



**Oregon**  
Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

635 Capitol St NE Ste 150

Salem, OR 97301-2540

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Web Address: <http://www.oregon.gov/LCD>

**NOTICE OF ADOPTED AMENDMENT**

November 23, 2010



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

FROM: Angela Houck, Plan Amendment Program Specialist

SUBJECT: Crook County Plan Amendment  
DLCD File Number 008-10

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: Monday, December 06, 2010**

This amendment was submitted to DLCD for review with less than the required 45-day notice because the jurisdiction determined that emergency circumstances required expedited review. 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: Heidi Bauer, Crook County  
Jon Jinings, DLCD Community Services Specialist  
Karen Swirsky, DLCD Regional Representative

<paa> YA



# FORM 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

(See reverse side for submittal requirements)

DEPT OF

NOV 16 2010

LAND CONSERVATION AND DEVELOPMENT

### PRODUCT OF DLCD GRANT #TA-T-11-160

Jurisdiction: CROOK COUNTY

Local File No.: AM-10-0107

(If no number, use none)

Date of Adoption: November 12, 2010  
(Must be filled in)

Date Mailed: November 15<sup>th</sup>, 2010  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: August 6, 2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: \_\_\_\_\_

(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write ASee Attached.≡

AN ORDINANCE AMENDING TITLE 18 OF THE CROOK COUNTY CODE TO MAKE PROCEDURAL AND CONSISTENCY CHANGES AND DECLARING AN EMERGENCY

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write ASame.≡ If you did not give notice for the proposed amendment, write AN/A.≡

SAME

Plan Map Changed from : N/A to N/A

Zone Map Changed from: N/A to N/A

Location: COUNTY-WIDE \_\_\_\_\_ Acres Involved: N/A

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 4, 5, 2

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

DLCD File No.: 008-10 (18456) [16412]

Did the Department of Land Conservation and Development **receive** a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_

ODFW, OREGON DEPT OF FORESTRY, ODOT

Local Contact: Heidi Bauer Area Code + Phone Number: 541-447-8156

Address: 300 NE Third St., Room 11, Prineville, OR 97754

Email: Heidi.bauer@co.crook.or.us

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## 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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice 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 copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**RECORDING COVER SHEET**

Any errors in this cover sheet DO NOT affect the transactions(s) contained in the instrument itself.

**AFTER RECORDING RETURN TO:**

**CLERK'S VAULT**

**NAME OF TRANSACTION**

**ORDINANCE 236**

**An Ordinance amending Title 18 of the Crook County Code to make procedural and consistency changes and declaring an emergency**

**GRANTOR: CROOK COUNTY**



STATE OF OREGON } SS **2010107**  
COUNTY OF CROOK }  
I CERTIFY THAT THE WITHIN INSTRUMENT WAS RECEIVED FOR RECORD ON THE 12th DAY OF November 20 10 AT 3:15 P.M. AND RECORDED IN CJRTI RECORDS OF SAID COUNTY MF NO. 2010-107 DEANNA E. BERMAN, CROOK COUNTY CLERK BY Jane Gamble DEPUTY

N/c

**IN THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CROOK**

AN ORDINANCE AMENDING TITLE  
18 OF THE CROOK COUNTY CODE  
TO MAKE PROCEDURAL AND  
CONSISTENCY CHANGES AND  
DECLARING AN EMERGENCY

Ordinance No. 236

WHEREAS, the Crook County Planning Commission has recommended that the Crook County Code Title 18 be amended to include make certain changes to make the Crook County Code provisions consistent internally and with State Law; and

WHEREAS, amendment to the code is authorized by Crook County Code Title 18 Chapter 18.168 and the Comprehensive Plan of Crook County;

NOW, THEREFORE, this 3<sup>rd</sup> day of November, 2010, the Crook County Court ordains as follows:

SECTION ONE. *Amendment.* Title 18 Chapters

- 18.08 Definitions
- 18.16 Exclusive Farm Use Zone, EFU-1 (Post-Paulina Area)
- 18.20 Exclusive Farm Use Zone, EFU-2 (Prineville Valley-Lone Pine Areas)
- 18.24 Exclusive Farm Use Zone, EFU-3 (Powell Butte Area)
- 18.32 Rural Service Center Zone, RSC
- 18.36 Park Reserve Zone, P-R
- 18.40 Recreation Residential Mobile Zone, RR(M)-5
- 18.44 Recreation Residential Zone, RR-1
- 18.48 Suburban Residential Zone, SR-1
- 18.52 Suburban Residential Mobile Zone, SR(M)-1
- 18.88 Rural Residential Zone, R-5
- 18.92 Rural Residential Zone, R-10
- 18.96 Forest Recreation, FR-10
- 18.100 Residential Woodlot, RW-40
- 18.108 Powell Butte Rural Residential Zone, PBR-20
- 18.112 Exclusive Farm Use Zone, EFU-JA (Juniper Acres)

are added to and amended as provided in Exhibit A:

SECTION TWO: *Amendment* Title 18 Chapter

18.28 Forest Zone, F-1

is replaced in its entirety as provided in Exhibit B

SECTION THREE: *Amendment* Title 18 Chapter

18.160 Conditional Uses

is amended as provided in Exhibit C.

SECTION FOUR *Amendment* Title 18 Chapter

18.170 Amendments

is amended as provided in Exhibit D.

SECTION 5 *Amendment* Title 18 Chapter

18.172 Administration

is amended as provided in Exhibit E.

SECTION SIX: *Amendment* Title 18 Chapter

18.170 Quasi Judicial Amendments

is added to and made part of Title 18 as provided in Exhibit F.

SECTION FOUR. *Findings.* The Crook County Court adopts the recommendation of the Crook County Planning Commission as its findings in support of its Decision.

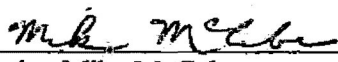
SECTION FOUR. *Emergency.* This Ordinance being necessary for the health, welfare and safety of the people of Crook County, an emergency is hereby declared to exist and this Ordinance shall become effective upon signing.

First Reading 3<sup>rd</sup> day of November, 2010.

Second Reading 3<sup>rd</sup> day of November, 2010.


Dated this 3<sup>rd</sup> day of November, 2010.

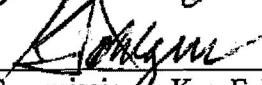
CROOK COUNTY COURT

  
\_\_\_\_\_  
Judge Mike McCabe

 11/10/2010

  
\_\_\_\_\_  
Commissioner Lynn Lundquist

per phone  
11-10-2010  
 11/10/2010

  
\_\_\_\_\_  
Commissioner Ken Fahlgren

 11/10/2010

**18.08 Definitions**

“Argument” means assertions and analysis by a party regarding the satisfaction or violation of legal standards. “Argument” does not include assertions of facts not already in the record.

“De novo” means a hearing by the review body as if the action had not previously been heard and as if no decision had been rendered, except that all testimony, evidence and other material from the record of the previous consideration will be considered a part of the review on the record.

“Evidence” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed to be relevant to the decision.

“Hearing Authority” means the County Court, Planning Commission, or a hearings officer appointed by the Court under Crook County Code 18.172.010(2).

“Tract” means one or more contiguous lots or parcels under the same ownership.

**18.16 Exclusive Farm Use Zone, EFU-1 (Post-Paulina Area)**

**18.16.081 Wildlife Policy Applicability**

All new non-farm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2000 acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2 provided the methodology and size of the study area is explained and is found to be consistent with the purpose of Crook County Comprehensive Plan Wildlife Policy 2.



**18.20 Exclusive Farm Use Zone, EFU-2 (Prineville Valley-Lone Pine Areas)**

**18.20.081 Wildlife Policy Applicability**

All new non-farm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2000 acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2 provided the methodology and size of the study area is explained and is found to be consistent with the purpose of Crook County Comprehensive Plan Wildlife Policy 2.

**18.24 Exclusive Farm Use Zone, EFU-3 (Powell Butte Area)**

**18.24.081 Wildlife Policy Applicability**

All new non-farm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2000 acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2 provided the methodology and size of the study area is explained and is found to be consistent with the purpose of Crook County Comprehensive Plan Wildlife Policy 2.

**18.32 Rural Service Center Zone, RSC**

**18.32.100 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.36 Park Reserve Zone, P-R**

**18.36.070 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.40 Recreation Residential Mobile Zone, RR(M)-5**

**18.40.110 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.44 Recreation Residential Zone, RR-1**

**18.44.100 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.48 Suburban Residential Zone, SR-1**

**18.48.090 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.52 Suburban Residential Mobile Zone, SR(M)-1**

**18.52.080 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.88 Rural Residential Zone, R-5**

**18.88.090 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.92 Rural Residential Zone, R-10**

**18.92.80 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.96 Forest Recreation, FR-10**

**18.96.80 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.100 Residential Woodlot, RW-40**

**18.100.80 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.108 Powell Butte Rural Residential Zone, PBR-20**

**18.108.90 Wildlife Policy Applicability**

The residential density limitations and the lot and parcel size limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan do not apply to any non-resource zones.

**18.112 Exclusive Farm Use Zone, EFU-JA (Juniper Acres)**

**18.112.051 Wildlife Policy Applicability**

All new non-farm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2000 acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2 provided the methodology and size of the study area is explained and is found to be consistent with the purpose of Crook County Comprehensive Plan Wildlife Policy 2.

**Chapter 18.28**

**FOREST ZONE, F-1**

**18.28.005 Regulations designated.**

In an F-1 zone, the following regulations shall apply.

**18.28.010 Forest uses allowed.**

In an F-1 zone the following uses pursuant to the Forest Practices Act (ORS Chapter 427) shall be allowed:

(1) Forest operations or forest practices, approved by the Oregon Department of Forestry, including, but not limited to, reforestation of forestland, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash consistent with the State Forest Practices Act.

(2) Temporary on-site structures, which are auxiliary to and used during the term of a particular forest operation. As used here, temporary structures are those which are portable and/or not placed on a permanent foundation, and which are removed at the conclusion of the forest operation requiring their use

(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 this title "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.

**18.28.020 Uses permitted outright.**

In an F-1 zone, the following uses and accessory uses thereof are permitted outright:

(1) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources.

(2) Farm use, as defined in ORS 215.203(2).

(3) Local distribution lines within existing rights-of-way (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups.

(4) Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.

(5) Exploration for mineral and aggregate resources as defined in ORS Chapter 517.

(6) Private hunting and fishing operations without any lodging accommodations.

(7) Towers and fire stations for forest fire protection.

(8) Water intake facilities, canals and distribution lines for farm irrigation and ponds.

(9) Caretaker residences for public parks and public fish hatcheries.

(10) Uninhabitable structures accessory to fish and wildlife enhancement.

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**Exhibit B**

- (11) Temporary forest labor camps.
- (12) 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.
- (13) Alteration, restoration or replacement of a lawfully established dwelling that:
  - (a) Has intact exterior walls and roof structure;
  - (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - (c) Has interior wiring for interior lights;
  - (d) Has a heating system; and
  - (e) In the case of replacement, is removed, demolished or converted to an allowable use within three months of completion of the replacement dwelling.
- (14) Climbing and passing lanes within the right-of-way existing as of July 1, 1987.
- (15) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
- (16) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (17) Minor betterment of existing public roads 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.
- (18) An "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 is not a "land use decision," as defined in ORS 197.015(10), or subject to review under Chapter 660 OAR, Division 6.

**18.28.025 Commercial and Non-Commercial Energy Criteria**

In addition to the uses permitted under 18.28.010 and 18.28.020 Non-commercial and commercial wind and photovoltaic energy systems are permitted in the zone to the extent they are consistent with state law and the applicable criteria in CCC 18.160, 18.161 and 18.162.

**18.28.030 Conditional uses permitted.**

In an F-1 zone, the following uses and their accessory uses are permitted when authorized in accordance with the requirements of Crook County Code Chapter 18.160 and this chapter.

- (1) A facility for the primary processing of forest products. Such a facility may be approved for a one-year period, and the approval may be renewed annually thereafter. These facilities are intended to be only portable or temporary in nature. The "primary processing of a forest product," as used in this chapter, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. "Forest products," as used in this chapter, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
  - (2) Permanent logging equipment repair and storage.
  - (3) Log scaling and weigh stations.
  - (4) Disposal site for solid waste approved by the county and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
  - (5) Private parks and campgrounds. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be permitted within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and Chapter 660 OAR, Division 4. For the purposes of this subsection (5), a campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A campground

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**Exhibit B**

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. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. 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.

(6) Public parks, including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.

(7) Mining and processing of aggregate and other mineral resources or other subsurface resources as defined in ORS Chapter 520, and not otherwise permitted under CCC 18.28.020(12) (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.

(8) Television, microwave and radio communication facilities and transmission towers.

(9) Fire stations for rural fire protection.

(10) 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 Chapter 660 OAR, Division 4.

(11) Aids to navigation and aviation.

(12) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

(13) Reservoirs and water impoundments.

(14) Firearms training facility.

(15) Cemeteries.

(16) Private seasonal accommodations for fee hunting operations may be allowed subject to CCC 18.28.040, 18.28.060 and 18.28.070 and the following requirements:

(a) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(b) Only minor incidental and accessory retail sales are permitted;

(c) 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;

(17) New electric transmission lines with right-of-way widths of up to 100 feet, as specified in ORS 772.210. New distribution lines (e.g., electrical, gas, oil, geothermal) with rights-of-way 50 feet or less in width.

(18) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

(19) Dwellings subject to the standards in CCC 18.28.050.

(20) Home occupations carried on by the resident(s) as an accessory use within their dwelling or other accessory buildings, as set forth in Chapter 18.160 CCC.

(21) A manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative as defined in ORS 215.283. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. A temporary residence approved under this subsection is not eligible for replacement. Every two years the county shall review the permit authorizing such temporary residences. When the hardships end, the county shall require the removal of these residences. Oregon Department of Environmental

**Exhibit B**

Quality review and removal requirements also apply to these residences. As used in this subsection, "hardship" means a medical hardship or hardship requiring the care of an aged or infirm person or persons;

(22) Expansion of existing airports.

(23) Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.

(24) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(25) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.

(26) Private accommodations for fishing occupied on a temporary basis may be allowed subject to CCC 18.28.040, 18.28.060 and 18.28.070 and the following requirements:

(a) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;

(b) Only minor incidental and accessory retail sales are permitted;

(c) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;

(d) Accommodations must be located within one-quarter mile of fish-bearing Class I waters.

(27) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(28) Any gathering subject to review by the county planning commission under the provisions of ORS 433.763. These gatherings are those of more than 3,000 persons that 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.

(29) Helicopter pads, including associated hanger, maintenance and service facilities, A "helicopter pad" as used in this chapter means a pad restricted, except for aircraft emergencies, to use by the owner and/or by commercial aviation activities in connection with forestry operations.

**18.28.040 Review requirements for conditional uses.**

A use authorized by CCC 18.28.030 may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forestlands:

(1) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forestlands;

(2) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(3) 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 CCC 18.28.030(5), (13), (19), (20),(21) and (26).

**18.28.050 Standards for Single-Family Dwellings.**

(1) General provisions.

(a) Dwellings listed as a conditional use under this section CCC 18.28.050 shall meet the following standards:

(i) One of the alternative tests set out in CCC 18.28.050(2) (lot of record dwelling), (3) (large tract dwelling), or (4) (template dwelling);

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**Exhibit B**

(ii) If the lot or parcel is part of a "tract," the remaining undeveloped lots or parcels of the tract shall be consolidated into a single lot or parcel, or the applicant shall sign and record with the county clerk covenants, conditions and restrictions (on a form substantially similar to that set forth in CCC 18.28.130) prohibiting the siting of a dwelling on the undeveloped portions of the tract. Such covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by the county planning director, or his authorized representative.

(iii) No other dwellings shall be located on the tract.

(iv) The applicant shall provide evidence that any domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Chapter 690 OAR, Division 10) or surface water (Chapter 690 OAR, Division 20) and not from a Class II stream as defined in the Forest Practices Rule (OAR 629-24-101(3)).

For purposes of CCC 18.28.050, evidence of a domestic water supply means:

(A) 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

(B) A water use permit issued by the Water Resources Department for the use described in the application; or

(C) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. 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 construction report to the County upon completion of the well.

(v) If road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management or the U.S. 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.

(b) In addition, dwellings listed as a conditional use under CCC 18.28.030(19) shall be subject to the following standards or conditions:

(i) The conditional use standards set forth in CCC 18.28.040;

(ii) The siting criteria set forth in CCC 18.28.060;

(iii) The fire siting standards set forth in CCC 18.28.070;

(iv) The fire safety design standards for roads set forth in CCC 18.28.080;

(v) The stocking requirements set forth in CCC 18.28.090, if applicable; and

(vi) Any other provisions made applicable by Chapter 18 CCC or the comprehensive plan.

(c) Dwellings in forest zones shall not be subject to the conditional use standards of Crook County Code Chapter 18.160.

(2) Lot of Record Dwelling. For approval under CCC 18.28.050(2), a single-family dwelling shall meet the following requirements:

(a) The lot or parcel on which the dwelling would be sited was lawfully created prior to January 1, 1985 and was acquired by the present owner either prior to January 1, 1985 or by devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

For the purposes of CCC 18.28.050(2), "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, niece, nephew, step-parent, step-child, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(b) The dwelling would be located on a tract that is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road. The road shall not be a Bureau of Land Management (BLM) road or a United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least



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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.

For the purposes of CCC 18.28.050, "public roads" are those roads in which the public has a right of use that is a matter of public record.

For the purposes of CCC 18.28.050, "commercial tree species" means trees recognized under administrative rules adopted by the Oregon Department of Forestry under ORS 527.715 for commercial production.

(3) Large Tract Dwelling. For approval of a single-family dwelling under CCC 18.28.050(3), the subject property shall consist of at least 240 contiguous acres in one ownership.

(4) Template Dwelling. For approval under CCC 18.28.050(4), a single-family dwelling shall meet the following requirements:

(a) The lot or parcel is predominantly composed of soils that are:

(i) Capable of producing zero to 20 cubic feet per acre per year of wood fiber if:

(A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three other dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.

(ii) Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:

(A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.

(iii) Capable of producing more than 50 cubic feet per acre per year of wood fiber if:

(A) 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 center of the subject tract; and

(B) At least three dwellings existed on January 1, 1993, and continue to exist on the other lots or parcels.

(iv) Lots or parcels within urban growth boundaries shall not be used to satisfy the template requirements under this subsection.

(a) Requirements of Applying Template

(i) If a tract 60 acres or larger described in CCC 18.28.050(4) abuts a road or perennial stream, the measurement shall be made by using 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.

(ii) 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. 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 wide centered on the center of the subject tract and that is to the maximum extent possible aligned with the road or stream;

(B) Be within one-quarter 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.

(iii) If a tract reviewed under CCC 18.28.050(4) abuts a road that existed on January 1, 1993, 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.

**18.28.060 Siting standards for dwellings and structures in forest zones.**

The following siting standards shall apply to all new dwellings and structures in the F-1 zone. These standards are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forestlands.

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The county shall weigh the following standards together with the fire siting standards in CCC 18.28.070 to identify the building site:

- (1) Dwellings and structures shall be sited on the parcel so that:
  - (a) They have the least impact on nearby or adjoining forest or agricultural lands;
  - (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - (c) The amount of forestlands used to site access roads, service corridors, the dwelling and structures is minimized: and

- (d) The risks associated with wildfire are minimized.

- (2) Siting standards in CCC 18.28.070 shall be applied.

- (3) The applicant shall provide evidence to the county that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (Chapter 690 OAR, Division 10) or surface water (Chapter 690 OAR, Division 20) and not from a Class II stream as defined in the Forest Practices Rules (OAR 629-24-101(3)). If the water supply is unavailable from public sources or sources located entirely on the property, then the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

**18.28.070 Fire siting standards for dwellings and structures.**

The following fire siting standards shall apply to new dwellings or structures:

- (1) The dwelling or structure shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the county determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the applicant must demonstrate that there is an alternative means for protecting the dwelling from fire hazards. Such means may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one 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.

- (2) Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source. Road access to the dwelling shall meet road design standards described in CCC 18.28.080.

- (3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 or any successor document, and published by the Oregon Department of Forestry.

- (4) The dwelling shall have a fire retardant roof.

- (5) The dwelling shall not be sited on a slope of greater than 40 percent.

- (6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

**18.28.080 Fire safety design standards for roads.**

Public roads, bridges, culverts, cattle guards, private roads and driveways shall be constructed to provide adequate access for fire fighting equipment and shall comply with the

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Crook County road standards regarding proper road base and support for fire fighting equipment on a year round basis.

**18.28.090. Stocking Requirement.**

All dwellings approved under CCC 18.28.050 shall meet the following requirements:

(1) Stocking Requirement.

(a) Dwellings approved under CCC 18.28.050 shall include a condition requiring the owner 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 specified in Department of Forestry administrative rules in force at the time the approval is granted.

(b) If the lot or parcel is more than 30 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules.

(2) Reporting Requirements.

(a) The Planning Director or his designee shall notify the County Assessor of any stocking requirement condition at the time the dwelling is approved.

(b) The property owner shall submit a stocking survey report to the County Assessor and the Assessor shall verify that the minimum stocking requirements have been met by the time required under Department of Forestry rules. The assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking report or where the survey report indicates that minimum stocking requirements have not been met.

(c) Upon notification by the Assessor, the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. That decision shall be solely the decision of the Department of Forestry. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the Assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation pursuant to ORS 321.359.

The tax penalty imposed by the Assessor under CCC 18.28.090 shall be the only sanction for failure to meet stocking requirements.

**18.28.100 Dimensional standards.**

In an F-1 zone, the following dimensional standards shall apply:

(1) Except as provided in CCC 18.28.100(2), no new lots of less than 80 acres shall be created.

(2) New land divisions less than the parcel size described in CCC 18.28.100(1) may be approved under any of the following circumstances:

(a) For the uses listed in CCC 18.28.020(12) and 18.28.030((1) through (15), provided that such uses have been approved pursuant to CCC 18.28.040 and 18.160.050 and the parcel created from the division is the minimum size necessary for the use.

(b) For the establishment of a parcel for a dwelling on land zoned for forest use, subject to the following requirements:

(i) The parcel established shall not be larger than five 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;

(ii) The dwelling existed prior to June 1, 1995;

(iii)(A) The remaining parcel, not containing the dwelling, meets the minimum land division standards of the zone; or

(B) The remaining parcel, not containing the dwelling, is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.

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(iv) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

(c) To allow a division of forest land to facilitate a forest practice, as defined in ORS 527.620, that results in a parcel that does not meet the minimum area requirements of subsection (1). Approvals shall be based on findings which demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of subsection (1) in order to conduct the forest practice. Parcels created pursuant to this subsection (c):

(i) Shall not be eligible for siting of new dwelling;

(ii) Shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

(iii) 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

(iv) If associated with the creation of a parcel where a dwelling is involved, shall not result in a parcel less than the minimum lot or parcel size of the zone or the minimum size required for large tract dwellings approved under CCC 18.28.050(3).

(d) To allow a division of a lot or parcel zoned for forest use if:

(i) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(ii) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.283(1)(p);

(iii) Except for one lot or parcel, each lot or parcel created under this paragraph is between two and five acres in size;

(iv) At least one dwelling is located on each lot or parcel created under this paragraph; and

(e) To allow a proposed division of land as provided in ORS 215.783.

(3)(a) An applicant for the creation of a parcel pursuant to subsections (2)(b) and (d) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under subsections (2)(b) and (d) of this section shall be irrevocable unless a statement of release is signed by the county planning director, indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by subsections (2)(b) and (d) of this section. The record shall be readily available to the public.

(4) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

**18.28.110 Yards and setback requirements.**

In an F-1 zone, the minimum yard and setback requirements shall be as follows:

(1) The front yard setback from the property line shall be 40 feet for property fronting a local street or minor collector, 60 feet from a property line fronting on a major collector right-of-way, and 100 feet from a property line fronting on an arterial.

(2) Each side yard setback shall be a minimum of 25 feet, and for parcels or lots with side yards adjacent to forestlands, the adjacent side yard shall be a minimum of 100 feet.

(3) Rear yard setbacks shall be a minimum of 25 feet, except for parcels or lots with rear yards adjacent to forestlands. Such rear yards shall have a setback of a minimum of 100 feet.

(4) Stream Setback. All sewage disposal installations, such as outhouses, septic tank and drain field-system shall be set back from the high-water line or mark along all streams and lakes a minimum of 100 feet, measured at right angles to the high-water line or mark. All structures, buildings, or similar permanent fixtures shall be set back from the high-water line or mark along all streams or lakes a minimum of 50 feet measured at right angles to the high-water line or mark.

(5) Every lot or land parcel shall have a minimum average width of 150 feet.

**18.28.120 Signs.**

In an F-1 zone, the following signs are permitted:

(1) One name plate for each dwelling unit not more than one and one-half square feet in area and not illuminated.

(2) One temporary sign advertising the sale, lease or rental of the property on which it is located, not more than three square feet in area and not illuminated.

(3) One sign identifying the name of a farm, ranch, forest enterprise, public use, or approved platted and recorded development or recreational use not more than 32 square feet in area, not illuminated and located at least 10 feet from a property line and 40 feet from a major collector or arterial ROW.

**18.28.130. Restrictive Covenants.**

Restrictive covenants required under CCC 18.28 shall substantially comply with the form set forth below:

“Declaration of Covenants, Conditions and Restrictions:

“Whereas, the undersigned \_\_\_\_\_ hereinafter referred to as ‘Declarant,’ is owner in fee simple of the property described in Exhibit A attached hereto and incorporated by reference herein; and

“Whereas, the Declarant desires to declare his/her intention to create certain covenants, conditions and restrictions in order to effectuate and comply with the requirements of OAR 660-06-027;

“Declarant hereby declares that all of the property described on Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions and restrictions:

It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

“These covenants, conditions and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed, and the authorized representative of the County or counties in which the property subject to these covenants, conditions and restrictions are located executes and records a release of the covenants, conditions and restrictions created by this instrument.

In witness whereof, the undersigned, being Declarant herein, has heretofore set their hand this \_\_\_\_\_ day of \_\_\_\_\_.”

**18.28.140 Wildlife Policy Applicability**

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All new dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County Comprehensive Plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2000 acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2 provided the methodology and size of the study area is explained and is found to be consistent with the purpose of Crook County Comprehensive Plan Wildlife Policy 2.

**Chapter 18.160**  
**CONDITIONAL USES**

**18.160.010 Authorization to grant or deny conditional uses.**

A conditional use listed in this title shall be permitted, altered or denied in accordance with the standards and procedures of this title and this chapter by action of the planning director or planning commission. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, a change in use or in lot area or an alteration of structure shall conform with the requirements for a conditional use. (Ord. 18 § 6.010, 2003)

**18.160.020 General criteria.**

In judging whether or not a conditional use proposal shall be approved or denied, the planning director or planning commission shall weigh the proposal's appropriateness and desirability or the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed and, to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

(1) The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies and regulations of the county.

(2) Taking into account location, size, design and operation characteristics, the proposal will have 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.

(3) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.

(4) The proposal will preserve assets of particular interest to the county.

(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes. (Ord. 18 § 6.020, 2003)

**18.160.030 General conditions.**

In addition to the standards and conditions set forth in a specific zone, this chapter, and other applicable regulations, in permitting a new conditional use or the alteration of an existing conditional use, the planning director or planning commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the county as a whole. These conditions may include the following:

(1) Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.

(2) Establishing a special yard or other open space or lot area or dimension.

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- (3) Limiting the height, size or location of a building or other structure.
- (4) Designating the size, number, location and nature of vehicle access points.
- (5) Increasing the amount of street dedication, roadway width or improvements within the street right-of-way.
- (6) Designating the size, location, screening, drainage, surfacing or other improvement of a parking area or loading area.
- (7) Limiting or otherwise designating the number, size, location, height and lighting of signs.
- (8) Limiting the location and intensity of outdoor lighting and requiring its shielding.
- (9) Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.
- (10) Designating the size, height, location and materials for a fence.
- (11) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- (12) Other conditions necessary to permit the development of the county in conformity with the intent and purpose of this title and the policies of the comprehensive plan. (Ord. 18 § 6.030, 2003)

**18.160.040 Permit and improvements assurance.**

The commission may require an applicant to furnish the county with a performance bond or such other form of assurance that the planning director or planning commission deems necessary to guarantee development in accordance with the standards established and the conditions attached in granting a conditional use permit. (Ord. 18 § 6.040, 2003)

**18.160.050 Standards governing conditional uses.**

A conditional use shall comply with the standards of the zones in which it is located and with the standards and conditions set forth in this section.

(1) Airports, Aircraft Landing Fields, Aircraft Charter, Rental, Service and Maintenance Facilities Not Located in an Aircraft Approach Zone. The planning director or planning commission shall find that the location and site design of the proposed facility will not be hazardous to the safety and general welfare of surrounding properties, and that the location will not unnecessarily restrict existing and future development of surrounding lands as designated by the comprehensive plan.

(2) Automobile Wrecking Yard or Junkyard. In considering a conditional use application for an automobile wrecking yard or junkyard, the planning director or planning commission shall require that it be enclosed and screened from public view by a sight-obscuring fence not less than six feet in height. If applicable, the planning director or planning commission shall be assured that the proposal is in conformance with applicable state regulations.

(3) Cemeteries. The planning director or planning commission shall require evidence and shall find that the terrain and soil types of a proposed location are suitable for interment, and that the nature of the subsoil and drainage will not have a detrimental effect on ground water sources or domestic water supplies in the area of the proposed use.

(4) Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.

(a) Such uses may be authorized as a conditional use only after consideration of the following factors:



**Exhibit C**

(i) Sufficient area provided for the building, required yards and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses and additional lot area shall be required therefor).

(ii) Location of the site relative to the service area.

(iii) Probable growth and needs therefor.

(iv) Site location relative to land uses in the vicinity.

(v) Adequacy of access to and from principal streets together with the probable effect on the traffic volumes of abutting and nearby streets.

(b) Such uses or related buildings shall be at least 30 feet from a side or rear lot line.

(c) Such uses may be built to exceed the height limitations of the zone in which it is located to a maximum height of 50 feet if the total floor area of the building does not exceed the area of the parcel or lot and if the yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

(5) Clinics, Clubs, Lodges, Fraternal Organizations, Community Centers and Grange Halls, Golf Courses, Grounds and Buildings for Games or Sports, Country Clubs, Swimming, Boating, Tennis Clubs, and Similar Activities, Governmental Structures and Land Use, Parks, Playgrounds. In considering the above, the planning director or planning commission may authorize the conditional use after assurance that the following is to be provided:

(a) Adequate access from principal streets.

(b) Adequate off-street parking.

(c) Adequate building and site design provisions to minimize noise and glare from the building and site.

(6) Dog Pounds and Kennels. The planning director or planning commission may allow dog pounds or kennels as a conditional use based upon:

(a) Noise requiring sound-proofing insulation of the structure.

(b) Smell or odor.

(c) Number of animals for the area and the distance from the nearest neighbor and structure.

(d) Adequate facilities for the number of animals, square feet per animal including exercise area.

(e) Access road and parking.

x) Shall comply with any additional conditions of approval established by the approval authority under CCC 18.160.030.

(b) In exclusive farm use zones on parcels greater than 20 acres:

(i) The home occupation is to be secondary to the main use of the property as a residence and shall be conducted only by the residents of such dwelling within the same dwelling or in an accessory building on the same property.

(ii) Structural alterations shall be allowed to accommodate the home occupation when required by law or only after the plans for such alterations have been reviewed and

approved by the planning commission. Such structural alterations shall not detract from the outward appearance of the building or change the appearance of the building from a dwelling or otherwise permitted accessory building.

(iii) One nonilluminated sign not to exceed six square feet and bearing only the name and occupation of the resident shall be permitted.

(iv) No materials or mechanical equipment shall be allowed which are detrimental to residential use of the property or adjoining residences because of vibration, noise, dust, smoke odor, interference with radio or television reception or other factors.

(v) All parking of allowed delivery vehicles or customer vehicles shall be in a manner and frequency as to cause no disturbance or inconvenience to nearby residents. The proposed home occupation should allow for on-site parking.

(vi) No more than five full-time or part-time persons may be employed.

(vii) Shall not unreasonably interfere with residential uses permitted in the zone in which the property is located.

(viii) For any use permitted by this section on a lot adjacent to or across the street from a residential use or lot in a residential zone, there shall not be any odor, dust, fumes, glare, flashing lights, noise, or other similar types of possible nuisances which are perceptible (without instruments) more than 200 feet in the direction of the affected residential use or lot in a residential zone.

(ix) Shall comply with any additional conditions of approval established by the approval authority under CCC 18.160.030.

(8) Landfill, Solid Waste Disposal Site. The planning director or planning commission may authorize a landfill or other solid waste disposal site as a conditional use, subject to the following standards:

(a) The proposed site shall not create a fire hazard, litter, insect or rodent nuisance, or air or water pollution in the area.

(b) The proposed site shall be located in or as near as possible to the area being served.

(c) The proposed site shall be located at least one-fourth mile from any existing dwelling, home or public road (except the access road).

(d) The proposed site shall be provided with a maintained access road (all weather).

(9) Mining, Quarrying or Other Extraction Activity.

(a) Plans and specifications submitted to the planning director or planning commission for approval must contain sufficient information to allow the planning director or planning commission to consider and set standards pertaining to the following:

(i) The most appropriate use of the land.

- (ii) Setback from the property line.
- (iii) The protection of pedestrians and vehicles through the use of fencing and screening.
- (iv) The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.
- (v) The prevention of the collection and the stagnation of water of all stages of the operation.
- (vi) The rehabilitation of the land upon termination of the operation.

(b) Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which may be injurious or annoying to persons or other uses in the vicinity.

(c) The comments and recommendations of all appropriate natural resource agencies of the state and federal government shall be sought.

(d) A rock crusher, washer or sorter shall not be located closer than 500 feet from a residential or commercial use.

(10) Commercial Use or Accessory Use Not Wholly Enclosed Within a Building, Retail Establishment, Office, Service Commercial Establishment, Financial Institution or Personal or Business Service Establishment on a Lot Abutting or Across the Street from a Lot in a Residential Zone. In any zone, a commercial use or accessory use not wholly enclosed within a building or a retail establishment, office, service commercial establishment, financial institution, or personal or business service establishment on a lot abutting or across the street from a lot in a residential zone may be permitted as a conditional use subject to the following standards:

(a) A sight-obscuring fence or evergreen hedge may be required by the planning director or planning commission when, in the director's or its judgment, such a fence or hedge or combination thereof is necessary to preserve the values of nearby properties or to protect the aesthetic character of the neighborhood or vicinity.

(b) In addition to the requirements of the applicable zone, the planning director or planning commission may further regulate the placement and design of signs and lights in order to preserve the values of nearby properties; to protect them from glare, noise or other distractions; or to protect the aesthetic character of the neighborhood or vicinity.

(c) In order to avoid unnecessary traffic congestion and hazards, the planning director or planning commission may limit access to the property.

(11) Commercial Amusement Establishment. A commercial amusement establishment may be authorized after consideration of the following factors:

(a) Adequacy of access from principal streets together with the probable effect of traffic volumes on abutting and nearby streets.

(b) Adequacy of off-street parking.

(c) Adequacy of building and site design provisions to maintain a reasonable minimum of noise and glare from the building and site.

(12) Mobile Home Park. A mobile home park shall be built to state standards in effect at the time of construction, the following provisions, and any additional conditions set forth in the planning director or planning commission's approval prior to occupancy:

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(a) Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

(b) The space provided for each mobile home shall be provided with piped potable water and electrical and sewerage connections.

(c) The number of spaces for mobile homes shall not exceed 12 for each acre of the total area in the mobile home park; except that the planning director or planning commission may vary this density as follows:

(i) If dedicated open space equals 50 percent or more of the total area of the park, a maximum 10 percent increase in units per acre may be granted.

(ii) If in addition to subsection (12)(c)(i) of this section a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the maximum increase in units per acre may be increased an additional five percent.

(iii) If in addition to subsections (12)(c)(i) and (ii) of this section an approved recreation/community building is provided, an additional 10 percent increase of units/acre may be allowed (maximum total increase possible equals 25 percent).

(d) A mobile home shall occupy not more than 40 percent of the contiguous space provided for the exclusive use of the occupants of the mobile home and exclusive of space provided for the common use of tenants, such as roadways, general use structures, parking spaces, walkways, and area for recreation and landscaping.

(e) No mobile home in the park shall be located closer than 15 feet from another mobile home or from a general use building in the park. No mobile home accessory building or other building or structure on a mobile home space shall be closer than 10 feet from a mobile home accessory building or other building or structure on another mobile home space. No mobile home or other building or structure shall be within 25 feet of a public street property boundary or 10 feet of another property boundary.

(f) A mobile home permitted in the park shall meet the following standards as determined by an inspection by the building official:

(i) It shall have a state insignia indicating compliance with all rules of any relevant agency in effect at the time of manufacture and including compliance for reconstruction or equipment installation made after manufacture.

(ii) Notwithstanding deterioration, which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the state standards for mobile home construction evidenced by the insignia.

(iii) It shall contain not less than 225 square feet of space as determined by measurement of the exterior of the unit exclusive of any trailer hitch device.

(iv) It shall contain a water closet, lavatory, shower or tub, and a sink in a kitchen or other food preparation space.

(g) A mobile home permitted in the park shall be provided with a continuous skirting, and if a singlewide unit, shall be tied down with devices that meet state standards for tie-down devices.

(h) The land which is used for park purposes shall be surrounded, except at entry and exit places, by a sight-obscuring fence or hedge not less than six feet in height. The fence or hedge shall be maintained in a neat appearance.

(i) If the park provides spaces for 50 or more mobile home units, each vehicular way in the park shall be named and marked with signs, which are similar in appearance to

those used to identify public streets. A map of the named vehicular ways shall be provided to the fire department.

(j) If a mobile home space or permanent structure in a park within the urban growth boundary is more than 500 feet from a public fire hydrant, the park shall have water supply mains designed to serve fire hydrants and hydrants shall be provided within 500 feet of such space or structure. Each hydrant within the park shall be located on a vehicular way and shall conform in design and capacity to the public hydrants in the city.

(k) Open Space. A minimum of at least 2,500 square feet plus 100 square feet per mobile home space shall be provided for a recreational play area group or community activities. (No play area is required if the individual mobile home spaces contain in excess of 4,000 square feet.) The planning director or planning commission may require this area to be protected from streets, parking areas or the like, by a fence or the equivalent. Unless otherwise approved, no required open space area shall contain less than 2,500 square feet. Recreation areas shall be improved with grass, plantings, surfacings or buildings suitable for recreational use. No recreation facility created within a mobile home park wholly to satisfy the requirements of this section shall be open to, or offered in itself to, the general public.

(l) Parking Space Requirement. A parking space shall be provided for each mobile home space on the site. In addition, guest parking spaces shall also be provided in every mobile home park within 200 feet of the mobile home spaces served and at a ratio of one parking space for each two mobile home spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all weather use and shall be property drained.

(m) All mobile home parks over 10 acres in size shall be located so as to have access on a street designated as a collector street.

(n) All trailer parks containing a total site area of 20 acres or more shall provide a secondary access to the trailer park. Such secondary access shall enter the public street system at least 150 feet from the primary access.

(o) Lighting shall be installed along the access ways of the trailer park and the recreation area with lights of 100 watts or better not over 100 feet apart. Wires for service to light poles and trailer spaces shall be underground.

(p) Roadways within the park shall be improved with an all weather dustless surface and shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the edge of the roadway and an adequate designated area is provided and improved for guest parking and tenant recreational vehicles (such area shall be designed and improved to provide not less than one parking space per each two spaces in the park).

(q) No mobile home park shall be created on a site less than one acre.

(13) Multifamily Dwelling Complex. A multifamily dwelling complex shall comply with the following provisions, and any additional conditions set forth in the planning director or planning commission's approval, and shall be constructed pursuant thereto prior to occupancy:

(a) The number of units permitted by the applicable zone per gross square footage of a site may be increased as follows:

(i) If dedicated open space, which is developed and landscaped, equals 50 percent or more of the total area of the site, a maximum 10 percent increase in the number of units may be granted.

(ii) If in addition to subsection (13)(a)(i) of this section a maintained playground area with approved equipment, such as goal posts, swings, slides, etc., is provided, the number of units permitted may be increased five percent.

(iii) If in addition to subsections (13)(a)(i) and (ii) of this section an approved recreation community building is provided, an additional 10 percent increase of units may be granted. (Maximum total increase possible is 25 percent).

(b) There shall be no outdoor storage of furniture, tools, equipment, building materials or supplies belonging to the occupants or management of the complex.

(c) If such a complex or any unit thereof is more than 500 feet from a public fire hydrant, such shall be provided at appropriate locations on a vehicular way and shall conform in design and capacity to the public hydrants in the city.

(d) A minimum of at least 2,500 square feet plus 100 square feet per dwelling unit shall be provided for a recreation play area, group or community activities. Such area shall be improved with grass, plantings, surfacings, equipment or buildings suitable for recreational use. The planning director or planning commission may require this area to be protected from streets, parking areas, or the like, by a fence or the equivalent. (No play area is required if more than 70 percent of the area is preserved as open space and is sufficiently developed and landscaped.)

(e) All such complexes with more than 20 dwelling units shall be located so as to have access on a street designated as a collector unless otherwise approved by the planning director or planning commission.

(f) All such complexes shall provide at least two accesses.

(g) All roadways and parking areas shall be paved, and roadways shall not be less than 20 feet in width, except as approved by the planning director or planning commission.

(h) A sight-obscuring fence or evergreen hedge may be required by the planning director or planning commission when, in the director's or its judgment, such screening is necessary to preserve the values of nearby properties, protect the aesthetic character of the neighborhood or vicinity, and to provide security for occupants of the subject complex.

(i) All accessory structures associated with such a complex shall be set back 50 feet from the property line of an abutting single-family residential lot or use.

(14) **Recreation Vehicle Park.** A recreation vehicle park shall be built to state standards in effect at the time of construction, with the following provisions and any additional conditions set forth in the planning director or planning commission's approval prior to occupancy:

(a) The space provided for each recreation vehicle shall be not less than 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than recreation vehicles and landscaped areas.

(b) Roadways shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 20 feet in width if parking is not permitted on the

edge of the roadway, shall be paved with asphalt, concrete or similar impervious surface and designed to permit easy access to each recreation vehicle space.

(c) A space provided for a recreation vehicle shall be covered with crushed gravel or paved with asphalt, concrete, or similar material and be designed to provide runoff of surface water. The part of the space which is not occupied by the recreation vehicle, not intended as an accessway to the recreation vehicle or part of an outdoor patio, need not be paved or covered with gravel provided the area is landscaped or otherwise treated to prevent dust or mud.

(d) A recreation vehicle space shall be provided with piped potable water and sewage disposal service. A recreation vehicle staying in the park shall be connected to the water and sewage service provided by the park if the vehicle has equipment needing such service.

(e) A recreation vehicle space shall be provided with electrical service.

(f) Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park and located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.

(g) No recreation vehicle shall remain in the park for more than 30 days in any 60-day period.

(h) The total number of parking spaces in the park, exclusive of parking provided for the exclusive use of the manager or employees of the park, shall be equal to one space per recreation vehicle space. Parking spaces shall be covered with crushed gravel or paved with asphalt, concrete or similar material.

(i) The park shall provide toilets, lavatories and showers for each sex in the following ratios: for each 15 recreation vehicle spaces or any fraction thereof: one toilet, one urinal, one lavatory and one shower for men; and two toilets, one lavatory and one shower for women. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in separate buildings, or if in the same building, shall be separated by a soundproof wall.

(j) The park shall provide one utility building or room containing one clothes washing machine, one clothes drying machine and 15 square feet of space for clothes drying lines for each 10 recreation vehicle spaces or any fraction thereof, unless such facilities are available within a distance of three miles and are adequate pursuant to these standards.

(k) Building spaces required by subsections (14)(i) and (j) of this section shall be lighted at all times of night and day, shall be ventilated, shall be provided with heating facilities which shall maintain a room temperature of 68 degrees Fahrenheit, shall have floors of waterproof material, shall have sanitary ceiling, floor and wall surfaces and shall be provided with adequate floor drains to permit easy cleaning.

(l) Except for the access roadway into the park shall be screened on all sides by a sight-obscuring hedge or fence not less than six feet in height, unless otherwise approved by the planning director or planning commission.

(m) The park shall be maintained in a neat appearance at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park.

(n) Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.

**(15) Radio, Television Tower, Utility Station or Substation.**

(a) In a residential zone, all equipment storage on the site may be required to be within an enclosed building.

(b) The use may be required to be fenced and provided with landscaping.

(c) The minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.

(d) Transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

**(16) Schools.**

(a) Nursery schools shall have at least 100 square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots.

(b) Elementary schools shall provide a basic site area of five acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

(c) Secondary schools shall have a basic site area of 10 acres plus one additional acre for each 100 pupils of predicted ultimate enrollment.

**(17) Telecommunication Towers.** An application for a wireless telecommunications facility will be approved upon findings that:

(a) The facility will not be located on land that at the time of application has irrigation water rights available;

(b) The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that there has been a good faith effort to colocate the antennas on existing monopoles in the area served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates the necessary service cannot be provided by colocation within the area to be served. County reserves the right to have a qualified engineer of its own choosing review and endorse the findings of applicant's engineer. In such cases, the concurrence of county's engineer shall be necessary to establish the required findings. The term "search area" refers to a geographic area within which the applicant seeks to establish a facility;

(c) The facility, including support structures, is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residences;

(d) No antenna arrays will be allowed to be installed to exceed the height of the tower or monopole. Towers or monopoles shall not be sited in locations where there is no vegetative (including native high desert sagebrush or juniper stands), structural or topographic screening available;

(e) In all cases, the applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation, and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative (including native high desert sagebrush or juniper stands), structural or topographic screening available. All ground-based equipment, including any equipment



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**Exhibit C**

shelters or cabinets and security fencing, shall be screened from view from residences on abutting properties and from properties on the opposite side of a public road. The applicant can accomplish this by screening the perimeter of a lease area with plant materials appropriate for the location. The lessee shall be required as a condition of an approval to continuously maintain all introduced and preexisting landscape material;

(f) Telecommunication towers or monopoles shall be finished with a nonreflective surface in color which will blend with the surroundings and minimize visual impact, as approved by the planning director or planning commission;

(g) Any required aviation lighting is shielded from surrounding buildings to the maximum extent allowed by FAA and/or ODOT – Aeronautics regulations;

(h) The form of lease for the site does not prevent the possibility of colocation of additional carriers on the same facility;

(i) Any tower or monopole over 50 feet in height shall be designed in a manner that it can carry the antennas of at least one additional wireless carrier. This criterion may be satisfied by submitting the statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers;

(j) Any approval of a wireless telecommunications facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the permittee;

(k) An application for a conditional use permit for only a support structure such as a tower or monopole may only be approved with the condition that the county will not issue any building permits for the support structure or any ground-based equipment buildings until the applicant provides the planning department with a copy of a signed lease agreement between the owner of the support structure and a personal wireless service provider;

(l) The planning director or planning commission, or in the event of an appeal, the county court may attach additional conditions of approval;

(m) The applicant shall provide a bond sufficient to pay for the removal of the tower;

(n) The planning director or planning commission may retain a technical consultant(s) for the purpose of evaluating the application;

(o) The telecommunication tower shall be to the maximum extent designed to resemble natural features (e.g., trees and vegetation);

(p) A telecommunication tower shall be not located or designed in such a manner as to significantly impact scenic values;

(q) The approval of a wireless telecommunication facility shall not include any covenant, promise, or agreement that prohibits or restricts any person or entity from engaging in direct or indirect competition with providers of cellular service, Specialized Mobile Radio (SMR) service, Personal Communication Service (PCS) service, paging service, or any other form of telecommunication service provided to the public.

(18) Eating and Drinking Establishments.<sup>1</sup> The planning director or planning commission may authorize an eating and drinking establishment as a conditional use based upon the following criteria:

(a) Hours of operation may be regulated based on an establishment's proximity to residential neighborhoods or schools, the concentration of establishments in an area serving alcoholic beverages or for other reasons that may arise based on the location of the establishment.

(b) Modification of the conditional use permit may be required whenever the use is intensified or is expanded in square footage.

(c) Alcoholic beverage service in approved outdoor seating areas may be permitted the as allowed by the OLCC.. The separation shall clearly suggest that alcohol is not allowed outside the seating area. Outdoor seating areas adjacent to residential uses may be limited or restricted by the planning director or planning commission. The additional criteria will also apply to outdoor seating areas:

(i) Size Limitations. Outdoor seating areas shall not exceed the indoor seating area or seating capacity of the restaurant or tavern.

(ii) Parking Required. Parking in compliance with CCC18.128.010(6)(e) shall be provided for all outdoor seating areas.

(iii) Music. No outdoor music or entertainment shall be provided after 11:00 p.m., or such earlier time as the planning director or planning commission may establish.

(iv) Trash. All trash located within the outdoor dining area, on the restaurant or tavern property, and adjacent streets, sidewalks, and properties shall be picked up and properly disposed of immediately after closing.

(d) License approval by OLCC.

(e) Adequate access from principal streets.

(f) Adequate off-street parking.

(g) Adequate building and site design provisions to minimize noise and glare from the building and site.

**18.160.060 Procedure for taking action on conditional use application.**

The procedure for taking action on a conditional use application shall be as follows:

(1) A property owner may initiate a request for a conditional use by filing an application with the planning department, using forms prescribed pursuant to CCC 18.172.040. (2) Before the planning commission may act on a conditional use application, it shall hold a public hearing thereon, following procedure as established in CCC 18.172.050.

(3) Within five days after a decision has been rendered with reference to a conditional use application, the planning director shall provide the applicant with written notice of the decision of the planning director or planning commission and shall provide all parties of record with notice of the decision. (Ord. 18 § 6.060, 2003)

**18.160.070 Permit expiration dates.**

(1) A conditional use permit shall be void after four years unless development action has been initiated, the proposed use has occurred or the county has granted an extension of time in accordance with subsection (2) of this section.

(2) The county shall grant two-year extensions to the four-year time period set forth in subsection (1) of this section as planning director decisions pursuant to CCC 18.172.060(2).

(3) For the purposes of this section, the term "initiate development" means that substantial construction towards completion of the conditional use permit has taken place. Substantial construction has occurred when the land and/or structure has been physically altered or the use changed and such alteration or change is directed toward completion and is sufficient in terms of time, labor or money spent to demonstrate a good faith effort to complete the development.

**18.160.080 Occupancy permit.**

The planning director or planning commission may require an occupancy permit for any conditional use permitted and approved pursuant to the provisions of this title. The planning director or planning commission shall consider such a requirement for any use authorized by a conditional use permit for which this title requires on-site or off-site improvements or where such conditions have been established by the planning director or planning commission upon approval of such use. The requirement of an occupancy permit shall be for the purpose of ensuring permit compliance and an occupancy permit shall not be issued except as set forth by the planning director or planning commission. The authority to issue an occupancy permit upon compliance with the requirements and conditions of a conditional use permit may be delegated by the planning director or planning commission at the time of approval of a specific conditional use permit to the planning director and/or the building official.

**Chapter 18.168**  
**LEGISLATIVE AMENDMENTS**

**18.168.010 Legislative hearings.**

(1) When the court or an agency of the court is required by state statute or this title to conduct a hearing on legislative matters, it shall hold the hearing in accordance with the applicable procedures of this chapter.

(2) "Legislative matters" generally involve a broad public policy decision that applies to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plan, zoning ordinance, or the subdivision ordinance and changes to the comprehensive plan map and/or zoning maps not directly affecting individual property owners.

**18.168.020 Authorization to initiate amendments.**

The application for a hearing on any legislative matter may be initiated by any of the following:

- (1) Property owners by written application on forms provided by the director and upon payment of the required fee.;
- (2) Planning Commission on its own motion; or
- (3) County Court on its own motion and order.

**18.168.030 Notice.**

(1) Notice of the hearing to enact any legislative matter shall be published in a local newspaper of general circulation at least 10 days in advance of each hearing in accordance with the requirements of ORS 215.223. During a hearing properly advertised, the matter may be continued to another date certain without additional public notice. Notice may be given by other means such as mail, radio and television. (2) The notice shall contain at least the following information:

- (a) A statement of the proposed public action;
- (b) The department of the county from which additional information can be obtained; and
- (c) The time, place, date and methods for presentation of views by interested persons.

(3) When applicable notice to DLCD shall be provided as required by ORS 197.610 and 197.615.

(4) When applicable notice to affected property owners shall be provided as required by ORS 215.503(2)

**18.168.040 Submission of written testimony.**

Any person may submit written recommendations and comments, copies of which shall be kept on file and made available for public inspection. Time limitations on the acceptance of written testimony shall be determined by the hearing authority.

**18.168.050 Number and manner of hearings.**

(1) Subject to subsection (4) of this section, the planning commission shall conduct no less than one public hearing on the proposed legislative matter.

(2) The planning commission shall, within 20 working days after the last hearing, issue a written recommendation to the court for approval, approval as modified, or disapproval. The written recommendation shall also contain a statement of findings of fact and conclusion, which supports the recommendation.

(3) The County court, after receiving the written recommendation from the planning commission, shall schedule and conduct a public hearing on the proposed legislative matter. The public hearing may be conducted as described in CCC 18.172.081.

(4) If an ordinance is initiated by the governing body, it shall, unless waived by a majority vote of the County Court, prior to enactment, request a report and recommendation regarding the ordinance from the planning commission. The planning commission shall submit the report and recommendation by the date and time stated in the request. Such date and time shall be reasonable.

**18.168.060 Record of amendments.**

The county clerk shall maintain a recorded copy of all amendments to the comprehensive plan and land use regulation text and maps.

**18.168.070 Limitations on reapplications.**

No application of a property owner for an amendment to the text of the comprehensive plan, the development ordinance or of this title or its zoning map shall be considered by the planning commission within the six-month period immediately following a previous denial on the same application; if, in the opinion of the planning commission, new evidence or a change of circumstances warrant it, however, the planning commission may permit a new application.



**18.172.015 Authority to Make Land Use Decisions**

(1). Except for comprehensive plan amendments and zone changes and other instances where a public hearing is required by state law or by other ordinance provision, the Planning Director may make any land use decision by issuing an administrative determination either with prior notice or without prior notice, in accordance with ORS 215.416(11) and 18.172.060(1). The Planning Director may refer any application for a land use decision to the Planning Commission for a hearing.

(2) The Planning Commission shall annually establish a list of the types of land use applications the Planning Commission will review in a public hearing. The list shall be approved at the last meeting in December. The Planning Director shall to the extent practicable follow the decision of the Planning Commission. The Planning Director's choice between making an administrative decision or submitting an application to the Planning Commission for a public hearing shall not be an appealable decision.

**18.172.020 Application.**

(1) The applicant shall make application to the director upon forms provided by the County.

(2) An application is deemed to be complete when in the judgment of the director all application issues have been adequately addressed in the application and all applicable fees have been paid to the county.

(3) If an application is incomplete, the director shall, within 30 days of receipt of the application, notify the applicant in writing of exactly what information is missing. The applicant may amend the original application or submit a new application supplying the missing information.

(4) The applicant shall have 180 days from the date of notice from the director to supply the missing information.

(5) If the applicant submits the missing information within the 180-day period specified in subsection (4) of this section, the application shall be deemed complete upon receipt of the missing information.

(6) For lands located within the urban growth boundary and for applications for mineral aggregate extraction, the hearing authority shall act upon a completed application within 120 calendar days of the filing of a completed application. For all other permit applications, the hearing authority shall act upon a completed application within 150 calendar days of filing of a completed application. Such time limitations can be extended with the consent of the applicant.

18.172.030 Health department approval.

No zoning permit shall be issued for any use or structure which will have an individual sanitary subsurface disposal system, until written approval is obtained by the applicant for said system from the county sanitation department. (Ord. 18 § 9.030, 2003)

18.172.040 Form of petitions, applications and appeals.

Petitions, applications and appeals provided for in this title shall be made on forms prescribed by the county. Applications shall be accompanied by plans and specifications, drawn to scale, showing actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of all existing and proposed structures; the intended use of each structure, the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this title. (Ord. 18 § 9.040, 2003)

18.172.050 Filing fees.

All fees described in this section shall hereafter be set annually as determined by the county court.

(1) All fees for permits, variances, zone map amendments, comprehensive plan amendments, zone text amendments, appeals, and any other necessary review or permits pursuant to this title shall be set annually as determined by the county court.

(2) Filing of an application is not considered complete until all applicable fee(s) are paid to the county.

(3) Refunds.

(a) If the applicant withdraws a land use application prior to the mailing of the notice on the matter, the applicant may apply to the planning department for a refund of a fee paid for that action.

(b) If the applicant withdraws a land use application before the seventh working day prior to the commencement of the first hearing on the matter or prior to the action of the director, the applicant may apply to the planning department for a partial refund of a fee paid for that action.

(c) No refunds or partial refunds shall be granted by the planning director if the applicant withdraws a land use application on or after the seventh working day prior to the commencement of the first public hearing on the matter or after action of the director.

(d) The director shall within five working days of receiving an application for a refund or a partial refund make a determination whether to grant the refund or partial refund. If the planning director makes a determination to grant a refund or a partial refund, the director shall make the appropriate refund or partial refund of that fee to the applicant within 30 days.

(e) The applicant may file with the county court an appeal of a determination by the director to deny a refund or a partial refund of a land use application fee. The county court may grant a refund or a partial refund of a land use application fee upon good cause shown by the applicant.

(f) For purposes of this subsection, "partial refund" shall mean the filing fee less notice and reasonable staff costs.

(4) Fees charged for processing permits shall be no more than the actual or average cost of providing that service. (Ord. 155 § 1, 2005; Ord. 18 § 9.050, 2003)

18.172.060 Planning Director decisions.

(1) Administrative Decisions.

(a) Subject to ORS 215.416(11), the planning director shall have the authority to make an administrative determination on a land use application as set forth in specific zones in this title. (b) After receiving a complete application for an administrative determination, the director shall make a determination, and if approved, issue a permit to the applicant in accordance with the requirements of ORS 215.427

(c) The director shall cause a written notice of administrative determination and of the appeal procedure to be given to the applicant and to those persons who would have had a right to notice under this title if a hearing had been scheduled or who are adversely affected or aggrieved by the administrative determination. Such notice shall be given in accordance with the requirements of ORS 215.416(10).

(2) Extensions.

(a) A request for an extension to a land use approval shall be handled administratively by the planning director without public notice or hearing, and is not subject to appeal as a land use decision.

(b) The planning director shall grant up to four extensions to a land use approval regardless of whether the applicable criteria have changed, if:

(i) An applicant makes a written request for an extension of the development approval period; and

(ii) The request, along with the appropriate fee, is submitted to the county prior to the expiration of the approval period. (Ord. 216 § 2, 2009; Ord. 18 § 9.060, 2003)

18.172.070 Notice of public hearing.

(1) A hearing shall be held only after notice to the applicant and any other person required by law to be given notice.

(2) Notice of the hearing to approve any quasi-judicial land use matter shall be provided to the applicant and to the owners of record of property on the most recent tax assessment roll in accordance with ORS 197.763(2)

(3) Notice shall also be given to the following persons:

(a) Any person, agency, organization that has filed with the director a request to receive notices of hearings and has paid a reasonable fee to cover the costs of such notices;

(b) Any person, agency, organization that may be designated by this title;

(c) Any other person, agency, organization that may be designated by the county court or its agencies;

(d) An owner of an airport, defined by the Department of Transportation as a "public use airport" in accordance with applicable state law;

(e) (On a zone change application.) A tenant of a mobile home or manufactured dwelling park as defined by state law in accordance with applicable state law.

(4) Notice of any quasi-judicial matter shall be mailed in accordance with the requirements of ORS 197.763(3)(f) at least:

(a) Twenty calendar days before the evidentiary hearing; or

(b) If two or more hearings are allowed, 10 calendar days before the first evidentiary hearing.

(5) The notice shall contain at least the following information:

(a) An explanation of the nature of the application and the proposed use or uses, which could be authorized;



(b) A listing of the applicable criteria from this title and the comprehensive plan that apply to the application at issue;

(c) A statement setting forth the street address or other easily understood geographical reference to the subject property;

(d) The date, time and location of the hearing;

(e) A statement that the failure to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals based on that issue;

(f) The telephone number of the director and that the director is the person to contact for additional information;

(g) A 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 will be provided at reasonable cost;

(h) A statement that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost; and

(i) A general explanation of the requirements for submission of testimony and the procedures for conduct of hearings.

(6) The failure of a property owner, airport owner or tenant of a mobile home or manufactured dwelling park to receive notice shall not invalidate such proceedings if the director, commission or court can demonstrate by affidavit that such notice was given.

(7) For the purpose of personal notification, the records of the county assessor's office shall be used.

(8) These notice requirements by mail shall not restrict the giving of notice by other means, including posting, newspaper publication, radio, television electronic mail or the County website..

(9) Notice may be posted in a conspicuous manner in any of the following three locations:

(a) Crook County Courthouse;

(b) City of Prineville City Hall; and

(c) The United States Post Office located in Prineville, Oregon. (Ord. 18 § 9.070, 2003)

18.172.080 Members of the planning commission.

(1) Planning Commission Established.

(a) With the adoption of the ordinance codified in this title the existing Crook County planning commission is abolished. Members currently serving will continue to serve until final written decisions are signed for all items which they have heard and taken action on.

(b) There is hereby created a new county planning commission (hereinafter referred to as the commission for the county of Crook, state of Oregon).

(2) Members of the Planning Commission.

(a) The commission shall consist of seven members appointed by the county court for four-year terms, or until their respective successors are appointed and qualified.

(b) Any vacancy on the commission shall be appointed by the county court for the unexpired term.

(c) Members of the commission shall serve without compensation. The Planning Director may authorize mileage reimbursement at the standard County rate for planning commission members who must travel from outlying areas of the County to attend Planning Commission meetings.

(d) Members of the commission shall be residents of the various geographic areas of the county. The various geographic areas are depicted in the map of Citizen Planning Areas in the Crook County Comprehensive Plan. The County Court may deviate from these areas to the extent needed to obtain a full seven member planning commission from the applicant pool available. An objection to an applicant by the majority of the Court may be the basis for deviating from the geographic areas in the Citizen Planning Areas.

(e) No more than two members shall be engaged principally in buying, selling or developing real estate for profit as individuals or be members of any partnership, or officers or employees of any corporation that is engaged principally in buying, selling or developing real estate for profit.

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

(g) A member may have his or her term of appointment terminated by the county court if a change in occupation results in more than two members being engaged in the same kind of business, trade or profession.

(h) A member's term of appointment may be terminated by the county court, after a hearing, if he or she is absent from 20 percent or more of the scheduled commission meetings or if he or she exhibits personal or business conduct which raises questions concerning his or her bias or objectivity in fulfilling the duties of a commissioner.

(3) Chairperson and Vice-Chairperson. The commission shall elect a chairperson and a vice-chairperson. The election shall be held annually at the commission's first regularly scheduled meeting in January of each year, or at a later regularly scheduled meeting if necessary. Commencing with the January 2012 election of the chairperson, a commission member may not be elected chairperson if that member has served two consecutive one-year terms as chairperson immediately prior to the election.

(4) Secretary. The county planning department shall keep an accurate record of all commission proceedings.

(5) Procedures.

(a) The commission shall meet at least once a month, at such time and places as may be fixed by the commission or the planning department.

(b) A member of the commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or his or her spouse, sibling, child, parent, parent-in-law, partner, or any business in which he or she has a financial interest, or by which he or she is employed or has been employed within the previous two years, or any business with which he or she is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

(c) A quorum of the planning commission shall be four planning commission members. A majority of the quorum voting in favor of a motion shall be sufficient to adopt that motion.

(6) Recommendation to County Court. All recommendations and suggestions made to the county court by the commission shall be in writing.

(7) Advisory Committees.

(a) The commission will serve as the county's citizen involvement committee for land use issues. For the purpose of obtaining citizen participation in, and to assist in coordinating, land use planning for all lands situated within the county, the commission may establish advisory committees on land use planning for each geographic area considered to be a reasonable land use planning unit. Each such committee shall be composed of residents of the area concerned.

(b) The commission may also establish advisory committees on specific planning issues such as economics, housing, transportation, solid waste, natural resource management, open space, and recreation.

(c) The commission shall consult with each advisory committee established under subsections (7)(a) and (b) of this section in the preparation, adoption, revision, and implementation of a comprehensive plan and other plans for the county. The commission shall furnish each such committee with technical and other assistance.

(8) Finances. The commission may employ consultants to advise on county problems, and pay for their services, and for such other expenses as the commission may lawfully incur, including the necessary disbursements incurred by its members in the performances of their duties as members of the commission, out of funds at the disposal of the commission as authorized by the county court.

(9) Powers. The commission shall have all of the powers which are now or hereafter granted to it by the ordinances of this county or by the general laws of the state of Oregon. The commission shall make recommendations regarding subdivisions of land and land use to the county court, to public officials, and to individuals, and may make recommendations regarding location of thoroughfares, public buildings, parks, and other public facilities, and regarding any other matter related to the planning and development of the county. The commission may make studies, hold hearings, and prepare reports and recommendations on its own initiative or at the request of the county court.

(10) Expenditures. The commission shall have no authority to make expenditures on behalf of the county, or to obligate the county for the payment of any sums of money, except as herein provided, and then only after the county court shall have first authorized such expenditures by appropriate resolution, which resolution shall provide administrative method by which such funds shall be drawn and expended.

#### 18.172.081 Public hearing and order of proceedings.

(1) Call to Order. The chairperson shall state the case and call the public hearing to order.

(2) Time Allowances. The chairperson may establish the time allowed for the presentation of information.

(3) Objections. Any objections on jurisdictional grounds shall be noted in the record.

(4) Abstentions and Disqualifications. Any abstentions or disqualifications shall be determined and announced on the record.

(5) **Conflicts of Interests.** Members shall announce on the record all potential and actual conflicts of interest.

(6) **Staff Reports.** County staff may also present additional information whenever allowed by the chairperson during the proceedings.

(7) **Site Visits.** The hearing authority may view the area involved in the application for purposes of evaluating the proposal, but shall state the place, time, manner and circumstances of such viewing in the record.

(8) **Hearing Statement.** At the commencement of the hearing, the chairperson shall cause a statement to be made to those in attendance. That statement shall include the following information:

(a) A list of the applicable substantive criteria;

(b) A statement that testimony and evidence must be directed toward the applicable substantive criteria or other criteria in the plan or land use regulation which the person believes to apply to the decision; and

(c) A statement that a failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes an appeal to the commission, court or land use board of appeals based on that issue.

(9) **Presentation of Evidence.** Presentation of information or inquiries shall be given in the following order by those who:

(a) Are the applicant or those representing the applicant.

(b) Support the proposal.

(c) Oppose the proposal.

(d) Do not necessarily support or oppose the proposal.

(10) **Recognition of Speaker.** Unless otherwise approved by the chairperson, in order to present oral or written testimony on the record during a public hearing, the presenter of evidence must be fully recognized by the chairperson, and state the speaker's full name and address before presenting any evidence.

(11) **Rebuttal Testimony.** Rebuttal testimony may be presented by persons who have testified supporting or opposing the proposal. The scope of the material presented during rebuttal shall be limited to matters which were brought up during the course of the hearing. Rebuttal shall be first presented by the applicant or the applicant's representative and then by those opposed to the proposal. The chairperson shall limit rebuttal to avoid repetition and redundancy.

(12) **Written Argument.** The chairperson shall call for any written argument from those that support or oppose the proposal.

(13) **Acceptable Evidence.** The commission shall consider only testimony, evidence and information that is relevant to the issue before the commission. Irrelevant, immaterial, or repetitious testimony, evidence or information shall be rejected by the chairperson.

(14) **Recess of Hearing.** Subject to ORS 215.428, the commission may recess the hearing on an application or proposal to obtain additional information or to serve further notice on person(s) determined to be necessary by commission. Upon recessing, the time and date when the hearing shall be resumed shall be announced. Additional mailed, printed or posted notice shall be required if the matter is postponed more than six weeks.

(15) **Holding the Record Open.** Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain

open for at least seven calendar days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.427.

**(16) Closing the Public Hearing.**

(a) Subject to a request to hold the record open before the conclusion of the initial evidentiary hearing, at the close of presentation of information, rebuttal and written argument, the chairperson shall declare that the hearing is closed unless there is a motion to continue the public hearing.

(b) If the hearing is closed, no further evidence shall be received except in response to specific questions directed to staff or to one of the parties to clarify earlier evidence. The opportunity for brief rebuttal shall also be afforded to adverse parties.

(c) Additional written argument may be permitted at the discretion of the hearing authority.

**(17) Reopening the Record.**

(a) Once a hearing has been closed, the record shall be reopened to submit new evidence or testimony only upon a majority vote of the hearing authority and only after a reasonable showing by the party requesting the record to be reopened that:

(i) There is evidence, which was not reasonably available at the time of the hearing;

(ii) The evidence was not available to the person seeking to reopen the hearing; and

(iii) The evidence is factual, substantial, and material.

(b) When the hearing authority reopens a record to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or criteria for decision-making, which apply to the matter at issue. (Ord. 18 § 9.081, 2003)

**(18) No public hearing shall extend beyond 10:00PM unless**

(a) there is a unanimous vote of the members of the hearing body present to continue the public hearing beyond 10:00PM.

(b) Upon unanimous vote of the members of the hearing body present the public hearing may be continued an additional 30 minutes. Each additional 30 minute requires a unanimous vote of the members of the hearing body present to continue. In no event shall the public hearing be extended more than 2 hours beyond 10:00 PM.

(c) Where the public hearing has already been extended 2 hours or there is not a unanimous vote among the members of the hearing body present to further extend the public hearing, the public hearing shall be continued to the next regularly scheduled meeting of the hearing body or other time and date certain specified by majority vote.

**18.172.090 Land use decisions.**

(1) Written approval or denial of an application for a use allowed by this title shall be based upon and accompanied by a brief statement that:

(a) Explains the criteria and standards considered relevant to the decision;

(b) States the facts relied upon in rendering the decision; and

(c) Explains the justification for the decision based upon the criteria, standards and facts set forth.

(2) Following the signing of the land use decision made by the commission, the director shall cause to be issued a written notice of final decision which describes the decision of the hearing authority, the date of the final decision and the applicable appeal period.

(3) The date the land use decision becomes final shall be the date the decision is reduced to writing and signed by the commission or, if the commission so orders, its designee.

(4) The written notice of final decision shall be issued to:

- (a) All parties to the proceeding;
- (b) All persons who testified at the public hearing and those who submitted written testimony; and
- (c) All persons entitled to receive a notice of disposition by other provisions of this title.

(5) Subject to CCC 18.172.110, a permit shall not be effective or issued by the county until 12 calendar days after the final decision. (Ord. 18 § 9.090, 2003)

#### 18.172.100 Revocation or modification of permit.

(1) The hearing authority may revoke or modify any permit granted under the provisions of this title on any one or more of the following grounds:

(a) For fraud, concealment, or misrepresentation or on the basis of wrong information supplied on the application, or given at a public hearing which materially relates to the reasons on which the permit was granted.

(b) The use for which such permit was granted is not being exercised within the time limit set forth by the commission or this title.

(c) The use for which such permit was granted has ceased to exist or has been suspended for one year or more.

(d) The permit granted is being or recently has been exercised contrary to the terms or conditions of such approval.

(2) Any permit granted pursuant to this title shall become null and void if not exercised within the time period specified in such permit, or if no time period is specified in the permit, within one year from the date of approval of said permit.

(3) The commission shall hold a public hearing on any proposed revocation or modification after giving written notice to the permittee and other affected persons as set forth in this title. The hearing on the decision, which is subject to revocation or modification, is subject only to the standards, criteria and conditions that were applicable when the original permit was issued. The commission shall render its decision within 45 calendar days after the conclusion of the hearing. (Ord. 18 § 9.100, 2003)

#### 18.172.110 Appeals.

(1) Every land use decision relating to the provision of this title made by the planning commission, planning director, hearing officer or other official of Crook County is subject to review when appealed within 12 calendar days of the date the decision was final in accordance with state statutes and the following provisions:

(2) The filing of an appeal in accordance with the provisions of this section initiates the appeal process and stays the order of the decision appealed. The process shall include appropriate public notice, a public hearing, and the preparation of findings by that authority which either affirms, amends, or reverses the decision appealed.

Exhibit E

(3) All hearings of appeal from an administrative determination shall be de novo.

(4) All hearings of appeals from a planning commission final decision shall be based on the record made before the planning commission.

(5) A final decision not to adopt a legislative matter is not appealable.

(6) Appeals may be filed only by the following parties:

(a) The applicant or the authorized agent of the applicant; or

(b) Any person or county official testifying at the public hearing or who provided written comments may appeal a decision.

(7) The appellate body may review a lower determination or decision upon its own motion by issuing a written order to that effect on the lower body within 10 working days of the date the determination or decision becomes final. The appellate body must cause notice to be given to the parties involved within three working days of the appellate body's order to review.

(8) Appellate Body.

(a) The appellate body for appeals from administrative determinations of the director shall be the planning commission.

(b) The appellate body for appeals from final decisions of the planning commission shall be the county court, unless the county court orders the appeal be sent directly to the Oregon Land Use Board of Appeals as the final decision of the County.

(c) Appeals from decisions of the county court shall be in conformance with the applicable ORS provisions.

(9) Filing Requirements.

(a) Appeals shall be complete and the appellate body shall have jurisdiction to hear the matter appealed if all the following occur:

(i) The appeal shall be in writing and shall contain:

(A) Name and address of the appellant(s);

(B) Reference to the application title and case number, if any;

(ii) A statement of the nature of the decision;

(A) A statement of the specific grounds for the appeal, setting forth the error(s) and the basis of the error(s) sought to be reviewed; and

(B) A statement as to the appellant's standing to appeal as an affected party.

(iii) Proper filing fee in accordance with CCC 18.172.050.

(iv) Written notice of appeal must be filed within 12 calendar days of the decision with the appropriate person.

(A) To the planning commission from an administrative determination by the planning department;

(B) To the county court for appeals from final decisions by the planning commission.

(10) Notice and Hearing of the Appeal.

(a) Where practicable, the director shall place the appeal on the agenda for the next regularly scheduled appellate body's hearing in order to determine whether or not the appeal has been properly filed.

(i) If the appellate body determines to dismiss the appeal, it must state in writing the reasons the application has not met the requirements for an appeal. Upon dismissal, the appealed decision is final.

(ii) If the appellate body determines that the facts stated in the notice of appeal meet the requirement for a hearing, it shall set a time for such hearing to be held not later than 60 calendar days after receipt of the notice of appeal. If the appellate body is the county court, the county court may order the appeal sent directly to the Land Use Board of Appeals as the final decision of the County without an appeal hearing.

(c) At least 10 calendar days prior to the hearing, the hearing authority shall give notice of time, place and the particular nature of the appeal. Notice shall be published in the newspaper and be sent by mail to the appellant(s), to the applicant (if different) and those persons who testified at the subject hearing where a hearing was held and affected parties in accordance with this section.

(11) Transcript. The appellant shall provide a copy of the transcript of the relevant portions of the proceedings appealed from to the county planning department seven calendar days before the hearing date set by the county court.

(12) Scope and Standard of Review on Appeal.

(a) On the Record Review. The appeal is not a new hearing, it is a review of the decision below. Subject to the exception in subsection (12)(a)(vi) of this section, the review of the final decision shall be confined to the record of the proceedings below, which shall include, if applicable:

(i) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received by the planning commission as evidence.

(ii) All materials submitted by Crook County staff with respect to the application.

(iii) The transcript of the relevant portions of the planning commission hearing.

(iv) The written final decision of the planning commission and the petition of appeal.

(v) Argument (without introduction of new or additional evidence) by the applicant, appellants or their legal representative.

(vi) The appellate body may, at its option, admit additional testimony and other evidence from an interested party or party of record to supplement the record of prior proceedings. The record may be supplemented by order of the appellate body or upon written motion by a party. The written motion shall set forth with particularity the basis for such request and the nature of the evidence sought to be introduced. Prior to supplementing the record, the appellate body shall provide an opportunity for all parties to be heard on the matter. The appellate body may grant the motion upon a finding that the supplement is necessary to take into consideration the inconvenience of locating the evidence at the time of initial hearing, with such inconvenience not being the result of negligence or dilatory act by the moving party.

(b) Standard of Review on Appeal. The burden of proof in a hearing shall be as allocated by applicable law. The burden shall remain with the applicant to show that relevant criteria were met for an application throughout the local appeal process. For an appeal on the record, an appellant shall have the burden to articulate reasons why the initial decision is in error.

(13) Appellate Decisions. Following hearing the appeal, the appellate body may affirm, overrule, or modify the decision and shall set forth findings showing compliance with



applicable standards and criteria. The appellate body may also remand the decision with instructions to the planning commission, hearing officer or planning director who made the original decision to consider additional facts, issues or criteria not previously addressed.

(14) A decision made on remand is a new decision and may be appealed as described in 18.172.110(1) through (13) above.

#### **18.172.130 Remand by the Land Use Board of Appeals**

When a final decision of the County Court or other land use decision is remanded by the Land Use Board of Appeals:

(1) A remand hearing shall be held when:

(a) Requested by the applicant or appellant in writing, and upon payment of the applicable fee if any, in accordance with ORS 215.435 .

(b) The County Court on its own motion initiates a remand hearing.

(2) Remand Procedures

(a) Notice of a remand hearing shall be as provided by 18.172.110(c).

(b) The remand hearing shall be limited to staff, the applicant and appellants from the prior LUBA appeal. However, the County Court may expand those who may participate in the remand hearing upon the County Court's own motion.

(c) The remand hearing shall be limited solely to issues remanded in the final decision of the Land Use Board of Appeals unless the County Court expands the issues on remand upon the County Court's own motion.

(d) The remand hearing shall be limited to new evidence and testimony regarding the issues identified in 18.172.130(2)(c) above.



**Chapter 18.170**

**QUASI-JUDICIAL AMENDMENTS**

**18.170.010. Quasi-Judicial Amendment Standards.**

An applicant requesting a quasi-judicial amendment must satisfy the following factors for quasi-judicial amendments:

**(1) Comprehensive Plan Map Change**

(a). That the amendment complies with the Statewide Planning Goals and applicable Administrative Rules (which include OAR 660-12, the Transportation Planning Rule) adopted by the Land Conservation and Development Commission pursuant to ORS 197.240 or as revised pursuant to ORS 197.245.

(i) The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the County Transportation System Plan.

(a) The applicant shall cite the identified Comprehensive Plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the County Transportation System Plan.

(b) The jurisdiction providing direct access (County or ODOT) may require the applicant to submit a Traffic Impact Analysis or Traffic assessment Letter consistent with the requirements of Section 7.1.7 of the Crook County Transportation System Plan to support the findings used to address 18.170.010(1)(a)

(b). That the amendment provides a reasonable opportunity to satisfy a local need for a different land use. A demonstration of need for the change may be based upon special studies or other factual information.

(c). That the particular property in question is suited to the proposed land use, and if an exception is involved, that the property in question is best suited for the use as compared to other available properties.

(d) If it appears that it is not possible to apply an appropriate Goal to specific properties or situations, then the application shall set forth the proposed exception to such Goal when:

(i) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(ii) The land subject to the exception is irrevocably committed as described by the Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(iii) The following standards are met.

(a) Reasons justifying why the state policy embodied in the applicable goals should not apply;

(b) Areas which do not require a new exception cannot reasonably accommodate the use;

(c) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. (Compatible as used in this paragraph, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses).

## **(2) Zone Map Change**

(a) That the zone change conforms with the Crook County Comprehensive Plan, and the change is consistent with the plan's statement and goals.

(b) That the change in classification for the subject property is consistent with the purpose and intent of the proposed amendment.

(c) That the amendment will presently serve the public health, safety and welfare considering the following factors:

(i) The availability and efficiency of providing necessary public services and facilities.

(ii) The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Crook County Comprehensive Plan.

(d) That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question.

**18.170.020 Notice**

- (1) Notice of the hearing to enact any quasi-judicial matter will be given pursuant to the provisions of CCC 18.172.070.
- (2) When applicable notice to DLCD shall be provided as required by ORS 197.610 and 197.615.
- (3) When applicable notice to affected property owners shall be provided as required by ORS 215.503(2)

**18.170.030 Limitations on reapplications.**

No application of a property owner for an amendment to the text of the comprehensive plan, the development zoning ordinance or of this title or its zoning map shall be considered by the planning commission within the six-month period immediately following a previous denial on the same application. If, in the opinion of the planning commission, new evidence or a change of circumstances warrant it, however, the planning commission may permit a new application.

**18.170.040. Record of Amendments.**

The county clerk shall maintain a recorded copy of the all amendments to the comprehensive plan and land use regulation text and maps.

ROCK COUNTY PLANNING DEPT.  
300 N. E. Third Street  
Prineville, OR 97754

Hasler

FIRST-CLASS MAIL

11/15/2010

US POSTAGE

\$02.41<sup>0</sup>



ZIP 97754  
011D11611651

Attn: Plan Amendment Spec  
DLCD  
635 Capitol St. NE  
Suite 150  
Salem OR 97301-2540