



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

January 10, 2008



TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Jefferson County Plan Amendment
DLCD File Number 004-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 29, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Margaret Boutell, Jefferson County

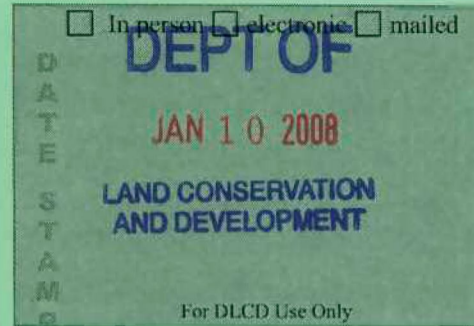
<paa> ya

PROP **2**

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: *Jefferson County*

Local file number: *07-PA-07*

Date of Adoption: *1/02/08*

Date Mailed: *1/7/07*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: *10/15/07*

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amendments to the text of the 2007 Zoning Ordinance to incorporate 2007 legislation and make other minor changes.

Does the Adoption differ from proposal? Please select one

Same

Plan Map Changed from: *N/A*

to:

Zone Map Changed from: *N/A*

to:

Location: *county-wide*

Acres Involved:

Specify Density: Previous: *N/A*

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. *004-07 (14476)*

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: *Margaret Boutelle* Phone: *(541) 475-4462* Extension:
Address: *85 SE "D" St.* Fax Number: *541-325-5004*
City: *Madras OR* Zip: *97741* E-mail Address:

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON FOR
THE COUNTY OF JEFFERSON**

**IN THE MATTER OF AMENDMENTS TO)
THE TEXT OF THE 2007 JEFFERSON) Ordinance No. O-01-08
COUNTY ZONING ORDINANCE)**

WHEREAS, Jefferson County wishes to amend its land use regulations to incorporate laws passed by the 2007 legislature, to reflect decisions made by the Board of Commissioners through other ordinances, and to make other minor amendments; and

WHEREAS, the Jefferson County Planning Commission held a public hearing and reviewed the proposed amendments on November 29, 2007, after which they voted unanimously to recommend that the Board of Commissioners amend the 2007 Jefferson Zoning Ordinance; and

WHEREAS, the Jefferson County Board of Commissioners accepted testimony on the Zoning Ordinance amendments recommended by the Planning Commission at a public hearing on December 19, 2007.

NOW THEREFORE, the Jefferson County Board of Commissioners hereby **ORDAINS** as follows:

1. **Adoption of Findings**

The Findings of Fact and Conclusions in the attached Exhibit A are hereby adopted and incorporated herein by reference as the basis for the decision to amend the Zoning Ordinance.

2. **Adoption of Amendments to Zoning Ordinance**

The 2007 Jefferson County Zoning Ordinance is hereby amended as shown in Exhibit B, attached hereto and incorporated herein by this reference.

3. **Severability**

The provisions of this ordinance are severable. If any section, subsection, sentence, clause or phrase of this ordinance or exhibit thereto is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or exhibits thereto.


4. **Effective Date**

This Ordinance and the amendments to the 2007 Jefferson County Zoning Ordinance shall take effect upon signing.

Dated this 2ND day of January, 2008.

BOARD OF COMMISSIONERS:


John Hatfield, Commission Chair


Bill Bellamy, Commissioner


Mike Ahern, Commissioner

Attest:



Approved as to form:


David Allen, County Counsel

Appeal Information

Planning Casefile #07-PA-07

This decision may be appealed to the Land Use Board of Appeals within 21 days of the Jefferson County Board of Commissioners Decision. Oregon Revised Statute (ORS) 197.830 sets forth the review procedures. Copies of the Board of Commissioners decision and the state statute are available from the Community Development Department located at 85 SE "D" Street, Madras, Oregon 97741.

Board of Commissioners adoption date: January 2, 2008

The complete file is available for review at the Jefferson County Community Development Department. For further information, contact the Community Development Department. Phone (541) 475-4462.

EXHIBIT A

FINDINGS OF FACT AND CONCLUSION

1. The proposed action is a legislative amendment to the text of the Zoning Ordinance. ORS 215.110(2) authorizes a governing body to enact, amend or repeal ordinances to assist in carrying out a comprehensive plan.
2. Notice of the proposed amendments was mailed to DLCD 45 days prior to the first hearing, as required by ORS 197.610. Notice of the public hearings before the Planning Commission and Board of Commissioners was published in the Madras Pioneer at least ten days prior to each hearing, in accordance with ORS 215.060. The proposed amendments were also posted on the County website prior to the first Planning Commission hearing. Individual notice was not provided to property owners in the unincorporated area of the county because the amendments do not rezone any property as defined in ORS 215.503 (9).
3. Jefferson County Zoning Ordinance Section 803.1 states that an amendment to the text of the Zoning Ordinance may be approved if the proposal complies with the following criteria:
 - A. *The amendment complies with applicable Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules.*

The County's Comprehensive Plan and Zoning Ordinance are under appeal and have not been acknowledged, so all Statewide planning Goals are directly applicable.

Statewide planning Goal 1 requires that the county provide the opportunity for citizens to be involved in the planning process. Notice of the public hearings to consider the proposed amendments was published in the Madras Pioneer. Providing the opportunity for public input complies with Goal 1.

The 2007 Zoning Ordinance sets out procedures and regulations for land use decision-making, which were followed in the consideration of the proposed amendment. This complies with Goal 2.

Goals 3 and 4 require the protection of agricultural and forest lands. The proposed changes to the Forest Management, Range Land and Exclusive Farm Use A-1 and A-2 zones are to incorporate statutory language enacted in the last legislative session. These changes comply with Goals 3 and 4 will continue to apply.

Goal 5 requires the protection of natural resources, scenic and historic areas and open space. No changes to existing regulations to protect Goal 5 resources are proposed.

Goal 6 requires that the air, water and land resources of the state be maintained or improved. One of the proposed amendments requires that a drainage plan be submitted when a new transportation improvement is proposed, and a finding that the improvement

will not result in increased runoff that would adversely affect streams or water bodies. This will help to protect water quality. None of the other amendments is subject to Goal 6.

Goal 7 requires that jurisdictions protect people and property from natural hazards. A proposed amendment to the fire safety standards will exempt existing driveways that do not meet current emergency vehicle access standards from needing to be upgraded when a proposed building project is valued at less than \$10,000, because occasionally the cost to improve the driveway would exceed the cost of the building project. The exemption would only apply if fire protection vehicles can still get to the site. This will provide adequate protection from fire hazards, and does not violate Goal 7.

Goal 8 is to provide for the recreational needs of citizens of the state. None of the proposed amendments is subject to the Goal.

Goal 9 requires jurisdictions to provide adequate opportunities for economic development. One of the proposed amendments is to allow facilities in farm zones for the production of biofuels, as allowed by HB 2210. A biofuel facility would support economic development, in accordance with Goal 9.

Goal 10 requires that sufficient buildable lands be provided in urban and urbanizable areas to provide for the housing needs of the citizens of the state. Goal 11 requires development of public facility plans. None of the proposed amendments are subject to Goals 10 or 11.

Goal 12 requires jurisdictions to provide a safe, convenient and economic transportation system. Several of the proposed amendments deal with transportation improvements. Provisions were added regarding sidewalks and bicycle facilities, which were requested by DLCD when the County was in the process of adopting its Transportation System Plan. The other changes comply with OAR 660-012, which implements Goal 12.

Goal 13 relates to the conservation of energy. Goal 14 requires an orderly transition from rural to urban land uses. Neither Goal is applicable to the proposed amendments.

Many of the proposed amendments are to incorporate new legislation, so are consistent with state statutes. The amendments related to transportation improvements are consistent with OAR 660-012.

B. *The amendment will be consistent with all applicable Comprehensive Plan goals and policies.*

The proposed revisions comply with Comprehensive Plan policies under Goal 1, because adequate opportunity for citizen participation and review of the proposed amendments has been provided, including publishing notice of the public hearings in the local paper and posting the proposed amendments on the County website. The amendments are either minor in nature, to correct problems discovered during actual use of the Zoning

Ordinance, or are changes to incorporate new legislation. The Zoning Ordinance will continue to conform with and implement Comprehensive Plan policies.

4. Testimony was received concerning the access standards in Section 410 of the Zoning Ordinance. The Planning Commission made changes to this section as a result of the testimony before forwarding a recommendation to the Board of Commissioners. The Planning Commission also recommended changes to the definition of "kennel" as a result of testimony received. ORS 215.110(2) states that if an ordinance is recommended by a planning commission, the governing body may make any amendments to the recommendation required in the public interest. The Board of Commissioners chose to change the definition to refer to the definition of "kennel" in the dog control provisions in Section 6.08 of the Jefferson County Code so that the two documents will be consistent.
5. Testimony was received in opposition to the proposed change to the emergency vehicle access standards in Section 426, which would exempt building improvements valued at less than \$10,000 from complying with emergency vehicle access standards provided that the existing access is adequate to provide ingress and egress by fire protection vehicles. The Board finds that in some instances the cost to bring an existing driveway up to the emergency access standards can exceed the cost of a proposed building improvement. Requiring extensive upgrading to access is not warranted in these cases. The requirement that the existing access be adequate to provide ingress and egress by fire protection vehicles will ensure that public safety and private property are protected.

CONCLUSION

The amendments to the Zoning Ordinance comply with Jefferson County Zoning Ordinance Section 803.1, applicable Comprehensive Plan policies, statewide planning Goals, and Oregon Revised Statutes and Administrative Rules.

**EXHIBIT B
ZONING ORDINANCE AMENDMENTS**

New language is in **bold**, deleted language is in ~~strikethrough~~.

Section 105 - Definitions

Biofuel: Liquid, gaseous or solid fuels derived from biomass.

Biomass: Organic matter that is available on a renewable or recurring basis and that is derived from:

- A. Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;**
- B. Wood material from hardwood timber described in ORS 321.267(3);**
- C. Agricultural residues;**
- D. Offal and tallow from animal rendering;**
- E. Food wastes collected as provided under ORS chapter 459 or 459A;**
- F. Yard or wood debris collected as provided under ORS chapter 459 or 459A;**
- G. Wastewater solids; or**
- H. Crops grown solely to be used for energy.**

Biomass does not mean wood that has been treated with creosote, pentachlorophenol, inorganic arsenic or other inorganic chemical compounds.

Farm Use: As defined in ORS 215.203. The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops or by 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 raised on such land for human use 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, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the 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 in ORS 215.203 (3), or land described in ORS 321.267 (1)(e) or 321.415 (5).

- A. "Current employment" of land for farm use includes:
1. Farmland, the operation or use of which is subject to any farm-related government program;
 2. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
 3. Land planted in orchards or other perennials, other than land specified in subparagraph (4) of this paragraph, prior to maturity;
 4. 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;
 5. 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;
 6. 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)(x)~~ and 215.283 (1)(u) **and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.283(2)(a)**;
 7. Water impoundments lying in or adjacent to and in common ownership with farm use land;
 8. 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;
 9. 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;
 10. Any land described under ORS 321.267 (3) or 321.824 (3); and
 11. Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; **and**
 12. **Land used for the processing of farm crops into biofuel, if:**
 - a. **Only the crops of the landowner are being processed;**
 - b. **The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or**
 - c. **The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.**

High-value Farmland: Land in a tract composed predominantly of soils that are irrigated and classified prime, unique, Class I or II or not irrigated and classified prime, unique, Class I or II.

Includes tracts growing specified perennials 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 November 4, 1993. "Specified perennials" means perennials 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. **Soil classes, soil ratings or other soil designations are those of the Soil Conservation Service in its most recent publication for that class, rating or designation before November 4, 1993.**

~~Kennel: A place of business, a facility or private residence, housing five or more adult dogs, not including an animal hospital:~~

- ~~A. In which dogs owned by persons other than the business or facility owner are given training, boarded or groomed for compensation; or~~
- ~~B. Maintained by public or private funds which serves as a temporary shelter for holding lost, strayed, surrendered, or abandoned dogs and cats until disposition by redemption, adoption, or euthanasia is made; or~~
- ~~C. A facility which trains dogs as guides for the visually, physically, or hearing impaired; or~~
- ~~D. Which is maintained and operated as a business for breeding, buying, selling or bartering of dogs and cats for profit or compensation; or~~
- ~~E. Which is a private residence in which dogs are owned and kept by the property owner(s), their family members, renters or agents.~~

(as defined in Section 6.08.010 of the Jefferson County Code.)

Lawfully Established Unit of Land: A lot or parcel created pursuant to ORS 92.010 to 92.190, or another unit of land created:

- A. In compliance with all applicable planning, zoning and subdivision or partition ordinances or regulations; or**
- B. By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.**

Does not include a unit of land created solely to establish a separate tax account.

Partition Land: Means to divide land to create ~~two or~~ not more than three parcels of land within a calendar year, but does not include:

Recreational Vehicle Park: ~~A plot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public on a temporary basis for recreational or vacation purposes. The spaces may be used for tents, tent vehicles and other recreational vehicles.~~ **A place where two or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under common ownership and having as its primary purpose the renting of space and related facilities for a charge or fee, or the provision of space for free in connection with securing the patronage of a person. "Recreational vehicle park" does not mean an area designated only for picnicking or overnight camping, or a manufactured dwelling park or mobile home park.**

Reserve Strip: ~~A recorded instrument or physical strip of land that is used to control or prevent access to a road.~~

Traffic Control Device: **An easement granted to the county for the purpose of controlling access to, or the use of, a transportation improvement.**

Section 301 - Exclusive Farm Use Zones

301.2 Permitted Uses

The following uses are permitted outright in the EFU A-1, EFU A-2 and RL zones:

- D. Facility for processing farm crops ~~or the production of biofuel~~. The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility. 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. A 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.

301.3 Uses Permitted Subject to Administrative Review

- C. Commercial activity in conjunction with farm use, **including the processing of farm crops into biofuel not otherwise permitted as a farm use as defined in Section 105 or as a facility for processing farm crops or the production of biofuel under Section 301.2(D)**. Approval is subject to compliance with Section 301.5. A commercial activity is considered in conjunction with a farm use when any of the following criteria are met:
1. The commercial activity is either exclusively or primarily a customer or supplier of farm uses;
 2. The commercial activity is limited to providing products and services essential to the practice of agriculture by surrounding agricultural operations that are sufficiently important to justify the resulting loss of agricultural land to the commercial activity; or
 3. The commercial activity significantly enhances the farming enterprises of the local agricultural community, of which the land housing the commercial activity is a part.

Section 303 - Forest Management (FM)

303.9 Minimum Parcel Size

The minimum parcel size in the Forest Management zone is 80 acres or one-eighth Section, except as specified in this Section. If the parcel is in a Wildlife Overlay Zone, the minimum lot size requirements in Section 321 supersede this section if they require a larger minimum lot size. Land divisions to create new parcels less than the 80 acre minimum parcel size may be approved subject to the requirements and procedures of Chapter 7 and compliance with the following standards:

- E. A land division to create two parcels for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels may be approved, provided that:**
- 1. The parcel created by the land division that is not sold to a provider of public parks or open space, or a not-for-profit land conservation organization must comply with the following:**
 - a. If the parcel contains a dwelling or another use allowed under ORS 215, the parcel must be large enough to support continued residential use or other use allowed on the parcel; or**
 - b. If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized in a state park under ORS 195.120, or as may be authorized under Section 303.6, based on the size and configuration of the parcel.**
 - 2. As a condition of approval before the final plat is signed, the provider of public parks or open space, or not-for-profit land conservation organization shall record with the County Clerk an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from establishing a dwelling on the parcel or developing the parcel for any use not authorized in the FM zone except park or conservation uses.**
 - 3. As a condition of approval, if the land division results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the final plat is signed.**
- EF. A landowner granted approval of a land division under subsections (A) through ~~(D)~~ (E) shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.**

Section 317 - Crooked River Ranch Commercial Zone (CRRC)

A. Uses Permitted Subject to Administrative Review.

The following uses and their accessory uses may be approved by the Planning Director under the Administrative Review procedures in Section 903.4 if found to comply with the Site Plan Review standards in Section 414 and other standards in this section:

1. Retail trade establishment.
2. Business or professional office.
3. Public buildings, structures and uses.
4. Church, community center, school, day care facility and similar uses.
5. Personal, financial and other service businesses.
6. Commercial amusement establishments.
7. Enclosed Storage.
8. Restaurant or other food or beverage provider.
9. Recreational vehicle park.
10. Utility and communication facilities. Approval of a wireless communication tower is also subject to the requirements of Section 427.
11. Bed and Breakfast Inn.
12. Assisted living facility.
13. On-site living quarters for the manager or caretaker of a business. Approval of the living quarters shall be in conjunction with a specific business on the parcel. If the type of business changes a new application for ~~conditional use~~ approval of the living quarters must be approved. The living quarters may not be occupied if the business is discontinued.

B. Conditional Uses

The following uses and their accessory uses may be approved by the Planning Commission following a public hearing in accordance with the procedures in Section 903.5 if found to comply with the conditional use criteria in Section 602, **the Site Plan Review standards in Section 414, and other standards in this section:**

1. Light industrial, warehousing or manufacturing business, provided the business will not generate excessive noise, dust or odors that are discernable from any adjoining property.

Section 345 - Blue Lake Zone (BL)

B. Conditional Uses.

The following uses and their accessory uses may be approved by the Planning Commission following a public hearing in accordance with the procedures in Section 903.5 if found to comply with the criteria in Section 602, **the Site Plan Review standards in Section 414**, and other standards in this section:

1. Conference facility.
2. Restaurant.
3. Lodge.
4. Youth Camp.
5. Church, limited to 1800 square feet of building floor area.
6. Utility and communication facilities. Approval of a wireless communication tower is also subject to the requirements of Section 427.

Section 401 – Access

401.1 Minimum Access Requirement

Evidence of legal access providing physical ingress and egress that meets the emergency vehicle access standards of Section 426.2(E) is required prior to issuance of building or septic permits. Access shall be provided by one of the following means:

- ~~A. Frontage abutting a road dedicated to the public for a distance of at least 50 feet.~~
- ~~B. Frontage abutting a county approved or nonconforming private road for a distance of at least 50 feet, provided the property owner submits evidence that they have an easement or other legal right to use the private road.~~
- CA. Frontage abutting A driveway connecting via direct parcel frontage to a public road, a nonconforming private road or private road in a destination resort, a Bureau of Land Management (BLM) road, or U. S. Forest Service (USFS) road for a distance of at least 50 feet, provided the property owner provides a copy of written approval for a long term road access use permit in conformance with the BLM or USFS requirements.**
- ~~DB. A recorded, exclusive easement for ingress and egress that connects either to a public road or to a county approved private road. If the exclusive easement connects to a private road, the property owner must submit evidence that they have an easement or other legal right to use the private road.~~
- C. A long-term special use permit for ingress and egress across BLM or USFS land.**
- ~~ED. A shared driveway from a public road, provided the driveway will serve no more than two parcels and the property owner submits evidence that they have an easement or other legal right to use the driveway for ingress and egress.~~
- ~~FE. A decree or judgment granting ingress and egress issued by a Court of competent jurisdiction.~~

Section 402 – Transportation Improvements

402.6 Application Requirements

The following information must be submitted as part of an application for a transportation improvement:

- A. A tentative map showing the proposed location, width, and length of the improvement.
- B. Construction drawings showing the grade, typical cross section(s), any cut or fill and methods to accommodate stormwater runoff and drainage.
- C. A Title Report showing all existing easements of record within the proposed improvement area. The report shall be based on research going back in time without limitation, and must indicate all easements and encumbrances that affect the property.
- D. If the proposed improvement is a new local access or private road, an engineer's design report identifying the construction standards necessary for the road to provide a minimum life of at least 25 years, necessary maintenance measures, recommended type of maintenance work to be done annually, estimated minimum annual maintenance cost, and location of road signs in accordance with Manual of Uniform Traffic Control (MUTC) standards. The design report shall take into consideration the terrain, soil, slope, runoff, drainage, and potential amount and type of traffic that will use the road. The design report shall indicate that the road will comply with the standards in Section 12.18 of the Jefferson County Code, unless the applicant's engineer or geologist determines that alternative specifications proposed in the design report are equivalent or superior to the standards in that Section.
- E. Written authorization and consent for the improvement by all owners of property the improvement will cross, or other evidence of legal authority for the improvement.
- F. Written authorization from any city, county, state or federal agency with jurisdiction over any existing transportation facility that will be part of the proposed improvement(s). For instance, approval from the Oregon Department of Transportation is required for a proposed new road that will connect to a state highway. The authorization shall include a statement of any requirements or conditions that agency will impose as part of the improvement.
- G. If the proposal is for a new road, the application shall include a proposed road name, with two alternative names, in accordance with the specifications in Section 12.06 of the Jefferson County Code.

- H. A professionally prepared storm drainage plan showing the methods that will be used to accommodate runoff from the transportation improvement. The location of drainage swales, retention ponds, and all other parts of the proposed drainage system shall be shown on a site plan included in the drainage plan. Drainage facilities shall be designed to accommodate runoff from at least a fifty year storm, taking into consideration frozen ground conditions, without overloading existing drainage facilities or adversely affecting adjacent properties, streams, water bodies, irrigation ditches or other transportation facilities.**

402.7 Approval Standards

- A. The improvement(s) will be consistent with any adopted Transportation System Plan for the area.
- B. Any road improvement(s) will comply with all applicable requirements of Title 12 of the Jefferson County Code.
- C. Dead-end roads shall serve a maximum of 19 lots or parcels. Dead-end roads shall terminate in a cul-de-sac, hammerhead or other turnaround that complies with the emergency vehicle access standards of Section 426.2(E).
- D. Private roads shall meet the following standards:
1. **Private roads are allowed only in destination resorts.**
 12. A private road shall not be approved if a public road is ~~presently~~ needed, or is likely to be needed, for development of adjacent or nearby lands or for the extension of an existing public road.
 23. A private road shall not be approved in a location planned for a public road in an adopted Transportation System Plan.
 - ~~3. Private roads shall not serve commercial or industrial development or public uses.~~
 - ~~4. Private roads are not permitted within an urban growth boundary, urban reserve, or within one mile outside of an urban growth boundary unless approved by the City.~~
 54. The travel surface of a private road shall be constructed so as to ensure egress and ingress for the parcels served during normal climatic conditions, in accordance with the standards in Section 12.18 of the Jefferson County Code.
- E. If the transportation improvement will be in an Exclusive Farm Use A-1, Exclusive Farm Use A-2, Range Land or Forest Management zone, the project

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 is subject to the requirements of OAR 660-012-0065(5).

- F. Transportation improvements listed in Sections 402.4(J) through (N) shall only be approved in an Exclusive Farm Use A-1, Exclusive Farm Use A-2, Range Land or Forest Management zone if found to comply with the requirements of OAR 660-012-0065(5).
- G. The project will comply with all other applicable standards of Chapter 4, such as flood plain or riparian protection provisions.
- H. **The transportation improvement will not result in increased runoff that would adversely affect adjacent properties, streams, water bodies, irrigation ditches or other transportation facilities, or overload existing drainage facilities.**

402.8 Conditions of Approval

- A. Additional or higher standards than required by Section 402.7 may be imposed if deemed necessary by the County to protect public safety, to ensure that the transportation improvement is constructed to provide a minimum service life of at least 25 years, to facilitate development in the area, or to improve the interconnectivity of the existing transportation system.
- B. Prior to issuance of building permits for any lot or parcel that will be served by a new county road, the following shall be completed:
 1. The road shall be improved to applicable city or county standards and be certified as being acceptable by the county or city.
 2. The road has been accepted into the county road system by the Board of Commissioners, and has been dedicated to the public by a dedication or donation document approved by the Board and recorded in the County deed records. The road must be dedicated without any reservation or restrictions other than reversionary rights upon vacation of the road.
- C. Prior to issuance of building permits for any lot or parcel that will be served by a new local access road, the following shall be completed:
 1. The applicant's engineer shall certify that the road has been improved to the applicable standards in Section 12.18 of the Jefferson County Code or to city standards if within the UGB.
 2. The road shall be dedicated to the public by a dedication or donation document approved by the Board of Commissioners and recorded in the County deed records. All roads for public use must be dedicated without

any reservation or restrictions other than reversionary rights upon vacation of the road.

3. The city, county, state or federal agency with jurisdiction over any public road that the new local access road will intersect shall verify in writing that any required improvements or modifications to the intersection(s) have been completed.
 4. A road maintenance agreement in accordance with Section 402.9 has been recorded for each lot or parcel that will have access from the road.
 5. Road signs installed to MUTC standards and acceptable to the Public Works Director shall be posted at all road intersections and at all other locations on the road deemed necessary by the Public Works Director. The developer is responsible for initial installation of signs on local access roads, and property owners using the road are responsible for continued maintenance.
- D. Prior to issuance of building permits for any lot or parcel that will be served by a new private road, the following shall be completed:
1. The applicant's engineer shall certify that the road has been improved to the applicable standards of Section 12.18 of the Jefferson County Code, to city standards if within the UGB, or to the alternative specifications proposed in the engineer's design report.
 2. The city, county, state or federal agency with jurisdiction over any public road that the new private road will intersect shall verify in writing that any required improvements or modifications to the intersection(s) have been completed.
 3. An easement and road maintenance agreement in accordance with Section 402.9 has been recorded for each lot or parcel that will be served by the road.
 4. The applicant's surveyor shall verify in writing that the physical location of the travel surface of the road is within the recorded easement.
 5. Road signs installed to MUTC standards and acceptable to the Public Works Director shall be posted at all road intersections and at all other locations on the road deemed necessary by the Public Works Director. The developer is responsible for initial installation of signs, and property owners using the road are responsible for continued maintenance.
- E. ~~A reserve strip may be required to be conveyed~~ **A traffic control device in the form of an easement granted** to the county ~~may be required~~ for the purpose of

controlling access to, or the use of, a ~~lot or parcel~~ **transportation improvement** for any of the following reasons:

1. To prevent access to abutting land at the end of a road in order to assure the proper extension of the road pattern and the orderly division of land lying beyond the road.
2. To prevent access to the side or terminus of a road where additional width or improvement is required for future partition or subdivision activity.
3. To prevent access to the side of a road from an abutting property under separate ownership, until proportional road construction costs are conveyed to the appropriate developer.
4. To prevent access to land unsuitable for development.
5. To prevent or limit access to roads ~~classified as arterials and collectors~~ **with a higher classification or traffic volume when a lot or parcel has frontage on more than one road.**

F. Sidewalks may be required as part of a new road when:

1. a proposed development or land division is within an **unincorporated community or urban growth boundary, or within one mile of an urban growth boundary, or when:**
12. The subject property is located within one-quarter mile of a school, shopping center, recreation area, or other use likely to create pedestrian traffic; or
23. The surrounding area is developed with sidewalks or is zoned for commercial, industrial or urban residential uses.

The sidewalk(s) shall be constructed to applicable city standards. Sidewalk requirements may not be waived, but may be deferred through a road improvement agreement when, in the opinion of the County, sidewalks would not be immediately necessary to accommodate pedestrian traffic.

G. Bicycle facilities may be required along new roads when:

1. necessary to extend an existing bicycle route, or
2. a bicycle route or way is proposed within an adopted Transportation System Plan; or
3. **Adjacent to an arterial or major collector; or**

4. **A proposed development or land division is within an unincorporated community or urban growth boundary, or within one mile of an urban growth boundary.**
- H. Turnout areas to accommodate school buses and mail pick-up and delivery may be required as part of any new or improved transportation improvement.**

Section 408 – Manufactured Dwellings

408.1 Manufactured Dwellings include the following:

- A. A manufactured home is a structure constructed after June 15, 1976 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 and state manufactured housing construction and safety standards and regulations in effect at the time of construction.
- B. A mobile home is 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 the Oregon mobile home law in effect at the time of construction.
- C. A residential trailer is 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.

408.2 Where Allowed

- A. Manufactured homes as defined in subsection 408.1(A) may be placed on any lot or parcel where a single-family dwelling is permitted.
- B. Mobile homes and residential trailers as defined in subsections 408.1(B) and (C) may not be placed on any lot or parcel for use as a single-family dwelling. However, a mobile home or residential trailer of any age may be placed **on a buildable lot or parcel located outside an urban growth boundary or on a space** in a manufactured dwelling park if it is being relocated due to the closure of a mobile home or manufactured dwelling park, or a portion of a mobile home or manufactured dwelling park.
- C. Mobile homes and residential trailers that were lawfully placed on a parcel prior to enactment of this ordinance are considered to be nonconforming structures. They may continue to be used for the purpose for which they were established, but may not be relocated for use as a residence to any other parcel.

Section 414 - Site Plan Review

414.6 Approval Standards:

The Site Plan Review Committee shall review the tentative site plan for compliance with the following standards:

- A. All provisions of this zoning ordinance and other applicable regulations are compiled with.
- B. Elements of the site plan are arranged so that:
 - 1. Traffic congestion is avoided.
 - 2. Pedestrian and vehicular safety and welfare are protected.
 - 3. Significant features and public amenities are preserved and maintained.
 - 4. Surface drainage systems are designed so as not to adversely affect neighboring properties, roads, or surface and subsurface water quality, in accordance with the requirements of Section 414.4.
 - 5. Structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, etc.), loading and parking and similar accessory areas shall be buffered or screened to minimize adverse impact on neighboring properties.
- C. ~~The development will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:~~
 - 1. ~~Changing the functional classification of an existing or planned transportation facility;~~
 - 2. ~~Allowing types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or~~
 - 3. ~~Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan.~~

The development will not result in traffic volumes that will reduce the performance standard of a transportation facility below the minimum acceptable level identified in the Transportation System Plan (LOS C), and will comply with all applicable standards in Section 12.18 of the Jefferson County Code. This standard may be met through a condition of approval requiring improvements to the transportation facility.
- D. The development will not adversely affect agricultural or forestry uses.

Section 416 - Grading, Fill and Removal

416.2 Grading Permits Required

A grading permit shall be obtained prior to filling, excavation, drilling or dredging operations involving more than 50 cubic yards of material, except for the following:

- A. Grading in an isolated, self-contained area, provided there is no danger to the public and the grading will not adversely affect adjoining properties.
- B. An excavation below finished grade for basements and footings of a building authorized by a valid building permit. This exemption does not apply to fill using the material that was excavated.
- C. Cemetery graves.
- D. Solid waste disposal sites approved by DEQ.
- E. Excavations for wells or trenches for utilities.
- F. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay, provided such activities have been approved under other sections of this Ordinance.
- G. Exploratory excavations performed under the direction of a registered design professional.
- H. **Grading, fill or removal done as part of a transportation improvement approved by the County Public Works Director.**

416.3 Grading Plan Requirements

Two sets of the grading plan shall be submitted, which contain the following information:

- A. A written statement of the type and estimated volume of material that will be excavated or used as fill;
- B. The existing grade on the subject property and adjoining properties; and
- C. The proposed finished grade, in contour intervals of sufficient clarity to indicate the nature and extent of the work.
- D. ~~A soils report and/or liquefaction study~~ **An engineer's report** may also be required when deemed necessary by the County Building Official.

Section 426 - Fire Safety Standards

Section 426.2 Mandatory Standards

E. Emergency Vehicle Access

Access to within 50 feet of all buildings shall be constructed to the following standards unless a variance has been granted in accordance with Section 426.5. **However, existing access to a lawfully established building that does not meet these standards need not be upgraded to comply with the standards when an improvement to the building or a proposed accessory building is valued at less than \$10,000, provided that the existing access is adequate to provide ingress and egress by fire protection vehicles.**

1. Access roads and driveways serving a single residence shall have a surface width of at least 12 feet. The 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. The area extending at least 10 feet from each side of the driveway's centerline shall be kept clear of obstructions and shall be maintained as a fuel break. Driveways more than 250 feet in length shall include turnouts at 150 foot intervals or lesser distance as needed to allow visibility. Turnouts shall be at least 10 feet in width and 50 feet in length, and shall meet the same load requirements as required by subsection (4).
2. Access roads and driveways serving more than one residence shall have a surface width of at least 20 feet.
3. Commercial or industrial buildings that will have any portion of an exterior wall more than 150 feet from an existing road shall have an emergency vehicle access drive with a surface width of at least 20 feet.
4. A minimum clear height of at least 14½ feet shall be maintained for the entire width of the driveway.
5. Access shall be designed and constructed to maintain a minimum 75,000 pound load carrying capacity. If not designed by an engineer, driveways shall be constructed of a minimum of 5 compacted inches of crushed rock meeting ODOT material standards. The road shall be compacted until a loaded 10 cubic yard dump truck ceases to deflect the road.
6. Maximum finished grade shall be no greater than 10 percent unless approved by the fire chief. Grade shall not exceed 4 percent in turnarounds. Any portion of the access with a grade greater than 8 percent shall be surfaced with 1.5 inch class C asphalt mix, 0-11 oil mat, or four inch fiber mesh reinforced Portland cement concrete.

7. Curves shall have a minimum centerline radius of 55 feet, including the intersection of a driveway with a public road.
8. Gates shall be a minimum of 20 feet wide, and shall be of a swinging or sliding type constructed of materials that allow manual operation by one person. Electric gates shall be equipped with a Knox box purchased from the fire district.
9. Dead-end access roads and driveways more than 150 feet in length shall terminate in a 120-foot hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac or alternative turnaround arrangement as shown in the following diagrams. Turnarounds shall also be provided every ½ mile on dead-end access roads and driveways exceeding one mile in length. The turnaround area shall meet the same load requirements as required by subsection (4).

Section 501 - Nonconforming Uses

501.1 Applicability:

This Section addresses the following types of situations:

- A. *Nonconforming Use*
A use that was lawfully established, but is no longer allowed in the zone in which it is located.
- B. *Nonconforming Structure*
A dwelling, other building or structure that was lawfully established, but does not comply with the current density, height, location or other standards of the zone in which it is located.
- C. *Nonconforming Lots and Parcels*
Lots or parcels that were lawfully created, but do not meet the current minimum lot size for the zone in which they are located or that do not have frontage on a public road.

501.6 Alterations to Nonconforming Structures

~~A. — Enlargement or Modification~~

An application to replace, remodel or enlarge a nonconforming structure will be reviewed by the Planning Director under the Administrative Review procedures in Section 903.4. The application will be approved if it complies with the following:

- ~~1~~A. The nonconforming status of the structure has been verified, as provided in Section 501.8. Such verification may occur either prior to or concurrently with the application to enlarge or modify the structure;
- ~~2~~B. The new structure will be no more nonconforming than the existing structure; ~~and~~
- C. **The alteration of a nonconforming structure located in a riparian protection area shall not result in any additional riparian area being permanently disturbed, and**
- ~~3~~D. There will be no greater adverse impact to the surrounding neighborhood.

~~B. — Relocation~~

~~Nonconforming structures may be moved or replaced in a different location on the same parcel when the new location will be more in compliance with applicable standards of this Ordinance.~~

CHAPTER 6 CONDITIONAL USES

Section 602 – Approval Criteria

Conditional use applications must show compliance with approval criteria of the underlying zone and this Section. The burden of proof is on the applicant to submit sufficient information to demonstrate that the application complies with the approval criteria. For instance, a traffic impact study in accordance with Section 421 may be needed to show compliance with criterion (D). An applicant may demonstrate that the approval criteria will be satisfied through the imposition of clear and objective conditions of approval, in accordance with Section 603. The following criteria must be met:

- A. The proposal is consistent with all applicable standards and criteria of the Zoning Ordinance;
- B. Taking into account location, size, design and operating characteristics, the proposal will have a minimal adverse impact on the (a) livability, (b) value, and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright. In cases where there is a finding of overriding public interest, this criterion may be deemed met when any adverse impact resulting from the use will be mitigated or offset to the maximum extent practicable;
- C. Adequate facilities and services are available or can be made available to serve the proposed use, including, but not limited to, water supply, sewage disposal, electric power, law enforcement service and fire protection;
- D. ~~The development will not significantly affect a transportation facility identified in an adopted Transportation System Plan by:~~
 - 1. ~~Changing the functional classification of an existing or planned transportation facility;~~
 - 2. ~~Allowing types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or~~
 - 3. ~~Reducing the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan (LOS C).~~

The development will not result in traffic volumes that will reduce the performance standard of a transportation facility below the minimum acceptable level identified in the Transportation System Plan (LOS C), and will comply with all applicable standards in Section 12.18 of the Jefferson County Code. This criterion may be met through a condition of approval requiring improvements to the transportation facility.

- E. The parcel where the use will be located is of sufficient size to accommodate buildings, required setbacks, off-street parking, and other features deemed necessary by the Planning Commission; and
- F. The parcel where the use will be located is in appropriate geographic relationship to the area that will be served.

Section 702 – Lawful Creation of Lots and Parcels

702.3 Improperly Created Lots and Parcels

- A. Units of land created by any of the following means are not recognized as being lawfully created parcels:
1. Units of land created solely to establish a separate tax account, either at the request of a property owner or by the County Assessor for mapping purposes.
 2. A division of land resulting from a lien foreclosure or foreclosure of a contract for the sale of real property, except the foreclosure of a dwelling that was approved by the county for a relative to assist in the farming operation as authorized by ORS 215.283(1)(e)(B).
 3. The creation of cemetery lots.
 4. An adjustment of a property line by the relocation of a common boundary that results in the creation of an additional unit of land.
 5. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other public right-of-way purposes provided that such road or right-of-way complies with the Comprehensive Plan and ORS 215.283(2)(q) to (s). Any property divided by the sale or grant of property for state highway, county road, city street or other public right-of-way purposes after 1991 shall continue to be considered a single unit of land until such time as a subdivision or partition is approved by the County.
 6. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the 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. The property line adjustment must be approved in accordance with the requirements of Section 713 and recorded in the deed records of the County.
 7. Surveying of, or recording a deed description of a unit of land in order to define a mining claim or to describe agricultural or forestry or aggregate tracts for resource use.
 8. Issuance of a mining patent or other lot created by the federal government.
- B. No development permits **for new uses** shall be issued for an improperly created lot or parcel. **However, development permits and building permits may be**

issued for the continued use of a dwelling or other building on an improperly created lot or parcel if:

1. The dwelling or other building was lawfully established prior to January 1, 2007; and
2. The permit does not change or intensify the use of the dwelling or other building.

C. A person who buys a lot or parcel that was created without county approval unit of land that is not a lawfully created lot or parcel may bring an individual action against the seller in an appropriate court to recover damages or to obtain equitable relief. The court may shall award reasonable attorney fees to the prevailing party in an action under this section. However, if the seller of the property is the County, who involuntarily acquired the lot or parcel unit of land by means of foreclosure under ORS chapter 312 of delinquent tax liens, the person who purchases the property is not entitled to damages or equitable relief.

~~D. An application for a division to create lots or parcels that were improperly formed without the approval of the county shall be accepted, notwithstanding that less than all of the owners of the existing legal lot or parcel have applied for the approval. The application must comply with all other requirements of this Ordinance in order to be approved.~~

702.4 Determination of Whether Lot or Parcel was Lawfully Created

An application may be submitted for a determination as to whether a lot or parcel was lawfully created. The application will be reviewed by the Planning Director under the Administrative Review procedures of Section 903.4. The determination will be based on whether the lot or parcel meets the standards in this Section.

702.5 Validation of a Unit of Land

A. An application may be submitted to validate a unit of land that was created by a sale before January 1, 2007 that did not comply with the applicable criteria for creation of a lot or parcel. The application shall be accepted, notwithstanding that less than all of the owners of the existing lawfully established lot or parcel have applied for the approval. The application will be reviewed by the Planning Director under the Administrative Review procedures of Section 903.4. The application will be approved if it complies with one of the following:

1. The unit of land is not a lawfully created lot or parcel, but could have complied with the applicable criteria for the creation of a lot or parcel when the unit of land was first sold; or
2. The County approved a permit, as defined in ORS 215.402, for the construction or placement of a dwelling or other building on the unit

of land after the date of the sale that created the unit of land. If the permit was approved for a dwelling, the dwelling must meet the requirements for replacement under Section 301.6(J).

- B. The application to validate the unit of land is not subject to minimum lot size requirements.**
- C. If the application is approved, a partition plat showing the unit of land shall be recorded within 90 days after the date the County decision to validate the unit of land becomes final. The partition plat shall meet the requirements for final plats in Section 707. The unit of land will become a lawfully created parcel upon recordation of the plat.**
- D. Validation of a unit of land under this Section does not validate any other unit of land that was previously part of the same lot or parcel.**

Section 704 - Land Division Procedures

704.5 Expiration of Tentative Plan Approval

- A. Approval of a tentative plan is valid for two years, within which time the final plat must be prepared and submitted to the Community Development Department for review. An extension may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the original two year approval period. Notice of a decision to grant an extension shall be provided in accordance with Section 906.4. After two years, or at the end of any extension that has been granted, the tentative plan approval will be void if the final plat has not been submitted.**
- B. When approval has been granted to develop a subdivision in phases, the final plat for the first phase shall be submitted in accordance with the time limitations outlined in (A). The final plat for each subsequent phase shall be submitted within two years of the date the final plat for the previous phase was recorded. An extension may be granted by the Planning Director, for good cause, based upon a written request from the applicant made prior to the expiration of the two year period. The total time period for submittal of the final plats for all phases of the subdivision shall not exceed ten years from the date of final approval of the tentative plan.**

Section 705 - Standards and Criteria for Approval

705.1 Tentative Plan Approval Criteria

The County may approve a tentative plan for a subdivision, partition or replat upon finding that it complies with the following:

- A. The tentative plan complies with all applicable standards of the Comprehensive Plan and this Section, meets the minimum lot size, setback and other requirements of the zone in which the property is located, and complies with any other applicable standards of this Ordinance such as Wildlife Area Overlay Zone dimensional standards. The area to the centerline of a road right-of-way that will be created as part of the land division may be included when calculating the size of a proposed lot or parcel.
- B. The physical characteristics of the proposed lots or parcels and the surrounding area will not preclude development for the proposed use, taking into consideration the size and shape of the lots or parcels, topography, soil conditions, and potential hazards such as flood plain, fire danger, landslide potential and pollution.
- C. Any new roads or other transportation improvements comply with the requirements of Section 402 and are laid out so as to conform to any adopted Transportation System Plan and the plats of subdivisions and partitions already approved for adjoining property as to width, general direction and other respects, unless the County determines that it is in the public interest to modify the road pattern. Roads may be required to provide access to adjacent properties when deemed necessary by the County to allow the adjoining land to be developed or divided in conformance with the standards of the zone in which the adjoining property is located. Dead-end roads may serve a maximum of 19 lots.
- D. All lots or parcels **will have at least 50 feet of road frontage that will provide** ~~will have~~ legal and physically practicable access that complies with the access standards in Section 401 and Title 12 of the Jefferson County Code. **The frontage may be on a public road, a private road in a destination resort, an existing nonconforming private road, or a federal road (Bureau of Land Management, US Forest Service).** **A variance to this standard may be requested if the property that is proposed to be divided does not have road frontage.** When phased development is proposed, the access standards must be met for each phase, including adequate turnarounds at the end of the improved portion of any partially completed road, even if the road will later be extended to serve the next phase.
- E. The traffic generated by the proposed new lots or parcels will not ~~significantly affect an existing or planned transportation facility by changing its functional classification, result in levels of travel or access which are inconsistent with its functional classification, or~~ **result in traffic volumes that will** reduce the performance standards of ~~the~~ **a transportation** facility below the minimum

acceptable level identified in ~~an adopted~~ the Transportation System Plan (LOS C), and will comply with all applicable standards in Section 12.18 of the Jefferson County Code. This criterion may be met through a condition of approval requiring improvements to the transportation facility.

- F. The following standards are met if access will be provided through a flag lot configuration:
1. The flagpole section of the flag lot shall be at least 50 feet, but not more than 60 feet in width.
 2. No more than one flag lot is permitted to the rear of another lot or parcel.
 3. Access to the rear lot or parcel shall be by way of a driveway located entirely within the flagpole section of the lot or parcel. The driveway shall meet the emergency vehicle access standards of Section 426.2(E). No re-division or property line adjustment shall be allowed that would alter the status of the flagpole for driveway use unless other access meeting all the requirements of this Ordinance is provided.
 4. A flag lot may have only one flagpole section.
 5. Adjoining flagpole sections of flag lots are not allowed.
 6. The driveway within the flagpole will have at least 75 feet of separation from any other existing driveway.
- G. Utility easements are provided abutting roads where necessary to provide services to proposed lots and parcels, and where necessary to allow for development of adjoining lands. Utility easements may be required in other locations if specifically requested by a public utility provider. The easements shall be clearly labeled for their intended purpose on the tentative plan. All utilities serving a proposed division shall be placed underground where the surrounding area is presently developed, or is in the process of developing with underground utilities. For land within an urban growth boundary, utilities shall be placed underground if the city's regulations would require underground utilities.
- H. ~~Lots and parcels are laid out so as to provide on-site water retention, without causing runoff that would adversely affect adjacent properties, streams, water bodies, irrigation ditches or roads. The applicant shall submit a professionally prepared storm drainage plan to the Public Works Director and receive approval of the plan prior to approval of the final plat, except when the property is in the Exclusive Farm Use A-1, Exclusive Farm Use A-2, Range Land or Forest Management zones and the proposed parcels will exceed the minimum lot size requirement for the zone. No division shall be approved where it has been determined that stormwater drainage generated by the division will overload existing or proposed drainage facilities.~~

Existing improvements (e.g., septic systems, wells, driveways, etc.) shall be located on the same lot or parcel as the use or structure they serve, unless an easement to allow the improvement to be on a different lot is provided and is shown on the final plat.

- I. If a lot or parcel that is partially in another county or the incorporated limits of a city is proposed to be divided, the following regulations apply:
 - 1. No new lots or parcels shall be created that will be partially inside a city and partially outside. If an existing lot or parcel overlaps a city limits, the property may be divided along the city limits line provided that the portion of the property outside the city meets the standards of this Ordinance.
 - 2. No new lots or parcels shall be created that will overlap the county line. If an existing lot or parcel overlaps the county line, the property may be divided along the county line provided the portion in Jefferson County meets the standards of this Ordinance.

- J. If the tentative plan is for a subdivision, the following additional standards are met:
 - 1. The proposed name of the subdivision has been approved by the County Surveyor. The name shall not duplicate, be similar to, or be pronounced the same as the name of any existing subdivision in the county unless the proposed new lots are contiguous to and platted by the same party that platted the subdivision bearing that name, or the party that platted the contiguous subdivision consents in writing to use of the name.
 - 2. Subdivision block lengths and widths are suitable for the uses contemplated and will not inhibit the proper development of adjoining lands. Block widths shall allow two rows of lots unless exceptional or topographic conditions make this unfeasible. The subdivision shall not use block numbers or letters unless it is a continued phase of a previously recorded subdivision bearing the same name that has previously used block numbers or letters, in which case the lot and block numbers must be continued.

- K. If the subdivision will be developed in phases, each phase when considered individually shall comply with all standards and criteria in this section.**

705.2 Conditions of Approval

- A. In granting approval of a tentative plan, the County may impose conditions of approval deemed necessary to comply with the requirements of this Ordinance. The recommendations and comments of other public agencies will be considered and may also provide the basis for conditions of approval.

- B. Conditions may require that substandard roads leading to the land being divided be improved to the road standards in Chapter 12.18 of the County Code. Any requirement for road improvements or dedication of additional right-of-way will be based on a direct nexus between the level of road impacts that will be caused by the increased traffic generated by the new lots or parcels and the level of road improvements that are required.
- C. Installation of fire-fighting water supplies may be required when recommended by the appropriate fire protection agency.
- D. Conditions may include dedication of land for roads or other public improvements, in accordance with Section 706.
- E. Conditions will require that the standards of Section 707.3 be met prior to approval of the final plat.
- F. **A traffic control device in the form of an easement granted to the county may be required for the purpose of controlling access to or from a lot or parcel for any of the following reasons:**
1. **To prevent or limit access to roads.**
 2. **To prevent access to a transportation facility from abutting property that is not part of the subdivision or partition.**
 3. **To prevent access to land unsuitable for development.**
- Traffic control device easements shall be shown on the final plat and shall include a note prohibiting direct motor vehicle access across the traffic control device easement unless authorized by the road authority having jurisdiction over the adjacent road.**
- G. A condition of approval may require the provision of areas for school bus stops and turnarounds and mail boxes.
- H. **If the division includes common area(s) for use as open space, recreation, utility facilities or other purposes, a condition of approval will require evidence of provisions to guarantee ongoing property tax responsibility and maintenance of the area. The common area may be conveyed by leasing or conveying title to a corporation, homeowner's association or other legal entity. The terms of the lease or other instrument of conveyance shall include provisions that guarantee:**
1. **The continuation of use of the land as common area;**

2. **The continuity of property maintenance, including the necessary financial arrangements for such maintenance; and**
 3. **That the legal entity formed for the joint ownership and maintenance of the common area will not be dissolved, nor will it dispose of any common area by sale or otherwise, except to another legal entity which has been conceived and organized for the purpose of maintaining the common area.**
- I. **When approval is granted to allow a subdivision to be platted and developed in phases, conditions of approval will specify the improvements that must be completed prior to approval of the final plat for each phase.**

Section 707 - Final Plats

707.2 Final Plat Procedures

- A. The final plat shall be submitted to the County Surveyor, who will review the plat for conformance with the requirements of ORS 92 and ORS 209.250, and will sign the plat if all requirements have been met.
- B. The plat shall be forwarded to the County Assessor, Public Works Director and Planning Director for signature prior to filing the plat with the County Clerk. Final subdivision plats must also be signed by the Chair of the Board of Commissioners. Plats that include a dedication of land to the public must be signed by the Board of Commissioners. Granting approval or withholding approval of a final plat by any of the required signatories is not a land use decision or a limited land use decision, as defined in ORS 197.015.
- C. The Planning Director shall review the final plat for consistency with the approved tentative plan. If the final plat complies with the approval criteria of Section 707.3, the Planning Director will sign the final plat. No additional conditions will be imposed on the final plat. If the Planning Director determines the final plat does not comply with the requirements of Section 707.3, the plat will be returned to the applicant to correct the deficiencies. The corrected plat must be resubmitted for approval prior to expiration of the approval period specified in Section 704.5. **The determination of whether the final plat conforms to the tentative plan is not a land use decision or limited land use decision, as defined in ORS 197.015.**
- D. Approval of the final plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained. A subdivision or partition plat may not be recorded unless all ad valorem taxes have been paid, including additional taxes, interest and penalties imposed on land disqualified for any special assessment and all special assessments, fees or other

charges required by law to be placed upon the tax roll that have become a lien upon the land or which will become a lien during the tax year, in accordance with ORS 92.095.

707.3 Approval Criteria for Final Plats

A final plat will be approved if all of the following are met:

- A. The final plat conforms to the tentative plan as approved by the County, including compliance with any conditions imposed or modifications required at the time of tentative plan approval.
- B. The final plat was prepared according to applicable specifications of ORS Chapters 92 and 209.
- C. All public and private roads are named and shown on the final plat. The surveyed center line and easement width of private roads must be included on the plat.
- D. Unless specifically stated otherwise in the conditions of approval for the tentative plan, all roads, drainage and other required improvements are completed, unless a bonding agreement has been executed in accordance with the provisions in Section 413. Improvements include, but are not limited to, the construction of roads and repair of existing roads and any other public facilities damaged in the development of the partition or subdivision. Where the County is not empowered to inspect and approve public improvements (e.g., improvements to a state highway), written certification of the acceptance by the appropriate agency shall be submitted.
- E. The plat contains a donation to the public of all common improvements that were required as a condition of the approval of the tentative plan. Public roads and easements for public utilities shall be dedicated without any reservation or restriction other than reversionary rights upon vacation. Land dedicated for public purposes may be provided by dedication on the final plat or by a separate dedication or donation document on a form provided by the county. The Board of Commissioners must agree to accept any lands dedicated to the public, except utility easements in partition plats may be granted for public and other regulated utility purposes without an acceptance from the Board.
- F. Explanations of all common improvements required as conditions of approval of the tentative plan have been recorded and referenced on the plat.
- G. **If the final plat is for a subdivision, the County has received and accepted:**
 - 1. A certification by a city owned domestic water supply system, Deschutes Valley Water District, or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot or parcel in the proposed division; or

2. A bond, irrevocable letter of credit, contract, or other assurance that a domestic water supply system will be installed by or on behalf of the developer to the lot line of each and every lot or parcel in the division. The amount of any such assurance shall be determined by a registered professional engineer, subject to any change in the amount the County considers necessary; or
3. In lieu of (1) or (2), a statement that no domestic water supply facility will be provided to the purchaser of any lot or parcel in the division, even though a domestic water supply source may exist. A copy of any such statement, signed by the property owner and endorsed by the County, shall be filed with the Real Estate Commissioner and shall be included by the commissioner in any public report made for the division under ORS 92.385. If the making of a public report has been waived or the division is otherwise exempt under the Oregon Subdivision Control Law, the property owner shall deliver a copy of the deed declaration to each prospective purchaser of a lot or parcel in the division at or prior to the signing by the purchaser of the first written agreement for the sale of the lot or parcel. The property owner shall take a signed receipt from the purchaser upon delivery of such a deed declaration, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

H. If the final plat is for a subdivision, the County has received and accepted:

1. A certification by a city-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 or parcel in the proposed division; or
2. A bond, irrevocable letter of credit, contract, or other assurance will be provided to the County, that a sewage disposal system will be installed to the lot line of each and every lot or parcel in the division. The amount of such assurance shall be determined by a registered professional engineer, subject to any change in the amount as the County considers necessary; or
3. In lieu of (1) or (2), a statement that no sewage disposal facility will be provided to the purchaser of any lot or parcel in the division, where the Department of Environmental Quality has approved the proposed method or an alternative method of sewage disposal for the division in its evaluation report described in ORS 454.755(1)(b). A copy of any such statement, signed by the developer and endorsed by the County, shall be filed with the Real Estate Commissioner and shall be included by the Commissioner in the public report made for the division under ORS

92.385. If the making of a public report has been waived or the division is otherwise exempt under the Oregon Subdivision Control Law, the property owner shall deliver a copy of the statement to each prospective purchaser of a lot or parcel in the division at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The property owner shall take a signed receipt from the purchaser upon delivery of such a deed declaration, shall immediately send a copy of the receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

- I. If the subdivision or partition is located within the boundaries of an irrigation district, drainage district, water control district, water improvement district, or district improvement company, the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.
- J. If the land within the subdivision or partition receives irrigation water through the North Unit Irrigation District, evidence has been submitted that the District Board of Directors has approved an irrigation water distribution and management plan.

Section 902 – Application Procedures

902.3 Application Completeness

- A. An application will not be acted upon until it has been deemed complete by CDD. In order to be deemed complete, the application must comply with the requirements of Section 902.2, and all applicable criteria or standards must be adequately addressed in the application.
- B. Within 30 days of the date an application is filed, CDD will notify the applicant in writing, specifying any additional information that is required to **make the application complete**. ~~The application shall be deemed complete upon receipt of the missing information. The applicant shall have 180 days from the date of submittal in which to provide the requested information.~~ The application shall be deemed complete upon receipt of:
1. All of the missing information; or
 2. Some of the missing information and written notice from the applicant that no other information will be provided; or
 3. Written notice from the applicant that none of the missing information will be provided.
- ~~In the event CDD fails to notify the applicant within 30 days of the date the application was filed, the application shall be deemed complete on the 31st day.~~
- ~~C. If an applicant who receives notice of an incomplete application refuses in writing to submit the missing information, the application shall be deemed complete on the day the written refusal is received by the CDD.~~
- C. **If the application was complete when first submitted or the applicant submits additional information as described in subsection (B) within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.**
- D. When an applicant fails to submit the requested information without refusing in writing to do so as **described in subsection (B)**, the application shall be deemed ~~withdrawn~~ void on the 181st day after the application was filed. ~~This time period may be extended for a reasonable period if requested by the applicant. If an application is not made complete within 180 days of submittal, it shall be reviewed under the standards, criteria and law in effect on the date it is made complete.~~
- E. Acceptance of an application does not waive further requests for information at a later time to provide additional necessary information or technical data to show compliance with applicable county or state standards. The burden of proving compliance with all applicable criteria remains with the applicant throughout the permitting process.

903.1 Decision Time-frames

- A. Legislative decisions are not subject to the time-frames in this section.
- B. For applications concerning lands located within an urban growth boundary and applications for mineral or aggregate extraction, final action shall be taken within 120 days after the application is deemed complete.
- C. For applications concerning private activities on federal lands, if a decision is not rendered within 60 days of receipt of the application, the application shall be considered approved.
- D. For all other applications submitted under this Ordinance the County will take final action within 150 days after the application is deemed complete.
- E. These time-frames may be extended for a **reasonable specified** period upon written request by the applicant. **The total of all extensions may not exceed 215 days.**
- F. Time periods specified in this Section shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the County is not open for business, in which case it shall also be excluded.
- G. Land use permits shall be effective when a final written decision is rendered by the Board of Commissioners, or the deadline for appeal of a lower decision has expired without an appeal being filed.

047J82009348

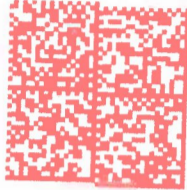
\$02.330

01/08/2008

Mailed From 97741

US POSTAGE

usps



JEFFERSON COUNTY

COMMUNITY DEVELOPMENT

85 S.E. "D" St.
Madras, Oregon 97741



DLCD
Attn: Plan Amendment Specialist
635 Capitol St NE, Ste 150
Salem, OR 97301-2450