500 foot radius of the pumped well:

[1] If observation wells are not available, a written explanation concerning the particulars will be included in the sworn report;

[2] Measurement and recording of measurements, in Section 84.050.D.2.c & d, also pertain to observation wells;

[3] If more than 2 observation wells are available, the Water Resources Department shall determine which wells are used.

h. The pump tester shall document any observed water use in the vicinity of the major or minor test along with the time of that observation.

3. **TEST SUPERVISION.** The test shall be conducted under the general supervision of the Water Resources Department using testing procedures in this Section. The certified pump tester in charge shall be responsible for notifying the Water Resources Department 10 working days prior to the start of the test, including submittal of information form required in Section 84.050.C.1;

4. **TEST EVALUATION.** The Water Resources Department shall determine whether a Certificate of Compliance shall be issued for a pump test. The Water Resources Director, with the advice of a consultant, will set criteria for the minor pump test

and the major pump test. In those instances where the impact appears to be questionable the issue may be resolved with the aid of a consultant;

5. **CERTIFICATION AND RESPONSIBILITY.** A major or minor pump test is to be conducted by a firm, or individual, who has been certified by the Water Resources Department to have the necessary equipment and knowledge required to conduct the test. The data collected during this test are to be recorded, legibly and in a manner approved by the Water Resources Department, on a standard form, which will include a certified statement attesting to the accuracy of the information submitted and shall be filed with the Water Resources Department prior to issuance of a Development Permit or as a condition of final platting:

   a. A review of certified pump testers will be conducted annually. The Water Resources Department may fail to renew the certification for just cause. If the pump tester is to be recertified they may be required to retake and pass the certification exam;

   b. A land owner, or developer, may be certified for an individual test, after passing the certification test, and demonstrating the possession of the proper equipment.

6. **INADEQUATE TESTS.** If any test does not meet the standards in Section 84.050, no land use, or development requiring groundwater, shall be approved by the review or hearing body, until a subsequent test meets the standards or an alternative tested source is provided. If the test is deemed inadequate, the land developer may appeal as outlined in Section 84.030.B of this code;

7. **SUBSTANDARD WELLS.** Any substandard well on a lot or parcel proposed for development, must be properly abandoned or repaired as required by the Oregon Administrative Rules (OAR), Chapter 690, Division 200 to 235, for well construction, maintenance, and abandonment.

84.060 - FOLLOWING THE TEST

For all major and minor pump tests, in accordance with recognized principals of well hydraulics, graphs shall be prepared and filed with the Water Resources Department to show time vs. drawdown, and time vs. recovery for the pumped well and the observation wells. A distance vs. drawdown graph may be required for anticipated rates of pumping. The rate of pumping, time, and drawdown data are required, as well as other data, which may be considered necessary to satisfy the test objectives.

84.070 - WATER QUALITY OR QUANTITY TEST

A. While conducting a major or minor pump test, or aquifer test, a water quality test, to determine the extent of the suspected contaminant(s), must be conducted. If the water quality test indicates the presence of contaminants, a certificate of compliance may not be issued. If the water quality does not meet the public health standards, as designated in OAR, Chapter 333, Division 61, and the National Interim Public Drinking Water Standards, then the well must be properly constructed in accordance with OAR, Chapter 690 Division 210 and 215, or abandoned in accordance with OAR, Chapter 690 Division 220.

B. A water quality test to detect the presence of suspected contaminants, or quantity test, shall be required for all wells being altered or constructed in documented water quality or quantity problem areas. Well construction, or abandonment, shall be in accordance with Oregon Administrative Rules, as cited in Section 84.070.A, if the water quality test does not meet the standards as stated.

C. If a water sample from a new well does not meet, either by laboratory analysis or by field examination, the above referenced drinking water standards and the well is not subsequently abandoned, then the well owner may be required to submit a sample to a certified laboratory for further water quality information. The analysis shall be limited to 10 water quality parameters, in addition to any suspected contaminants. The parameters for analysis shall be determined from the official ground water problem areas document.

D. A application for a land use permit or final platting may be denied if the water quality standards above are not met.

84.080 - NEW WELLS

Any new wells drilled after the effective date of this code shall not be located within 5 feet of a property line. Furthermore, all wells shall meet the location requirements of OAR, Chapter 690, Division 210.

84.090 - EXEMPTIONS

All requests for exemption from this Article must be in writing to the Water Resources Department. The Department will submit the request with a staff report and recommendation to a hearings officer. Requests for an exemption may include but are not limited to the following:

A. Proposed land divisions which fall under the scope of this Article on the basis of newly created roads or dedicated roadways;

B. Proposed land use change which fall within the scope of this Article and 2 properly executed pump tests of similar requirement have been conducted within a 500 foot radius of the proposed change, without a significant increase in ground water use;

C. Proposed land use change which fall within the scope of this Article and a municipal water supply is available and there are no other groundwater users within 500 feet of the developments' well;

D. Use of a well is being expanded and an adequate test has been conducted within 1 year using the same well;

E. The Water Resources Director may exempt the test from Section 84.050.B.7, (80% recovery of drawdown, within 12 hours) based on department evaluation, or on the advice of a qualified professional, or if successfully appealed as outlined in Section 84.030.B.

84.100 - STATE LAW

Nothing in this code is intended to conflict with ORS 537.505, et. seq., and the provisions of state law shall apply and prevail as applicable to any actual or intended groundwater use.

ARTICLE 85 - UTILITIES

85.010 - UTILITY IMPROVEMENTS

A. All utilities shall be placed underground to the lot line of each lot during the construction of any new street or road that:

1. Will be maintained by the county;

2. Has the potential to be maintained by the county; or

3. Is maintained by abutting owners through a recorded agreement required as a part of an approved land division.

B. The developer shall make necessary arrangements with the utility companies or other persons or corporations effected for the installation of underground lines and facilities, including but not limited to communication, street lighting, and cable television, to place them underground.

85.020 - UTILITY EASEMENTS

Easements for public utilities shall be provided, as necessary, for the installation of utilities, and for the future installation of utilities when the subject property or adjoining property has the potential for further development.

85.030 - GUARANTEES TO CONSTRUCT REQUIRED IMPROVEMENTS

A. Applicants for land divisions shall sign a written waiver of their right to remonstrate or otherwise legally oppose the installation of public facilities, including but not limited to streets, storm drainage systems, sanitary sewer systems, and water supply systems, where such facilities are or may be proposed to serve applicant's property as part of any local improvement (assessment) district, developer installed improvement project or a local government improvement project of any type;

B. This Section shall not, however, prohibit the applicant, developer, or owner from expressing his or her personal views regarding the installation of a public facility.

85.040 - MODIFICATION OF REQUIRED IMPROVEMENTS

A. The review body has the authority to modify the improvements required by Sections 85.010 and 85.020. This authority may only be used in those cases where:

1. The full requirement would cause an undue or unnecessary hardship based on unforeseen circumstances that would require extraordinary construction methods or materials; and

2. The authorization will be consistent with the purposes of this Chapter as set forth in Sections 80.010 and 80.020.

B. A review body shall consider the modification after proper notice and shall consider any information necessary to demonstrate that the modification is in compliance with the criteria in the decision.

C. The decision of the review body may be appealed as part of the original application under the procedures set out in Article 33.

85.050 - SEWAGE DISPOSAL IMPROVEMENTS

Sewage disposal improvements for each lot or parcel shall be in compliance with the requirements of the County Environmental Health Department, the Department of Environmental Quality, and sanitary sewer district (if the proposed development is within the district boundaries or is proposed or conditioned for annexation of a district), and any other applicable laws.

85.060 - WATER SYSTEMS IN OTHER URBANIZING AREAS

A. Except for the Grants Pass Urban Growth Area, all subdivisions, partitions, replats, and planned unit developments located within urbanizing areas which are served by public sewers shall be provided with a public water system to the lot line of each lot within the subdivision or partition.

B. The system shall be designed for meeting domestic needs and may be required to be designed for meeting fire fighting capacity.

C. The system shall be installed prior to approval of the final plat or the developer shall complete a performance agreement as provided in Article 14 of this code. The agreement may include agreements to annex; incorporation of a water district, private water cooperative, or development of a service utility; and the posting of a bond or contributions of funds in sufficient amount to mitigate the burden created by the land division on public water supplies.

D. Pipe sizes and design standards for any system shall be specified by a city, special district, or cooperative that will eventually serve the proposed subdivision, partition, replat, or planned unit development:

1. In any area where a future public water supply source has not been identified, design standards shall be specified by the Public Works Department in consultation with the authority which will eventually serve the proposed subdivision, partition, replat, or planned unit development;

2. Design approval shall take into account provision for extension beyond the subdivision, partition, replat, or planned unit development, to adequately grid the appropriate water system plan.

85.070 - IRRIGATION

A. If lands to be subdivided, partitioned, replatted, or turned into a planned unit development, include rights for irrigation, provision shall be made for the continuation of those rights by indication of an easement to allow the delivery of irrigation water and maintenance of irrigation facilities to each lot or parcel in the land division in which the historic application of water has been made.

B. Where rural land divisions affect facilities of the Grants Pass Irrigation District, the owners of the division shall be responsible for maintaining continuity of the district's system:

1. The owner of the division shall either buy out of the district or provide each lot within the subdivision, partition, replat, or planned unit development, with irrigation water, all in accordance with district requirements;

2. In addition, the owner or developer shall buy out of the district any publicly dedicated or deeded right-of-way.

ARTICLE 86 - SOLID WASTE, WASTE TRANSFER CENTERS, SEWAGE TRANSFER SITES, RESOURCE RECOVERY FACILITIES, RECYCLING CENTERS

86.010 - APPLICATION OF THIS ARTICLE

The siting standards contained in this Article shall apply to the siting of solid waste, waste transfer centers, sewage transfer sites, resource recovery facilities and recycling centers. The term "solid waste" shall be used interchangeably with "sanitary landfill", "waste disposal site" and "solid waste disposal site".

86.020 – REVIEW PROCEDURES

All uses governed by this Article shall be authorized using Planning Commission Review Procedures (Article 24), together with full site plan review procedures (Article 42), and subject to the issuance of a Development Permit as final permit approval (Article 41). The review procedures required by this Section are intended to be the minimum mandatory review procedures and therefore override all other provisions within this code that may specify lesser requirements.

86.030 - SITING STANDARDS

In addition to site plan review standards and criteria specified in Article 42, and any other applicable state and federal requirements, the following special standards and/or criteria shall apply to the siting of solid waste, waste transfer centers, sewage transfer sites, resource recovery facilities, and recycling centers.

A. **All Uses.** The following special standards shall apply to all uses governed by this Article:

1. The owner and/or operator shall obtain and maintain a solid waste or recycling franchise license from Josephine County, or operate as an authorized subcontractor under some other franchised solid waste or recycling operator, and be so licensed or authorized during the entire time the use is conducted; and

2. the owner and/or operator shall obtain and maintain all required federal, state and county permits for the approved use during the entire time the use is conducted. In the event the owner and/or operator fail to obtain or maintain these other permits or licenses, the failure shall constitute a violation of the approval issued pursuant to this Article, and shall be subject to all enforcement remedies and procedures authorized by this code or by law; and

3. Areas used for the storage of waste and/or recycling materials and buildings used to house these materials shall be set back a minimum of 30' from all property lines. The setback area may be increased if additional separation is needed to mitigate significant adverse impacts.

4. Vibrations, gasses, dust, soot, smoke, steam, liquids or odors shall not be readily detectable from adjacent properties; and

5. When the site is adjacent to residentially zoned property or properties, structures will be designed, if feasible, to accommodate the primary delivery and pickup and maneuvering of machinery away from the residential properties. Also, if feasible, traffic to and from the site will avoid using streets or roads that are developed and used primarily for residential purposes. In no case shall such activities be allowed when it results in significant adverse impacts to the residential properties; and

6. Outside storage and/or processing areas shall be screened from view from adjacent properties and public streets by fencing, berms or vegetation. The screening requirement for solid waste disposal sites may be modified by site plan review conditions provided significant adverse impacts associated with the outside storage and/or processing are adequately mitigated.

B. **Waste Transfer Centers and Sewage Transfer Sites.** The unloading, storage, processing and reloading of materials associated with waste transfer centers shall be conducted within a fully enclosed building to the extent it is reasonably feasible to do so. Sewage transfer sites shall be operated within a fully enclosed building and no odor shall be detectable outside of the property where the facility is located.

C. **Recycling Centers and Resource Recovery Centers.** Recycling centers and resource recovery facilities shall provide adequately designed and sized containers to collect and store recyclables. All collected, processed and stored materials shall be confined to the site. Littering shall be controlled on the property and along the perimeter of the property.

CHAPTER 9 - SPECIAL USE STANDARDS

ARTICLE 90 - BASIC STANDARDS

90.010 - PURPOSE

The purpose of this Chapter is to establish supplementary development standards for land uses that present unique or complex land use planning opportunities or constraints.

90.020 - APPLICATION

The standards in this Chapter relate to special characteristics of the uses and, unless otherwise specified, are to be applied in addition to all other applicable standards prescribed in this code. In the event that the standards contained in this Chapter differ from other applicable standards in this code, the more stringent shall apply.

ARTICLE 91 - AGGREGATE OPERATING STANDARDS

91.010 - PURPOSE

The purpose of this Article is to provide for clear and objective development standards and review procedures for the approval and operation of aggregate mining and processing sites located in any zone.

91.020 - REVIEW PROCEDURES

A. All applications for the mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource Zone and the Aggregate Resource Zone shall be processed as a Conditional Use Permit (Article 45) with a Site Plan Review (Article 42) using Quasi-judicial Review Procedures as set forth in Article 22 (*Review Procedures*).

B. Mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource Zone which was lawfully permitted by Josephine County and DOGAMI but has been inactive (see definition of inactive) for up to twelve years may reopen operations without issuance of a new Conditional Use Permit subject to the following:

   1. Demonstration the owner or operator was issued and continuously renewed the DOGAMI surface mining permit for the mine area; or,

   2. Demonstration the owner or operator has received and maintained a DOGAMI exemption from surface mining regulation; and,

   3. The owner or operator applies for a site plan review and is issued a Development Permit.

C. Mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource and the Aggregate Resource Zone which have been inactive for twelve years or more must obtain a new Conditional Use Permit before initiating operations, or submit and have approved a PAPA for designation as a Mineral and Aggregate Resource Zone.

D. New mineral and aggregate batching or blending into asphalt cement shall not be permitted in Exclusive Farm Use Zones when the batching or blending site is within 2 miles of a planted vineyard. A planted vineyard is one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching or blending is filed. Operations for batching or blending which are approved on or before October 3, 1989, including subsequent renewals, are exempt from this subsection.

91.030 - SPECIAL PROPERTY DEVELOPMENT STANDARDS FOR AGGREGATE OPERATIONS

The following standards shall be the default standards applied to the mining and processing of mineral and/or aggregate resources in all zones which permit aggregate mining. The standards contained in this Section shall be considered the minimum standards for operation. In the case of

mining authorized with a Conditional Use Permit, additional and/or more stringent standards may be applied even though mandatory or permissive language is used in this Section. For operations authorized under the Mineral and Aggregate Resource Zone (MARZ), standards must be established and adopted for the site with the adoption of the zone. Therefore, in the case of MARZ these standards may be added to, modified or deleted by measures to minimize conflicts, special conditions, or procedures regulating the mining, or provisions of any impact area agreement adopted as part of the PAPA process establishing the zone. Any additional or modified standards must be clear and objective. The following standards shall be applied:

A. A Development Permit shall be obtained before any mining and/or processing of mineral or aggregate resources occurs. The applicant shall also obtain additional permits as may be required by other licensing or permitting entities having jurisdiction over the operation. The continuance of additional permits and approvals in good standing shall be a condition for the continuance of the county's Development Permit. The performance of the standards contained in this Article shall also be conditions to the issuance and continuance of the Development Permit.

B. An access or service road from the extraction site to a public road shall meet the following standards:

   1. Meet applicable standards from Oregon Administrative Rules Chapter 340 Division 35 for vehicular noise control for a distance of 500 feet from any public road or any conflicting use located along the access road.

   2. Meet the most current air quality standards from Oregon Administrative Rules Chapter 340 Divisions 20, 21, and 28 for ambient air quality for a distance of 500 feet from any public road or any conflicting use located along the access road if the mining traffic is the primary cause of the road dust. Where more than one mining operation uses the same road, all operators shall be proportionately responsible for the cost and management of dust abatement measures based on vehicle trips per day.

C. Conflicts due to noise, dust or other discharges with regard to existing and approved uses which are sensitive to such discharges shall be minimized to ensure conformance to the applicable local, state, or federal standards.

D. The extraction area shall be substantially screened from the view of existing conflicting uses, subject to the following specifications:

   1. Mining and processing equipment, whether in use or in storage, shall be screened. Stockpiles of aggregate do not need to be screened and may themselves function as screening.

   2. Screening may consist of natural vegetation and landscape features, or may be supplied by planting vegetation or placement of berms, fences or other similar development features. If vegetation is used as screening it shall be maintained alive.

3. Earthen berms shall be stabilized with ground cover.

4. Visual screening may not be required if the topography, growing conditions or other circumstances at the site make it impractical or otherwise unnecessary to shield the site from the view of conflicting uses.

E. On-site parking shall be provided for all employees, customers and official visitors.

F. A safety fence may be required to be constructed to protect the extraction site from vehicular or pedestrian intrusion whenever the site is within 200 feet from a public road or an off-site residence, or where the quarry is developed with hazardous vertical cuts.

G. All mining and processing of mineral and/or aggregate resources shall meet and maintain the permit requirements of the Oregon Departments of Geology and Mineral Industries (DOGAMI), Division of State Lands (DSL), and Environmental Quality (DEQ).

H. All mining and processing of mineral and/or aggregate resources shall comply with OAR noise emission standards. Compliance for the purpose of issuing a Development Permit can be demonstrated by a report from an acoustical engineer attesting that the circumstances of the site and/or proposed mitigation will bring the site into compliance.

I. All mining and processing of mineral and/or aggregate resource sites shall meet the erosion control and site drainage standards contained in Article 83 (*Erosion Control & Storm Drain Facilities*) of this code, as well as any permit requirements imposed by DOGAMI, DSL, DEQ, or any other state or federal regulation.

J. The discharge of contaminants and dust caused from the mining and processing of mineral and/or aggregate resources shall comply with applicable DEQ ambient air quality and emission standards. The operator shall cease all mining and processing operation within one hour of the malfunction of any air pollution control equipment, and shall not resume operation until the malfunction has been corrected in compliance with applicable DEQ rules and standards.

K. Excavation and stockpiling shall be set back from property lines so that the lack of lateral support and the angle of repose of the geologic deposit will not undermine or intrude onto adjoining lands. An additional setback may be required to allow the placement and maintenance of fencing.

L. Mining and processing of mineral and/or aggregate resources shall be set back from the top of the bank of any stream in compliance with Article 72.040 (B) (*Special Setback Requirements*). Existing native vegetation shall be maintained in the setback area.

M. Mining and processing of mineral and/or aggregate resources occurring in Flood Hazard Areas as defined in Section 11.030 (*Terms Defined*) shall comply with the standards contained in Article 69.1 (*Flood Hazard Overlay*) of this code.

N. The hours of operation for the mining and processing of mineral and/or aggregate resources shall occur between 8 am and 6 pm for conditional uses, and 7 am to 9 pm for

MARZ. The days of operation shall be Monday through Saturday, excluding the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Maintenance of equipment may take place at any time.

1. Upon written request from the mine operator the Planning Director may authorize exceptions to the above operating hours and days for asphalt or concrete batch plants subject to the following limitations:

    a. The additional hours must be a requirement of a state, local, or federal government contract;

    b. Not more than three exceptions may be granted in a calendar year; and

    c. The total duration of exceptions may not exceed 90 days in a calendar year.

2. The Planning Director may approve additional or different operating hours and time periods for asphalt or concrete batch plants than those specified in subsection [a] above. Any such approval must use quasi-judicial land use decision procedures specified in Article 22 (*Permit Review Procedures*), to include neighborhood notice and the right to appeal the decision for a *de novo* hearing.

O. Blasting at an extraction site shall be limited to the hours between 10 am and 3 pm for conditional uses, and 7 am to 6 pm for MARZ. The permitted days shall be Monday through Friday, excluding the holidays listed in subparagraph N above. The mine operator shall provide advanced notification of all blasting subject to the following requirements:

1. The notification shall be given in writing to all property owners and/or occupants residing within the impact area (or 1500' if an impact area has not been established) at least 48 hours prior to the blasting. The notice shall be delivered to a mail receptacle or to the residence or structure. The operator shall maintain a journal showing when and how notice was accomplished.

2. If blasting is on-going on a predictable schedule the operator may provide written monthly notice of the schedule delivered at least 48 hours before the first scheduled blast. The delivery and record keeping requirements specified in subsection 1 above shall also apply.

3. The notice shall specify the day or days and hour or hours the blasting is to occur.

P. Water used in the mining or processing of mineral and/or aggregate resources shall be appropriated from a source authorized by permit from the Oregon Department of Water Resources. With the exception of onsite process water released to onsite settling ponds, turbid water shall not be released into lakes, ponds or watercourses.

Q. A Development Permit for the mining or processing of mineral and/or aggregate resources is conditioned upon the operator obtaining and maintaining all state agency

permits required for the operation. The operation of a mining or processing site in violation of this requirement shall render the Development Permit immediately void.

91.040 - SITE RECLAMATION

No mining operation authorized pursuant to this Article shall commence without the operator furnishing to the Planning Director a copy of a DOGAMI operating permit and approved reclamation plan, or a certificate of exemption, issued pursuant to the requirements of ORS 517.750 through 517.900 (*Reclamation of Mining Lands*) and implementing administrative rules. The county shall defer to DOGAMI regarding all aspects of the reclamation plan and its administration. Any reclaimed land use must be an allowed use in the underlying zone.

91.050 - NOTICE

In addition to the notice requirements of Chapters 2, 3 and 4, applications for mining which impact the acknowledged significant riparian corridor shall be noticed to DOGAMI, DSL, DEQ, and ODFW.

ARTICLE 92 - HOME OCCUPATIONS

92.010 - PURPOSE

The purpose of this Article is to ensure that home occupations conducted on residentially developed property are compatible with the neighborhood in which it is located, and maintain the character and appearance of both the use and the neighborhood. A home occupation shall not run with the land and may not be assumed by a new owner.

92.020 - SPECIAL STANDARDS FOR OPERATION

Home Occupations, in addition to the procedures, standards and criteria for approval as conditional uses, shall meet all of the following special standards for operation:

A. The home occupation shall be subordinate and incidental to the residential use of the property;

B. The home occupation shall not give the outward appearance of a business;

C. A home occupation shall be conducted by the resident(s) of the property on which the business is located;

D. No employees are allowed;

E. The home occupation must be conducted within a dwelling which is the actual residence of the person engaged in the occupation, or in an accessory building which is normally associated with uses permitted in the zoning classification of the property;

F. No outside storage is permitted;

G. No alteration of any building(s) shall be made which changes the character of the building(s) so as to make them unusable or incompatible with any uses normally permitted in the zoning classification of the property;

H. No home occupation shall require alteration of the structure or involve construction features or the use of electrical or mechanical equipment that would change the character of the structure under the Uniform Building Code;

I. An accessory structure used in a home occupation must meet the size requirements of Section 72.060. Oversize accessory structures shall require further review as specified in Section 72.060.B;

J. Equipment used in the home occupation shall not interfere either visibly or audibly with reception of communication or video equipment used by adjoining neighbors or cause substantial fluctuations in the line voltage outside of the home occupation;

K. No outside parking or storage of more than 2 vehicles or 2 pieces of heavy equipment (more than 12,000 pounds) used as a part of the business is allowed;

L. One non-illuminated identification sign not exceeding six square feet is permitted;

M. No significant sight, sound, smell, vibration, traffic, or other impacts associated with the operation of the home occupation shall be detectable outside of the property lines;

N. Off-street parking shall be provided to accommodate employees and clients in accordance with Article 75;

O. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or trailer (exceeding 2.5 tons GVW) not including a licensed parcel service or United States Mail;

P. No retail sales shall be allowed;

Q. There shall not be more than 1 home occupation authorized at any property location;

R. The home occupation shall be conducted in accordance with all local, state, and federal requirements to include proper permits for all structures, sanitation facilities, and water uses.

92.030 - MODIFICATION OF CERTAIN SPECIAL STANDARDS FOR OPERATION

Certain special standards for the operation listed in Section 92.020 may be modified by the review body. The special standards which can be modified are those listed in Section 92.020.D, E, F, I, K, M, O, P and Q, subject to the following additional requirements:

A. Full site plan review pursuant to Section 42.030.B shall be required; and

B. The review body finds that the modified standards for operation of the home occupation will not infringe on the continued residential use of adjoining properties and the character of the neighborhood; and

C. If retail sales occur, the sales shall be incidental and secondary to the primary home occupation; and

D. The number of employees for the home occupation may be increased so that:

1. No more than 5 persons, other than resident(s) occupying the dwelling, shall be employed full or part time to assist the operator of the home occupation; and

2. Any person associated with the home occupation who performs any phase of the business on-site shall be considered an employee; and

3. In all cases the home occupation business shall be operated by a resident of the property; and

E. All outside activities associated with the home occupation shall be screened so the activities are not visible from the residences on adjacent properties.

92.040 - ANNUAL REVIEW

All home occupation permits shall be reviewed annually. If a home occupation fails to maintain the standards of this code, the permit may be revoked.

92.050 - SPECIAL STANDARDS FOR THE OPERATION OF BED & BREAKFAST INNS

A home occupation bed and breakfast inn, in addition to the procedures, standards and criteria for approval as conditional uses, shall meet all of the following special standards for operation:

A. The inn must be located in a residence or guest house;

B. The owner of the inn must live on the premises and continue to use part of the structure as a residence;

C. The permit shall be subject to revocation by the Hearings Officer if it is determined that the application includes false information, or if the conditions (as originally specified or subsequently amended) have not been complied with. A Hearings Officer is authorized to add or modify existing conditions;

D. Outward modification of the structure shall be made only if such changes are compatible with the character of the neighborhood and the intent of the zone, and in all cases, the changes shall maintain the residential character of the structure;

E. The number of rented bedrooms shall not exceed 2 except as follows:

1. The inn has approved sanitation and water facilities which will allow more bedrooms;

2. The number of bedrooms shall further be limited by the overall size of the residence;

3. There must be at least 700 square feet of gross interior living area in the residence per each bedroom;

4. The maximum number of bedrooms is determined by dividing the gross interior floor area of the residence by 700 feet;

5. The inn shall further be limited to a maximum of 10 guests and 5 bedrooms;

F. The inn will be compatible with the neighborhood in terms of access, and the proximity to structures and the operation is screened from view from adjoining lots or parcels.

G. One on-premise sign which meets the requirements of Section 74.020 may be approved for the use;

H. Exterior illumination of the sign shall be limited so that the illumination will not adversely impact the residential character of the area;

I. One off-street parking space for each sleeping room shall be provided in addition to the 2 off-street parking spaces required for the dwelling;

J. The inn must meet all applicable county and state water, sewage, and licensing requirements. The applicant shall submit evidence from the appropriate agency that the applicant has contacted them and is or shall be complying with the requirements;

K. In the event the requirements of this Section conflict with other requirements contained in this code, the requirements of this Section shall govern.

ARTICLE 93 - ARCHEOLOGICAL RESOURCES

93.010 - PURPOSE

The purpose of this Article is to establish provisions to mitigate adverse impacts to archeological resources and to prescribe the means by which archeological sites are assessed and protected.

93.020 - EFFECT OF DISCOVERY & DETERMINATION

Whenever a land use action is proposed for a lot that has a significant archaeological site, the following shall occur:

A. The applicant shall be notified that the site has been determined to contain a significant archaeological resource;

B. No alteration to the site shall occur for 30 working days during which time the Planning Director shall notify the appropriate agencies;

C. If, during this 30 day period, the notified agency or archaeologist determines that no significant change in the site will occur, resumption of development may occur;

D. If, at the conclusion of the 30 day period, no recommendation is issued by the agency or archaeologist, no conflict with the archaeological resource is presumed and the project may proceed;

E. If the development is determined to have a significant effect on the archaeological value of the site, the development shall be delayed an additional 30 days to:

1. Notify an appropriate agency to consider acquisition; and

2. Refer the request to the Planning Commission for a public hearing to determine the ESEE consequences in accordance with OAR 660-16-005(2) and a proper course of action which will be one of the following:

a. Protect the archaeological resource;

b. Allow the requested alteration;

c. Mitigate any detrimental effects of the request.

F. If the Planning Commission decides that detrimental effects of the alteration need to be mitigated, the Commission will attach conditions to the Development Permit (such as alteration of the development plan or setbacks for roads and structures away from the resource site) to assure that the development is compatible with the archaeological resource;

G. If the Planning Commission determines that the archaeological site constitutes a 3A resource as defined by OAR 660-16-010(1), the development shall be delayed for an additional 30 days while the appropriate agency seeks a buyer for the property. If no action occurs within 30 days, the development may proceed.

ARTICLE 94 - HISTORIC BUILDINGS & SITES

94.010 - PURPOSE

The purpose of this Article is to establish provisions for the review of development proposals affecting identified historic properties.

94.020 - REVIEW PROCEDURES

Whenever a land use action is proposed for a lot or structure that has been designated as a primary historic site on the official map, the following shall occur:

A. The applicant shall be notified that the site or structure has been designated as a historic site;

B. No alteration to the site or structure shall occur for 30 working days during which time the Historic Review Committee shall be notified of the proposed action. For the purpose of this Section, *"Alteration,"* shall mean any exterior modification requiring a demolition permit or Development Permit.

C. If, during this 30 day period, the Historic Review Committee determines that no conflict with the historic site will occur, resumption of development may occur:

   1. The Historic Review Committee shall determine no conflict exists if, the alteration proposed is determined to be harmonious and compatible with the historic resource with respect to style, scale, texture, and construction materials, and/or find that the alteration will enhance the historical value of the resource;

   2. The Historic Review Committee shall determine a conflict exists if the alteration will prove to be out of character with, or will otherwise reduce, the resource's value or historic significance.

D. If at the conclusion of the 30 day period, no recommendation is issued by the Historic Review Committee, the project may proceed, if the Planning Director determines that there is no conflict, pursuant to criterion 94.020.C;

E. If the development is determined to have a significant effect on the historic value of the site, the development shall be delayed an additional 30 days to:

   1. Notify an appropriate agency to consider acquisition; and

   2. Refer the request to the Planning Commission for a public hearing to determine the ESEE consequences in accordance with OAR 660-16-005.2 and a proper course of action which will be one of the following:

      a. Protect the historic resource;

      b. Allow the requested alteration;

      c. Mitigate detrimental affects of the request.

F. If the Planning Commission decides that detrimental effects of the alteration need to be mitigated, the Commission will attach conditions to the Development Permit to assure that the alteration is harmonious and compatible with the historic resource with respect to style, scale, texture, and construction materials;

G. If the Planning Commission determines that the historic site constitutes a 3A resource, defined by OAR 660-16-010.1 (i.e., a resource that should be protected), the alteration (including demolition) shall be delayed for an additional 30 days while the Historic Review Committee seeks a buyer for the structure. If no action occurs within 30 days, the alteration may proceed;

H. Development on parcels located adjacent to properties in the National Register of Historic Places may be subject to Site Plan Review to ensure compatibility.

ARTICLE 95 - HYDROELECTRIC & POWER TRANSMISSION FACILITIES

95.010 - PURPOSE

The purpose of this Article is to establish special standards and criteria for the siting of hydroelectric and electric power transmission facilities and related equipment and improvements.

95.020 - REVIEW PROCEDURES

Hydroelectric and electric power transmission facilities shall be processed using the review procedures identified in the applicable zone that lists the use. In all cases a Development Permit (Article 41) is required as final permit approval.

95.030 - REVIEW STANDARDS & CRITERIA

In addition to the applicable standards and criteria contained in the underlying zone, applications for hydroelectric and electric power transmission facilities the applicant shall demonstrate the following:

A. **General Requirements.** The facility will:

1. Be sited on land that is generally unsuitable for forest use, or the use of forest areas is warranted for the safe, economical, and efficient operation of the facility;

2. Not significantly affect forest uses on the site or surrounding land;

3. Not alter the stability of the land use pattern in the area;

4. Be consistent with the forest policies of the comprehensive plan;

5. Be located in an area in which the use is designated as appropriate by the zone. If the use is not listed in a zone, an energy facility shall not be approved unless the zone is amended;

6. Comply with provisions applicable to archaeological and historical sites (Articles 93 and 94), the Flood Hazard Overlay (Article 69.1), the Wild and Scenic Rivers Overlay (Article 69.3), and Airport Overlay (Article 69.4);

7. Incorporate mitigation and conditions to protect class I and class II streams and wetlands, and the banks and vegetation along those streams and wetlands;

8. Avoid areas of steep slopes where cuts and fills are required and shall use natural contours;

9. Not interfere with communication signals;

10. Do one of the following:

    a. Produce 100 theoretical horsepower (thp) or less;

    b. Take and return water to a man-made water conveyance without increasing the use of surface and groundwater;

c. Is a small scale facilities generating a maximum capacity of 5 megawatts;

d. Does not increase maximum surface area of an impoundment at an existing dam or diversion, or does not impound more than 2 acre feet at a new impoundment or diversion;

e. Does not impede fish management unless improvement in management will result;

f. Does not require more than 1 mile of new vehicular access road;

g. Does not require construction of a transmission line that results in clearing of a right-of-way or easement exceeding 1 mile in length or 50 feet in width in Forest Commercial, Woodlot Resource, and Serpentine Zones.

11. The facility meets all necessary state and federal siting requirements, including any setbacks from dwellings.

B. **Standards For Hydroelectric Facilities Approved as Conditional Uses.** In addition to the standards or conditions in Sections 45.030 and 95.030.A, the following standards shall apply:

1. The facility shall not have a significant adverse effect on endangered or threatened fish, wildlife, or plant species, or their critical habitats, or on other significant habitats identified in the comprehensive plan;

2. Development shall be set back from the edge of public roads, viewpoints, and other significant visual resources identified in the comprehensive plan;

3. An in-stream tower may be permitted in class I and II streams if it can be demonstrated that adjoining towers and conductors cannot safely and economically support the transmission lines spanning the stream and if the transmission line cannot be safely and economically placed under the water or streambed.

C. **Protected Areas.**

1. The following areas shall be protected as required by this subsection:

a. All state and federally designated and managed areas, waysides, parks, and areas of critical concern, including scenic waterways, wildlife refuges, and wild fish streams, designated by the Department of Fish and Wildlife;

b. Areas containing significant resources, habitats, scenic views and sites, and cultural, botanical, or recreational, that cannot be protected from the adverse consequences of the facility;

c. Hydroelectric dam or diversion is not permitted in a scenic waterway or adjacent lands designated pursuant to ORS 390.825.

2. Energy facilities shall be sited in the protected areas described in subsection 1 only when all of the following conditions are met:

a. The energy facility is accessory to a permitted use; and

b. Authority is granted by the managing agency; and

c. Applicant provides resources equal or better in quantity and quality then those effected by the energy facility.

ARTICLE 96 - DESTINATION RESORTS

96.010 - PURPOSE

Destination resorts may be allowed in specified zones subject to a finding at a public hearing that the proposal meets all the following criteria. The hearing body may attach conditions it feels necessary to make the development compatible with the uses allowed in the area.

96.020 - REVIEW PROCEDURE & CRITERIA

A. An application for a destination resort shall be considered at a public hearing before the Planning Commission. In addition to meeting the basic criteria contained in Sections 96.030 and 96.040, the Commission shall require the following:

1. The development is in conformance with the comprehensive plan, implementing codes, and state requirements;

2. The development must provide community sewer and water on-site which is limited to meet the needs of the development, or the development shall be serviced from existing public sewer or water facilities, as long as all costs relating to service extension and any capacity increases are borne by the development;

3. Adverse impacts must be sufficiently mitigated through compliance with appropriate conditions, to include, at a minimum, water availability, sewage disposal, traffic management, erosion potential, noise generation, fire control, and flood protection; and

4. That the applicant has submitted adequate documentation to address the requirements of Section 96.060.

B. Prior to a final approval of a destination resort the final development plan shall be reviewed by the Planning Director pursuant to Article 42. Site specific conditions may be required to ensure compliance with any applicable development requirement.

C. A tentative plan prepared in conformance with Section 55.060 of this code, shall be submitted for staff review of multiple lot destination resorts. If found to be in conformance with the approved development plan and any applicable code requirement, a final plat may be submitted for approval by the Planning Commission and the Board of County Commissioners in accordance with the final plat requirements of Article 56. In all cases a Development Permit (Article 41) is required as final permit approval.

96.030 - REVIEW STANDARDS

In addition to the standards and criteria made applicable by the governing zone, all destination resorts shall comply with all of the following standards

A. The destination resort shall be located on a site of at least 160 acres;

B. At least 50% of the site shall be dedicated permanent open space excluding yards, streets and parking areas;

C. At least $7 million shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities, and roads. Not less than 1/3 of this amount shall be spent on developed recreational facilities:

1. The dollar amount is specified in 1993 dollars. The spending required shall be adjusted to the year the spending calculations are made using the United States Consumer Price Index.

D. Visitor-oriented accommodations shall be provided including meeting rooms, restaurants with seating for 100 persons, and 150 separate rentable units for overnight lodging. The accommodations may be phased in as follows:

1. At least 75 units of overnight lodging, not including individually owned homes, lots or units, shall be constructed or guaranteed through surety bonding or equivalent financial assurance prior to the closure of sale of individual lots or units;

2. The remainder shall be provided as individually owned lots or units subject to deed restrictions that limit their use to overnight lodging units. The deed restrictions may be rescinded when the resort has constructed 150 units of permanent overnight lodging;

3. The required overnight lodging shall be constructed within 5 years from the date of the resort approval.

E. In lieu of the standards in subsections (A), (C) and (D) of this Section, the standards in subsection F below apply to a destination resort that is sited on one of the following:

1. On land that is not defined as agricultural or forest land under any statewide planning goal;

2. On land where there has been an exception to any statewide planning goal on agricultural lands, forest lands, public facilities and services and urbanization.

F. The following standards apply to the lands identified in Section 96.030.E:

1. The resort shall be located on a site of 20 acres or more;

2. At least $2 million, shall be spent on improvements for on-site developed recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities, and roads. Not less than 1/3 of this amount shall be spent on developed recreational facilities;

   a. The dollar amount is specified in 1993 dollars. The spending required shall be adjusted to the year the spending calculations are made using the United States Consumer Price Index.

3. At least 25 units, but not more than 75 units, of overnight lodging shall be provided;

4. Restaurants and meeting rooms with at least 1 seat for each unit of overnight lodging shall be provided;

5. Residential uses shall be limited to those necessary for the staff and management of the resort;

6. The primary purpose of the resort is to provide lodging and other services oriented to a recreational resource which can only reasonably be enjoyed in a rural area. Such recreational resources include, but are not limited to, a hot spring, a ski slope or a fishing stream;

7. The resort shall be constructed and located so that it is not designed to attract highway traffic. Resorts shall not use any manner of outdoor advertising signing except:

   a. Tourist oriented directional signs as provided in ORS 377.715 to 377.030; and

   b. On-site identification and directional signs.

96.040 - SITING REQUIREMENTS

A destination resort shall not be sited within any of the following areas:

A. Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more;

B. On a site with 50 or more contiguous acres of unique or prime farm land identified and mapped by the Natural Resource Conservation Service, or within 3 miles of farm land in a High Value Crop Area, as defined in Section 11.030, unless the resort complies with the requirements of Section 96.030.F in which case the resort shall not be closer to a High Value Crop Area than ½ mile for each 25 units of overnight lodging or fraction thereof (area specified has been identified and a map is located in the Planning Office);

C. Predominantly cubic foot site class 1 or 2 forest lands which are not subject to an approved goal exception (area specified has been identified and a map is located in the Planning Office);

D. If a tract to be used as a destination resort has a site designated for protection as open space, a scenic area, a historic area, or a natural resource area, in the acknowledged comprehensive plan, the tract of land shall preserve the site by conservation easement sufficient to protect the resource values of the site. (area specified has been identified and a map is located in the Planning Office);

E. Especially sensitive big game habitat as mapped by the Oregon Department of Fish and Wildlife in July of 1984;

F. Structures and high intensity facilities shall not be located less than 200 feet from any exterior lot line;

G. Buildings or structures shall not be erected to exceed a height of 2½ stories or 35 feet. The Planning Commission may allow building or structures exceeding the limitation if it can determine that safety concerns are met;

H. Any change of use of facilities or construction of additional facilities shall be subject to approval by the Planning Commission in the same manner as the original development.

96.050 - PERMITTED USES

As a part of a destination resort, the following uses may be permitted when the uses are limited to serve visitors at the resort:

A. Overnight lodging including lodges, hotels, motels, time share units, and similar temporary living accommodations;

B. All manner of outdoor and indoor recreation facilities including but not limited to golf courses; tennis, racquetball, and handball courts; riding stables; nature trails; riding, running, and bicycle paths; boat launching and moorage facilities; and fishing and hunting facilities;

C. Restaurants, lounges, and similar eating and drinking establishments;

D. Convention facilities;

E. Commercial services and specialty shops limited to those necessary to meet the needs of visitors to the development;

F. Residential dwellings limited to a maximum of 2 dwellings per overnight accommodation subject to the following:

1. The Planning Commission has the authority to limit the number of dwellings based on the limitations of facilities including water, sewage, storm drainage, transportation systems, and fire suppression;

2. No lots for dwellings can be sold until the minimum resort requirements are completed or suitably guaranteed;

3. A plan for management of the facilities necessary to service the dwellings is submitted to, and approved by, the Planning Commission.

96.060 - APPLICATION REQUIREMENTS

A development plan shall be submitted and include, at a minimum, the following information:

A. A general site plan of the proposed development, which shall include the following:

1. The location and total number of acres to be designated a destination resort, the location and number of acres to be developed, and the location and number of acres to be reserved as open space or common area;

2. Proposed overall density;

3. The type, location and extent of developed recreation facilities to be provided;

4. An indication of the building types proposed, including typical lot and building configuration, and typical architectural character, units to be utilized for overnight lodging shall be identified, a summary of the total number of each type of unit shall be provided;

5. Conceptual landscape plan showing areas to remain in a natural state, areas where vegetation is to be removed, and areas to be landscaped;

6. Natural features to include streams, rivers, and significant wetlands and riparian vegetation within 100 feet of streams, rivers, and wetlands;

7. Habitat of threatened or endangered species;

8. Hazards or development constraints and proposed mitigation;

9. Ecologically or scientifically significant natural areas (see County Goal #5 Inventory);

10. Roadway system including points of ingress and egress to the property.

B. A discussion of existing and projected public and private uses on adjacent lands, including the impacts of the proposed development on those uses, potential problems of incompatibility for the uses, and measures which may be employed to mitigate anticipated problems or conflicts;

C. Preliminary studies describing the water supply system, the sewage management system, the storm drainage system, and the traffic management plan;

D. A description of the system to be used for management of individually owned units that will be used for overnight lodging and how it will be implemented;

E. An economic analysis of the proposed development, which shall include:

1. An analysis which addresses the economic viability of the proposed development;

2. Fiscal impacts of the project including changes in employment, increased tax revenues, demands for new or increased levels of public services, and effects of the loss of resource lands.

F. A description of how natural features identified in Section 96.060.A.6, 7 & 9 will be maintained. Where structures and alterations are proposed on natural features, show how the overall value of the feature will be maintained;

G. A description of methods used to avoid or minimize adverse impacts on surrounding lands, particularly intensive farming operations. Such methods may include:

1. Setbacks of structures from adjacent land uses;

2. Buffers with adjoining uses consisting of natural vegetation, fences, berms, landscaped areas, or other similar features.

H. Other information required by the hearing body, as may be helpful to determine that the proposed development complies with the requirements of this code.

96.070 - TIME LINE

A. Upon final approval of a destination resort, construction drawings for facilities shall be submitted within 2 years. Construction shall be completed within 5 years of approval of construction drawings unless an alternative timing schedule was approved by the Commission in its original approval.

B. A one-year extension of the tentative plan approval may be granted by the Planning Director if the following are met:

1. The applicant must submit a request for an extension prior to the expiration date of the approval of the tentative plan;

2. The Planning Director shall determine that the extension is necessary to complete conditions of approval and that no changes in ordinances, codes, or circumstances would cause the original approval to be effected;

3. Additional 1 year extensions may be authorized where applicable criteria for the original decision have not changed;

4. Approval of the extension is not considered a land use decision and is not subject to appeal as such.

C. Failure to submit the construction drawings or to complete construction as provided in this Section operates to revoke any prior approval and to render unlawful any further development of the property approved as a part of the final approval.

96.080 - MODIFICATION

The review body may modify or alter an action on a previously approved tentative plan subject to compliance with all the following:

A. A request for modification shall be submitted by the developer, in writing, setting forth the specific modification requested and the facts to justify the modification; and

B. The request shall clearly indicate that the modification is reasonably necessary to mitigate physical circumstances not anticipated in the approval process and the request will not significantly alter the previous action of the review body.

96.090 - PERFORMANCE AGREEMENT

A. All recreation facilities and visitor-oriented accommodations shall be constructed or suitably guaranteed in the initial phase of any use approved pursuant to the regulations of this Section. The suitable guarantee shall conform to the provisions of Article 14 of this code.

B. The guarantees required by this subsection are in addition to, and not in lieu of, any other guarantees relating to the project which may be required by other portions of this code, by other ordinances or codes, or by any other provision of applicable law.

ARTICLE 97 - RECREATIONAL RESORTS

97.010 - PURPOSE

Recreational resorts may be allowed in specified zones that are acknowledged exception areas subject to a finding at a public hearing that the proposal meets all the following criteria. The hearing body may attach conditions it feels necessary to make the development compatible with the uses allowed in the area.

97.020 - REVIEW PROCEDURE & CRITERIA

A. A recreational resort approval shall be reviewed using Planning Commission Review Procedures (Article 24), subject to the following requirements:

1. The development complies with standards and criteria of this code and any applicable state or federal regulations;

2. The development must provide community sewer and water on-site which is limited to meet the needs of the development, or the development shall be serviced from existing public sewer or water facilities, as long as all costs relating to service extension and any capacity increases are borne by the development;

3. Adverse impacts must be sufficiently mitigated through compliance with appropriate conditions, to include, at a minimum, water availability, sewage disposal, traffic management, erosion potential, noise generation, fire control, and flood protection;

4. The recreation resort will not commit adjacent or nearby resource land to non-resource use as defined in OAR 660-04-028;

5. The recreational resort is compatible with adjacent or nearby uses;

6. The use is consistent with requirements for Exception Areas contained in OAR 660-04-018; and

7. The application is supported by adequate documentation addressing the requirements of Section 97.060.

B. Prior to a final approval of a recreational resort, a final development plan shall be reviewed using site plan review process as set forth in Article 42.

C. A tentative plan prepared in conformance with Section 55.060 of this code shall be submitted for staff review of multiple lot recreation resorts. If found to be in conformance with the approved development plan and applicable code requirement, a final plat may be submitted for approval in accordance with final plat requirements contained in Article 56 of this code.

97.030 - REVIEW STANDARDS

The recreational resort shall comply with the following standards of development:

A. The recreational resort shall be located on a site of at least 20 acres.

B. At least 50% of the site shall be dedicated permanent open space excluding streets and parking areas.

C. At least $1 million, (in 1984 dollars), shall be spent on improvements for on-site recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities, and roads.

D. At least 25 units for overnight accommodations shall be provided.

97.040 - SITING REQUIREMENTS

A. Structures and high intensity recreational facilities shall not be located less than 200 feet from any exterior lot line.

B. The character of the neighborhood shall be maintained through site buffering or other methods to keep the appearance of the Recreation Resort compatible with uses in the neighborhood.

C. Any change of use of facilities or construction of additional facilities shall be subject to approval by the Planning Commission in the same manner as the original development.

97.050 - PERMITTED USES

A. Overnight lodging including lodges, hotels, motels, time share units, and similar temporary living accommodations.

B. All manner of outdoor and indoor recreation facilities including but not limited to golf courses; tennis, racquetball, and handball courts; riding stables; nature trails; riding, running, and bicycle paths; boat launching and moorage facilities; and fishing and hunting facilities.

C. Restaurants, lounges, and similar eating and drinking establishments.

D. Convention facilities.

E. Commercial services and specialty shops limited to those necessary to meet the needs of visitors to the development.

F. Residential dwellings limited to a maximum of 2 dwellings per overnight accommodation subject to the following:

   1. The Planning Commission has the authority to limit the number of dwellings based on the limitations of facilities including water, sewage, storm drainage, transportation systems, and fire suppression;

2. No lots for dwellings can be sold until the minimum resort requirements are completed or suitably guaranteed;

3. A plan for management of the facilities necessary to service the dwellings is submitted to and approved by the Planning Commission.

97.060 - APPLICATION REQUIREMENTS

A development plan shall be submitted and include at a minimum the following information:

A. A general site plan of the proposed development, which shall include the following:

1. The location and total number of acres to be designated recreational resort, the location and number of acres to be developed, and the location and number of acres to be reserved as open space or common area;

2. Proposed overall density.

3. The type, location, and extent of developed recreation facilities to be provided;

4. An indication of the building types proposed, including typical lot and building configuration, and typical architectural character, units to be utilized for overnight lodging shall be identified, and a summary of the total number of each type of unit shall be provided;

5. Conceptual landscape plan showing areas to remain in a natural state, areas where vegetation is to be removed, and areas to be landscaped;

6. Natural features to include streams, rivers, and significant wetlands and riparian vegetation within 100 feet of streams, rivers, and wetlands;

7. Habitat of threatened or endangered species;

8. Hazards or development constraints and proposed mitigation;

9. Ecologically or scientifically significant natural areas (see County Goal #5 Inventory);

10. Roadway system including points of ingress and egress to the property.

B. A discussion of existing and projected public and private uses on adjacent lands, including the impacts of the proposed development on the uses, potential problems of incompatibility for the uses, and measures which may be employed to mitigate anticipated problems or conflicts;

C. Preliminary studies describing the water supply system, the sewage management system, the storm drainage system, and the traffic management plan;

D. A description of the system to be used for management of individually owned units that will be used for overnight lodging and how it will be implemented;

E. Other information required by the hearing body, as may be helpful to determine that the proposed development complies with the requirements of this code.

97.070 - TIME LINE

A. Upon final approval of a recreational resort, construction drawings for facilities shall be submitted within 2 years. Construction shall be completed within 2 years of approval of construction drawings unless an alternative timing schedule was approved by the Commission in its original approval.

B. A one-year extension of the tentative plan approval may be granted by the Planning Director if the following are met:

1. The applicant must submit a request for an extension prior to the expiration date of the approval of the tentative plan;

2. The Planning Director shall determine that the extension is necessary to complete conditions of approval and that no changes in ordinances, codes, or circumstances would cause the original approval to be effected;

3. Additional 1 year extensions may be authorized where applicable criteria for the original decision have not changed;

4. Approval of the extension is not considered a land use decision and is not subject to appeal as such.

C. Failure to submit the construction drawings or to complete construction as provided in this Section operates to revoke any prior approval and to render unlawful any further development of the property approved as a part of the final approval.

97.080 - MODIFICATION

The review body may modify or alter an action on a previously approved tentative plan subject to compliance with all the following:

A. A request for modification shall be submitted by the developer, in writing, setting forth the specific modification requested and the facts to justify the modification; and

B. The request shall clearly indicate that the modification is reasonably necessary to mitigate physical circumstances not anticipated in the approval process and the request will not significantly alter the previous action of the review body.

97.090 - PERFORMANCE AGREEMENT

A. All recreation facilities and visitor-oriented accommodations shall be constructed or suitably guaranteed in the initial phase of any use approved pursuant to the regulations or this Section. The suitable guarantee shall conform to the provisions of Article 14 of this code.

B. The guarantees required by this subsection are in addition to, and not in lieu of, any other guarantees relating to the project which may be required by other portions of this code, by other codes or ordinances, or by any other provision of applicable law.

ARTICLE 98 - CAMPGROUNDS, RV PARKS & LODGES

98.010 - PURPOSE

The purpose of this Article is to set the standards for the development of campgrounds, recreational vehicle parks, lodges and conference grounds. It is recognized that each of the proposed uses may entail intensive development which may include permanent structures. The level of detail required will be determined by the intensity of development.

98.020 - SITING STANDARDS

Campgrounds, recreational vehicle parks, lodges and conference grounds shall demonstrate the development meets all of the following special siting requirements:

A. The development shall not be located within or adjacent to any area identified in the Comprehensive Plan for Josephine County as a natural area or potential research natural area where the development would result in damage or overuse of the natural area;

B. The development shall not be located in or adjacent to an area of known valuable mineral deposits where the development would restrict development of the mineral resource, unless the area has been withdrawn from mineral entry;

C. The development site is not suited for continued resource management, and that the proposed development is compatible with adjacent resource uses;

D. The development meets the public recreation needs and tourism needs identified by the Josephine County Comprehensive Plan;

E. The development abuts a maintained state or county road. The proposal may abut a federal road where the applicant has proof of a long-term access agreement for the proposed use from the appropriate federal agency.

98.030 - APPLICATION REQUIREMENTS

A. The application for a campground, recreational vehicle park, lodge, or conference ground shall meet the requirements set out in the underlying zone.

B. The application for a campground, recreational vehicle park, lodge, or conference ground shall be processed according to the requirements set out in the underlying zone.

C. The application for a campground, recreational vehicle park, lodge, or conference ground shall include an application for site plan review pursuant to Article 42.

98.040 - UTILITIES & SERVICES FOR RECREATIONAL DEVELOPMENT

A. Campgrounds involving overnight use shall be developed as "dry camps," or shall include a water system meeting state water quality standards:

1. If groundwater is to be used as a source of supply, withdrawal for the campground shall not result in a depletion of groundwater storage, interfere with springs, or

result in a cone of depression which interferes with previously existing agricultural or residential wells.

B. The proposed recreational development shall meet all state and local building, health, sanitary, and environmental health standards and shall be licensed as appropriate.

CHAPTER 10 — UNINCORPORATED COMMUNITIES

Ordinance 2004-005, Effective February 2, 2005

ARTICLE 100 – BASIC PROVISIONS

100.010 – PURPOSE

The purpose of this chapter is to establish the basic land use requirements and concepts needed to implement state and local goals, rules and policies regarding the planning and zoning of unincorporated communities. This Chapter shall define the intent, purpose and basic requirements that apply to all unincorporated communities. It is understood that unincorporated communities will be required to adopt specific zoning and development schemes as may be needed to fully implement each community's unique plan. Individual community plans are implemented in the following Articles of this Chapter.

100.020 – LIST OF BASIC ZONES

The following basic unincorporated community zones are established:

ZONE	MAP SYMBOL
COMMUNITY RESIDENTIAL	CR
COMMUNITY COMMERCIAL	CC
COMMUNITY TOURIST COMMERCIAL	CTC
COMMUNITY COMMERCIAL CENTER	CCC
COMMUNITY LIGHT INDUSTRIAL	CLI
COMMUNITY INDUSTRIAL	CI

Individual unincorporated community plans may implement different zones and lists of uses within them, to include different standards of development and review procedures as long as the uses, standards and procedures are consistent with applicable state and local requirements for unincorporated rural communities. In all cases, the zone or sub-zone names shall contain the word "community", and the map symbols shall not duplicate symbols for existing rural zones.

100.030 – ZONING OVERLAY REQUIREMENTS

The Flood Hazard Overlay (Article 69.1), the Deer Overlay (Article 69.2), the Wild and Scenic Rivers Overlay (Article 69.3), the Airport Overlay (Article 69.4), the Water Hazard Overlay (Article 69.5) and the Mineral and Aggregate Overlay (Article 69.6 and Article 91) shall apply within unincorporated rural communities to the extent they are now or hereafter officially mapped within the respective unincorporated rural communities. Other zoning overlay

requirements may be created within unincorporated rural communities as needed to support individual plans.

100.040 – APPLICATION OF RULES TO USES & STRUCTURES

A. Application of the Code. Unless specifically modified by this Article or other Articles of this Chapter, or any other element of an adopted rural community plan, all of the procedures, criteria, standards and rules contained within this code shall apply to the development of uses and structures within individual unincorporated communities.

B. Nonconforming Lots, Uses, Developments and Structures. Lots, uses, developments or structures that do not conform to the requirements of this Chapter, but which lawfully existed at the time of adoption of individual unincorporated community plans, may continue subject to the provisions Article 13 (*Nonconforming Lots, Uses and Structures*).

C. All Other Uses. All other lots, uses, developments, structures and land shall be established, constructed, changed in use, erected, moved, reconstructed, replaced, extended, altered or divided only in full compliance with the applicable provisions of this code (See, Section 12.010, *Scope & Compliance*).

ARTICLE 101 – MERLIN / NORTH VALLEY UNINCORPORATED RURAL COMMUNITY

101.010 – PURPOSE

The Merlin/North Valley Unincorporated Community shall be a Rural Community as described and authorized by Oregon Administrative Rules, Chapter 660, Division 22. This community shall be referred to as the Merlin/North Valley Community (MNVC).

The purpose of the MNVC plan is to establish an unincorporated community boundary for a rural community around the Merlin/North Valley area consistent with the desires of the affected residents and the requirements of Oregon Administrative Rules, Chapter 660, Division 22. This plan shall guide present and future development and growth for lands and uses within the MNVC, to include allowed uses, densities and standards for development as set forth in this Article or elsewhere in this code.

101.015 – BOUNDARY AND PLAN

The lands located within the MNVC are shown on the official boundary map. The lands affected by the boundary are also listed according to Assessor's tax lot descriptions. Both the map and list are adopted as part of the Josephine County Comprehensive Plan. The applicable provisions of this Article shall apply only to the lands described on the adopted map and list.

The MNVC plan shall consist of the following documents:

A. Findings of Fact addressing the requirements of OAR 660-22 and the Josephine County Comprehensive Plan Goals and Policies;

B. The adopted Merlin/North Valley boundary map and list of affected tax lots as described in the Assessor's records;

C. The adopted Merlin/North Valley comprehensive plan and zoning maps;

D. The Merlin/North Valley Water Master Plan (April 2001) and the Merlin/North Valley Wastewater Facilities Plan (June 2001), as prepared by the Dyer Partnership, Engineers and Planners, Inc.;

E. Amendments to the Josephine County Comprehensive Plan, Goals and Policies, regarding the implementation and maintenance of the MNVC plan; and

F. The provisions of Article 100, this Article and other provisions of this code made applicable by reference;

G. The Josephine County Airport Master Plan;

H. The Josephine County Roadway and Traffic Management Plan (1983), until such time as it is replaced by the Josephine County Master Transportation Plan.

101.020 – AMENDING AND UPDATING THE MNVC PLAN

Applications to amend any element of the MNVC plan shall comply with the requirements of Sections 46.020 (Review Procedures), 46.030 (Plan Amendment Application Requirements) and 46.050.G (Definition of Significant) of Article 46 of this code. In addition, all of the following plan amendment review criteria shall apply:

A. Applications to amend the text, maps or inventories of the MNVC plan shall demonstrate compliance with the requirements of OAR 660-022 (*Unincorporated Communities*);

B. Requests involving changes for lands from a resource designation to a non-resource designation shall either comply with statewide exception criteria contained in Oregon Revised Statutes 197.732, and as implemented in Oregon Administrative Rules, Chapter 660, Division 4, or demonstrate the land is non-resource pursuant to the criteria contained in Section 46.050;

C. Plan or map amendments that add or modify uses allowed within the MNVC shall demonstrate the uses can be supported by adequate on-site subsurface sewage disposal, groundwater supplies, or that sewer and water services will be provided consistent with the Dyer facility plans;

D. Plan or map amendments that increase the density of residential development or increases small-scale, low-impact commercial or industrial size limits shall occur only when sewer and water services consistent with the Dyer facility plans are provided;

E. New uses or modified uses and densities described in C and D above shall be consistent with the identified function, capacity and level of service of transportation facilities serving the MNVC pursuant to OAR 660-012-0060(1)(a) through (c);

F. The physical characteristics of the land and surrounding area make the land suitable for the proposed density and types of uses, to include consideration of existing or potential hazards (flood, wildfire, erosion, pollution), the degree of slopes, the presence of wetlands, geologic formations, mineral deposits and any other similar natural or man-made conditions or circumstances;

G. The land in its natural state accommodates the proposed uses and densities, or special alterations or mitigation plans can reasonably make the land achieve the requirements for basic sewage disposal, groundwater supply, and the other physical considerations described in item F above;

H. The density and types of uses authorized by the proposed plan and zoning designations are appropriate based on the requirements of subsection 1. or 2. below:

   1. The change in designations at the location is consistent with the character of the surrounding area. Consistency shall be demonstrated by a detailed review of the relationship between the area covered by the proposed change in designations and the surrounding area, subject to the following rules:

a. The detailed review shall describe the similarities or dissimilarities between the area of proposed change and the surrounding area based upon parcel size and ownership patterns, zoning, existing or authorized land uses and structures, public facilities and services, and natural or man-made features. In addition:

(1) Evidence regarding changes in parcel size and ownership patterns shall, at a minimum, consider the circumstances of the parcelization and ownership patterns lawfully existing within the area of study. Review of parcelization patterns shall not only include the number and size of the parcels, but the relationship of the parcels to the total acreage within the study area, together with the potential for additional parcelization pursuant to existing zoning. In order for parcels to be counted in a parcelization analysis, the parcels must be authorized lots or parcels as defined by §11.030 of this code.

(2) Natural or man-made features may include watercourses, wetlands, watersheds, ridges, valleys, roads, rights-of-way, easements, political or service boundaries and other similar features. The study must identify and explain how these features operate to join or disjoin the area being changed from surrounding lands.

b. The detailed review shall include a written statement explaining the rationale used to include or exclude areas from study, and be supported by zoning maps, aerial photographs, contour maps, and any other public or private records, statistics or other documents necessary or helpful to establish the character of the area and show how the change will be consistent.

2. Demonstrate how the introduction of inconsistent density or uses into an area is justified. This demonstration may be based upon changes in the area resulting from rezonings, new residential, commercial, industrial or resource development, the introduction or improvement of public facilities and services, changes in demographics, changes in plan inventories, and other similar circumstances. The application shall show how the proposed change in designations, in the context of the foregoing circumstances, implements applicable state and/or county goals and policies. The more the change introduces inconsistent densities and uses into an area, the greater the burden on the applicant to justify the basis for the change.

ARTICLE 101.1 – COMMUNITY RESIDENTIAL ZONE

101.110 – PURPOSE

The purpose of the Community Residential zone is to authorize residential uses, residential accessory uses, conditional uses and temporary uses at locations, densities and under conditions that are consistent with the development requirements for unincorporated rural community planning. The Community Residential zone shall provide residential zoning classifications for lands already zoned and committed to rural residential development at the time this zone is implemented.

The Community Residential zone shall designate two zoning categories based upon the density permitted by the division and development within these categories. The first category shall be known as the Community Residential – 2 Acre zone. All lands zoned for Rural Residential – 1 Acre and 2.5 Acre by the Josephine County Comprehensive Plan prior to the establishment of the MNVC plan shall be included in this category. The second category shall be known as the Community Residential – 5 Acre zone. All lands zoned for Rural Residential – 5 Acre by the Josephine County Comprehensive Plan prior to the establishment of the MNVC plan shall be included in this category.

101.120 – PERMITTED USES

The following uses, with accessory uses and structures, shall be permitted using Ministerial Review Procedures (Article 22). All uses shall also meet the applicable development standards listed in Section 101.170 of this Article. In all cases, a Development Permit (Article 41) is required as final permit approval.

A. One single-family dwelling per authorized lot, to include non-commercial accessory structures, developments and uses normally occurring with dwellings, subject to the following:

   1. Accessory structures, developments and uses may be used for business purposes only when authorized by a home occupation permit (Article 92) or exempted from the definition of home occupation (Section 11.030); and

   2. Guest houses, as defined in Section 11.030 of this code, shall not be allowed.

B. Farm and/or forest uses, to include product stands, when all of the products are produced and used or sold on the property, but shall be subordinate to all other permitted and conditional uses listed in this zone. See also Section 101.160 regarding the keeping of animals.

C. Family day care provider operating from a single-family dwelling and caring for fewer than 13 children, including children of the care provider, regardless of full-time or part-time status.

D. One residential care home or facility per authorized lot.

101.030 – CONDITIONAL USES

The following uses, with accessory uses, shall be authorized using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45), and Site Plan Review if required (Article 42). All uses shall also meet the applicable development standards listed in Section 101.170 of this Article. A Development Permit (Article 41) shall be required as the final permit approval.

A. Campground subject to Article 98

B. Cemetery

C. Church when applicable review standards and criteria are qualified as follows:

1. A church shall be allowed the reasonable use of the site for all activities customarily associated with the practices of the religious activity, including worship services, religion classes, weddings, funerals, child care and meal programs, but not including private or parochial school education for pre-kindergarten through grade 12 or higher education unless the educational uses are authorized separately by another provision in this code; and

2. The review body may subject church uses to reasonable regulations, including site review or design criteria concerning the physical characteristics of the uses only, or may prohibit or restrict the use of the site if it finds the level of service of public facilities, including transportation, water supply, sewer and storm drain systems is not adequate to serve the uses.

D. Home occupations subject to Article 92

E. Parks, playgrounds and community centers

F. Public and semi-public service centers and facilities

G. Real estate tract sales office subject to the following standards:

1. The office is located in a residential subdivision or planned unit development and all business conducted there is strictly limited to the sale of lots platted within the same development; and

2. The office is removed or converted to an authorized use within 30 days after all lots within the same development are sold

H. School, public or private, to include residential student housing subject to the following additional standards:

1. The housing is needed to minimize energy and transportation impacts resulting from student travel; or

2. The housing is needed because affordable student housing is not otherwise adequately available within the area; or
3. The housing is needed to accomplish other policies or requirements of this code

I. Recreational Vehicle Park subject to Article 98

J. Storage of up to 4 motor vehicles from which parts have not been removed and the vehicles are unlicenced or owned by individuals other than the resident or owner of the property

101.150 – TEMPORARY USES

The following uses, with accessory uses and structures, shall be permitted using Ministerial Review Procedures (Article 22), subject to temporary use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 101.170. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Mass gatherings

B. Medical hardship dwelling (one additional dwelling only)

C. Temporary storage of an unoccupied manufactured dwelling

101.160 - SPECIAL STANDARDS FOR THE KEEPING OF ANIMALS

The keeping of animals for both agricultural or non-agricultural purposes shall be fully subordinate and secondary to the residential uses authorized by this zone, and shall comply with the following specific requirements:

A. Kennels, as defined in Article 11.030 of this code, are not allowed in the Community Residential zones

B. The keeping of animals outside of residential structures shall not result in significant adverse impacts to surrounding properties

C. Non-dwelling structures used to house animals, excluding fenced pastures, shall be setback at least 50' from all property lines

D. Pastured animals shall be completely contained within fences

E. The keeping of animals shall meet and maintain all applicable permits and standards of the Oregon Departments of Agriculture and Environmental Quality

F. The keeping of animals shall meet and maintain all applicable licenses and other regulations of the Josephine County Health Department

101.170 - PERMIT REVIEW & PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

Permit Review Requirements

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

Property Development Standards

1. Minimum lot size
   a. CR–2: 2 acres
   b. CR–5: 5 acres
2. Minimum lot width
   a. CR–2: 200'
   b. CR–5: 300'
3. Lot dimensions - See Article 71
4. Special requirements for land divisions, conditional uses, and developing non-conforming lots or parcels:
   a. Land Divisions, Conditional Uses, and Development of Non-Conforming Lots or Parcels: As a condition of final approval, the owner shall:
      i. Obtain a site approval for a subsurface sewage disposal system from the Oregon Department of Environmental Quality within each newly configured lot or developed site, or connect to a community sewer system; and
      ii. The requirements of Article 84 (*Water Standards*) shall apply to new subdivisions, partitions and the development of existing residential lots or parcels that are 2 acres or smaller in size. This requirement shall apply to all land divisions even though Article 84.020.A and B specify a one acre threshold. Article 84 shall apply to site plan review items that require more than 1600 gallons of

groundwater per day. The Water Resources Director or the Planning Director shall administer the requirements of Article 84. This requirement shall not apply if the water source is a community water system or the city of Grants Pass.

b. Merger of Non-Conforming Lots or Parcels. When one or more non-conforming lots or parcels are involved in a single development, the non-conforming lots or parcels shall be merged with each other, and with other conforming lots or parcels also involved in the development, by property line adjustment or replat to the extent needed to achieve conformity or the least non-conformity possible. In addition, no variance to any setback standard shall be authorized to support development of non-conforming lots or parcels.

c. Water Service Agreement: Users receiving water service from the city of Grants Pass shall execute the documents required by the city for the provision of such service. The county shall assure performance of this requirement prior to final land use approval.

5. Building size, accessory heights, setbacks and yard dimensions shall conform to the provisions of Article 72, except:

   a. Maximum structure height – 35 feet or 2 ½ stories, whichever is less

   b. Minimum setback from property lines: 30' - front; 10' - side; 25' - rear

6. Access and transportation – See Article 81
7. Aggregate overlay – See Articles 69.6, 91
8. Airport overlay – See Article 69.4
9. Archeological resources – See Article 93
10. Erosion and sediment control and storm drainage facilities – See Article 83
11. Fences, wall and screens – See Article 73
12. Flood hazard overlay – See Article 69.1
13. Historic resources – See Article 94
14. Mineral & aggregate overlay – See Article 69.6
15. Parks and playgrounds – See Article 98
16. Signs – See Article 74
17. Solid waste & Recycling – See Article 86
18. Stream setbacks – See Article 72
19. Utilities – See Article 85
20. Water hazard overlay – See Article 69.5
21. Water standards – See Article 84
22. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 101.2 - COMMUNITY COMMERCIAL ZONE

101.210 – PURPOSE

The Community Commercial zone is intended to allow a broad range of professional, commercial and institutional uses to meet the general needs of residents within or near the MNVC. The Community Commercial zone shall include lands already zoned and committed to rural commercial zoning at the time this zone is implemented.

101.220 – PERMITTED USES

The following uses, with accessory uses and structures, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Uses shall also meet the applicable development standards listed in Section 101.250. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Institutional and Service Commercial: Public and private commercial uses that are community oriented such as an ambulance center, medical clinic or urgent care unit, police or fire station, library, post office, community center, social service or care center, church, park, utility or communication facility, recycling center, maintenance shop, fraternal lodge or club, and day care.

B. Commercial Recreation: Entertainment or recreation uses such as a bowling alley, miniature golf course, bicycle or skate park, theater, sports club, arcade, and gymnasium (dance, self-defense, gymnastics, etc.).

C. Commercial General: Service, sales and trade uses such as a retail sales store, grocery store or food store, service or repair center, craft or art studio, personal service shop (barber, beauty, tailor, tattoos, etc.), restaurant, tavern, laundromats and dry-cleaners, vehicle or equipment sale or rental lot, building material or hardware store, professional office, bank, printing or copying shop, contractor yard or shop, light fabrication shop, auto, truck or equipment repair garage, tire store, gas station or fuel depot, storage or warehousing, recreational vehicle park, campground, pharmacy, and towing service or yard.

D. Care Providers and Dwellings:

1. One residential care home or one residential care facility

2. One manufactured dwelling may be allowed only when located on the same lot or parcel (to include water and septic services) as the commercial use, and when occupied by the owner/operator of the commercial use. When the use ceases to operate or the owner/operator moves off-site, the manufactured dwelling shall be removed within 60 days. As a condition of this use, a deed restriction shall be executed by the owner and recorded in the county deed records to disclose the qualified nature of the dwelling, the requirement for removal, and which waives complaint or claim of any kind for impacts from authorized commercial activities on nearby commercially zoned lands.

3. Lawfully existing single-family and/or manufactured dwellings (alteration or replacement only, subject to the time limits contained in Section 13.030 of this code)

101.230 – CONDITIONAL USES

The following uses, with accessory uses and structures, shall be permitted using Quasi-Judicial Review Procedures (Article 22), subject to the requirements for Conditional Uses (Article 45) and Site Plan Review (Article 42). Uses shall also meet the applicable development standards listed in Section 101.250. In all cases, a Development Permit (Article 41) shall be required as the final permit approval.

A. Sewage disposal plant, to include pumping, treatment and distribution pipes and facilities

B. Water treatment facility, or water storage reservoir, pumping station and distribution pipes

102.250 – PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this Code. The following is a list of Articles that are or may be applicable:

A. Permit Review Requirements

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43
8. Variances – Article 44
9. Conditional Uses – Article 45

B. Property Development Standards

1. Minimum lot size - ½ acre (1 acre if a dwelling is located with the business)

2. Lot dimensions - See Article 71

3. Special development requirements:

a. Land Divisions, Site Development, Conditional Uses and Development of Non-Conforming Lots or Parcels: As a condition of final approval, the owner shall:

(1) Obtain a site approval for a subsurface sewage disposal system from the Oregon Department of Environmental Quality within each newly configured lot or developed site, or connect to a community sewer system; and

(2) The requirements of Article 84 (*Water Standards*) shall apply to new land divisions creating parcels 2 acres or smaller in size, and to developments requiring site plan review that require more than 1600 gallons per day of groundwater. This requirement shall apply to all land divisions even though Article 84.020.A and B specify a one acre threshold. The Water Resources Director or the Planning Director shall administer the requirements of Article 84. This requirement shall not apply if the water source is a community water system or the city of Grants Pass.

b. Merger of Non-Conforming Lots or Parcels. When one or more non-conforming lots or parcels are involved in a single development, the non-conforming lots or parcels shall be merged with each other, and with other conforming lots or parcels also involved in the development, by property line adjustment or replat to the extent needed to achieve conformity or the least non-conformity possible. In addition, no variance to any setback standard shall be authorized to support development of non-conforming lots or parcels.

c. Water Service Agreement: Users receiving water service from the city of Grants Pass shall execute the documents required by the city for the provision of such service. The county shall assure performance of this requirement prior to final land use approval.

d. Transportation Facilities: New commercial uses shall not cause the use of transportation facilities to exceed capacities as specified in the county's transportation plan. In addition, a traffic assessment by a qualified Oregon registered engineer shall be required for any new or expanded commercial use that generates more than 25 peak hour trips that are reasonably expected to impact the Louse Creek freeway interchange. Trip generation calculations shall be based on the most recent edition of the *Institute of Transportation Engineer's Trip Generation Manual*. The traffic assessment shall determine the consistency of the use with the identified function, capacity and performance standards of the Louse Creek freeway interchange. The use may be limited or altered by conditions in the permit approval so that consistency is achieved, or denied if consistency cannot be achieved.

4. Building size, accessory heights, setbacks and yard dimensions shall conform to the provisions of Article 72, except:

a. Maximum building size for new commercial structures shall be 4,000 square feet, except where uses are intended to serve the community and surrounding rural area or the travel needs of people passing through the area. Uses are intended to serve local needs when the uses are designed to capture local markets for basic retail goods or services, or to serve travelers. Examples include a bank, community center, church, medical facility, public safety station, recreational equipment rental, guide or adventure service, park or entertainment facility, restaurant, grocery or video store, service station, repair shop, warehouse, recreational vehicle park, campground, etc. The following special procedures shall apply to all permits that allow exceptions to the 4,000 square foot limit:

(1) The request shall require full site plan review procedures, to include quasi-judicial notice, review and appeal procedures; and

(2) The written land use decision approving the exception to the 4,000 square foot size limit shall contain findings of fact and conclusions that show how the use is intended to serve the community and surrounding rural area or the needs of travelers.

b. Maximum structure height – 35 feet or 2½ stories, whichever is less

c. Minimum setback from property lines – 10' from all property lines

5. Access and transportation – See Article 81

6. Aggregate overlay – See Articles 69.6, 91

7. Airport overlay – See Article 69.4

8. Archeological resources – See Article 93

9. Erosion and sediment control and storm drainage facilities – See Article 83

10. Fences, wall and screens See Article 73

11. Flood hazard overlay – See Article 69.1

12. Historic resources – See Article 94

13. Mineral & aggregate overlay – See Article 69.6

14. Parks and playgrounds – See Article 98

15. Signs – See Article 74

16. Solid waste – See Article 86
17. Stream setbacks – See Article 72

18. Utilities – See Article 85

19. Water hazard overlay – See Article 69.5

20. Water standards – See Articles 84

21. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 101.3 – COMMUNITY LIGHT INDUSTRIAL PARK ZONE

101.310 – PURPOSE

The Community Light Industrial zone is intended to allow a broad range of uses that involve the research, design and development of products or components, and the light manufacturing, fabrication and assembly of such products or components. The Community Light Industrial zone shall include lands already zoned and committed to rural Light Industrial zoning at the time this zone is implemented.

101.320 – PERMITTED USES

The following uses, with accessory uses and structures, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Recycling centers must be authorized using Planning Commission Review Procedures (Article 24). Uses shall also meet the applicable development standards listed in Section 101.350. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Institutional, Administrative and Development: Public or private administrative or service uses such as an office, educational or training facility, hospital, public or private meeting or conference buildings, medical or veterinary clinic, airport, taxi or transportation terminal, ambulance or police or fire station, laboratory or research facility, utility yard or facility, and recycling centers.

B. Preparation, Assembly and Manufacturing: General light manufacturing such as the preparation and assembly of components or merchandise into other products, the manufacturing of component or end products, the processing, cooking or packaging of food products, and the cleaning, repair, reconstituting or refurbishing of previously manufactured products. The secondary retail sale and service of goods shall be permitted only when the sales involve items that are prepared, assembled or manufactured on the same site. The following uses, and other uses with similar activities and impacts, shall not be allowed:

1. Sawmills, lumber mills, planing mills and molding plants
2. Truck or automobile body shops
3. Metal reduction, refining or smelting
4. Tire store or tire repair and recapping.

C. Storage and Distribution: General storage and distribution uses, such as transit storage, mini-storage, cold storage, warehousing, wholesale distribution, fuel distribution, equipment rental yard, fee parking lot, towing service with impound yard (no more than 10 vehicles; screened from view).

D. Support Services: Activities that may be considered support uses to other industrial uses such as a restaurant or café, food catering, convenience store, building maintenance or janitorial service, automobile or truck gas station (light service only), consultant or professional service office (engineers, scientists, quality assurance labs, etc.).

E. One On-Site Dwelling: A manufactured dwelling or quarters may be placed or developed for a caretaker or night watchman when all of the following requirements are met:

1. The resident must be an employee of the business (no rent may be charged);

2. The employee status of the resident must be documented at the county's request;

3. Employee quarters shall strictly comply with the definition for "quarters" contained in Section 11.030 of this code (no variance); and

4. The dwelling must be served by a septic system developed on the same lot or parcel as the industrial use that it serves, or be connected to a community sewer system.

F. Lawfully existing single-family and/or manufactured dwellings (alteration or replacement only, subject to the time limits contained in Section 13.030, *Nonconforming Lots, Uses & Structures*).

101.350 – TEMPORARY USES

The following uses, with accessory uses and structures, shall be permitted using Ministerial Review Procedures (Article 22), subject to temporary use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 101.360. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Mass gatherings

101.360 – PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this code. The following is a list of Articles that are or may be applicable:

A. Permit Review Requirements

1. Basic Review Provisions – Article 20
2. Pre-Application Review – Article 21
3. Permit Review Procedures – Article 22
4. Basic Application Requirements – Article 40
5. Administration of Permits – Article 41
6. Site Plan Review – Article 42
7. Temporary Uses – Article 43

8. Variances – Article 44

9. Conditional Uses – Article 45

B. Property Development Standards

1. Minimum lot size - ½ acre

2. Building size, accessory heights, setbacks and yard dimensions shall conform to the provisions of Article 72, except:

a. Maximum building size for small-scale, low impact uses shall be 40,000 square feet (space approved for an operator, caretaker or night watchman shall not be counted against the building size limitation).

b. There shall be no building size limit for the following other uses:

(1) Expansion of uses existing as of October 28, 1994;

(2) Uses requiring proximity to a rural resource as defined in OAR 660-004-022(3)(a);

(3) New uses that will not exceed the capacity of water and sewer service available to the site as of October 28, 1994;

(4) New uses where the site itself has capacity to provide water and absorb sewage;

(5) New uses that are necessary to provide employment that does not exceed the total projected work force within the MNVC and surrounding areas (for specific requirements see OAR 660-022-0030(3)(f); and

(6) New or expanded within the North Valley Industrial Park shall not be subject to the 40,000 square foot building size limit. However, all new or expanded uses within the North Valley Industrial Park must be served by water from the city of Grants Pass and by the existing Three Rivers School District's sewer system or by a community sewer system.

c. Maximum structure height – 35 feet or 2½ stories, whichever is less

d. Minimum setback from property lines – Front 10'; Rear 20'; Side 20'

3. Special development requirements:

a. Land Divisions, Site Development, and Development of Non-Conforming Lots or Parcels: As a condition of final approval, the owner shall:

(1) Obtain a site approval for a subsurface sewage disposal system from the Oregon Department of Environmental Quality within each

newly configured lot or developed site, or connect to a community sewer system; and

(2) The requirements of Article 84 (*Water Standards*) shall apply to new land divisions creating parcels 2 acres or smaller, and to developments requiring site plan review that require more than 1600 gallons per day of groundwater. This requirement shall apply to all land divisions even though Article 84.020.A and B specify a one acre threshold. The Water Resources Director or the Planning Director shall administer the requirements of Article 84. This requirement shall not apply if the water source is a community water system or the city of Grants Pass.

b. Merger of Non-Conforming Lots or Parcels. When one or more non-conforming lots or parcels are involved in a single development, the non-conforming lots or parcels shall be merged with each other, and with other conforming lots or parcels also involved in the development, by property line adjustment or replat to the extent needed to achieve conformity or the least non-conformity possible. In addition, no variance to any setback standard shall be authorized to support development of non-conforming lots or parcels.

c. Water Service Agreement: Users receiving water service from the city of Grants Pass shall execute the documents required by the city for the provision of such service. The county shall assure performance of this requirement prior to final land use approval.

d. Transportation Facilities: New industrial uses shall not cause the use of transportation facilities to exceed capacities as specified in the county's transportation plan. In addition, a traffic assessment by a qualified Oregon registered engineer shall be required for any new or expanded industrial use that generates more than 25 peak hour trips that are reasonably expected to impact the Louse Creek freeway interchange. Trip generation calculations shall be based on the most recent edition of the *Institute of Transportation Engineer's Trip Generation Manual*. The traffic assessment shall determine the consistency of the use with the identified function, capacity and performance standards of the Louse Creek freeway interchange. The use may be limited or altered by conditions in the permit approval so that consistency is achieved, or denied if consistency cannot be achieved.

4. Access – See Articles 81

5. Aggregate overlay – See Articles 69.6, 91

6. Airport overlay – See Article 69.4

7. Archeological resources – See Article 93
8. Erosion and sediment control – See Articles 83
9. Fences, wall and screens See Article 73
10. Flood hazard overlay – See Article 69.1
11. Historic resources – See Article 94
12. Mineral & aggregate overlay – See Article 69.6
13. Parking – See Article 75
14. Parks and playgrounds – See Article 98
15. Signs – See Article 74
16. Solid waste – See Article 86
17. Stream setbacks – See Article 72
18. Utilities – See Article 85
19. Water hazard overlay – See Article 69.5
20. Water standards – See Articles 84
21. Wild & scenic rivers overlay – See Article 69.3

ARTICLE 101.4 COMMUNITY INDUSTRIAL ZONE

101.410 – PURPOSE

The Community Industrial Zone is intended to allow a broad range of intensive institutional and industrial uses that are more likely to involve significant land use impacts. Lands within this zone are areas that are now developed, or historically developed, with heavier institutional or industrial uses. The Community Industrial zone shall include lands already zoned and committed to Rural Industrial zoning at the time this zone is implement.

101.420 PERMITTED USES

The following uses, with accessory uses and structures, shall be permitted using Ministerial Review Procedures (Article 22), unless Site Plan Review is required (Article 42), in which case uses shall be permitted using Quasi-Judicial Review Procedures (Article 22). Recycling centers, resource recovery facilities, sewage transfer sites, waste transfer centers and solid waste sites must be authorized using Planning Commission Review Procedures (Article 24). Uses shall also meet the applicable development standards listed in Section 101.350. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Institutional: Public operated or county franchised uses such as a recycling center, resource recovery facility, sewage transfer site, waste transfer center or solid waste site (subject to Article 86), water treatment plant or reservoir, sewage disposal plant, correctional or jail facility, ambulance or police or fire station, utility yard or facility and airport.

B. Preparation, Repair, Assembly and Manufacturing: A comprehensive range of preparation, repair, assembling and manufacturing activities, such as the preparation and assembly of components or merchandise into other products, the manufacturing of component or end products, the processing, cooking or packaging of food products, the cleaning, repair, reconstituting or refurbishing of previously manufactured products, wood processing mill, wood products manufacturing, truck or automobile or heavy equipment body shop or repair garage or sales lot, metal working, reduction, refining or smelting, tire sales or repair or recapping, cement or asphalt batching, aggregate processing, animal slaughtering or meat processing. The secondary retail sale and service of goods shall be permitted only when the sales involve items that are prepared, repaired, assembled or manufactured on the same site.

C. Storage and Distribution: A comprehensive range of storage and distribution uses, such as transit storage, mini-storage, cold storage, warehousing, wholesale distribution, fuel distribution, equipment rental yard, fee parking lot, towing terminal with impound yard, automobile wrecking yard, truck or automobile or equipment parts warehouse (wholesale or retail sales).

D. Support Services: Activities that may be considered support uses to other industrial uses such as a restaurant or café, food catering, convenience store, building maintenance or

janitorial service, automobile or truck gas station, consultant or professional service office (engineers, scientists, quality assurance labs, etc.).

E. One On-Site Dwelling: A manufactured dwelling or quarters may be placed or developed for a caretaker or night watchman when all of the following requirements are met:

1. The resident must be an employee of the business (no rent may be charged);

2. The employee status of the resident must be documented at the county's request;

3. Employee quarters shall strictly comply with the definition for "quarters" contained in Section 11.030 of this code (no variance); and

4. The dwelling must be served by a septic system developed on the same lot or parcel as the industrial use that it serves, or be connected to a community sewer system.

F. Lawfully existing single-family and/or manufactured dwellings (alteration or replacement only, subject to the time limits contained in Section 13.030, *Nonconforming Lots, Uses & Structures*).

101.440 – TEMPORARY USES

The following uses, with accessory uses and structures, shall be permitted using Ministerial Review Procedures (Article 22), subject to temporary use requirements (Article 43). All uses shall meet the applicable development standards listed in Section 101.170. In all cases, a Development Permit (Article 41) shall be required as final permit approval.

A. Mass gatherings

B. Temporary storage of an unoccupied manufactured dwelling

101.450 – PROPERTY DEVELOPMENT STANDARDS

All uses authorized by this Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this Code. The following is a list of Articles that are or may be applicable:

A. Permit Review Requirements

1. Basic Review Provisions – Article 20

2. Pre-Application Review – Article 21

3. Permit Review Procedures – Article 22

4. Basic Application Requirements – Article 40

5. Administration of Permits – Article 41

6. Site Plan Review – Article 42

7. Temporary Uses – Article 43

8. Variances – Article 44

9. Conditional Uses – Article 45

B. Property Development Standards

1. Minimum lot size - ½ acre
2. Lot dimensions – See Article 71
3. Building size, accessory heights, setbacks and yard dimensions shall conform to the provisions of Article 72, except:
   a. Maximum building size for small-scale, low impact uses shall be 40,000 square feet (space approved for an operator, caretaker or night watchman shall not be counted against the building size limitation).
   b. There shall be no building size limit for the following other uses:
      (1) Expansion of uses existing as of October 28, 1994;
      (2) Uses requiring proximity to a rural resource as defined in OAR 660-004-022(3)(a);
      (3) New uses that will not exceed the capacity of water and sewer service available to the site as of October 28, 1994;
      (4) New uses where the site itself has capacity to provide water and absorb sewage;
      (5) New uses that are necessary to provide employment that does not exceed the total projected work force within the MNVC and surrounding areas (for specific requirements see OAR 660-022-0030(3)(f); and
      (6) New uses, sited on an abandoned or diminished industrial mill site that was engaged in the processing or manufacturing of wood products, provided the uses will be located only on the portion of the mill site that was zoned for industrial uses on October 28, 1994.
   c. Maximum structure height – 35 feet or 2½ stories, whichever is less
   d. Minimum setback from property lines – Front 20'; Rear 10'; Side 10'
4. Special development requirements
   a. Land Divisions, Site Development, and Development of Non-Conforming Lots or Parcels: As a condition of final approval, the owner shall:
      (1) Obtain a site approval for a subsurface sewage disposal system from the Oregon Department of Environmental Quality within each newly configured lot or developed site, or connect to a community sewer system; and

(2) The requirements of Article 84 (*Water Standards*) shall apply to new land divisions creating parcels 2 acres or smaller, and to developments requiring site plan review that require more than 1600 gallons per day of groundwater. This requirement shall apply to all land divisions even though Article 84.020.A and B specify a one acre threshold. The Water Resources Director or the Planning Director shall administer the requirements of Article 84. This requirement shall not apply if the water source is a community water system or the city of Grants Pass.

b. Merger of Non-Conforming Lots or Parcels. When one or more non-conforming lots or parcels are involved in a single development, the non-conforming lots or parcels shall be merged with each other, and with other conforming lots or parcels also involved in the development, by property line adjustment or replat to the extent needed to achieve conformity or the least non-conformity possible. In addition, no variance to any setback standard shall be authorized to support development of non-conforming lots or parcels.

c. Water Service Agreement: Users receiving water service from the city of Grants Pass shall execute the documents required by the city for the provision of such service. The county shall assure performance of this requirement prior to final land use approval.

d. Transportation Facilities: New industrial uses shall not cause the use of transportation facilities to exceed capacities as specified in the county's transportation plan. In addition, a traffic assessment by a qualified Oregon registered engineer shall be required for any new or expanded industrial use that generates more than 25 peak hour trips that are reasonably expected to impact the Louse Creek freeway interchange. Trip generation calculations shall be based on the most recent edition of the *Institute of Transportation Engineer's Trip Generation Manual*. The traffic assessment shall determine the consistency of the use with the identified function, capacity and performance standards of the Louse Creek freeway interchange. The use may be limited or altered by conditions in the permit approval so that consistency is achieved, or denied if consistency cannot be achieved.

5. Access & transportation – See Article 81
6. Aggregate overlay – See Articles 69.6, 91
7. Airport overlay – See Article 69.4
8. Archeological resources – See Article 93
9. Erosion, sediment control & storm drainage facilities – See Article 83
10. Fences, wall and screens See Article 73
11. Flood hazard overlay – See Article 69.1

12. Historic resources – See Article 94
13. Mineral & aggregate overlay – See Article 69.6
14. Parks and playgrounds – See Article 98
15. Signs – See Article 74
16. Solid waste – See Article 86
17. Stream setbacks – See Article 72
18. Utilities – See Article 85
19. Water hazard overlay – See Article 69.5
20. Water standards – See Articles 84
21. Wild & scenic rivers overlay – See Article 69.3