



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

12/28/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Jackson County Plan Amendment  
DLCD File Number 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, January 10, 2011

This amendment was submitted to DLCD for review prior to adoption 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).

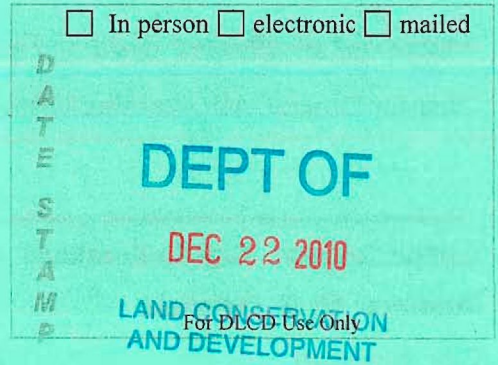
If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the 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 Acknowledgment or 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 above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Josh LeBombard, Jackson County  
Jon Jinings, DLCD Community Services Specialist  
Ed Moore, DLCD Regional Representative

<paa> YA

Notice of Adoption



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

Jurisdiction: Jackson County

Local file number: LRP2004-00014B

Date of Adoption: 12/15/2010

Date Mailed: 12/20/10

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? YES Date: April 9, 2009

[ ] Comprehensive Plan Text Amendment

[ ] Comprehensive Plan Map Amendment

X Land Use Regulation Amendment

[ ] Zoning Map Amendment

[ ] New Land Use Regulation

[ ] Other:

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

Amend various sections of the Jackson County Land Development Ordinance to clarify development standards, improve intergovernmental coordination, and increase the ability of emergency vehicle access to properties for fire and medical emergencies.

Does the Adoption differ from proposal? No

Plan Map Changed from: n/a

to: n/a

Zone Map Changed from: n/a

to: n/a

Location: Jackson County

Acres Involved: n/a

Specify Density: Previous: n/a

New: n/a

Applicable statewide planning goals:

- 1-19 numbered list with checkboxes. 2, 7, 12 are checked.

Was an Exception Adopted? [ ] YES X NO

Did DLCD receive a Notice of Proposed Amendment..

45-days prior to first evidentiary hearing?

X Yes [ ] No

If no, do the statewide planning goals apply?

[ ] Yes [ ] No

If no, did Emergency Circumstances require immediate adoption?

[ ] Yes [ ] No

DLCD file No. 003-09 (17505) [16462]

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

Jackson County, All local Fire Districts

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Local Contact: **Josh LeBombard**

Phone: **(541)774-6944** Extension:

Address: 10 S. Oakdale

Fax Number: **541-774-6791**

City: Medford

Zip: **97501**

E-mail Address: **lebobjm@jacksoncounty.org**

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

BEFORE THE BOARD OF COMMISSIONERS  
STATE OF OREGON, COUNTY OF JACKSON

IN THE MATTER OF CONSIDERATION OF )  
AMENDMENTS TO LAND DEVELOPMENT )  
ORDINANCE SECTIONS 3.10.1, 3.10.2, 8.7.1, )  
8.7.2, 8.7.3, 8.7.4, 8.7.5, 9.5.1, 9.5.3, 9.5.4, )  
9.5.5, 10.2.1, 10.4.3, 10.4.4, 13.3, AND )  
SECTION 4 OF THE USER'S GUIDE )  
REGARDING WILDFIRE SAFETY, )  
EMERGENCY VEHICLE ACCESS, AND )  
PRIVATE ROADS. THE AMENDMENT ALSO )  
SERVES TO REVISE THE JACKSON )  
COUNTY ZONING OVERLAY MAP )  
RELATING TO HAZARDOUS WILDFIRE )  
AREAS. FILE NO. LRP2004-00014B. )

ORDINANCE NO. 2010-9

## RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Transportation System Plan, Comprehensive Plan (JCCP), Land Development Ordinance (JCLDO) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. These amendments were initiated by the Jackson County Planning Commission from the original file LRP2004-00014.
3. Property owner Notice of public hearing occurred under provisions of Ballot Measure 56 noticing requirements. The initial newspaper notice for the Hearing before the Board of Commissioners (BoC) occurred on September 24 and December 3, 2006 in relation to the initial adoption of Ordinance 2006-00011. County wide public notice to property owners was sent on November 15, 2006 for the BoC public hearing scheduled for December 6, 2006. The December 6, 2006 public hearing was continued to December 20, 2006 and thereby remanded back to the Jackson County Planning Commission (JCPC) for further review at a time and date certain.
4. The JCPC held a public hearing on the BoC remand on February 8, 2007. The hearing was continued to May 10, 2007, where it was then continued to June 28, 2007, where it was then continued to August 23, 2007. Study sessions concerning this matter occurred on April 12 and May 24, 2007. Copies of agendas for all hearings and sessions before the JCPC were sent to all parties who participated in the initial and subsequent public hearings before the BoC and JCPC.
5. The BOC remand included review of revisions to LDO Section 9.5.3 regarding Private Roads. Because of complexity of this issue the Planning Commission decided at their April 12, 2007 study session to continue discussion of this section to a later time. At the August 23, 2007 public hearing the JCPC continued the portion of the BoC remand and public hearing related to Private Roads to January 10, 2007.
6. On August 23, 2007, after considering the evidence and written and oral testimony taken over the course of public work sessions and hearings, the Planning Commission, by motion and vote, approved a recommendation to the County Board Commissioners to amend Section 8.7 for Wildfire Safety and Section 9.5.4 for Emergency Vehicle Access.
7. Following the Planning Commission's approval of the recommendation to the Board of Commissioners on Sections 8.7 and 9.5.4 of the Land Development Ordinance, the amendments were placed on hold.
8. On April 9, 2009, the amendment process was restarted and DLCD was mailed a notice regarding the review of LRP2004-00014B.
9. On May 28, 2009 the Jackson County Planning Commission held a properly advertised public hearing to make a determination as to how to proceed with the amendments considering the history of the project. The Commission directed staff to proceed with amendments to the Wildfire Hazard (8.7), Emergency Vehicle Access (9.5.4), and Private Road (9.5.3) sections of the Land Development Ordinance. The Public Hearing was then continued to July 9, 2009.
10. On July 9, August 27, and October 22, 2009, the Jackson County Planning Commission held properly advertised public hearings to consider the proposed amendments relating to Sections 8.7, 9.5.3, and 9.5.4 of the Land Development Ordinance. The Public Hearing was then continued to November 19, 2009.
11. In addition to Sections 8.7, 9.5.3, and 9.5.4, it was determined that amendments to Sections 3.10.1, 3.10.2, 9.5.1, 9.5.5, 10.2.1, 10.4.3, 10.4.4, and 13.3 were also necessary to effectuate the

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## **2-ORDINANCE; File No. LRP2004-00014B**

### **Wildfire Safety, Emergency Vehicle Access, and Private Roads Amendments**

amendments in the initial three sections. A revised notice was sent out accordingly. On November 19, 2009 the Jackson County Planning Commission held a properly advertised public hearing to consider all of the aforementioned proposed amendments and continued the item to January 28, 2010.

12. On January 28, 2010 the Jackson County Planning Commission held a properly advertised public hearing to consider the proposed amendments to Sections 3.10.1, 3.10.2, 8.7.1, 8.7.2, 8.7.3, 8.7.4, 8.7.5, 9.5.1, 9.5.3, 9.5.4, 9.5.5, 10.2.1, 10.4.3, 10.4.4, and 13.3 of the Land Development Ordinance and the Hazardous Wildfire Area Zoning Overlay Map. The Jackson County Planning Commission voted unanimously to recommend approval of all proposed amendments and concluded the public hearing.
13. On October 27, 2010, the Jackson County Board of Commissioners (BoC) held a properly advertised public hearing in the Jackson County Auditorium to consider the proposed amendments to Sections 3.10.1, 3.10.2, 8.7.1, 8.7.2, 8.7.3, 8.7.4, 8.7.5, 9.5.1, 9.5.3, 9.5.4, 9.5.5, 10.2.1, 10.4.3, 10.4.4, and 13.3 of the Land Development Ordinance and the Hazardous Wildfire Area Zoning Overlay Map. Property owner Notice of public hearing occurred under provisions of Ballot Measure 56 noticing requirements. County wide public notice to property owners was sent on September 1, 2010. Newspaper notice for the public hearing occurred on September 5, 2010. The September 22, 2010 public hearing was continued to October 27, 2010, then to November 10, 2010. On November 10, 2010, the BoC voted unanimously to accept the recommendations of the Jackson County Planning Commission with changes to Sections 8.7.2(B), 9.5.3(C)(1), 9.5.3(C)(2), 9.5.3(E) 9.5.4(A), 9.5.5(A)(11), 10.4.3(A), 13.3(216)(c)(3), and Table 9.5-1, and the removal of the proposed amendments to the Hazardous Wildfire Area Zoning Overlay Map from consideration; and concluded the public hearing.
14. Now, therefore, the Jackson County Board of Commissioners finds and concludes as follows:

#### **SECTION 1. FINDINGS OF FACT:**

Based upon the evidence and arguments presented, the Jackson County Board of Commissioners makes the following findings of fact with respect to this application. Where factual conflicts arose, the Board of Commissioners has resolved them consistent with these findings.

- 1.1 The Board of Commissioners finds that proper legal notice was provided to property owners on September 1, 2010 under provisions of Ballot Measure 56 noticing requirements and newspaper notice was published on September 5, 2010 for the initial public hearing on September 22, 2010.
- 1.2 The Board of Commissioners finds that public hearings were held to consider the evidence on this matter on September 22, October 27, and November 10, 2010.

#### **SECTION 2. LEGAL FINDINGS:**

- 2.1 The Board of Commissioners finds that the proposed amendments are in compliance with the Statewide Planning Goals, Oregon Administrative Rules, the Jackson County Comprehensive Plan, the Jackson County Transportation System Plan, and the Jackson County Land Development Ordinance.
- 2.2 The Board of Commissioners adopts the findings and conclusions in Ordinance Exhibit A, and the text amendments to the Jackson County Land Development Ordinance in Ordinance Exhibit B, as a basis for this decision.

2.3 The deliberations held on November 10, 2010 resulted in a motion to approve the amendments. The vote was unanimous, adopted by the Board of Commissioners 3-0.

**SECTION 3. CONCLUSIONS:**

Based on the findings of fact, legal findings, evidence in the record and testimony at the hearing, the Board of Commissioners concludes the text amendments sufficiently address and comply with the state and county plan and zoning criteria. The findings of fact, legal findings, evidence in the record and testimony at the hearing demonstrate the procedural requirements have been met. The Board of Commissioners concludes:

3.1 The revised language found in Exhibit B should be adopted.

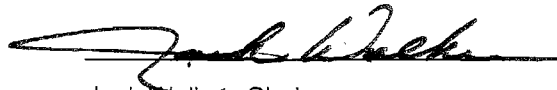
**SECTION 4. DECISION:**

By the signatures below, the Jackson County Board of Commissioners hereby adopt this ordinance amending the Jackson County Land Development Ordinance (LDO) as follows:

4.1 Sections 3.10.1, 3.10.2, 8.7.1, 8.7.2, 8.7.3, 8.7.4, 8.7.5, 9.5.1, 9.5.3, 9.5.4, 9.5.5, 10.2.1, 10.4.3, 10.4.4, 13.3 of the Jackson County Land Development Ordinance and Section 4 of the Jackson County Land Development Ordinance User's Guide be amended with the new text attached hereto and incorporated herein as Ordinance Exhibit B.

APPROVED this 15<sup>TH</sup> day of DECEMBER, 2010, at Medford, Oregon.

**JACKSON COUNTY BOARD OF COMMISSIONERS**



Jack Walker, Chair



David Gilmour, Commissioner



Dennis C.W. Smith, Commissioner

APPROVED AS TO LEGAL SUFFICIENCY:

ATTEST:

Frank Hammer

County Counsel

Sherry Bonham  
By: Recording Secretary

The Board of County Commissioners' Ordinance is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on December 20, 2010 and the LUBA appeal period will expire on January 10, 2011. Please contact LUBA for specific appeal information. LUBA is located at 550 Capitol Street NE Suite 235, Salem, Oregon 97301-2552 and can be reached at (503) 373-1265.



**ORDINANCE EXHIBIT A**  
Findings and Conclusions

Text amendments to the Jackson County Land Development Ordinance (LDO) are subject to Section 3.8 of the LDO as follows:

3.8.1 *Purpose*

*The Board of Commissioners, in accordance with the procedures of this Section, may amend the text of this Ordinance. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but to make adjustments to the text of this Ordinance that are necessary in light of changed circumstances or changes in public policy, or that are necessary to advance the general welfare of the County.*

3.8.2 *Procedures*

A) *Initiation*

*Text amendments to this Ordinance may be initiated only by the Board of County Commissioners or the Jackson County or White City Planning Commissions.*

B) *Standard Review Procedure*

*Applications for amendments to this Ordinance will follow the Type 4 review procedure set forth in Section 2.7, as identified in Table 2.7-2.*

3.8.3 *Approval Criteria*

*Recommendations and decisions on LDO text amendments will be consistent with and adequate to implement all applicable provisions of the Comprehensive Plan, the Statewide Planning Goals, and Oregon Administrative Rules. Notice of amendments will be provided by the County as required by ORS 197.610 and ORS 215.503.*

Accordingly, the following describes the purpose of the proposed text amendments to the LDO, as well as the compliance with applicable provisions of the Comprehensive Plan, the Statewide Planning Goals, and Oregon Administrative Rules.

**A. Purpose of the Proposed Amendments to the LDO**

1. Updating fire safety and access regulations are timely and ongoing issues that affect property owners, the county, and fire districts. Land development regulations must be periodically updated in order to remain consistent with current legislation and relevant codes.
2. The amendments relating to Access Design Standards of the Land Development Ordinance (LDO) respond to public testimony by providing additional clarity and consistency with the remainder of the LDO. Existing regulations are amended to use clear language and reduce redundancy.

**ORDINANCE EXHIBIT A**  
**Findings and Conclusions**

3. Amendments to Section 9.5.1 clarify the applicability of the Access Design Standards of the LDO. Amendments to the introduction of Section 9.5.3 (Private Roads) clarify what standards are applicable when creating a private road and what types of property private roads can supply access to. This amendment is in conjunction with the amendment to the definition of "Private Road" in proposed Section 13.3(216)(c)(3), which indicates a private road is required to be created only through the land division process or if requested.
4. The following proposed subsections of Section 9.5.3 are amended to improve readability: (A)(2), (C)(2), (E), and (F). Amendments to Section 9.5.3(A) consolidate and clarify regulations currently found throughout Section 9.5.3. Section 9.5.3(B) is moved from Section 3.10.2 to define in detail the items required as part of an application to create a private road and to notice irrigation districts of the application of a private road when they may be affected.
5. The amendments to the design standards of proposed Section 9.5.3(C) and Table 9.5-1 reduce redundancy with other sections of Section 9.5.3 and are intended to provide clarity regarding design requirements of newly created private roads. Changes to the standards reflect feedback from professional engineers, fire districts, and the general public, which was received during the public hearing process. The Board of Commissioners decided to increase the maximum number of lots or parcels served by a private road from twelve (12) to twenty-five (25), based upon testimony received during the hearing process and as compared to other jurisdictions in the State of Oregon, and removed the paving requirement for private roads altogether for areas outside of an Urban Unincorporated Community and the Air Quality Maintenance Area. The increase in the maximum number of lots served by a private road; the number of lots allowed off of an unpaved private road; and additional changes to easement width, surface width, shoulder width, and public road approach standards were based primarily on engineering recommendations. However, the Board of Commissioners recognized that the majority of private roads currently within the County are dead-end roads and increasing the number of lots served by those roads would result in an increase in the length of dead-end roads. This would in turn result in an increase in the associated response times for emergency providers and egress for property owners in the case of a wildfire. Therefore, the Board of Commissioners concluded that a private road can only serve 20 lots without providing secondary access either via the creation of a looped road or a secondary form of emergency access.
6. Existing Sections 9.5.3(D), (E), (F), (G), and (H) are stricken since they are reiterated in proposed Section 9.5.5. Language regarding gating of private roads is moved to Section 9.5.3(D). Proposed Section 9.5.3(E) is amended to include information regarding private road maintenance agreements currently located in the User's Guide. The Board of Commissioners determined that information in the User's Guide should be limited to that which provides guidance for user's of the LDO, and should not include criteria or standards. Additionally, the Board of Commissioners determined that the required components of a maintenance agreement be simplified to allow for site-specific agreements to be developed, and language is added to allow for irrigation districts to be part of the process in the drafting of maintenance

**ORDINANCE EXHIBIT A**  
Findings and Conclusions

agreements when they are affected. Similar language was also added to Section 9.5.5(A)(11). The amendments to proposed Section 9.5.3(F) clarify private road improvement certification and verification, as well as required signage.

7. Proposed Section 9.5.4 creates an additional type of accessway (Private Access Easement). This amendment is in full response to public testimony received throughout this process which illustrated the burden of having to improve an accessway to meet Private Road standards even though the property to be served currently exists. This amendment creates a distinction between standards for accessways serving existing units of land and standards for accessways serving units of land newly created through the land division process. This amendment effectively reduces the standards for access to existing lawfully established units of land by not requiring the creation of a Private Road. Minimum access standards necessary to ensure safe ingress and egress for property owners and emergency vehicle responders are still required to be met. This amendment is in conjunction with the addition of the definition of "Private Access Easement" in proposed Section 13.3(216)(c)(1). The required standards of proposed Section 9.5.4(A) were derived from American Association of State Highway and Transportation Officials (AASHTO) guidelines. Private Access Easements to existing dwellings and other structures that will not add vehicle trips are proposed to be required only to meet minimum access design standards. Standards for Private Access Easements to new dwellings are proposed to vary based upon the amount of traffic on the accessway. A Safety Analysis is required to determine access requirements to new dwellings when the traffic on the accessway is high. Review of the Safety Analysis shall be done through a Type 2 procedure. Section 10.4.3(A) was also amended to reference this new type of accessway.
  
8. Section 9.5.4 (Emergency Vehicle Access) is changed to Section 9.5.5, is titled "Minimum Access Design Standards", and the introduction of this section is detailed, to be more clear as to the applicability of the section. Specifically, the standards of this section are only applied when a building permit is requested. Generally, the amendments to Section 9.5.5(A) attempt to reconcile the differences between Oregon Fire Code and LDO provisions and to address concerns which were raised during public testimony. Language from the introduction is moved to Section 9.5.5(A)(1) and more flexibility is provided to allow for access to be greater than 150 feet from all structures. The weight capacity required of an accessway is adjusted to be more consistent with Oregon Fire Code while providing the flexibility such that no additional engineering work will be required to meet the standard. The grade allowed for an accessway is also adjusted to be more in line with Oregon Fire standards. This reduced the grade allowed outright from 15% to 10%. However, a provision is added to allow approval of an accessway with a grade of up to 18%. The standards for bridges and culverts received much testimony throughout this process. The amendments address the focus of many of the concerns by creating separate standards for existing and proposed bridges. Additionally, the Board of Commissioners concluded that the weight capacity for new bridges should remain at 50,000 lbs. as opposed to the 60,000 lbs. listed in the Fire Code based upon testimony received from various Fire Districts.

**ORDINANCE EXHIBIT A**  
Findings and Conclusions

9. Certain exceptions to the access requirements of Section 9.5.5 are added in Section 9.5.5(B). The Board of Commissioners recognized that there are situations which require exceptions to the access requirements where fire safety is not an issue. The definitions of "Driveway" 13.3(71) and "Roads" 13.3(216) and Section 10.2.1 are amended to account for the new accessway type (Private Access Easement), to further define "Private Road", and for organizational purposes. Section 10.4.3 is amended to waive the requirement for road improvements to serve newly created lots or parcels for resource land divisions. Section 10.4.3 (C) and (D) are stricken since the provisions are found in Chapter 9 and are redundant.
10. Section 4 of the User's Guide are amended to eliminate redundancy with Chapter 9 and 10 of the LDO, to remove all standards and criteria, and to include an example Private Road Maintenance and Access Agreement.
11. Section 8.7.1(A) is amended to refine when wildfire safety requirements apply and how they are implemented. This section is amended in conjunction with Section 8.7.2. Section 8.7.2 is amended to allow for exemptions to applicability of the wildfire safety requirements. Accordingly, the Board of Commissioners found that interior remodels, certain expansions/replacements of existing structures, and non-habitable structures less than 400 square feet and transmission and utility towers that are not located in a forest zoning district are exempt from the Wildfire Safety Requirements. Additionally, the amendments allow for the applicable fire district to permit existing trees to remain if they do not pose a significant risk to safety.
12. Section 8.7.1(B) is amended to clarify when a fuelbreak is required and expands upon the list of accessways that negate the requirement for a fuelbreak. This section is also amended to create consistency with Section 8.6.4, which addresses riparian habitat standards.
13. Section 8.7.1(C) is amended to consolidate language on roof coverings currently found in Section 8.7.3. Amendments to Section 8.7.1(D) add requirements for fuelbreak standards for accessways in a reasonable manner which considers public testimony and the needs of emergency vehicle responders. Section 8.7.1(E) is removed since it has been covered in the amendments for Section 8.7.2. Section 8.7.1(H) is amended to allow for more flexibility regarding bridge building materials. Section 8.7.1(I) is amended to clarify where address signs shall be posted. Amendments to proposed Sections 8.7.3 and 8.7.4 clarifies the decision responsibility for fuelbreak reduction applications.
14. The proposed amendment to the Hazardous Wildfire Area Map should be withdrawn from consideration in order to provide the Fire Districts time to study recent fire events and fire related information and determine if amendments to the Hazardous Wildfire Area Map are necessary and/or prudent.

**ORDINANCE EXHIBIT A**  
Findings and Conclusions

**B. Compliance with Statewide Planning Goals**

1. Goal 2— Land Use Planning. *OAR 660-015-0000(2) (PART I - PLANNING). To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

FINDING: The resulting amendments have taken into consideration comments from affected agencies as well as extensive testimony from the general public. The amendments address sections of the Land Development Ordinance regarding wildfire hazards, emergency vehicle access, and private roads, that have been historically problematic to interpret, administer, and costly for citizens to implement. The amendment process has made a concerted effort to address the problems sufficiently while not compromising the health, life, and/or safety of the citizens of Jackson County. As such, these amendments comply with Statewide Planning Goal 2.

2. Goal 7— Areas Subject to Natural Hazards. *OAR 660-015-0000(7). To protect people and property from natural hazards.*

FINDING: The amendments address sections of the Land Development Ordinance regarding wildfire hazards, emergency vehicle access, and private roads. The amendment process has taken into consideration input from affected agencies such as local Fire Districts, as well as the general public. The amendments ensure that adequate safety is provided to properties in Jackson County regarding wildfires and emergency access to properties; however concessions were made during the process to allow property owners to gain access to their properties in a more efficient and possibly less costly manner without compromising safety. Therefore, the amendments comply with Statewide Planning Goal 7.

3. Goal 12— Transportation. *OAR 660-015-0000(12). To provide and encourage a safe, convenient and economic transportation system.*

FINDING: The amendments to emergency vehicle access and private roads standards of the Land Development Ordinance pertain to transportation. The amendment process has taken into consideration input from affected agencies as well as the general public. The amendments ensure that adequate safety is provided to properties in Jackson County regarding wildfires and emergency access to properties. The amendments also included changes to private access standards in a way that allows property owners the ability to create access in a more efficient and possibly less costly manner. Therefore, the amendments comply with Statewide Planning Goal 12.

**C. Compliance with Oregon Revised Statute (ORS) / Oregon Administrative Rules (OAR)**

1. OAR 660-006-0029. *Siting Standards for Dwellings and Structures in Forest Zones.*

*The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body*

**ORDINANCE EXHIBIT A**  
Findings and Conclusions

*shall consider the criteria in this rule together with the requirements OAR 660-0060-0035 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 forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and*

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

FINDING: The proposed amendments to the Wildfire Safety requirements of the Land Development ordinance allow for exemptions to the Wildfire Safety requirements for non-habitable structures less than 400 square feet and transmission and utility towers, only if those structures are not located within a forest zoning district. Additionally, the amendments to access standards will continue to ensure that emergency vehicles can adequately access developed properties within Jackson County. Accordingly, this Rule has been met.

**D. Compliance with Jackson County Comprehensive Plan**

1. Natural Hazards Element—

*POLICY: COUNTY LAND USE ACTIONS SHALL BE BASED UPON A DETERMINATION OF ACCEPTABLE RISK OF WILDFIRE HAZARDS, AND SUCH HAZARDS SHALL BE REDUCED THROUGH POSITIVE COUNTY ACTION IN TERMS OF GUIDING DEVELOPMENT AND IMPROVING FIRE PROTECTION SERVICES.*

**IMPLEMENTATION STRATEGY:**

*B. Reduce the threat of loss of life and property from wildfire hazards in rural areas where structural fire protection is inadequate or unavailable through adoption of fire safety performance standards based on recommendations of the Rogue Valley Fire Protection Cooperative, the Northwest Interagency Fire Prevention Group (1978), and Curran (1978). The following criteria or standards should be implemented through provisions of the County's Land Development Ordinance, or other special purpose codes and ordinances as deemed necessary. Some of these standards could be satisfied through alternative design solutions and should be keyed to the degree of risk, density/size/type(s) of structures, distance from fire protection/suppression service, and the like:*

*iii) Require that access roads to all proposed developments be sufficient*

**ORDINANCE EXHIBIT A**  
Findings and Conclusions

*to allow for the ingress and egress of heavy-duty firefighting equipment. This could include guaranteed perpetual maintenance, adequate bridge construction, and road design and construction. Unconventional methods of access could be used if basic access needs are met;*

- C. *Develop and adopt an ordinance requiring that potential buyers of property be provided a statement disclosing the level of fire protection/suppression service available, and the fire insurance rating for the subject property, prior to the signing of an earnest money agreement.*

FINDING: The proposed amendments ensure that safe access will be provided to property within Jackson County by providing minimum access standards for emergency vehicles regarding accessways, bridges and culverts, gating, structural development, addressing, water storage, and fuelbreaks. This amendment process has not contemplated requiring a disclosure statement to be recorded which provides the information found in the implementation strategy of subsection (C) above. This is an implementation measure that has not been effectuated since its inclusion in the Comprehensive Plan over 25 years ago. However, this is an option the Board of Commissioners should consider in their deliberations. Regardless, the amendments to the Land Development Ordinance generally comply with the Natural Hazards Element.

2. Transportation System Plan—

*POLICY: 4.1.4-A. The County will provide a transportation system that supports emergency access for emergency vehicles and provides for evacuation in the event of a wildfire hazard or other emergency.*

*Strategies:*

- a. *Establish and maintain land development ordinance regulations that assure minimum emergency vehicle access standards are provided for all development. These standards should provide base-line safety protections that are related to the total amount of development that would use the access in the event of an emergency.*

FINDING: The proposed amendments ensure that safe access will be provided to developed property within Jackson County by providing minimum access standards for emergency vehicles regarding accessways, bridges and culverts, gating, structural development, addressing, water storage, and fuelbreaks. This Comprehensive Plan strategy is met with the amendments to the Land Development Ordinance.

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**9.5 ACCESS DESIGN STANDARDS**

**9.5.1 Applicability**

The access standards of this Section apply to ~~the creation of new~~ publicly dedicated roads, private roads, private access easements, and driveways that provide access to: 1) serve as access to new lots as part of a land division -OR- or 2) to provide access to a lawfully established unit of land ~~let~~ prior to its development. Additional, higher standards may be required if deemed necessary by the County to ensure that safe and adequate access to lots and parcels will be provided. ~~All new public and private roads will, at a minimum, comply with the following:~~

**9.5.3 Private Roads**

This Section contains mandatory standards for the creation of a private road (as defined in Section 13.3). Private roads are subject to the applicable minimum access design standards found in Section 9.5.5(A) and the standards found in this section. A private road may provide common access to no more than 12 residential, commercial, resource, or industrial zoned lots or parcels. Any or all required surveys, maps, plans, and improvements of private roads are the responsibility of the applicant/developer or abutting owners. No funds of the County will be expended for any of the above items nor will the County or any of its officers or employees be liable for failure to improve or repair a private road. Private roads will meet the following standards:

**A) Location**

- 1) Private roads may be permitted for commercial or industrial land divisions when the standards of 9.5.1(D) are met and the road will be built to County commercial/industrial road standards as specified by the Jackson County Roads Division;
- 2) Within Urban Growth Boundaries, standards for private roads specified in the Urban Growth Boundary Management Agreement will govern. If the Urban Growth Boundary Management Agreement does not specify private road standards, then the private road must be paved; ~~Private roads are not permitted within urban growth boundaries and urban unincorporated communities unless the road paved and built to city standards when the Urban Growth Management Agreement with the applicable city stipulates city standards will govern;~~
- 3) A private road shall directly connect only to a state, county, or city maintained road, or to a US Forest Service or Bureau of Land Management road when evidence of approval of a long-term road access use permit or agreement has been submitted. A lot or parcel abutting a railroad or limited access road right of way may require special consideration with respect to its access requirements.
- 4) No private road may be created that is generally parallel to a state highway, unless it is separated from the highway by greater than or



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equal to 275 feet at any intersection.

**B) Application Requirements**

The following information must be submitted as part of a request for a new road:

- 1) A tentative map showing the proposed location, width and length of the road;
- 2) A Title Report and exception document showing all existing easements of record within the proposed road area. The report will be based on research going back in time without limitation, and must indicate all easements and encumbrances that affect the property;
- 3) An engineer's design report prepared by an Oregon registered professional engineer or engineering geologist that specifically identifies: (1) the minimum construction standards necessary to ensure ingress and egress to the lots or parcels served by the subject private road during normal climatic conditions for a minimum of five years; (2) necessary maintenance measures; (3) type of maintenance to be conducted annually; (4) the minimum annual maintenance cost; (5) cut and fill slope requirements; and (6) drainage and erosion control provisions;
- 4) Written authorization and consent to creation of the road by all owners of the property the road will cross and the affected Irrigation District, if applicable.

**B)C) Design Requirements Width**

- 1) Minimum design standards for private roads are found in Table 9.5-1. A private road shall meet the standards in Table 9.5-1 for the number of parcels served by that section of road.

*Table 9.5-1. Minimum Design Standards for Private Roads*

<u>Lots or Parcels Served</u>	<u>Minimum Travel Surface Width</u>	<u>Travel Surface Type</u>	<u>Lanes Required</u>	<u>Minimum Shoulder Width</u>	<u>Minimum Easement Width</u>	<u>Recommended Speed</u>
<u>2-6</u>	<u>1042 feet<sup>1</sup></u>	<u>Unpaved<sup>2</sup></u>	<u>1</u>	<u>4-2 feet</u>	<u>25 feet<sup>3</sup></u>	<u>Maximum 25 MPH Minimum 15 MPH</u>
<u>7-20</u>	<u>10 feet</u>	<u>Unpaved<sup>2</sup></u>	<u>2</u>	<u>1 foot</u>	<u>35 feet<sup>3</sup></u>	<u>Same as Above</u>
<u>21-25<sup>4</sup></u>	<u>10 feet</u>	<u>Unpaved<sup>2</sup></u>	<u>2</u>	<u>1 foot</u>	<u>35 feet<sup>3</sup></u>	<u>Same as Above</u>

<sup>1</sup> See Section 9.5.5(A)(2) and 9.5.3(C)(3).

<sup>2</sup> See Section 9.5.3(C)(2).

<sup>3</sup> Additionally, the minimum easement width shall accommodate all cut and fill slopes.

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ditches, turnouts, and turnarounds.

<sup>4</sup> Must meet the requirements of Section 9.5.3(C)(1)(a).

a) A dead-end Private Road can only supply access to 20 lots or parcels. A Private Road serving more than 20 lots or parcels must either be looped -OR- a secondary form of emergency access must be provided. The secondary form of emergency access must meet the requirements of Section 9.5.5.

1) ~~The width of the private road at its intersection with the right of way of a publicly dedicated road will be a minimum of 18 feet, and taper over a distance of 50 feet to the travel surface width back from its point of connection with the public right of way. Additional standards may be required to obtain a road approach permit.~~

2) ~~A greater width than the minimum travel surface may be required by the County in wildfire hazard areas; and~~

3) ~~The minimum easement for a private road is 25 feet. Where the natural slope of the land within the easement (cross-slope) is greater than 20%, the minimum easement width will be 50 feet. The minimum easement width will accommodate required cut and fill slopes, ditches, turnouts and cul de sacs.~~

2) **Surface**

Outside of urban growth boundaries, urban unincorporated communities, and the Air Quality Maintenance Area (AQMA), a An unpaved private road is allowed and may provide access to no more than six (6) lots or parcels provided that the lots or parcels are outside of an urban growth boundary, an urban unincorporated community, and the Air Quality Maintenance Area (AQMA).

A paved private road may provide access to no more than twelve (12) twenty five (25) lots or parcels.

3) **Public Road Approach**

A road approach permit is required when a private road is proposed to intersect with a publicly maintained road. A greater surface width may be required at the intersection of the private road with the right-of-way of a publicly dedicated road in order to obtain a road approach permit.

**D)G) Signage** (Amended by Ordinance 2004-12, effective 2-6-2005)

A ~~ny~~ platted private road must display a road sign displaying the name of the private road at every intersection of the private road with a city, county or state street, road or highway. ~~Such~~ Road name signs must bear the name of the road shown on the plat and conform with County road sign standards. In addition, a second sign must state the private road is not maintained by Jackson County. The process for naming private roads will be consistent with

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*Jackson Codified Ordinance 1032 and Sections 10.3.1(A)(2) and 10.3.3(E) of this Ordinance.*

~~D) **Separation from Other Roads**~~

~~No private road may be created that is generally parallel to a state highway, unless it is separated from the highway by not less than 275 feet at any intersection.~~

~~E) **Grade**~~

~~Maximum finished grade will be 15 percent except that it may exceed 15 percent at other than the road approach or turnaround for a maximum distance of 100 feet. Under no circumstances may the road grade exceed 18 percent. The approach from a publicly dedicated road may not exceed 10 percent grade for a distance of 40 feet.~~

~~F) **Surface**~~

~~1) Outside urban growth boundaries and urban unincorporated communities, an unpaved private road may provide access to no more than three (3) abutting lots or parcels. A paved private road may provide access to no more than 12 lots or parcels; and~~

~~2) The travel surface of the private road will be constructed so as to ensure egress and ingress for the parcels served during normal climatic conditions. An application for a private road must include an engineer's design report that specifically identifies:~~

- ~~a) the minimum construction standards necessary for the subject road to provide a minimum life of five (5) years;~~
- ~~b) necessary maintenance measures;~~
- ~~c) type of work to be done annually; and~~
- ~~d) the minimum annual maintenance cost.~~

~~In evaluating the adequacy of a proposal, the applicant's Oregon registered professional engineer or engineering geologist will take into consideration the terrain, soil and slope aspects of the proposed road, and compare the proposed road construction specifications to the following requirements of this subsection, unless the applicant's engineer/geologist determines that alternative specifications are equivalent or superior.~~

~~3) Private roads will be constructed to hold a minimum load capacity of 50,000 pounds.~~

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**Table 9.5-1: MINIMUM REQUIREMENTS FOR PRIVATE ROADS**  
(See User's Guide for complete standards)

No. Of Lots or Parcels Served	Maximum Grade	Lane Width	Lanes Required	Minimum Shoulder Width	Minimum Easement	Recommended Speed	Turning Radius
2-3	15%	14 ft.	4 <sup>①</sup>	None	25 ft.	Maximum 25 MPH Minimum 15 MPH	Minimum center line radius of 48 feet
4-6	15%	11 ft.	4 <sup>①</sup>	2 ft	40 ft.	Same as Above	Same as Above
7-12	15%	10 ft.	2	1 ft	50 ft.	Same as Above	Same as Above

① Turnouts will be provided at 800 feet maximum spacing, or at distances which ensure continuous visual contact between turnouts.

② See Section 9.5.3(E)

Roads located within the Air Quality Maintenance Area (AQMA) must use at a minimum an oil mat surface (Jackson County 0-7 asphalt penetration macadam oil mat with a minimum of three shots of oil) on the 10 foot travel lane.

**G) Culverts**

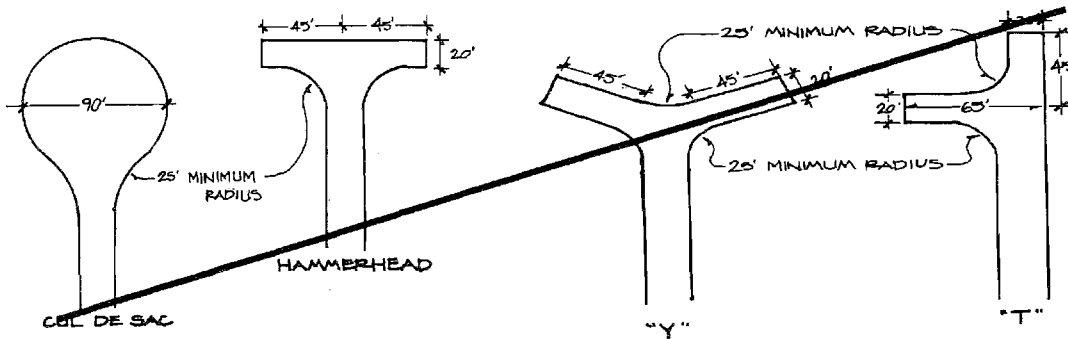
All culverts will be designed to carry American Association of State Highway and Transportation Officials (AASHTO) HS-20 loading. A typical acceptable type is 16-gauge, galvanized CMP for small cross drains and drainage way crossings, 12 inch diameter culverts are the minimum. The use of engineered culverts may be required. Culverts will be a minimum of 18 feet wide and will be wide enough to extend beyond the toe of the fill. All culverts will have a 50,000-pound load carrying capacity. Culverts will meet the requirements of Section 7.1.2(F)(7)(c). The Department may require that culverts and other drainage facilities be evaluated by a registered professional engineer to determine appropriate sizes, or may recommend sizes without incurring liability for the failure of such.

**H) Other Standards**

- 1) Cut and fill slope requirements, drainage and erosion control provisions will be determined to be adequate by the applicant's Oregon registered professional engineer or engineering geologist;
- 2) Turnouts will be required at 800 feet maximum spacing, or at distances which ensure continuous visual contact between turnouts, and constructed to the following dimensional standards: 50 feet in length and seven feet in width, with 25 foot tapers on each end.
- 3) All private roads will be dead end roads and will provide a suitable turnaround at the private road terminus or within 150 feet of its terminus (See examples).

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The grade will not exceed 4% in turnarounds or cul-de-sacs.



- 4) ~~Except for roads located within ASC 90-1, gating private roads is prohibited unless year-round 24-hour emergency vehicle access is provided.~~
- 5) ~~An application for a private road must include an engineer's design report that specifically identifies: (1) the minimum construction standards necessary for the subject road to provide a minimum life of five years; (2) necessary maintenance measures; (3) type of work to be done annually; and (4) the minimum annual maintenance cost. The engineer's design report will take into consideration the terrain, soil, slope aspects of the proposed road.~~

E)D) **Gates**

Except for roads located within ASC 90-1, gating private roads is prohibited unless year-round 24-hour emergency vehicle access is provided.

E)E)H) **Maintenance Agreement**

Private roads will be maintained by the benefitted property owners and will not be accepted by the County for maintenance, nor can the County contract for their maintenance. The County will require that a A maintenance agreement is required and needs to be recorded in the public records as a requirement for approval of any new private road. For the purposes of compliance with this section, the requisite maintenance agreement provisions may be included in the private road easement instrument. Any such agreement must conform to the standards for such agreements found in the User's Guide including enforceability by any person served by the road through mediation or litigation.

An example of a Private Road Maintenance Agreement is found in the User's Guide. If the applicant may use the aforementioned example agreement or prefers to design utilize their own agreement, regardless, it which must at a minimum include the following: 1) a legal description of the private road easement; 2) a map depicting the private road and the private road easement area; 3) legal descriptions of the parcels burdened and benefited by the

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agreement; 4) provisions that the agreement is perpetual, shall run with the land, and shall be binding upon the parties' heirs, successors and assigns; 5) a provision that the private road shall be maintained in good repair; and 6) provisions providing for the enforcement of the agreement.

- 1) A legal description or reference to the Official Recording (OR) number of the most recent instrument conveying ownership of the property for all lots or parcels crossed and/or served by the private road.
- 2) A list of the Tax Assessor map and tax lot number(s) of all lots or parcels served by the road.
- 3) A statement that the conditions of the maintenance agreement shall run with the described property and be binding upon all parties having any right, title or interest in the property, including their heirs, successors, grantees and assigns.
- 4) A statement specifying how the expenses of maintaining and repairing the road will be divided between the owners of the lots or parcels served by the road (e.g., shared equally, percentage based on length of road frontage).
- 5) A statement specifying the maintenance schedule and how the work will be contracted. At a minimum, an unpaved road must be graded, surface gravel added or replaced, and any ditches or culverts cleaned annually.
- 6) A statement that the expenses of maintaining the road will constitute a charge on the property and will be a continuing lien upon the property until paid, and will also be the personal obligation of the owner of the property as of the date when the assessment for expenses fell due.
- 7) A statement specifying that any owner served by the road who has paid his share of the assessment may bring an action in equity to foreclose the lien against the non-paying owner's property or an action at law against the non-paying owner personally.
- 8) Notarized signatures of the owners of all lots or parcels served by the road.
- 9) If the private road includes a culvert, bridge, or other crossing over an irrigation facility owned or managed by an irrigation district, the agreement shall include the irrigation district as a party and will outline terms specific to the construction, use, and maintenance of such facility to the satisfaction of the parties irrigation district.

In the event the private road includes a culvert, bridge or other crossing over

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an irrigation facility owned or managed by an irrigation district, the maintenance agreement shall contain a provision expressly waiving any right, claim or action against said irrigation district concerning the construction, maintenance, repair and use of the private road, including any culvert, bridge or other crossing over the irrigation facility.

**G)F)J) Conditions of Approval**

The County will not issue building permits for any parcel that will be served by a new private road until all the following actions have been completed:

- 1) The applicant's engineer or engineering geologist has certified that the road has been improved to the applicable standards of Section 9.5.3, Section 9.5.5, and the specifications of the engineer's design report, as well as any specified in the User's Guide. Any or aAll required surveys, maps, plans, and improvements will be the responsibility of the applicant/developer or abutting owners. No funds of the County will be expended for any of the above items nor will the County or any of its officers or employees be liable for failure to improve or repair a private road;
- 2) The applicant's surveyor has verified in writing that the physical location of the travel surface of the road including required cut and fill slopes, ditches, turnouts, and turnarounds is within the approved easement;
- 3) An easement and road maintenance agreement ~~has~~ have been recorded for each lot or parcel that will be served by the road; and
- 4) A sign acceptable to the County Roads Division stating the words "Private Road File # \_\_, Not Dedicated for Public Use or Maintained by Jackson County" has been posted at the entrance to the private road from the public right-of-way. All addresses that use the private road for access will be listed on the sign. If the private road forks, the addresses served by each fork will also be listed. The sign will be posted at the applicant's expense.
- 5) A sign displaying the name of the private road at every intersection of the private road with a city, county or state, street, road or highway has been posted.

**9.5.4 Private Access Easement**

This Section contains mandatory standards for access to all new and existing structures located on existing lawfully established units of land, except as exempted through Section 9.5.5(B), which are accessed via served by a private access

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easement<sup>2</sup> (as defined in Section 13.3).

Compliance with the standards of this section will be verified through a Fire Safety Inspection or a Field Inspection as part of the building permit process and as coordinated through Jackson County Development Services and shall occur prior to issuance of building permits.

A) **Access Requirements for New Dwellings**

- 1) Access to new dwellings served by ~~accessed from a private access~~ easement which has less than 250 average daily trips (ADT)<sup>23</sup>, shall meet the Minimum Access Design Standards of Section 9.5.5.
- 2) When Access to new dwellings is served by ~~accessed from a private~~ access easement which has equal to or greater than 250 ADT<sup>23</sup>, the applicant shall submit a safety analysis prepared by an Oregon registered professional engineer or an engineering geologist to determine the level of improvements necessary to ensure safety from the intersection with a publicly maintained road up to the access point of the subject property. The specified improvements shall meet or exceed the Minimum Access Design Standards of Section 9.5.5.

The safety analysis shall be reviewed through a Type 2 review process procedure and must, at a minimum, include the following: (1) the improvements required for the accessway to meet the Minimum Access Design Standards of Section 9.5.5 not including routine maintenance items; (2) a review of crashes on the accessway; and (3) a determination as to whether the accessway needs to be widened or additional turnouts need to be added to accommodate the additional traffic being added by the proposed dwelling.

B) **Access Requirements for Existing Dwellings and Other Structures**

Access to existing dwellings and other structures, not exempted by 9.5.5(B), served by ~~accessed from a private access~~ easement, shall meet the Minimum Access Design Standards of Section 9.5.5.

**9.5.54 Emergency Vehicle Minimum Access Design Standards**

Emergency vehicle access must be constructed of an all-weather surface to within 150 feet of all habitable structures and significant outbuildings (See Section 13.3). This Section contains mandatory standards for access to all new and existing structures located on existing lawfully established units of land except as exempted

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<sup>2</sup> Land Development Ordinance Section 13.3 defines a Private Access Easement as "a private accessway, either existing or newly created, which serves two (2) or more EXISTING lawfully established units of land".

<sup>3</sup> ADT shall be determined based on the rates for Single-Family Detached Residences found in the most recent version of the Institute of Transportation Engineers Trip Generation User's Guide. ADT shall be calculated prior to authorization of a building permit.



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through Section 9.5.5(B).

Compliance with the standards of this section will be verified through a Fire Safety Inspection or a Field Inspection as coordinated through Jackson County Development Services and shall occur prior to issuance of building permits. All requirements of this section must be met prior to issuance of permits with the exception of final surface material which may be completed prior to final occupancy. Access at a minimum will meet the following requirements:

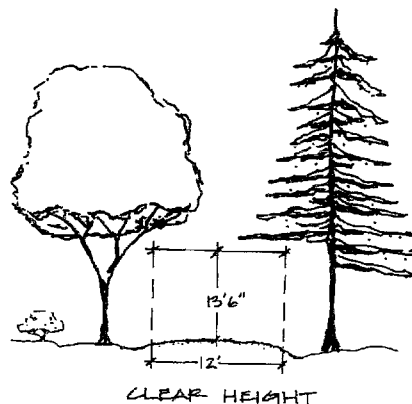
A) **Driveway/ Access Requirements**

1) Length: Access shall extend to within 150 feet of any portion of the exterior walls of the first story, as measured by an approved route around the exterior of the structure, unless another method of protection (e.g. fire sprinklers) is otherwise approved by the local fire official which allows for a greater distance as approved through a Type 1 review.

~~1)2)~~ Surface: Access must be constructed of an all-weather surface. Minimum total surface width, including shoulders, will not be less than 12 feet. Driveway/Access segments having curves with a centerline radius of less than ~~150~~ 55 feet require a minimum 14 foot width;

~~2)3)~~ Clearance: A minimum clear height of 13½ feet must be maintained for the entire width of the driveway/ access;

~~3)4)~~ Weight Capacity: Access must be designed and constructed to carry a vehicle that has a weight of 50,000 pounds with the ability to carry an occasional fire vehicle weighing 60,000 pounds. ~~maintain a minimum carrying capacity to hold fire apparatus weighing 50,000 lbs. pound load carrying capacity. If not designed by an engineer, road a~~ Access must be constructed of a minimum of six (6) inches of 4"-minus base rock, or equivalent;



~~4)5)~~ Grade: Maximum finished grade can be no greater than 15%. If approved by the fire district having jurisdiction, or, if not within a fire district, the County fire safety inspector or Department of Forestry. When the road grade exceeds 10%, the fire district or, if not within a fire district, the County fire safety inspector or Department of

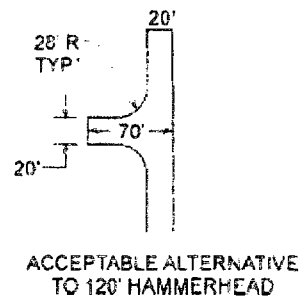
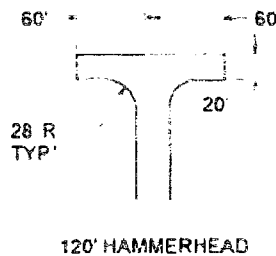
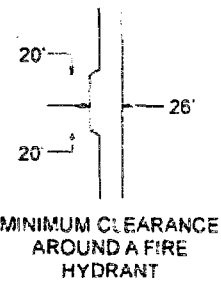
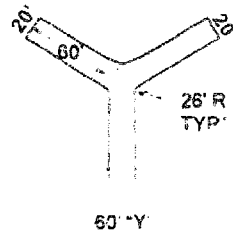
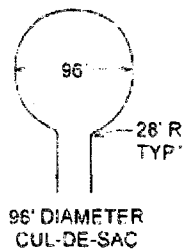
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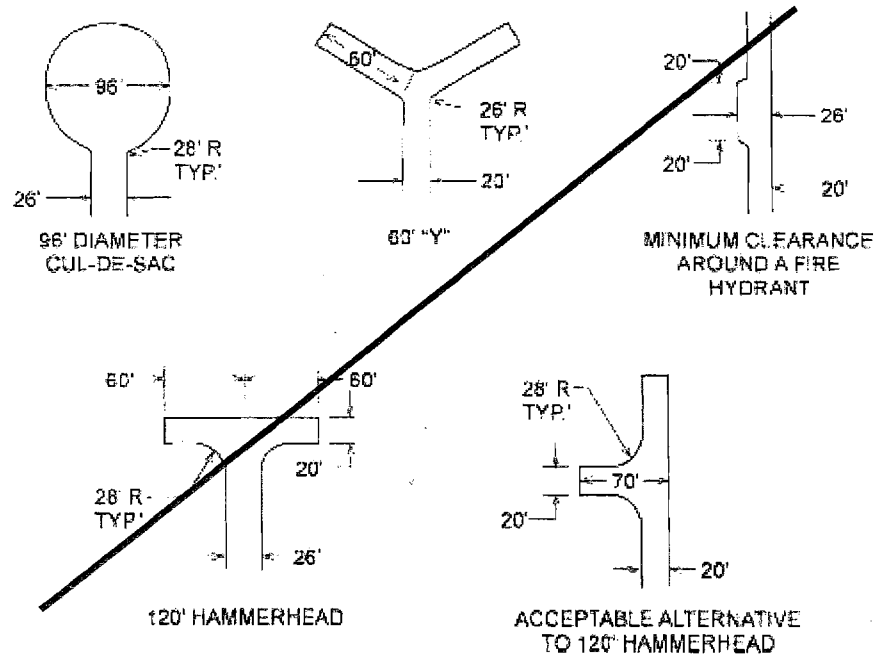
Forestry shall be consulted to determine whether additional fire safety measures are necessary to allow for a maximum finished grade of 15%. The grade may increase to 18%. A grade of up to 18% may be allowed for intervals of up to 100 feet provided there are no more than three (3) 100 foot sections of over 15% grade per 1,000 feet. The finished grade may not exceed 15% on curves with a centerline radius of less than 150 feet. The approach from a public road or private road cannot exceed 10% grade for a distance of 40 feet;

5)6) Curve Radius: Curves will have a minimum centerline curve radius of 55-48 feet except when the grade exceeds 15%, then the minimum centerline curve radius shall be 100 feet. This includes approaches onto public roads in both directions (See diagram);

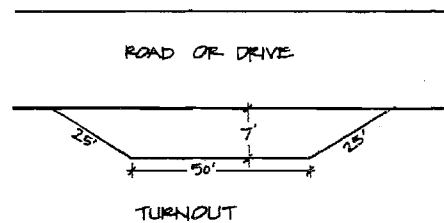
6)7) Turn-around: Access that ~~Dead-ends~~ accessways must incorporate an approved turnaround arrangement. A turnaround must be constructed within 150 feet of any structure subject to this section ~~any proposed habitable structure~~. If the driveway distance is less than 150 feet, and meets the other requirements of this section, no turnaround will be required. Turnarounds will be a minimum 20 feet wide, with a minimum inside radius of 28 ~~25~~-feet. Turnarounds will be provided every one-half (1/2) mile. Such turnaround area must meet the load requirements of ~~(3)~~(4) above. The grade may not exceed 4% in turnarounds or cul-de-sacs;



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7)8) Turnouts: On single lane accessways, T-turnouts are required at 800 foot feet maximum spacing, or at distances that ensure continuous visual contact between turnouts. Turnouts must be at least 50 feet long and seven (7) feet wide, with 25-foot tapers on each end or as otherwise approved by the fire district having jurisdiction, or, if not within a fire district, the County fire safety inspector or Department of Forestry;



8)9) Addressing: Visible address signs acceptable to the appropriate fire district must be posted at applicant's expense. The address sign will be posted at the entrance to the public right-of-way. All addresses which use the same access must also be listed on this sign. If the access forks, the addresses served by each fork must also be listed at the intersection;

9)10) Gates: Gate widths will be a minimum of 2 feet wider than the required driveway-accessway width 14 feet, unless on a curve where the minimum surface width is 14 feet, then the gate will be a minimum of 16 feet;

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- ~~10)11) Bridges and Culverts: Bridges and culverts will be designed and maintained to carry a fire vehicle that has a weight of 60,000 50,000 pounds.~~

New bridges and culverts shall have a minimum driving surface width of twelve (12) feet. Existing bridges and culverts shall have a minimum driving surface width of ten (10) feet; however existing bridges and culverts may be allowed to have a minimum driving surface of eight and a half (8'6") feet if approved by the applicable fire district. The surface width of the bridge or culvert shall be of sufficient width to accommodate turning movements onto and off of the bridge or culvert. Bridges and culverts shall have clear height above bridge surface of a minimum of 13'6".

A bridge carrying capacity report shall be required for all new bridges. Existing bridges are exempt from the requirement of a carrying capacity report unless the applicable fire district determines that a report is necessary to ensure the bridge has the capacity to support a fire vehicle with a weight of 60,000 50,000 pounds. The report shall be determined by a professional engineer. Bridge capacity reports shall indicate what maintenance will be required and when the next inspection should occur. Signage shall be posted at both entrances to the bridge in a manner as to be visible from the road and shall include the bridge carrying capacity and the date of last inspection. ~~Bridge capacity reports shall indicate what maintenance will be required and when the next inspection should occur.~~ Bridge driving surfaces must be a minimum of eight and one half (8 ½) feet in width. A clear minimum width of 14 feet must be maintained above the surface of the bridge. All bridges will have a 50,000 pound load carrying capacity. Non-combustible construction is preferable;

In the event a new or improved accessway includes a culvert, bridge or other crossing over an irrigation facility owned or managed by an irrigation district, applicant shall obtain the written consent of said irrigation district for the design and construction standards of the proposed culvert, bridge or other crossing over the irrigation facility, for the purpose of holding the affected irrigation district harmless in any change of use of a new or improved accessway that crosses an irrigation facility, which consent shall not be unreasonably withheld.

- ~~11) Culverts: Any required culverts must meet the minimum standards in Section 9.5.3(G).~~

**B) Exceptions to Access Requirements**

- 1) Non-habitable structures less than 400 square feet in size, which are not located in a forest zoning district, are not required to meet exempt

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from the access requirements of this section when a deed restriction is recorded with the property acknowledging the inherent risks and liability associated with access to the structure that does not conform to the access standards of this section.

2) Transmission and utility towers, which are not located in a forest zoning district, are exempt from the access requirements of this section.

C) **Variance to these Requirements**

Any Adjustment to these requirements will be either processed through a Variance as stipulated in Section 3.11 or an Administrative Adjustment as stipulated in Section 3.12 of the Land Development Ordinance.

.....

**3.10 CREATION OF NEW ROADS WITHOUT LAND DIVISION**

**3.10.1 General Provisions**

A) ***Purpose***

The purpose of these regulations is to establish procedures to be followed in the creation and development of new publicly maintained and private roads when no land division is proposed.

B) ***Applicability***

These provisions are applied when a new road is proposed to serve as access to an existing lot or parcel. New roads that will be created to serve as access to lots and parcels created as part of a land division are subject to the land division procedures of Section 3.3 and Chapter 10.

**3.10.2 Procedures**

A request to create a new private road to provide access to existing lots or parcels is processed under the Type 1 procedure unless otherwise required in the underlying zoning district. A request to create a new public road is processed under a Type 4 procedure. See also Section 9.5.1(E).

A) ~~***Application Requirements***~~

~~The following information must be submitted as part of a request for a new road:~~

1) ~~A tentative map showing the proposed location, width and length of the road;~~

2) ~~A Title Report and exception document showing all existing easements~~

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~~of record within the proposed road area. The report will be based on research going back in time without limitation, and must indicate all easements and encumbrances that affect the property;~~

- ~~3) An engineer's design report for any proposed private road that specifically identifies both the minimum construction standards necessary for the road to provide a minimum life of five years, necessary maintenance measures, type of work to be done annually, and the minimum annual maintenance cost. The engineer's design report will take into consideration the terrain, soil, and slope aspects of the property and the proposed road; and~~
- ~~4) Written authorization and consent to creation of the road by all owners of the property the road will cross.~~

~~B) **Approval**~~

~~The Director will review the proposed road for consistency with the standards in Section 9.5 and any other applicable standards of the affected zoning designation and this Ordinance. If the Director determines that the standards have been or can feasibly be met, the road will be approved. Conditions may be placed on the approval when necessary to assure that all standards will be met.~~

.....

**13.3 TERMS DEFINED**

71) DRIVEWAY: Practical, physical access that serves a single lawfully established unit of land parcel or tract of land from: (1) a publicly maintained road or street; (2) a County approved private road; or, (3) a private access easement road that existed as shown on the Jackson County 2001 aerials or other competent evidence. Access to a single parcel or tract that traverses other private property may be considered a driveway when the parcel served has been granted an exclusive right of access easement, and no other parcel, including the parcel(s) the access traverses, uses it. See also ROAD.

216) ROADS: An improved thoroughfare created to accommodate vehicular transportation, but not including bicycle paths or driveways. See also DRIVEWAY.

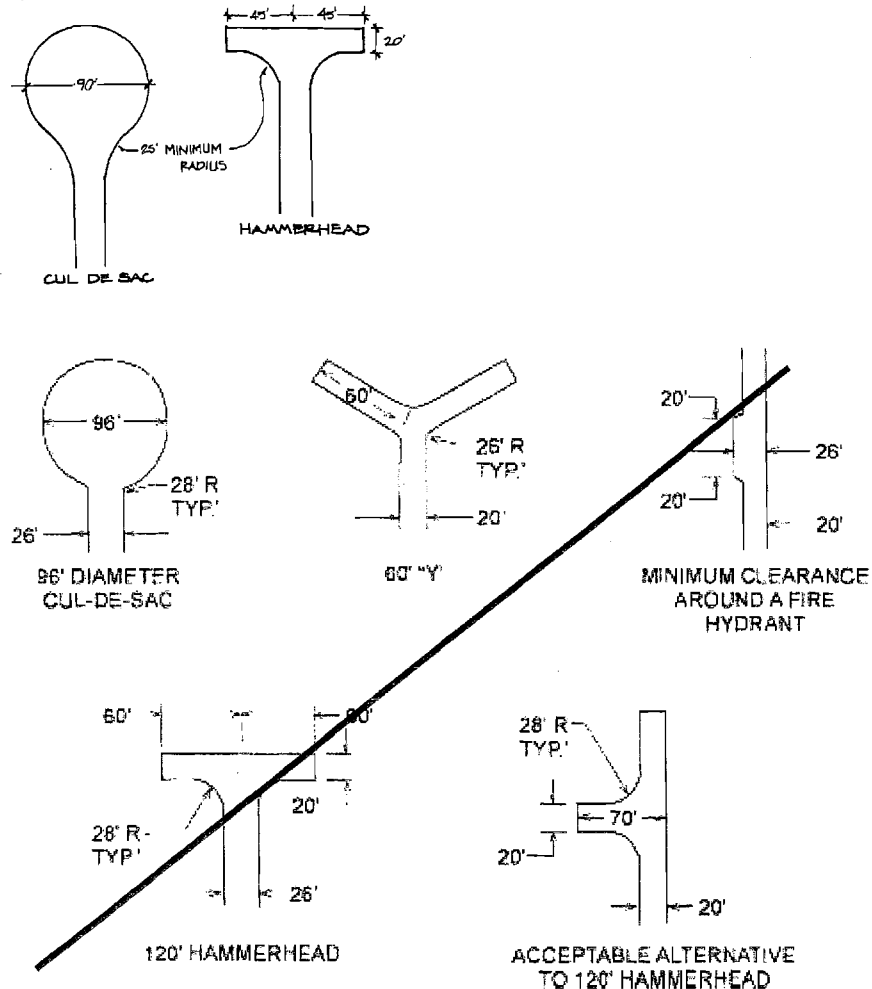
a) GENERAL TERMS:

1) e) Cul-de-sac: A local or limited use local road having only one outlet with a turnaround at the opposite end, and which is not intended to be extended or continued.

2) f) Hammerhead Turnaround:  
A "T" or "L" shaped dead-end street that allows for vehicles to reverse directions without using private property. Hammerhead turnarounds are often

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coupled with partial street improvements where a cul-de-sac would have been required if the entire street was initially developed.



- 3) k) **Partial Street:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street has been, or could later be, provided by another adjacent development.
- 4) e) **Street:** For purposes of this Ordinance, road and street are synonymous unless the context requires otherwise. A street is any vehicular way that: (1) is an existing municipal roadway; or, (2) is shown on a subdivision or partition plat approved pursuant to law. A street may be either dedicated for public or private use. A "local street" is a small-scale, low-speed thoroughfare designed primarily to provide access to commercial, residential and light industrial developments to higher level roads or streets (e.g., collectors, arterials). A street is urban in character with raised curbs, closed drainage, wide sidewalks, parallel parking, trees planted along the right-of-way, and buildings aligned on short setbacks.

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- 5) ¶) Street Plug/Reserve Strip: A recorded instrument or physical strip of land that is used to control or prevent access to a public road.
  - 6) ¶) Stubbed Road: A road having only one outlet, but which, unlike a cul-de-sac, is intended to be extended or continued.
  - 7) ¶) Through Road/Street: A street that connects to another street in order to ultimately connect to a higher order transportation facility (e.g., arterial).
- b) PUBLIC ROAD TERMS:
- 1) ¶) Arterial: Roads designed to move traffic as efficiently as possible. Direct access from adjoining properties is restricted and may be prohibited entirely. Arterials often have more than two (2) traffic lanes, no on-street parking, higher speed limits, and are controlled with traffic lights rather than stop signs.
  - 2) ¶) Bureau of Land Management Road: A federally owned easement or public right-of-way maintained by the Bureau of Land Management (BLM). The primary purpose of a BLM road is to provide access to federally owned land for resource management or recreational purposes.
  - 3) ¶) Collector Road: Roads designed to collect traffic from local streets and funnel it onto arterial roads, where it can move rapidly and efficiently to its destination. Collectors provide some access, but are primarily intended to move traffic. Collectors are usually wider than local roads or streets, have a moderate speed limits and may not provide on-street parking.
  - 4) ¶) County Road: A public road under the jurisdiction of and maintained by a county that has been designated as a county road under ORS 368.016.
  - 5) ¶) Dedicated Way: A form of local access road dedicated to the public for residential purposes but not maintained by the County or any other public entity. At the time of creation, dedicated ways were shown on a map or plat approved by the County, and recorded in the records of Jackson County.
  - 6) ¶) Frontage Road: A road parallel and adjacent to an arterial or other limited access road or a railroad right-of-way, which is designed and developed expressly to provide access to abutting properties in lieu of access being taken from the higher order transportation facility.
  - 7) ¶) Local Access Road: A public roadway designed to provide access to adjoining properties and move local traffic onto collectors. Such roads usually have only two (2) lanes, and lower speed limits. A local access road is dedicated to the public for access but is not part of a public maintenance or improvement program and is not maintained by the County or any other public entity.
  - 8) ¶) Principal Arterial: A road which provides for through traffic between major centers of activity in urban, suburban, and rural areas.
  - 9) ¶) Public Road: A road over which the public has a right of use that is a matter of public record. (See ORS 368.001)
  - 10) ¶) State Highway: A public road under the jurisdiction of the State of Oregon. Most State highways are also maintained by the State in their entirety.
  - 11) ¶) U.S. Forest Service Road: A Federally owned easement or right-of-way maintained by the Forest Service, the primary purpose of which is to provide access to Federally owned land.



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- c) PRIVATE ROAD TERMS:
- 1) †) Private Access Easement: A private accessway, either existing or newly created, which serves two (2) or more EXISTING lawfully established units of land.
  - 2) †) Prescriptive Easement: A right of access acquired through the uninterrupted use of another's land. A court order is required to establish a legally binding prescriptive access easement.
  - 3) †) Private Road: ~~Also known as an "easement road,"~~ a A County approved private accessway, either required through a land division process or requested through a private road review, which serves ing two (2) to twenty-five (25) 42 lots or parcels. A private road remains part of the property acreage it crosses and is considered that portion of the lot or parcel used for access purposes as described by an easement. Private roads are not maintained by the County, nor will the County contract for their maintenance.
  - 4) †) Way of Necessity (gateway road): An accessway from a public road to land that would otherwise have no access, or a landlocked parcel. An official action of the courts is required to establish an easement granting a way of necessity through public or private property.
- .....

**10.2 APPLICABILITY AND JURISDICTION**

**10.2.1 General Applicability<sup>1</sup>**

**F) *Creation of Roads and Streets***

- 1) No person may create a street or road, whether public or private, for the purpose of subdivision, partition, or development without approval as required by this Ordinance. "Creation" of a street or road includes either the physical construction of the roadway, or the recordation of an instrument showing the existence of a right-of-way or easement for multiple parcel access to two (2) or more ownerships. [See ORS 92.014] This provision does not apply to creation of driveways or private access easements serving a parcel or tract of land.
- .....

**10.4.3 Roads and Access**

**A) *Minimum Access Requirements***

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<sup>1</sup> Ordinance 2004-2RM, effective 1-30-2005; Ordinance 2004-12, effective 2-6-2005, Ordinance 2008-11, effective 11-16-08

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Legal, practical, and physical access must be provided to all parcels or lots created as part of a land division<sup>2</sup>. Access will be by one (1) of the following means:

- 1) Frontage abutting a publicly maintained or approved private road (see Chapter 9) for a distance of at least 25 feet;
- 2) Frontage abutting a Bureau of Land Management (BLM) or U. S. Forest Service (USFS) road for a distance of at least 25 feet, provided the applicant, or his authorized representative, provides a copy of written approval for a long-term road access use permit in conformance with the BLM or USFS requirements; or
- 3) A recorded exclusive easement no less than 14 feet in width that connects to a publicly maintained road or approved private road for driveway access. A prescriptive easement is not considered suitable access for division purposes. ~~or~~

~~B)4)~~ The construction of road improvements required for access to newly created lots or parcels may be deferred provided a deed declaration is recorded ~~providing~~ specifying that no development permits for uses other than farm and forest or natural resource uses (as listed in Tables 4.2-1, 4.3-1, 4.4-1) will be issued for the new lots or parcels until the road improvements are completed.

C) The construction of road improvements required for access to newly created lots or parcels shall be waived provided a deed declaration is recorded, which restricts the uses of the lots or parcels solely to farm and forest or natural resource uses (as listed in Tables 4.2-1, 4.3-1, 4.4-1).

#### ~~D)B)~~ **Improvements**

Access will be developed in accordance with the applicable standards of Section 9.5, and Chapter 1024 of the *Jackson County Codified Ordinance*. On or off-site improvements that are found by the Director to be necessary and appropriate to meet increased traffic demands anticipated as a result of the proposed division may be required.

#### ~~C)~~ **Private Roads**

~~Approved private roads are privately maintained and provide common access to no more than 12 lots or parcels (See Section 9.5).~~

#### ~~D)~~ **Driveways**

~~A driveway as described by an exclusive easement may be used to provide access to a single lot or parcel when it is unfeasible to provide frontage on a publicly maintained road or approved private road.~~

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<sup>2</sup> A Private Access Easement serves two (2) or more EXISTING lawfully established units of land (See Sections 9.5.4, 13.3).

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**10.4.4 Panhandle or Flag Lots**

The use of panhandle or flag lots as a means of providing vehicular access to parcels or lots within a division is subject to the following requirements: *(Amended by Ordinance 2004-12, effective 2-6-2005)*

- A) The length of the flagpole may not exceed two and one-half (2½) times the average lot width, or twice the depth of the lot, whichever dimension is the lesser;
  - B) The flagpole must maintain a minimum width of 25 feet, but will not exceed 60 feet in width;
  - C) The finished grade of the flagpole must conform to the emergency access standards of Section 9.5.4 9.5.5;
- 

**USER'S GUIDE**

**4. TRANSPORTATION FACILITY GUIDELINES**

~~4.1. Private Road Minimum Construction Standards (LDO Section 9.5.3):~~

- ~~A) Outside urban growth boundaries and urban unincorporated communities, an unpaved private road may provide access to no more than three abutting lots or parcels. A paved private road may provide access to no more than twelve (12) lots or parcels.~~
- ~~B) Private roads should be developed in accordance with the requirements of the LDO and the standards in this Guide. The number of lots or parcels that may potentially be served, and type of use shall establish the appropriate road standards. See Table 9.5-1 in the LDO.~~
- ~~C) All culverts will be designed to carry American Association of State Highway and Transportation Officials (AASHTO) HS-20 loading. A typical acceptable type is 16 gauge, galvanized CMP for small cross drains and drainageway crossings, twelve inch diameter culverts are the minimum. The use of engineered culverts may be required. Culverts will be a minimum of 18 feet wide and will be wide enough to extend beyond the toe of the fill. All culverts will have a 50,000 pound load carrying capacity. Culverts will meet the requirements of Section 7.1.2(F)(7)(c). The Department may require that culverts and other drainage facilities be evaluated by a registered professional engineer to determine appropriate sizes, or may recommend sizes without incurring liability~~

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for the failure of such.

~~D) The travel surface of the private road shall be constructed so as to ensure egress and ingress for the parcels served during normal climatic conditions. An application for a private road must include an engineer's design report that specifically identifies the minimum construction standards necessary for the subject road to provide a minimum life of five years, necessary maintenance measures, type of work to be done annually, and the minimum annual maintenance cost. In evaluating the adequacy of a proposal to meet this requirement, the applicant's Oregon registered professional engineer or engineering geologist shall compare the proposed road construction specifications to the following standards, which shall be required unless the applicant's engineer/geologist determines that the alternative specifications are equivalent or superior to the following:~~

~~1) For two to three parcels:~~

- ~~a) Three inches of ¾" compacted, crushed rock, or equivalent top course.~~
- ~~b) Three inches of 1½" compacted, crushed rock, or equivalent base course.~~
- ~~c) One 14 foot wide travel lane shall be developed within a 25-foot wide easement.~~

~~2) For four to six parcels:~~

- ~~a) Three inches of ¾" compacted, crushed rock, or equivalent top course, with an oil mat surface (Jackson County 0-7 asphalt penetration macadam oil mat with a minimum of three shots of oil).~~
- ~~b) Six inches of 1½" compacted, crushed rock, or equivalent.~~
- ~~c) One 11 foot wide travel lane with two two foot wide shoulders, within a 40 foot wide easement.~~

~~3) For seven to twelve parcels:~~

- ~~a) Three inches of ¾" compacted, crushed rock, or equivalent top course, with an oil mat surface (Jackson County 0-7 asphalt penetration macadam oil mat with a minimum of three shots of oil).~~
- ~~b) Eight inches of 1½" compacted, crushed rock, or equivalent.~~
- ~~c) Two 10 foot wide travel lanes with two one foot wide shoulders, within a 50 foot wide easement.~~

~~4) Testing: The subgrade shall be compacted to 90+ percent of maximum relative density. This standard shall be presumed to be satisfied when a wheel roll test, as described below, shows no appreciable deflection or reaction. The test shall use a 10 yard dump truck fully loaded with crushed rock. The wheel loads shall be placed over the entire cross-section of the road. These areas with minimal deflection shall be proof~~

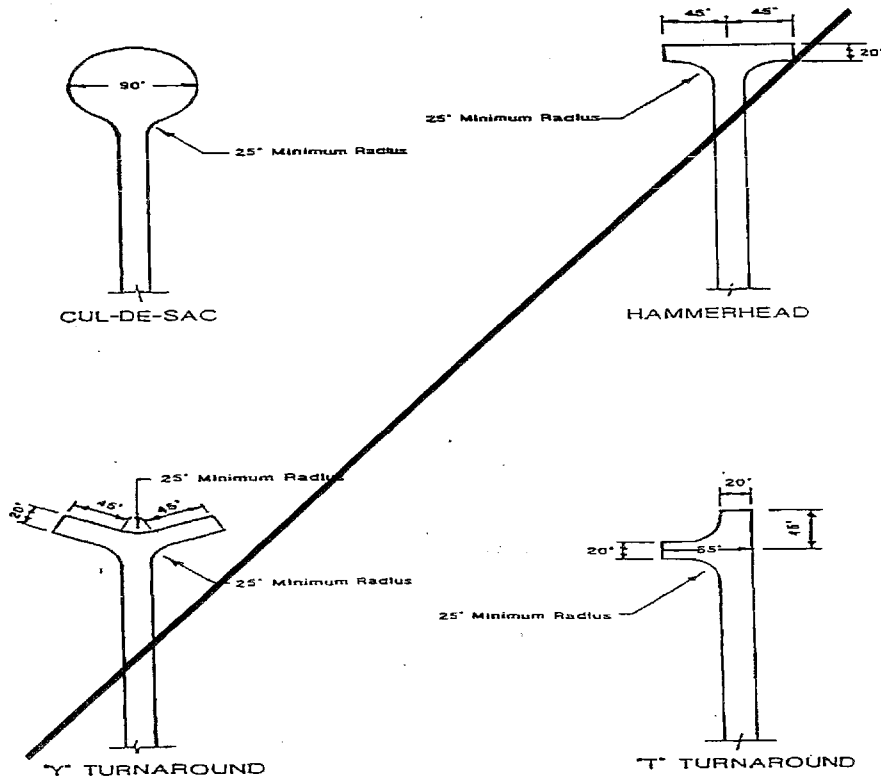
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~~rolled repeatedly to ensure the condition does not worsen. Areas which fail shall be recompacted or reconstructed and retested. Compliance with the standards proposed in the engineer's design report or the standards specified in this section shall be certified by an Oregon registered professional engineer or engineering geologist.~~

~~4.2 Private Road and Driveway Turnarounds: All private roads will be dead-end roads and will provide a suitable turnaround at the private road terminus or within 150 feet of its terminus. Examples of turnarounds are shown in Table 4.2-1.~~

~~TABLE 4.2-1 FOR PRIVATE ROADS AND DRIVEWAYS  
STANDARD TURNAROUNDS~~



~~4.13 Example Private Road Maintenance Agreement: Private roads will be maintained by the benefitted property owners. A maintenance agreement must be recorded in the public records of the County as a requirement for approval of any new private road. Below is an example of a standard maintenance agreement is available in the Jackson County Planning Department from Planning Services. If the developer or property owners applicant prefers to~~

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design their own agreement, it must at a minimum include the items outlined in Section 9.5.3 of the Land Development Ordinance following:

- ~~A) A legal description or reference to the Official Recording (OR) number of the most recent instrument conveying ownership of the property for all lots or parcels crossed and/or served by the private road.~~
- ~~B) A list of the Tax Assessor map and tax lot number(s) of all lots or parcels served by the road.~~
- ~~C) A statement that the conditions of the maintenance agreement shall run with the described property and be binding upon all parties having any right, title or interest in the property, including their heirs, successors, grantees and assigns.~~
- ~~D) A statement specifying how the expenses of maintaining and repairing the road will be divided between the owners of the lots or parcels served by the road (e.g., shared equally, percentage based on length of road frontage).~~
- ~~E) A statement specifying the maintenance schedule and how the work will be contracted. At a minimum, the road must be graded, surface gravel added or replaced, and any ditches or culverts cleaned annually.~~
- ~~F) A statement that the expenses of maintaining the road will constitute a charge on the property and will be a continuing lien upon the property until paid, and will also be the personal obligation of the owner of the property as of the date when the assessment for expenses fell due.~~
- ~~G) A statement specifying that any owner served by the road who has paid his share of the assessment may bring an action in equity to foreclose the lien against the non-paying owner's property or an action at law against the non-paying owner personally.~~
- ~~H) Notarized signatures of the owners of all lots or parcels served by the road.~~

**PRIVATE ROAD MAINTENANCE AND ACCESS AGREEMENT**

**THIS DECLARATION** of agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by \_\_\_\_\_ hereinafter called Declarants, for themselves, their heirs, personal representatives, successors, grantees and assigns.

**WHEREAS**, the Declarants are the owners of the land located in Jackson County, Oregon, over which a private road is located, and which is more particularly described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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WHEREAS, the Declarants and Participants to this Agreement desire to utilize the private road for common ingress and egress to their respective properties and to maintain same according to the terms and provisions hereof.

NOW THEREFORE, Declarants hereby declare that the private road herein described shall be subject to the following conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property owned by the Declarants and described herein, and shall be binding upon all Participants to this Agreement and any parties having any right, title, or interest in such real property or any part thereof, including their heirs, personal representatives, successors, grantees, and assigns, and same shall inure to the benefit of each participant in such agreement.

1. Declarants are the real owners of the property set forth in Exhibits "A", attached hereto and incorporated herein, and hold title thereto as set forth in said Exhibits. These properties are more commonly described as Jackson County Assessors Map:  

---
2. Each of the Declarants and the Participants to this Agreement shall have a right of way and easement of ingress and egress over and across the private road herein described, which shall be appurtenant to and pass with the title to each of their respective parcels herein described, subject to the provisions herein contained.
3. The private road shall be used for ingress and egress purposes only and shall not be obstructed by any owner for any purpose. The private road is presently graded and graveled and is utilized as a road.
4. The expenses of maintaining, repairing and enhancing the private road shall be paid equally and on an annual basis by the Declarants and the Participants to this Agreement which utilize the same for residential purposes (or other distribution). The Participants to this Agreement and the parcels utilizing the private road shall attempt to agree upon the amount of maintenance and the individuals who should be contracted with to perform same. In the event agreement cannot be reached, it is herein agreed that there shall be a minimum of one annual grading of the private road with the addition and replacement of gravel to cover same in a reasonable manner. The expenses of maintaining the private road shall constitute a charge on the property of the participants to this agreement utilizing same for residential purposes and shall be a continuing lien upon their respective properties until paid. Such lien shall also include all interest, costs of collection and reasonable attorney fees in collecting and enforcing same. As well, such assessment together with the aforesaid costs and fees shall be the personal obligation of the participants to this agreement as of the date when the assessment for expenses fell due. The assessment for the expenses shall become due as of thirty (30) days after presentation of the invoice for the repairs and maintenance. The assessment shall bear interest at the rate of ten (10) percent per annum from thirty (30) days after the presentation date until paid. Any Participant to this Agreement who shall have paid his share of the assessment may bring an action in equity to foreclose the lien against the non-paying participants property or an action at law against the non-paying participant to this

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agreement.

5. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage or trust deed or like encumbrance upon any of the participants' properties. Sale or transfer of any of the Declarant's properties shall not affect the assessment lien. **PROVIDED HOWEVER,** the sale or transfer of any such property pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such property from liability for any assessments thereafter becoming due or from the lien thereof.
6. Each Declarant and Participant to this Agreement agrees to defend, indemnify and hold the other Declarants and Participants harmless from and against any and all losses, claims, demands, or other liabilities whatsoever arising out of his own use of the private road, or use by his invitees, guests, agents or employees. Each Declarant and Participant assumes all risks arising out of his own use of the private road and none of the other Declarants or Participants shall have any liability as between themselves for any condition existing thereon.
7. In the event suit, or action, or appeal thereon, is brought in the premises of this Declaration, the losing party or parties shall pay the prevailing party or parties reasonable attorney fees as determined by the Court.
8. The invalidity of any one (1) of the covenants and restrictions, or portions thereof, as contained in this Declaration shall not affect the validity of the remaining provisions and portions thereof, which shall remain in full force and effect.
9. This agreement shall not be amended or voided without approval from Jackson County Planning Division.

IN WITNESS WHEREOF, this Declaration has been executed on the date first above written by the Declarants and Participant to the Agreement.

\_\_\_\_\_  
Signature of Declarant/Participant                      Signature of Declarant/Participant

\_\_\_\_\_  
Signature of Declarant/Participant                      Signature of Declarant/Participant

\_\_\_\_\_  
Signature of Declarant/Participant                      Signature of Delaclarant/Participant

STATE OF OREGON)  
\_\_\_\_\_) ss.





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new ~~construction structures~~ in areas ~~subject to wildfire hazard as identified on the "Hazardous Wildfire Area Map."~~

A fuelbreak may be extended onto an adjoining property with a recorded fuelbreak easement. ~~The 100-foot fuelbreak will not be applied on the side of a property that abuts. When a fuelbreak area includes a county, state or federally improved and maintained road right-of-way, a fuelbreak reduction application will not be required for the side of the property facing the road, but a minimum 100-foot fuelbreak will still be required on the other sides. A maintained~~ Additionally, the 100-foot fuelbreak will not be applied on the side of a property that abuts an ~~improved local access roads, or approved private roads, and/or a private access easements~~ when the accessway ~~that~~ is maintained through an enforceable written agreement between property owners served by the road ~~accessway and the fuelbreak complies with the requirements of 8.7.1(D), equals a minimum maintained fuelbreak distance of 22 feet, may similarly qualify for exemption from these fuelbreak requirements.~~

In accordance with section 8.6.4, no riparian habitat may be removed in order to comply with this section. Where the required fuelbreak is located within a protected riparian area, a fuelbreak reduction will be required for that portion of the required fuelbreak.

All proposed structures will meet the minimum structural setback requirements. A fuelbreak is measured from a structure's outermost walls, combustible decks, or other combustible attachments. Fuelbreaks will meet the following standards:

1) *Primary Fuelbreak*

The goal within the primary fuelbreak is to remove fuels that will produce flame lengths in excess of one (1) foot. A minimum 50-foot primary fuelbreak is required for all lands identified as a wildfire hazard. Vegetation within the primary fuelbreak may include grass maintained at less than six (6) inches in height and low fuel volume, fire resistant shrubs. Highly combustible shrubbery, such as juniper, is prohibited. Trees will be horizontally spaced with more than 15 feet between the trunks, and will be pruned to remove branches that are dead or that are less than 10 vertical feet above the ground. A 10-foot clearance between branches and stove pipes or chimney outlets must be maintained. Deciduous tree branches must be no closer than ten feet from the roof; evergreen branches must be no closer than twenty-five feet from the roof. No branches may overhang within 25 vertical feet of a roofline. Accumulated leaves, needles, limbs and other dead vegetation must be removed. Flammable groundcover materials (e.g., bark mulch) may not be used in landscaping within 12 inches of buildings. Firewood piles, slash piles, and woodsheds will be placed at least 30 feet from all structures.

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- D) **Emergency Vehicle Access**  
For purposes of public safety, access will be constructed to the standards of Section 9.5.3, 9.5.4, or 9.5.5 whichever is applicable. A fuelbreak shall be required along private accessways including driveways, private roads, and private access easements in accordance with Section 8.7.1(B)(1) except that the fuelbreak shall be allowed to be a minimum of 22 feet in width, which includes the driving surface. If the property line or an easement boundary used for driveway access purposes is within 5 feet of the edge of the driveway surface, the fuelbreak need only be developed within the property or access easement.
- ~~E) **Slope**~~  
~~All new dwellings, significant outbuildings and replacement structures will be sited in compliance with the development standards of Section 9.3 and 9.5.4. Where an alternate site for a replacement structure is not available on the parcel, the structure may be replaced in the same location.~~
- ~~E)F) **Chimneys**~~  
All chimneys will have a spark arrester.
- ~~F)G) **Rural Fire Protection**~~  
Dwellings will be located within a rural fire protection district or contract with a rural fire protection district for residential fire protection. If the dwelling is not within a rural fire protection district and contracting is not possible, evidence will be provided to show that the applicant has asked to be included in the nearest such district, and that said district cannot or has refused to provide protection.
- ~~G)H) **General Fire Safety Guidelines**~~  
The following fire safety guidelines are suggested in all rural and forested areas, and may be required by the County when a finding is made that such measures are necessary to protect public safety (see OAR 660-006-0035 for additional standards in forest zones):
- 1) Bridges constructed of noncombustible materials or as otherwise approved by the local fire official having jurisdiction through a Type 1 Review;
  - 2) On-site water storage approved by the fire district serving the proposed use;
  - 3) Permanent signs posted along the access route to indicate the location of the emergency water source; and
  - 4) Other measures as recommended by the fire agency commenting on the application or the County Fire Safety Inspector.

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H)† **Address Signs**

Address signs will be posted where at the driveway, private access easement, and private road intersects with entrances at the public right-of-way in such a manner as to be visible from both directions on the roadway providing the access. Directional address signs must also be posted at all road/driveway junctions.

**8.7.2 Existing Buildings Structures Exemptions to Wildfire Safety Requirements**

~~Buildings lawfully constructed prior to February 13, 1989, will not be considered nonconforming solely based on nonconformance with this Wildfire Safety Section. When new construction consists of an addition to an existing building that is exempt from the requirements of this Section, the addition is also exempt, provided it is not placed closer to any property line that is currently less than 100 feet from the structure. A replacement building is considered new construction.~~

A) Interior remodels are exempt from the wildfire safety requirements of this section.

B) Existing structures buildings that have been lawfully constructed and were in compliance with the permit and regulations in effect at the time of construction are exempt from the fuelbreak distance requirements of Section 8.7.1 (B) and may be expanded or replaced within a lawful non-conforming fuelbreak if:

1) The expansion/replacement is less than 50% of the square footage of the existing originally approved and constructed building floor plan — or— 1,000 square feet whichever is less; and

2) Any expansion/replacement is not placed further inside a lawful non-conforming fuelbreak than what currently exists.

~~A fire safety inspection will be required to verify all fuelbreak requirements of Section 8.7.1 (B) (except as exempted above) will be met. Additionally, the fire district having jurisdiction or the Oregon Department of Forestry (ODF) if not in a fire district may authorize or make the determination that existing trees can remain if it is found that they do not pose a significant wildfire hazard.~~

C) Non-habitable structures less than 400 square feet in size, which are not located in a forest zoning district, are exempt from the wildfire safety requirements of this section.

D) Transmission and Utility Towers, which are not located in a forest zoning district, are exempt from the wildfire safety requirements of this section.

E) The fire district having jurisdiction or the Oregon Department of Forestry (ODF) if not in a fire district may authorize or make the determination that existing trees can remain if it is found that they do not pose a significant

**ORDINANCE EXHIBIT B**  
Amendments to Land Development Ordinance

wildfire hazard.

**~~8.7.3 Reroofing or Repair of Existing Buildings Structures~~**

~~When 50 percent or more of the roof covering of any building is repaired or replaced within one (1) year, the entire roof covering will be made to comply with the requirements for roof coverings for new structures within wildfire hazard zones, as specified in Section 8.7.1(C).~~

**~~8.7.34 Fuelbreak Reductions~~**

The County, upon receipt of a written authorization from the fire district having jurisdiction, or the Oregon Department of Forestry (ODF) if not in a fire district, shall ~~may~~ approve a reduction in the width of the fuelbreak as prescribed by the agency. The written authorization will be made on forms supplied by the County and be signed by the Fire Chief or an ODF official with authority to make fuelbreak reduction decisions, or their designee. Such authorizations will be processed as a Type 1 permit. Authorization to reduce the fuelbreak requirement will not, however, release an applicant from compliance with any other applicable standard of this Ordinance.

When a Type 1 fuelbreak reduction for a structure is not authorized by a fire district or ODF official, a fuelbreak reduction may be approved by the County under a Type 2 review when the applicant documents, and the County confirms through a site inspection, that one or more of the following conditions affect development of the proposed use:

- A) A stream or irrigation canal, road, topographic feature, or other site characteristic serves as an adequate fuelbreak;
- B) A better fire suppression and prevention strategy is proposed by the applicant;  
or
- C) Because of parcel or lot configuration, a portion of the fuelbreak would be located on an adjoining property, and an adjustment of the building site is not practicable.

**~~8.7.45 Conditional Approval Requirements When Deemed Necessary~~**

Except where superseded by existing non-conforming situations as outlined in Section 8.7.2, the County's decision to authorize a fuelbreak reduction or approve a fire safety inspection will consider the advice of the fire protection district, County Fire Safety Inspector or ODF official and may impose additional standards or conditions and require technical information as needed to assure compliance with these regulations. Any Adjustment to these requirements will either be processed through a Variance as stipulated in Section 3.11 or an Administrative Adjustment as stipulated in Section 3.12 of the Land Development Ordinance.



## Development Services

10 South Oakdale Ave., Room 100  
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Hasler

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