



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

09/05/2012

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 004-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Thursday, September 20, 2012

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: Mike Mattson, Jackson County  
Jon Jinings, DLCD Community Services Specialist

Gary Fish, DLCD Transportation Planner

<paa> YA



PROP **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

DATE  
STAMP

DEPT OF

AUG 31 2012

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Jackson County**

Local file number: **LRP2011-00008**

Date of Adoption: **8/29/2012**

Date Mailed: **8/30/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 12/22/2011

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

LDO text amendment of change portions of Section 7.2, Floodplain Overlay, with regard to the type of review required and other minor changes.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **NA**

to: **NA**

Zone Map Changed from: **NA**

to: **NA**

Location: **NA**

Acres Involved: **0**

Specify Density: Previous: **NA**

New: **NA**

Applicable statewide planning goals:

**1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 004-11 (19118) [17155]

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

Rogue Valley Council of Governments, Department of State Lands

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Local Contact: **Mike Mattson**

Phone: (541) 774-6937 Extension:

Address: 10 S. Oakdale Ave., Room 100

Fax Number: 541-774-6791

City: Medford

Zip: 97501-

E-mail Address: [mattsomw@jacksoncounty.org](mailto:mattsomw@jacksoncounty.org)

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## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)**  
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

BEFORE THE BOARD OF COUNTY COMMISSIONERS

STATE OF OREGON, COUNTY OF JACKSON

ORDINANCE NO. 2012-7

AN ORDINANCE AMENDING THE JACKSON COUNTY LAND DEVELOPMENT ORDINANCE REVISING SECTION 7.2, FLOODPLAIN OVERLAY. FILE LRP2011-00008.

**RECITALS:**

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan (JCCP) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. The proposed text amendment to the Jackson County Land Development Ordinance was initiated by the Jackson County Board of Commissioners on February 15, 2012, Board Order 32-12, pursuant to LDO Section 3.8.2.
3. JCLDO Section 3.8.3 states that text amendments to the Land Development Ordinance will be consistent with and adequate to implement all applicable provision of the Comprehensive Plan, the Statewide Planning Goals, and Oregon Administrative Rules.
4. Pursuant to Oregon Revised Statute (ORS) 197.610 and Oregon Administrative Rule (OAR) 660, Division 18, notice was mailed to the State of Oregon Department of Land Conservation and Development Commission (DLCD) on December 22, 2011. The Jackson County Planning Commission (JCPC) conducted the first evidentiary hearing on February 23, 2012. A subsequent public hearing was conducted on March 22, 2012, and deliberations were concluded on this matter on March 22, 2012.

5. On March 22, 2012, the JCPC, by motion and vote, recommended approval of the text amendment to the Board of Commissioners.
6. The Board of Commissioners conducted their first evidentiary hearing on July 11, 2012. A subsequent public hearing was conducted on August 1, 2012. At the August 1, 2012 public hearing, the Board of Commissioners, by motion and vote, approved the text amendment to Section 7.2, Floodplain Overlay.

NOW, THEREFORE, the Board of County Commissioners of Jackson County ORDAINS as follows:

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

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

- 1.1 The Board of Commissioners finds that proper legal notice was provided on June 21, 2012 for a public hearing on this matter. Legal notice was published in the Sunday, July 1, 2012 edition of the Medford Mail Tribune.
- 1.2 The Planning Commission recommended revisions in their Recommendation for Approval, incorporated herein and attached as Exhibit "A". Minor changes were brought before the Board of Commissioners on the text approved by the Planning Commission that staff believed provided clarity and better understanding of the language. The Board of Commissioners agrees with staff regarding these changes and adopts them as their own.
- 1.3 Staff also presented other changes that were not before the Planning Commission and these changes and findings are addressed below.
  - 1.3.1 Staff presented suggested changes to Section 7.2.10(E), Project for fish enhancement and stream habitat restoration. Staff proposed removing subsection 1) because fish screens cannot meet this requirement. This subsection was originally added to the LDO revision adopted in 2011. This requirement states "The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-01023)." Because this was an optional requirement in the Oregon Model Floodplain Ordinance, the Board of Commissioners finds that removing this requirement is justified and that by removing subsection 1), Section 7.2.10(E) would still be compliant with NFIP and FEMA requirements for fish enhancement and stream habitat restoration projects.

- 1.3.2 The Board of Commissioners asked staff to include language that allows for replacement of livestock fencing should the fence be damaged such that livestock could be harmed or lost because of the damage. The Board of Commissioners finds that the suggested language, Exhibit 20 of the record, is appropriate and shall be added to Section 7.2.13(F). This will allow a property owner to replace the damaged fence without the need to go through a Floodplain Development Permit application immediately because the safety and containment of livestock is of paramount importance and this would be considered an emergency situation. The property owner would still be required to submit a Floodplain Development Permit Application with 30 days for approval or denial by staff. The replacement of the damaged fence is completed at the risk of the property owner. The approved language is shown below.

*"In an emergency situation where livestock could be harmed or lost due the failure of existing fencing located within the Special Flood Hazard Area, the fence may be replaced immediately without obtaining a Floodplain Development Permit. However, a Floodplain Development Permit application shall be submitted within 30 days following the construction of the replacement fence. This exception to the Floodplain Development Permit requirement for the construction of a replacement fence does not guarantee approval of the application. The replacement of the damaged fence is completed at the risk of the property owner."*

- 1.4 Testimony at the public hearings indicated there was opposition to include the proposed sections 7.2.2(C)(1)(b and h) as Type 1 reviews. The Board of Commissioners finds that there is substantial evidence in the record to determine that discretion is not used for these types of projects and a Type 1 review process is appropriate.

## **SECTION 2. LEGAL FINDINGS**

- 2.1 The Board of Commissioners finds the proposed text amendments and changes or additions as determined by the Board are compliant with the Jackson County Comprehensive Plan, Oregon Statewide Planning Goals and Oregon Administrative Rules. The text amendments are incorporated herein and attached as Exhibit "B".

## **SECTION 3. CONCLUSIONS**

- 3.1 The Board of Commissioners concludes that proper public notice was given.
- 3.2 The Board of Commissioners concludes the proposed text amendments to the Jackson County Land Development Ordinance, Section 7.2, are

appropriate and are compliant with NFIP requirements for development within the FEMA mapped 100-year floodplain and/or floodway.

**SECTION 4. DECISION**

- 4.1 Based on the record, evidence, and testimony at the public hearings, the Board of Commissioners approves the text amendments to Section 7.2 of the Jackson County Land Development Ordinance, incorporated herein and attached as Exhibit "B".

**ADOPTED** this 29th day of August, 2012, at Medford, Oregon.

**JACKSON COUNTY BOARD OF COMMISSIONERS**

Absent  
Don Skundrick, Chair

John Pachor  
John Pachor, Commissioner

Dennis C.W. Smith  
Dennis C.W. Smith, Commissioner

ATTEST:

Mary Bonham  
By: Recording Secretary

APPROVED AS TO LEGAL SUFFICIENCY:

Anna Amodeo  
County Counsel

The Board of 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 August 30, 2012, and the LUBA appeal period will expire on September 20, 2012. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.



BEFORE THE JACKSON COUNTY PLANNING COMMISSION  
STATE OF OREGON, COUNTY OF JACKSON

IN THE MATTER OF CONSIDERATION OF )  
A TEXT AMENDMENT TO THE LAND )  
DEVELOPMENT ORDINANCE TO REVISE )  
THE FLOODPLAIN OVERLAY, SECTION )  
7.2. THE REVISIONS ARE, FOR THE )  
MOST PART, MINOR CHANGES TO THE )  
ORDINANCE LANGUAGE, ALTHOUGH )  
THE TYPE OF REVIEW REQUIRED UNDER )  
THIS SECTION COULD BE CHANGED. )  
THESE REVISIONS COULD AFFECT )  
PROPERTIES LOCATED WITHIN THE )  
FEMA MAPPED FLOODPLAIN ON THE )  
FLOOD INSURANCE RATE MAPS (FIRM) )  
FOR JACKSON COUNTY. FILE NO. )  
LRP2011-00008. )

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RECOMMENDATION  
FOR APPROVAL

**RECITALS:**

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan (JCCP) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. The proposed text amendment to the Jackson County Land Development Ordinance was initiated by the Jackson County Board of Commissioners on February 15, 2012, Board Order 32-12, pursuant to LDO Section 3.8.2.
3. Notice of the proposed amendment was mailed to the State of Oregon Department of Land Conservation and Development Commission (DLCD) on December 22, 2011. The JCPC conducted the first evidentiary hearing on February 23, 2012. Subsequent public hearings were conducted on March 22 and April 26, 2012. Deliberations were concluded on this matter on April 26, 2012.
4. On April 26, 2012, by motion and vote, the Planning Commission recommended approval of their changes to the Jackson County Board of Commissioners.

Now, therefore,

The Jackson County Planning Commission finds, concludes, and RECOMMENDS as follows:

**FINDINGS:**

The Planning Commission makes the following findings with respect to this remand of the text amendment to the Land Development Ordinance (LDO):

The Planning Commission makes the following findings with respect to this remand of the text amendment to the Land Development Ordinance (LDO):

1. Proper notice was sent on January 21, 2012. Notice was sent to property owners whose property was within or partially within the FEMA mapped 100-year floodplain and affected agencies.
2. A properly published legal notice was in the Mail Tribune on October 17, 2010, for the first evidentiary hearing held before the JCPC on October 28, 2010. Subsequent public hearings were continued on March 22 and April 24, 2012.
3. The LDO Criteria for a legislative text amendment to the LDO are found in Section 3.8.
4. Preliminary changes to LDO Section 7.2 were submitted by staff for review. The preliminary changes were reviewed by the Planning Commission and minor changes were directed by the Planning Commission. Staff was requested to make the changes as indicated by the Planning Commission and prepare a Recommendation of Approval for the Board of Commissioners. The recommended revisions are attached as Exhibit 1.

**CONCLUSION:**

The Jackson County Planning Commission adopts the text revisions to LDO Section 7.2, attached as Exhibit 1.

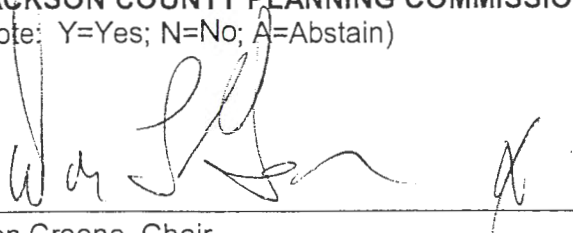
**RECOMMENDATION:**

Based on the evidence in the record, the Planning Commission finds the changes to LDO Section 7.2 (Exhibit 1) are warranted and recommends adoption by the Board of Commissioners.

This recommendation for APPROVAL adopted this 24th day of May, 2012, at Medford, Oregon.

**JACKSON COUNTY PLANNING COMMISSION**

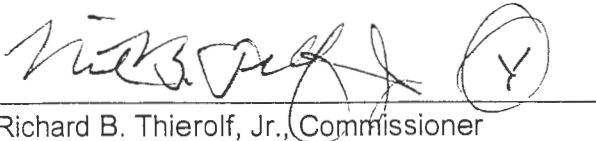
(Vote: Y=Yes; N=No; A=Abstain)



Don Greene, Chair



Joel Ockunzzi, Commissioner



Richard B. Thierolf, Jr., Commissioner

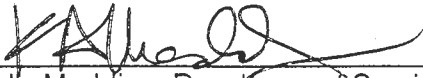


Tani Wouters, Commissioner



Craig Prewitt, Commissioner

ATTEST:



Kelly Madding, Development Services Director

Exhibit 1: LDO Text Amendments to Section 7.2, Floodplain Overlay

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## LDO TEXT AMENDMENTS TO SECTION 7.2, FLOODPLAIN OVERLAY

## I. Section 7.2.2(C) Establishment of Floodplain Development Permit

C) ***Establishment of Floodplain Development Permit***

A Floodplain Development Permit will be required prior to initiating development activities in any Area of Special Flood Hazard established in Section A above.

A Floodplain Development Permit will be processed through a ~~Type 2 Review~~ except as identified below review procedures as outlined below:

- 1) ~~Replacement of bridges and/or culverts located in the floodway, as determined and mapped by FEMA, that necessitate a no-rise certification are allowed through a Type 1 review process, provided the replacement bridge and/or culvert is located along a similar or parallel alignment and contributes no additional material to the floodway.~~

A Type 1 review (administrative) for the types of projects below:

- (a) Replacement of bridges and/or culverts located in the floodway, as determined and mapped by FEMA, that necessitate a no-rise certification ~~are allowed through a Type 1 review process~~, provided the replacement bridge and/or culvert is located along a similar or parallel alignment and contributes no additional material to the floodway; or
- (b) Development outside of the floodway where base flood elevations have been determined by FEMA. This does not include development where a cumulative analysis is required or where a no-rise certification is required;
- (c) Development where floodplain development permits have already been completed and base flood elevations have not changed (vertical datum may have changed but no new flood studies have been completed and approved by FEMA). This does not include development where a cumulative analysis is required or where a no-rise certification is required;
- (d) Development outside of the floodway for structures, properties or portions of a property with a FEMA approved LOMA or LOMR where base flood elevations have been identified on the LOMA or LOMR. This does not include development where a cumulative analysis is required;
- (e) Development of utilities, including sewer or septic systems, as identified in Section 7.2.13(K) that are located outside

of the floodway and where base flood elevations have been determined by FEMA;

- (f) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other services facilities (i.e., heat pumps, electrical circuits and panels, poles, irrigation pumps, ducting) where base flood elevations have been determined by FEMA;
- (g) Fish enhancement projects (fish screens, habitat restoration projects, etc.) approved by the Oregon Department of Fish and Wildlife (ODFW);
- (h) Fill, excavation or grading outside of the floodway where base flood elevations have been determined by FEMA. This does not include development where a cumulative analysis is required; or
- (i) Substantial improvement and substantial damage determinations.

2. Type 2 review for the types of projects below:

- (a) Development within a flood zone where base flood elevation and the floodway have not been determined;
- (b) Development within a flood zone where a cumulative effect analysis is required;
- (c) Except as identified in 1) above, development within the floodway where an Oregon registered professional engineer is required to complete a no-rise certification (excluding the exceptions in Section 7.2.10);
- (d) Temporary encroachments in the floodway (Section 7.2.6);
- (e) Alteration or relocation of a watercourse (Section 7.2.7);
- (f) Critical facilities (Section 7.2.12(I));
- (g) Aggregate mining operations (Section 7.2.13(L));
- (h) Development on areas surrounded by floodplain (Section 7.2.13(M));
- (i) Variances (Section 7.2.14); or
- (j) Development that requires a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR), unless a CLOMR and/or LOMR has already been secured.

II. Section 7.2.3(A)(6) Duties and Responsibilities of the Administrator

- (6) When Base Flood Elevations are not available, the Floodplain Administrator or staff designee will require Base Flood Elevations to be developed in accordance with Section 7.2.4(A)(3) to determine whether a proposed building development site or subdivision will be reasonably safe from flooding.

III. Section 7.2.9(A) Enclosed Areas Below the Lowest Floor Limited

To ensure that enclosed areas below the lowest floor will be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation, the Floodplain Administrator or staff designee will:

- A) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are greater than 4 feet; and
- B) Have the property owner record a Deed Declaration, "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS", on a form provided by Development Services. The Deed Declaration will be recorded with the Jackson County Clerk's Office and a copy will be provided to Development Services.

IV. 7.2.10(A)(2) & 7.2.10(C) Floodway Development

In areas designated as floodways, either on the FIRM or DFIRM, or by methods described in Section 7.2.4(A)(3), the following standards apply due to the extreme hazard resulting from velocity of flood waters which carry debris, potential projectiles, and have erosion potential:

- A) The placement or construction of any new building in the floodway, which does not replace an existing building, is prohibited. Replacement, repair, addition to, or reconstruction of any existing building in a floodway must comply with all applicable standards of this Section as well as 7.2.13;
- 1) If there is an area on the lot, parcel, or tract that is out of the floodway where the replacement of an existing building can be located, it must be replaced in a location outside of the floodway, if the area outside can accommodate the existing footprint and meet the dimensional and siting standards of this Ordinance; or
- 2) If there is not an area on the lot, parcel, or tract outside of the floodway where a replacement building can be located, the replacement may be located within the floodway in the same location of the existing building, subject to the standards of Section 7.2.10(C). The area displacement of the replacement building's footprint will not exceed the area displacement of the original building's footprint and the footprint must be in the same configuration and location as the existing footprint of the building. The standard of subsection 7.2.10(C) (no-rise analysis and certification) is not

required if the replacement building is in the same footprint, location and area displacement of the existing building.

- 3) The replacement of or addition to an existing building that is not within the existing building's footprint, location and configuration may occur provided the standard of subsection 7.2.10(C) is met and other applicable standards of Section 7.2 are met.
- B) Sand filter septic systems are prohibited in the floodway unless standards set forth in Section 7.2.10(C) are met;
  - C) Except as provided in E) below, encroachments, including fill, new construction, substantial improvements, fences, and other development in the regulatory Floodway, or the floodway as determined in 7.2.4(A)(3) or 7.2.12(B), are prohibited unless certification by an Oregon registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that, in the engineer's opinion, such encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge (no-rise analysis and certification).
  - D) Any fill allowed to be placed in the floodway will be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.
  - E) Projects for fish enhancement and stream habitat restoration may be permitted in the floodway provided:
    - 1) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023);
    - 2) A qualified professional (an Oregon registered professional engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practicable given the goals of the project;
    - 3) No structures would be impacted by a potential rise in flood elevation; and,
    - 4) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged will be included as part of the local approval.
  - F) The Floodplain Administrator or staff designee may accept an Oregon licensed surveyor's or Oregon registered professional engineer's determination of the 100-year floodplain boundary and floodway boundary, as depicted on the Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM). A survey (map) must include property boundaries, existing and proposed development and 100-year floodplain and/or floodway boundaries as

depicted on the FIRM and/or DFIRM. The survey (map) must have the surveyor's or engineer's stamp included.

- G) Applicants will obtain a CLOMR from FEMA before an encroachment, including fill, new construction, substantial improvement, and other development, into the floodway is permitted that will cause any increase in the Base Flood Elevation. Per Section 7.2.8, a LOMR will also be required.

#### V. Section 7.2.12 Zones Without Base Flood Elevations

The following standards, as well as applicable sections of Section 7.2.13, apply in Areas of Special Flood Hazard where no base flood elevation and floodway data have been provided (approximate A Zones):

- A) When Base Flood Elevations are not available from an engineering source, the Floodplain Administrator will require Base Flood Elevations to be developed in accordance with Section 7.2.4(A)(3) of this ordinance to determine whether a proposed building development site or subdivision will be reasonably safe from flooding.
- B) Encroachments, including structures or fill, located in an Area of Special Flood Hazard that are within an area equal to the width of the stream or fifty feet, whichever is greater (measured from the ordinary high water mark), will meet the applicable standards of Section 7.2.10 and will be considered the floodway for development purposes. ~~This area of setback will be considered the floodway for development purposes.~~ The floodway may also be determined per Section 7.2.4(A)(3). New buildings within the floodway are prohibited.
- C) ~~The Floodplain Administrator or staff designee may accept an Oregon licensed surveyor's or Oregon registered professional engineer's determination of the 100-year floodplain boundary and floodway boundary, as depicted on the Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM). A survey (map) must include property boundaries, existing and proposed development and 100-year floodplain and/or floodway boundaries as depicted on the FIRM and/or DFIRM. The survey (map) must have the surveyor's or engineer's stamp included.~~

Development will not increase the base flood elevation more than one (1) foot.

- D) The Floodplain Administrator or staff designee may accept an Oregon licensed surveyor's or Oregon registered professional engineer's determination of the 100-year floodplain boundary and floodway boundary, as depicted on the Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM). A survey (map) must include property boundaries, existing and proposed development and 100-year floodplain and/or floodway boundaries as depicted on the FIRM and/or DFIRM. The survey (map) must have the surveyor's or engineer's stamp included.



VI. Section 7.2.13(A) Construction Standards and Building Design

A) In all areas of special flood hazards (A, AE & AO zones),

- 1) New construction and substantial improvements will be anchored to prevent flotation, collapse, or lateral movement of the structure;
- 2) New construction and substantial improvements will be constructed with materials and utility equipment resistant to flood damage;
- 3) New construction and substantial improvements will be constructed using methods and practices that minimize flood damage, and;
- 4) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities will be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

VII. Section 7.2.13(I) Critical Facilities

I) ***Critical Facilities***

Construction of new critical facilities will be, to the extent possible, located outside the limits of the Area of Special Flood Hazard. Construction of new critical facilities will be permissible within the Area of Special Flood Hazard if no feasible alternative site is available. Access elevated to or above the level of the Base Flood Elevation will be provided to all critical facilities to the maximum extent possible. Flood-proofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters. ~~Access routes elevated to or above the level of the base flood elevation will be provided to all critical facilities to the extent possible.~~

## CHAPTER 7. OVERLAYS

<b>7.1</b>	<b>ENVIRONMENTAL AND CULTURAL OVERLAYS</b> .....	<b>1</b>
7.1.1	Areas of Special Concern .....	1
	A) ASC 80-2 Ashland Watershed.....	1
	B) ASC 82-2 Bear Creek Greenway .....	1
	C) ASC 90-1 Deer and Elk Habitat.....	2
	D) ASC 90-2 Bald/Golden Eagle, Osprey, Great Blue Heron Nesting Areas .....	5
	E) ASC 90-3 Jenny Creek Sucker Habitat .....	5
	F) ASC 90-4 Historic Resources.....	6
	G) ASC 90-6 Archaeological Sites .....	13
	H) ASC 90-7 Upper Rogue River Scenic Area .....	13
	I) ASC 90-8 Groundwater Problem Areas.....	14
	J) ASC 90-9 Scenic Resources.....	15
	K) ASC 90-10 Ecologically or Scientifically Significant Natural Areas.....	18
	L) ASC 2003-2 Jackson County Sports Park Noise Overlay.....	18
	M) ASC __ Yreka Watershed [Reserved] .....	19
7.1.2	Jackson County Public Park (JCPP) Overlay.....	19
	A) Purpose .....	19
	B) Applicability .....	19
	C) Uses Permitted .....	19
	D) Other Requirements.....	19
7.1.3	Aggregate Conflicting Use Impact Area .....	20
	A) Description.....	20
	B) Special Regulations .....	20
<b>7.2</b>	<b>FLOODPLAIN OVERLAY</b> .....	<b>20</b>
7.2.1	Statutory Authority .....	20
	A) Warning and Disclaimer of Liability .....	20
	B) Facts.....	21
	C) Purpose .....	21
	D) Methods of Reducing Flood Losses .....	22
	E) Definitions .....	22
7.2.2	Applicability .....	23
	A) Basis for Area of Special Flood Hazard.....	23
	B) Coordination with Special Codes Adopted by the State of Oregon Building Codes Division.....	23
	C) Establishment of Floodplain Development Permit .....	23
	D) Interpretation.....	23
	E) Exemptions .....	23
7.2.3	Administration.....	24
7.2.4	Application Requirements .....	26
7.2.5	Substantial Damage and Substantial Improvement Determination.....	27
7.2.6	Temporary Encroachments in the Floodway .....	28
	A) Application Requirements .....	28
	B) Permit Conditions.....	29
7.2.7	Alteration or Relocation of a Watercourse.....	29
7.2.8	Map Revision.....	30
7.2.9	Enclosed Areas Below the Lowest Floor Limited .....	30
7.2.10	Floodway Development .....	31
7.2.11	Zones with Base Flood Elevations but No Floodway.....	32
7.2.12	Zones Without Base Flood Elevations .....	33

7.2.13	Construction Standards and Building Design .....	34
A)	Areas of Special Flood Hazards (A & AO Zones) .....	34
B)	Specific Building Design and Construction Standards for Residential Construction (A Zones) .....	34
C)	Nonresidential Construction .....	37
D)	Below-grade Crawl Spaces .....	37
E)	Standards for Shallow Flooding Areas (AO Zones) .....	39
F)	Fences and Walls in Areas of Special Flood Hazard .....	40
G)	Accessory Structures .....	40
H)	Recreational Vehicles in Areas of Special Flood Hazard .....	41
I)	Critical Facilities .....	41
J)	Tanks .....	41
K)	Utilities .....	42
L)	Aggregate Mining Operations .....	42
M)	Development on Areas Surrounded by Floodplain .....	42
7.2.14	Variance Procedures and Criteria .....	43
7.2.15	Violation and Enforcement .....	44
<b>7.3</b>	<b>TRANSPORTATION AND PUBLIC FACILITY OVERLAYS .....</b>	<b>44</b>
7.3.1	Airport Approach (AA) and Airport Concern (AC) Overlays .....	44
A)	General .....	44
B)	Administration .....	45
C)	Restrictions on Specific Uses .....	46
D)	Review Standards .....	49
E)	Easement and Deed Declarations Required .....	49
7.3.2	Airport Boundary (AB) Overlay .....	50
A)	General .....	50
B)	Uses Allowed at Class 1 Airports .....	51
C)	Uses Allowed at Class 2 Airports .....	53
7.3.3	Areas of Special Concern .....	53
A)	ASC 93-2 Transit Oriented Development .....	53
B)	ASC 2003-1 Goal 11 Exception Areas .....	54
C)	ASC ___ Highway 62 Special Land Area Use Plan .....	55
D)	ASC ___ Highway 99 Medford-Phoenix Special Area Plan .....	55
<b>7.4</b>	<b>URBAN OVERLAYS .....</b>	<b>55</b>
7.4.1	Areas of Mutual Planning Concern and Urban Growth Boundaries .....	55
7.4.2	Area of Special Concern, ASC 82-1 Whetstone Industrial Park .....	55
A)	Lot Size .....	55
B)	Development Standards .....	56
C)	Whetstone Creek Corridor Restrictions .....	57
7.4.3	Urban Fringe .....	57
A)	Designation .....	57
B)	Divisions of Land .....	57
C)	Plan/Zone Changes .....	58

## CHAPTER 7.<sup>1</sup> OVERLAYS

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### 7.1 ENVIRONMENTAL AND CULTURAL OVERLAYS

The purpose of these overlays is to protect site-specific environmental and cultural resources and through the application of additional development regulations and requirements. Use of this land will be governed by the underlying zoning regulations as well as the special regulations set forth in this Section. All uses will comply with the general dimensional standards set forth in Chapter 8.

#### 7.1.1 Areas of Special Concern

##### A) **ASC 80-2 Ashland Watershed**

###### 1) *Description*

This area consists of the Ashland Watershed. The portion of the watershed designated ASC lies within the boundaries of the Rogue River National Forest. The County recognizes domestic water supply production to be the primary use of this land, and that other activities or uses within the watershed are secondary; and

###### 2) *Special Regulations or Development Standards*

Since certain activities which take place in a municipal watershed can have an adverse impact on that resource, the County will, to the extent of its legal authority, provide for the protection of the Ashland Municipal Watershed from uses which could impact the quality of the water and increase erosion, and may attach special conditions during the development review process to protect the quality of the water and reduce erosion.

##### B) **ASC 82-2 Bear Creek Greenway**

###### 1) *Description*

This area consists of the lands identified on the official Bear Creek Greenway Maps.

###### 2) *Special Regulations or Development Standards*

The County refers to *The Bear Creek Greenway Plan: Management Policies and Guidelines (1982)* and *the Bear Creek Greenway Plan: Ashland to Central Point (1988)* for guidance on uses appropriate to the Greenway. The County will, to the extent of its legal authority, provide for the implementation of these plans during the development review process, through the implementation of the use restrictions set forth below, and in some cases by attaching special conditions to development approvals.

###### 3) *Uses Permitted*

Notwithstanding the provisions of Table 6.2-1, 4.2-1, 4.3-1 or 4.4-1, the following use restrictions will apply in this area.

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<sup>1</sup>Ordinance 2006-10, effective 2-18-07; Ordinance 2010-4, effective 8-2-2010

- a) Type 1: The following uses are permitted under a Type 1 approval process within ASC 82-2 provided the use is permitted as a Type 1 use within the underlying zone:
  - i) Open space and parks;
  - ii) Agriculture;
  - iii) Fishing and hunting reserves where compatible with other uses;
  - iv) Utility facilities necessary for public service provided such facilities are underground;
  - v) Sedimentation ponds when used in conjunction with aggregate removal operations;
  - vi) Pedestrian, equestrian and bicycle trails; and
  - vii) Riparian enhancement.
  
- b) Type 3  
 All other uses within the primary zoning district will be subject to a Type 3 permit approval process. Type 3 permits requested within the ASC 82-2 will be consistent with the Bear Creek Greenway Plan and related documents.

**C) ASC 90-1 Deer and Elk Habitat**

1) *Description*

This area includes all lands on which development can affect survival of Black-tailed deer or Roosevelt elk herds as described in the Natural and Historic Resources Element (Chapter 16) of the Comprehensive Plan. Such lands are identified as winter range habitat on base maps prepared by the Oregon Department of Fish and Wildlife (ODFW) and adopted by the Board of Commissioners as ASC 90-1. Winter range is classified by ODFW as "Especially Sensitive," "Sensitive", and "Other", with commensurate levels of protection provided to protect the carrying capacity of the range as set forth in the Jackson County Comprehensive Plan.

- a) Winter range units classified by ODFW as "Especially Sensitive" include:
  - i) Upper Applegate Unit
  - ii) Agate Flat Unit
  - iii) Lake Creek Unit
  - iv) Grizzly Unit
  - v) Big Butte Creek Unit
  - vi) Upper Rogue Unit
  - vii) Elk Creek Unit
  
- b) Winter range units classified by ODFW as "Sensitive" include:
  - i) Trail Creek Unit
  - ii) Cottonwood Creek Unit
  - iii) Lower Applegate Unit

- iv) Evans Creek Unit
  - c) Units identified by ODFW as "Other Winter Range" include:
    - i) Sardine Creek Unit
    - ii) West Valley Unit
    - iii) Dead Indian Memorial Road Unit
- 2) *Minimum Parcel Size*  
 New parcels that are created by partition or subdivision in winter range units will comply with the following minimum parcel sizes:
- a) Especially Sensitive Winter Range units: 160 acres;
  - b) Sensitive Winter Range units: 40 acres, or the minimum parcel size required by the underlying zoning district, whichever is larger; and
  - c) Other Winter Range units may be divided according to the prevailing minimum parcel/lot size for the zoning district.
- 3) *Gating Requirements*  
 New private roads will be gated between November and April (where permitted by law) to protect wintering deer and elk. Individual driveways to dwellings or other buildings that are within 300 feet of a public road are exempt from gating requirements.
- 4) The standards of this subsection are deemed to comply with the deer and elk habitat protection measures recommended by ODFW and therefore do not require ODFW comment on Type 1 permits issued in conformance with this subsection. A first dwelling on a lawfully created lot or parcel will be located within 300 feet of an existing:
- a) Public or private road;
  - b) Driveway that provides access to an existing dwelling on another parcel (provided the new dwelling unit will not take access on it unless the driveway is improved to the private road standards of Section 9.5.3); or
  - c) Other developed access way that existed as shown on the County 2001 aerials or other competent evidence (e.g., a road or driveway for a legal easement recorded prior to the aerial date).
- To be considered under the locational criteria of this subsection, any access must, at a minimum, conform with the emergency vehicle access standards of Section 9.5.4. When an initial dwelling is proposed to be sited in an alternative location that does not conform to the standards of this subsection, the alternative location may be allowed through a Type 2 review process in accordance with subsection (6), below.
- 5) *General Development Standards*  
 The following standards apply to all discretionary land use permits subject to review under this Section, unless a condition of

## EXHIBIT B

approval when the parcel was created required compliance with prior habitat protection standards. The land use decision will include findings that the proposed use will have minimal adverse impact on winter deer and elk habitat based on:

- a) Consistency with maintenance of long-term habitat values of browse and forage, cover, sight obstruction;
  - b) Consideration of the cumulative effects of the proposed action and other development in the area on habitat carrying capacity; and
  - c) Location of dwellings and other development within 300 feet of an existing public or private road, or driveway that provides access to an existing dwelling as shown on the County 2001 aerials or other competent evidence. When it can be demonstrated that habitat values and carrying capacity are afforded equal or greater protection through a different development pattern an alternative location may be allowed through the discretionary review process described in subsection (6), below;
  - d) Dwellings other than the initial dwelling on a lot or parcel will comply with one (1) of the following, as applicable:
    - i) A maximum overall density (within the tract) of one (1) dwelling unit per 160 acres in Especially Sensitive Winter Range units, or one (1) dwelling unit per 40 acres in Sensitive Winter Range units; or
    - ii) Clustering of new structures within a 200-foot radius of the existing dwelling to achieve the same development effect as would be achieved under i), above.
- 6) *ODFW Approved Alternate Siting Plan*  
Initial dwellings and other development may be sited in locations that do not conform with subsections (4) and (5) above when the applicant demonstrates at least one (1) of the following:
- a) The wildlife habitat protection measures required by Section 7.1.1(C)(4) will render the parcel unbuildable; or
  - b) A written authorization approving an alternate siting plan is received from ODFW. Any such authorization must include a statement from ODFW that confirms habitat values and carrying capacity will be afforded equal or greater protection if the dwelling or other development is sited in the alternate location. The written authorization must be made on ODFW letterhead or forms and be signed by an ODFW official with authority to make habitat protection decisions. Authorization of an alternative dwelling location will not release an applicant from compliance with any other applicable standard of this Ordinance.

D) **ASC 90-2 Bald/Golden Eagle, Osprey, Great Blue Heron Nesting Areas**

- 1) *Description*  
This area includes lands identified as significant bald and golden eagle, osprey, and great blue heron nesting areas. Regulation of land use is needed to protect these birds' aeries and rookeries.
- 2) *Special Regulations or Development Standards*
  - a) Land use actions including road construction, reconstruction, aggregate operations, and other uses proposed within the Area of Special Concern will be subject to review to minimize any potential adverse effects upon protected bird species, particularly during their nesting season. When a land use action is proposed within an identified nesting area, the Oregon Departments of Fish and Wildlife (ODFW) and Forestry (ODF), and U.S. Bureau of Land Management (BLM) or U.S. Forest Service (USFS), if adjacent, will be notified of the proposed action. Forest operations will be subject to the requirements of the Oregon Forest Practices Act (FPA), however, other land use actions will be reviewed against FPA and interagency guidelines for species protection to ensure adequate protection is given to nesting habitat;
  - b) The County may deny or require mitigation or modification of any proposed land use determined by ODFW and ODF to be significantly adverse to the species nesting territory, particularly during the breeding/rearing season. Federal land management agencies may also be consulted when land use actions affecting bird habitat are proposed adjacent to or within 1,000 feet of federal land; and
  - c) The County will not approve the proposed land use action until the applicant submits written evidence that an ODFW biologist and an ODF Forest Practices Officer have found that nesting territory is adequately protected in a manner that is consistent with federal and state interagency guidelines and the FPA.

E) **ASC 90-3 Jenny Creek Sucker Habitat**

- 1) *Description*  
This area includes lands identified as significant habitat for the endemic Jenny Creek Sucker.
- 2) *Special Regulations or Development Standards*  
All land use actions will be subject to review to ensure that only minimal adverse impact results for any proposed action.
  - a) When a land use action is proposed within the Jenny Creek ASC, the Oregon Departments of Fish and Wildlife



## EXHIBIT B

(ODFW), and Forestry (ODF) and the U.S. Bureau of Land Management (BLM) will be notified of the proposed action. Forest operations on private lands will be subject to the requirements of the Oregon Forest Practices Act (FPA); however, other land use actions will be reviewed against FPA standards and any agency guidelines for Jenny Creek Sucker habitat protection;

- b) The County may deny or require mitigation or modification of proposed land use actions which may conflict with habitat quality; and
- c) The County will not approve the proposed land use action until the applicant submits written evidence that the ODFW biologist, the ODF Forest Practices Officer and the BLM have found that the Jenny Creek Sucker habitat is adequately protected in a manner that is consistent with federal/state guidelines and the FPA.

### F) **ASC 90-4 Historic Resources**

#### 1) *Description*

This area will be applied to designated historic resources that have been placed on the Jackson County Register of Historic Landmarks pursuant to the designation provisions of Section 3.7.5 or that are on the National Register of Historic Places.

- 2) No person will alter a designated historic landmark; engage in new construction or begin major new landscaping on a property designated as historic or that lies within an historic district; alter in any manner any exterior architectural feature of such an historic resource or improvement within an historic district; or place, erect, alter or relocate any sign within an historic district or on an historic resource site, unless an application has been approved under this Section.

#### a) Maintenance and Repair

##### i) Ordinary Maintenance and Repair

Nothing in this Ordinance will be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this Section that does not involve a change in design, material or external appearance thereof, nor does this Section prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature from compliance with the State Building Code when authorized by the Building official and in conformance with ORS 455.

##### ii) Duty to Keep in Good Repair

The owner, occupant, or other person in actual charge of an historic landmark or an improvement, building, or structure in an historic district will keep

## EXHIBIT B

in good repair all of the exterior portions of such improvement, building, or structure and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

b) Minor Alterations

An application for a minor alteration to an historic landmark may be submitted when the proposed changes will not adversely affect the historic character or historic building materials of the property. A minor alteration application will be submitted in a manner prescribed by the Planning Division, and will be processed according to the Type 2 procedures. The minor alteration application may be approved upon a finding that the proposed change:

- i) Will be limited to a part of the historic property which the County has determined or identified as having no historic significance or relationship with the historic designation and the Department determines that the proposed change will not alter or affect the historic character or sound historic building materials of the property; or,
- ii) Is a change listed on the County's "List of Minor Alterations" which has been adopted by the County by order.

c) Major Alterations

An application for a major alteration to an historic landmark will be submitted in a manner prescribed by the Planning Division and will be processed in accordance with the Type 3 procedures. The application may be approved upon a finding that:

- i) The alteration will not impair or change the significant historic appearance or historic building materials unless it can be found that:
  - (a) There is an immediate hazard to public safety and no alternative approach exists which would retain the features or minimize the impact of the proposed alteration;
  - (b) There are mandatory building or handicap codes or requirements, and it is not reasonably possible to retain the historic features or minimize the impact of the proposed alteration and also to comply with those codes or requirements; or,
  - (c) The only alternative to the alteration would be demolition of the historic property;

## EXHIBIT B

- ii) Distinctive stylistic features and examples of skilled craftsmanship have been retained to the greatest extent possible;
- iii) The alteration is compatible in design, size, arrangement, proportion, detail, scale, color, texture, material, and character with the rest of the historic landmark and the nearby area; and,
- iv) The alteration will not create an earlier historic appearance which is different from the remainder of the property or which has no historic basis.

d) New Construction

An application for new construction affecting an historic landmark will be submitted in a manner prescribed by the Planning Division and will be processed in accordance with the Type 3 procedures. The application may be approved upon a finding that:

- i) The new construction would be consistent with the reasons for the historic landmark designation as set forth in the designation decision;
- ii) The proposed new construction will have no more than a minimal impact on the historic character of the property as a whole, through its design, arrangement, proportion, size, scale, detail, color, texture, and materials;
- iii) The proposed new construction will be compatible with the exterior design, type, arrangement, proportion, size, detail, scale, color, texture, and materials of the historic buildings, structures, objects, or landscaping. The "Standards for Rehabilitation" from *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, as adopted by reference, will be applied in evaluating all proposed work on designated historic landmarks or on resources located within a designated historic district, as described in this Ordinance; and,
- iv) The proposed new construction meets all of the conditions that may have been imposed at the time of designation.

e) Alteration to Noncompatible Property Within Districts and Ensembles

An application for the alteration of historically noncompatible property within the boundaries of an historic district or ensemble will be submitted in a manner prescribed by the Planning Division and will be processed in accordance with the Type 2 procedures. The application may be approved upon a finding that:

## EXHIBIT B

- i) The alteration meets all of the conditions that may have been imposed at the time of designation; and,
  - ii) The alterations do not detract from the historic character of the district or ensemble through their design, arrangement, proportion, size, scale, detail, color, texture, and material.
- f) Conditions  
Reasonable conditions may be imposed in granting an application for alteration or new construction. Conditions will be based on the following considerations:
- i) Deteriorated architectural features should be repaired rather than replaced whenever possible. Deteriorated architectural features that cannot be repaired should be replaced with material that matches the original material in design, color, texture, and other visual qualities. Whenever possible, repair or replacement of architectural features should be based on accurate duplications of features and composition of materials, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of architectural elements from other buildings or structures;
  - ii) When surface cleaning of buildings or structures takes place, it should be undertaken with the gentlest effective means possible. Sandblasting and other abrasive cleaning methods that may damage the historic property should not be employed; and,
  - iii) Every reasonable effort should be made to protect known archeological resources affected by and adjacent to any alteration project.

### 3) *Moving and Demolition*

No person may move or demolish an historic landmark unless an application has been approved and the required permit has been obtained from the Building Official. The application will be processed under the Type 4 procedure and will show compliance with the following:

- a) The applicant must demonstrate that either subsections (i) or (ii) below apply:
  - i) Economic Feasibility Report  
The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property. In determining whether an economically beneficial use can be made of the property, the applicant will:

## EXHIBIT B

- (a) Furnish an economic feasibility report prepared by an architect, developer, or appraiser, or other person who is experienced in rehabilitation of buildings that address the estimated market value of the property on which the building lies, both before and after demolition or removal, or
  - (b) Market the property using a marketing plan approved by the County or by advertising the property in a newspaper of general circulation in Jackson County at least eight (8) times and at regular intervals for at least 90 days and by posting a "for sale" sign on the property four (4) to six (6) square feet in size and clearly visible from the street for the same 90-day period.
- ii) Structure Unsound  
The structure proposed for demolition is structurally unsound despite efforts by the owner to properly maintain the structure.
- b) In addition, the applicant must also:
- i) Submit a redevelopment plan for the site that provides for replacement or reconstruction of the structure being demolished or relocated. The replacement or rebuilt structure must be a minimum of 1,000 square feet, unless the structure being demolished or relocated is less than 1,000 square feet. If the structure is less than 1,000 square feet, the replacement structure must be a minimum of 500 square feet. The redevelopment plan must indicate in sufficient detail the nature, appearance and location of all replacement or rebuilt structures. No replacement structure is required, however, if the structure being demolished or relocated is a non-habitable accessory structure; and
  - ii) Demonstrate, if the application is for a demolition, the structure cannot be practicably relocated to another site.
- c) If a permit is issued and the redevelopment plan:
- i) Requires a site review permit, no demolition or relocation may occur until the site review permit has been issued, unless the site is restricted to open space uses; or
  - ii) Does not require a site review permit, no demolition or relocation may occur until the building permit has been issued for the replacement or rebuilt structure, unless the site is restricted to open space uses.

- d) The County may require the applicant to post a bond or other suitable collateral, ensuring the safe demolition of the structure and the completed performance of the redevelopment plan.
- e) Notice, Public Hearing, and Decision
  - i) At least 20 days before the first evidentiary hearing, the property owner will post a notice summarizing the application and stating the time, date, and place of the hearing in at least three (3) places within 300 feet of the affected property;
  - ii) The application will be approved unless the hearings body finds that a postponement will likely result in preservation of the historic landmark or retention at its current site. A postponement will be for a maximum of 120 days from the time a complete application is filed. The hearings body may consider the following in assessing the likelihood of preservation or retention:
    - (a) The state of repair of the historic landmark and the financial and physical feasibility of rehabilitation, moving, or leaving the landmark in its current state or location;
    - (b) The effects that moving would have on the use and development of the historic landmark;
    - (c) The marketability of the property and the willingness of the owner to sell the property; and,
    - (d) The only alternative to moving the historic landmark would be demolition.
- f) Record of Demolished and Moved Historical Properties

If an historical landmark is to be demolished or moved, the County will mitigate the loss by requiring the owner to produce one (1) or more of the following: photographs of the historic landmark and its site; measured, architectural drawings of the historic landmark and its designated historic features; and additional graphic history, data, and commemorative materials. The documentation costs will be the responsibility of the property owner. The documentation materials will be the property of the County or its assignee. The County will work with the property owner to review the possibility for the preservation of certain specific artifacts, architectural features, materials, and/or equipment. The County will determine where the documentation is to be deposited and where any artifacts, architectural features, materials, or equipment saved from the building or structure are to be stored.

- g) New Location Designation  
When an historic landmark is moved to a new location, the historic landmark designation status is automatically retained for the landmark at the new site unless the County, using the process required for designation, determines that landmark designation is no longer appropriate. If the property retains historic landmark status at the new site, the County may review and modify the development standards and designation as appropriate, using the process required for designation.

4) *Historic Landmark Allowable Use Permit*

- a) Purpose  
The intent of the County in granting an historic landmark allowable use permit is to ensure increased protection and provide for a variety of allowable uses for historic landmarks that will encourage rehabilitation and continued preservation of the unique qualities of these nonrenewable resources.
- b) Applicability  
A request to allow a more intensive use than provided for in the zoning district may be requested for any historic landmark that is not in a resource district.
- c) Standards and Criteria  
An application for an historic landmark allowable use permit will be processed in accordance with the Type 3 procedure. The application may be approved upon a finding that:
- i) The permit would be in conformance with the Natural and Historic Resources Element of the Jackson County Comprehensive Plan;
  - ii) The proposed use will assist in preserving the significant physical characteristics of the historic landmark; and,
  - iii) The physical changes necessary for the proposed use will not require substantial alteration, thereby diminishing the historic significance of the historic landmark.
- d) Conditions of Approval  
The County will require the historic landmark owner and permit holder to apply the "Standards for Rehabilitation" from *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, as adopted by reference. Any factors relevant to the proposed use will be considered in prescribing conditions. These may include:
- i) Parking;

- ii) Preservation of existing landscape and landscape features;
- iii) Access;
- iv) Signs;
- v) Noise;
- vi) Open space;
- vii) Scenic resources;
- viii) Natural resources;
- ix) Drainage; or,
- x) Overall long-range community effects.

**G) ASC 90-6 Archaeological Sites**

1) *Description*

This area applies to lands identified by a state or federal agency, property owner or other sources as having a potentially significant archaeological site.

2) *Permits*

A person may not excavate or alter an archaeological site on private land, make an exploratory excavation on private land to determine the presence of an archaeological site, or remove from private land any material of an archaeological, historical, prehistoric, or anthropological nature without first obtaining a permit issued by the State Parks and Recreation Department as required by ORS 358.920 and 390.235.

3) *Notification Required During Excavations*

- a) Any permitted person who conducts an archaeological excavation associated with a prehistoric or historic American Indian archaeological site will notify the most appropriate Indian tribe and the Commission on Indian Services; and
- b) Any person who is excavating and accidentally exposes a prehistoric or historical American Indian archaeological site will stop excavating and notify the most appropriate Indian tribe. If the excavation accidentally exposes human remains, all excavating will cease and the Oregon State Police, the State Historic Preservation Office, the appropriate Indian tribe, and the Commission on Indian Services will be notified as required by ORS 97.740-990.

**H) ASC 90-7 Upper Rogue River Scenic Area**

1) *Description*

This area applies to lands within one-quarter (1/4) mile of the North Fork of the Rogue River, also known as the Upper Rogue River, from the Jackson/Douglas County border to the Crater Lake Highway 62 bridge at the upper end of the pool of Lost Creek Lake.

2) *Special Regulations*



- a) All buildings located within one-quarter ( $\frac{1}{4}$ ) mile of the mean high water line of the river or within the river proper below the mean high water line will not exceed a height of 30 feet, or will be effectively screened from the river by topography or vegetation. If vegetative screening is relied upon, the applicant will be required to record a deed declaration with the deed for the property prohibiting removal of the vegetation and requiring the maintenance and replanting in the case of loss of the plants;
- b) Land use decisions, including uses subject to Type 1, 2, or 3 reviews, variances, and land divisions, excluding land management activities associated with forest practices or commercial farming, will be reviewed by Jackson County to ensure that the proposed use or division will have no significant adverse impact on the scenic, geologic, fish or wildlife resources of this stretch of the Rogue River; and
- c) If the property proposed for use or division is located within the legal boundaries of a designated national wild, scenic or recreational river or a state scenic waterway, the application will be transmitted to the appropriate state or federal agencies. If the property is subject to a scenic easement, no development permit will be issued until the applicant has obtained written authorization from the administering agency.

l) ***ASC 90-8 Groundwater Problem Areas***

This Area of Special Concern applies to lands within groundwater problem areas so designated by the Board of Commissioners and through Declaration by the State Department of Environmental Quality, State Health Division or the State Water Resources Department. Areas will be designated on officially adopted maps and will designate water quality and/or water quantity concerns. The testing of well capacity and water potability is required in areas so designated to ensure public health, safety and welfare of existing and future residents.

Testing conducted for the purpose of water quality assurance will be conducted on all new and deepened wells in the such designated Areas of Concern. Water Quantity tests are required in such designated areas of concern and in all new subdivisions or partitions where new lots are created. In known areas where potable water quality or quantity problems have occurred, greater care will be taken to protect adjoining uses and wells from new uses or land divisions that could negatively affect well yield or quality.

- 1) When a use other than one (1) single family dwelling is proposed, testing will consist of a water quantity test designed to measure the extent of drawdown and recovery in a well and to produce and measure a cone of depression, where possible, with the pump or a comparable part installed for the designated use of the well. Static levels of the test well and existing wells in the area will be measured where feasible;

- 2) Where a residential subdivision, partition, or additional well is proposed to serve a division or dwelling, a pump test as described in the State of Oregon Administrative Rules (OAR 690-217) regulating such testing will be performed. Such test will need to indicate a minimum yield of not less than 2.5 g.p.m. over the prescribed testing time period. Where the proposed use or division would involve more than one (1) dwelling or use, the test will establish that the proposed well is capable of producing at a rate of 400 gallons per day per dwelling served, or meeting the estimated needs of the use or development for a minimum testing period of not less than 12 hours. The well will not exceed 75 percent drawdown of the initial static water column and will have a minimum recovery or 80 percent of drawdown in 12 hours;
- 3) If the test well can satisfy the yield requirements of this Ordinance, evaluation of potability will then be certified by an appropriate water quality testing laboratory recognized by the Oregon State Health Division; and
- 4) Test results will be submitted in conjunction with land use or division permit applications. Applications for land use permits or divisions will be subject to denial where minimum quantity and quality standards are not satisfied unless mitigating measures acceptable to the County are proposed to ensure safe and adequate water supply.

J) **ASC 90-9 Scenic Resources**

1) *Description*

This area applies to lands identified by the Jackson County Planning Commission and Board of Commissioners as important scenic resources that significantly contribute to the landscape character of the County. They include distinctive scenic areas, views, sites, stream and roadway corridors. The intent of the ASC is to allow permitted natural resource based uses and provide guidelines for discretionary land uses.

2) *Exemptions*

The following uses within ASC 90-9 will be permitted without review by Jackson County, unless otherwise provided by other regulations:

- a) Conservation and maintenance of scenic resources;
- b) Fish and wildlife habitat management;
- c) Historic resource protection measures;
- d) Natural areas protection measures;
- e) Passive recreation activities;
- f) Other land uses or activities permitted in the underlying zone, subject to state and federal regulations; or
- g) Forest practices on commercial forest land within the scope of OAR Chapter 729, Division 24, are not subject to

the Area of Special Concern, although the regulations continued herein may be used as guidelines for such practices.

3) *Special Findings Required*

- a) Within the scenic resource areas of special concern, any land use action subject to review by the Department will include findings demonstrating that the proposal will have no significant impact on identified scenic views, sites, stream and roadway corridors either by nature of its design, mitigation measures proposed, or conditions of approval; and
- b) Land use activities that have no significant visual impact will not attract undue attention, and must visually harmonize with existing scenic resources. This can be accomplished through project designs that repeat the form, line, colors, or textures typical of the subject landscape, and designing the land use activity to blend into the existing landscape.

4) *Scenic Quality Performance Standards*

To mitigate adverse impacts of development on scenic resources, discretionary land use actions will meet the applicable scenic quality performance standards set forth in this Section. If a standard is found to conflict with any other provision of this Ordinance or local regulation, or state administrative rule or statute, or federal regulation, the more restrictive will govern.

a) *Land Division Standards*

Division of lands within the scenic resource overlay will be designed to minimize the linear extent of roadways required for access to parcels, and points of access will be limited from a scenic roadway corridor. Parcel configurations will limit roadway and stream crossings to the minimum amount required to provide access.

b) *Siting Standards*

- i) Any land use actions that require removal of native vegetation and/or topographic modifications within view of an identified scenic roadway, stream, view, or site will be located where topography or vegetation offers some shielding of the use, and will include development scale, form, and color consistent with the surrounding landscape;
- ii) Hilltop siting is generally inappropriate for structures in a scenic area, as are excessive cut and fill operations for the placement of roadways or structures. Clustering of housing and structures for use of common access, increased setbacks from roadways and water areas, and landscaping will be

## EXHIBIT B

- considered appropriate methods of minimizing adverse scenic impacts; and
- iii) Where naturally occurring vegetation or land forms are not present to provide partial screening for land use activities, landscaping with native plant materials will be required to provide this screening in accordance with landscaping standards in subsection (e) below.
- c) Structure/Facility Development Standards  
Structures and other permanent facilities will be unobtrusively designed in terms of scale and form. Colors used will be earth tones found in the surrounding landscape.
  - d) Roadway Development Standards  
Existing road rights-of-way will be used whenever possible in order to avoid creating new roadways for access. Access points along a scenic roadway corridor will be the minimum number acceptable to the County based on considerations of traffic and public safety. A buffer strip of native vegetation will be retained adjacent to the right-of-way, and such buffer strip will retain all native trees whose removal is not explicitly approved by the County during the development review process.
  - e) Landscaping Standards  
Notwithstanding fuelbreak requirements and public health or safety concerns, clearing of native vegetation for discretionary land uses on scenic resource lands will be minimized. All disturbed land will be reclaimed pursuant to a plan prepared by an individual registered with the American Society of Landscape Architects, or other qualified landscape design professional, or professional forester with experience in reclaiming forest lands as determined by the County.
  - f) Surface Mining
    - i) In accordance with ORS 517.760(2)(a), surface mining in designated scenic areas that is not directly related to forest practices under the scope of OAR Chapter 629, Division 24, will minimize the adverse impacts on visual resources by limiting the amount of land disturbed at any one time, and buffering or screening the operations from scenic roadway and stream corridors, viewpoints and recreation trails. Screening of the operations will use natural barriers such as native vegetation or landscaped berms. A reclamation plan will define the existing characteristics of the vegetation and land forms, and the expected impacts on the viewshed. This will include a map showing the location of proposed mining areas including

- stockpiles, operations yards, and haul roads, and the expected impacts on the viewshed; and
- ii) The reclamation plan will address the character and extent of areas of revegetation, types and numbers of plant materials shown on a landscape plan prepared in accordance with this ASC, soil stabilization procedures, topsoil stockpiling and redistribution, and time schedule for phasing the completion of site reclamation.
- 5) *Standards Applicable to Resource Uses*  
Resource uses in the Area of Special Concern, other than forest operations on commercial forest land subject to the Oregon Forest Practices Act, will be reviewed pursuant to the provisions of this ASC prior to approval. To facilitate this review, County mapping of scenic areas and this ASC, as may be updated periodically, will be provided to state and federal agencies.
- K) ***ASC 90-10 Ecologically or Scientifically Significant Natural Areas***
- 1) *Description*  
This area includes all lands on which ecologically or scientifically significant natural areas are located. These sites are illustrated on a map contained in the Goal 5 background document and the Natural and Historic Resources Element of the Jackson County Comprehensive Plan, and are either protected or subject to limitations on conflicting uses where they would affect the features and values associated with each site.
  - 2) *Special Regulations*  
These identified sites are considered protected under Statewide Planning Goal 5, its related Administrative Rules, and Jackson County Comprehensive Plan policies, in addition to management plans and objectives established for each site by federal, state and other local jurisdictions. All land use actions, other than forest operations which are governed by the Oregon Forest Practices Act, that are inconsistent with the stated management and objectives for "2A" and "3A" sites will be prohibited. Land use actions proposed on or adjacent to "3C" sites will be evaluated under a Type 2 process pursuant to Section 3.1.3 to ensure that potentially conflicting uses are adequately limited to retain the resource value identified in the Comprehensive Plan and identified in the Goal 5 Resources Background Document.
- L) ***ASC 2003-2 Jackson County Sports Park Noise Overlay***  
This Area of Special Concern includes lands that lie east of Highway 62 within the White City Unincorporated Community and other lands surrounding the Jackson County Sports Park as depicted on the adopted map. The Sports Park has been in existence since the early 1970's. Motor racing and target shooting activities conducted there produce adverse impacts in the form of noise, traffic, dust and glare that periodically affect surrounding lands. Therefore, approval of development

## EXHIBIT B

for any use intended for human occupancy on land within ASC 2003-2 will be conditioned on recordation of a deed declaration that causes the owner and successors in interest to acknowledge and accept the adverse impacts produced at the Sports Park. Prior to issuance of development permits, the deed declaration must be recorded in the Official Records of Jackson County on a form approved by County Counsel which will include the following declaration:

"Owner acknowledges that facilities and activities at the Jackson County Sports Park may generate noise, traffic, dust, lights and glare that periodically may affect surrounding lands. Those facilities and activities include but are not limited to drag strip and other auto racing, go-cart racing track, baseball and softball fields, and rifle, pistol and skeet shooting ranges. These activities also include participants and spectators, playgrounds, vehicle parking, and related facilities and activities. These facilities and activities may be altered or enlarged in the future."

- M) **ASC \_\_ Yreka Watershed - RESERVED** [FILE 1998-238-PA]

### 7.1.2 Jackson County Public Park (JCPP) Overlay

A) **Purpose**

The orderly and efficient delivery of park facilities and services is a matter of critical community importance. The purpose of the Jackson County Public Park (JCPP) Overlay is to establish a special framework under which designated parks and open spaces may be properly regulated consistent with the Comprehensive Plan and Oregon Statewide Land Use Planning Goals.

B) **Applicability**

A County Public Park Master Plan will be adopted under the provisions of Section 3.7.4, Designation of a Public Park Master Plan, before a JCPP Overlay may be applied to a parcel. Such an overlay may include lands owned in fee or less than fee simple by a public body, lands that have been leased by a public body, and lands intended to be acquired or leased in the future by a public body for the purpose of providing public park facilities and services and/or open space.

C) **Uses Permitted**

- 1) All uses, facilities, services, and activities approved as part of a Public Park Master Plan are permitted as Type 1 uses, subject to compliance with any requirements or siting standards imposed through an approved Master Plan, and as described in Section 3.7.4, Designation of a Public Park Master Plan;
- 2) Other uses allowed in the underlying zoning district may be permitted in the JCPP Overlay subject to the requirements, standards and approval procedure required by the underlying zone;
- 3) In cases where land subject to a JCPP Overlay is also subject to another overlay, the uses and procedures of the other overlay will

govern with respect to allowable uses and activities, and the procedures for their authorization; and

- 4) Lawful uses in existence in local parks on July 15, 1998 may continue.

D) ***Other Requirements***

- 1) All other requirements and siting standards, such as the size, height, and setback of buildings will be in accordance with the requirements of the underlying zone; and
- 2) The design, size, placement and operation of allowable uses will be in accordance with all other applicable state and federal laws, administrative rules, and regulations with which the County is obligated to comply.

### 7.1.3 **Aggregate Conflicting Use Impact Area**

A) ***Description***

The Aggregate Conflicting Use Impact Area consists of the area surrounding properties zoned Aggregate Removal (AR) where there is the potential that new uses or development could adversely affect or interfere with mining and processing operations. The size and extent of the impact area is determined as part of the Goal 5 process leading to an aggregate designation. The impact area generally extends 1,500 feet from the boundaries of the mining area, but may extend a greater distance where significant potential conflicts have been identified. (See OAR 660-023-0180(5)).

B) ***Special Regulations***

Prior to development within the impact area, evidence must be submitted to show that the following standards will be met:

- 1) The special setback required by Section 8.5.3(F) will be maintained;
- 2) Any special conditions placed on uses in the impact area by the Board Ordinance rezoning the AR property will be met;
- 3) Prior to issuance of building permits for any noise or dust sensitive use, a deed declaration has been recorded in the County deed records acknowledging that mining and processing activities, including, but not limited to, the use of explosives, heavy equipment and trucks for excavation, loading, rock crushing, and hauling, may occur on AR zoned properties; that said activities ordinarily and necessarily produce noise, dust, and other types of visual, odor, or noise pollution; that the property owner accepts as part of the risk of developing their property that such activities may occur on the AR zoned property; and

- 4) Uses identified through the Goal 5 process as incompatible with mining are prohibited.

7.2 Floodplain Overlay<sup>2</sup>

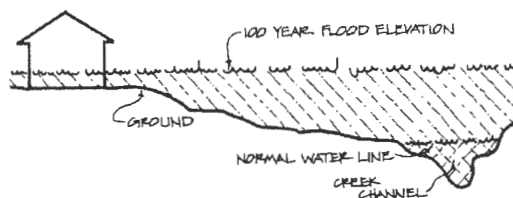
7.2.1 Statutory Authority

The State of Oregon has delegated the responsibility to local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The degree of flood protection required by this Section is necessary in order to participate in the National Flood Insurance Program and the Community Rating System (CRS). This participation is in the public interest, and the requirements of this Section are considered reasonable for regulatory purposes and are based on scientific and engineering considerations.

A) **Warning and Disclaimer of Liability**

The degree of flood protection required by this Section is required in order to participate in the National Flood Insurance Program and the Community Rating System (CRS). This participation is in the public interest and the requirements of this Section are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the 100-year floodplain, or uses within such areas, will be free from flooding or flood damages for any size flood. This Section will not create liability on the part of Jackson County, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Section or an administrative decision lawfully made hereunder.

B) **Facts**



- 1) The flood hazard areas of Jackson County are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- 2) These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

<sup>2</sup> Ordinance 2010-2a, effective 6-26-11



- 3) Jackson County has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management.

C) **Purpose**

The objectives of this Section are to:

- 1) Protect human life, health and property;
- 2) Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- 3) Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
- 4) Minimize expenditure of public money for costly flood control projects;
- 5) Minimize the need for rescue and emergency services associated with flooding and generally undertaken at the expense of the general public;
- 6) Minimize prolonged business interruptions, unnecessary disruption of commerce, access and public service during times of flood;
- 7) Ensure that potential buyers are notified that property is in an area of special flood hazard;
- 8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions, and;
- 9) Manage the alteration of flood hazard areas and stream channels to minimize the impact of development on the natural and beneficial functions of the floodplain.

D) **Methods of Reducing Flood Losses**

In order to accomplish its purpose, this Section includes methods and provisions to:

- 1) Require that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, to be protected against flood damage at the time of initial construction;
- 2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

- 3) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- 4) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
- 5) Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters, and;
- 6) Coordinate with and supplement provisions of State of Oregon Specialty Codes enforced by the State of Oregon Building Codes Division.

**E) *Definitions***

Unless specifically defined in Section 13.3(100), words or phrases used in Section 7.2 will be interpreted according to their ordinary accepted meanings in the context of their use. Section 13.1, General Provisions, states "*The contemporary edition of Webster's Third New International Dictionary (unabridged) (Merriam-Webster, Inc. Springfield MA 1986) as supplemented, is to be used as the source for these accepted meanings.*"

**7.2.2 Applicability**

Section 7.2 will apply to all Areas of Special Flood Hazard within the jurisdiction of Jackson County. Nothing in Section 7.2 is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance or Specialty Codes.

**A) *Basis for Area of Special Flood Hazard***

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Jackson County, Oregon and Unincorporated Areas, dated May 3, 2011, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this Section. The FIS and the FIRM are on file at the office of the Jackson County Development Services, 10 S. Oakdale, Room 100, Medford, OR.

**B) *Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division***

Pursuant to the requirement established in ORS 455 that the County administers and enforces the State of Oregon Codes, Jackson County does hereby acknowledge that the Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, this Section is intended to be administered and enforced in conjunction with the Specialty Codes.

**C) *Establishment of Floodplain Development Permit***

A Floodplain Development Permit will be required prior to initiating development activities in any Area of Special Flood Hazard established in Section A above.

## EXHIBIT B

A Floodplain Development Permit will be processed through the following review procedures:

- 1) A Type 1 Floodplain Development Permit (administrative) is required for the following development projects.
  - (a) Replacement of bridges and/or culverts located in the floodway, as determined and mapped by FEMA, that necessitate a no-rise certification, provided the replacement bridge and/or culvert is located along a similar or parallel alignment and contributes no additional material to the floodway;
  - (b) Development outside of the floodway where base flood elevations have been determined by FEMA. However, development requiring a cumulative analysis or a no-rise certification requires a Type 2 Floodplain Development Permit;
  - (c) Development where floodplain development permits have already been completed and base flood elevations have not changed (vertical datum may have changed but no new flood studies have been completed and approved by FEMA). However, development requiring a cumulative analysis or a no-rise certification requires a Type 2 Floodplain Development Permit;
  - (d) Development outside of the floodway for structures, properties or portions of a property with a FEMA approved LOMA or LOMR where base flood elevations have been identified on the LOMA or LOMR. However, development requiring a cumulative analysis requires a Type 2 Floodplain Development Permit;
  - (e) Development of utilities, including sewer or septic systems, as identified in Section 7.2.13(K) that are located outside of the floodway and where base flood elevations have been determined by FEMA;
  - (f) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other services facilities (i.e., heat pumps, electrical circuits and panels, poles, irrigation pumps, ducting) where bases flood elevations have been determined by FEMA;
  - (g) Fish enhancement projects (fish screens, habitat restoration projects, etc.) approved by the Oregon Department of Fish and Wildlife (ODFW);
  - (h) Fill, excavation or grading outside of the floodway where base flood elevations have been determined by FEMA. However, development requiring a cumulative analysis

requires a Type 2 Floodplain Development permit; or

- (i) Substantial improvement and substantial damage determinations.
- 2) A Type 2 Floodplain Development Permit is required for the following development projects.:
- (a) Development within a flood zone where base flood elevation and the floodway have not been determined;
  - (b) Development within a flood zone where a cumulative effect analysis is required;
  - (c) Except as identified in 1) above, development within the floodway where an Oregon registered professional engineer is required to complete a no-rise certification (excluding the exceptions in Section 7.2.10);
  - (d) Temporary encroachments in the floodway (Section 7.2.6);
  - (e) Alteration or relocation of a watercourse (Section 7.2.7);
  - (f) Critical facilities (Section 7.2.12(I));
  - (g) Aggregate mining operations (Section 7.2.13(L));
  - (h) Development on areas surrounded by floodplain (Section 7.2.13(M));
  - (i) Variances (Section 7.2.14); or
  - (j) Development that requires a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR), unless a CLOMR and/or LOMR has already been secured.

D) ***Interpretation***

In the application of this Section all provisions will be:

- 1) Considered as minimum requirements; and,
- 2) Deemed neither to limit nor repeal any other powers granted under state statutes, including state Specialty Codes.

E) ***Exemptions***

Finding 2, Policy B) of the Natural Hazards Element of the Comprehensive Plan states: "In order to assure maximum usefulness of flood prone areas, regulations should allow for seasonal variations in use. Temporary, removable structures should be allowed during drier months if their removal can be assured by late fall." A floodplain development permit is not required for the following uses:

- 1) Agriculture and grazing, or managing, growing, and harvesting of timber and other forest products;
- 2) Wildlife preserve, game farm, or fish hatchery which do not include structures, fill, or excavation;
- 3) Floating, fishing or swimming platforms that will be removed from the Area of Special Flood Hazard during high-water periods;
- 4) Water gauging stations;
- 5) Any emergency or disaster response operations activated by the Jackson County Emergency Operations Center to respond to flooding; and
- 6) Temporary emergency alteration of stream beds or banks as flood control measures immediately preceding or following periods of high water. The stream bed or bank will be restored to its pre-flood state within 30 days after the high-water period unless an application for a development permit for the alteration has been submitted.

### 7.2.3 Administration

The Development Services Director is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this Section.

#### A) *Duties and Responsibilities of the Administrator*

Duties of the Floodplain Administrator or staff designee will include, but will not be limited to:

- 1) Review all proposed development to determine whether it will be located in Areas of Special Flood Hazard or other flood-prone areas;
- 2) Review applications for new development or modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this Section;
- 3) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 (U.S. Army Corps of Engineers (ASACE) and/or Oregon Department of State Lands (DSL)); the Endangered Species Act of 1973, 16 U.S.C. 1531-1544 (National Marine Fisheries Service (NMFS) and/or United States Fish and Wildlife Service (USFWS)); and State of Oregon Department of State Lands (DSL) permits. Copies of such permits will be maintained on file;

**EXHIBIT B**

- 4) Review all development permit applications to determine if proposed development is located in the floodway, and if so, ensure that the encroachment standards of Section 7.2.10 are met;
- 5) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator or staff designee will obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, state or other engineering source in order to administer the provisions of this Section;
- 6) When Base Flood Elevations are not available, the Floodplain Administrator or staff designee will require Base Flood elevations to be developed in accordance with Section 7.2.4(A)(3) to determine whether a proposed development site or subdivision will be reasonably safe from flooding;
- 7) Where a determination is needed for the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator or staff designee will make the determination;
- 8) Issue floodplain development permits when the provisions of this Section have been met, or deny the same in the event of noncompliance;
- 9) Coordinate with the Building Official to ensure that applications for building permits comply with the requirements of this Section;
- 10) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or in relation to the highest adjacent grade where no BFE is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures, including manufactures dwellings;
- 11) Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator or staff designee will obtain a certification of elevation to which the structure was flood-proofed from a registered professional engineer or architect;
- 12) Ensure that all records and certifications pertaining to the provisions of this Section are permanently maintained in Development Services and available for public inspection;

## EXHIBIT B

- 13) Make periodic inspections in Areas of Special Flood Hazard to establish that development activities are being performed in compliance with this Section and verify that existing buildings and structures maintain compliance with this Section;
- 14) Coordinate with the Building Official to inspect areas where buildings and structures in Areas of Special Flood Hazard have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure, and;
- 15) Make substantial improvement or substantial damage determinations, based on criteria set forth in Section 7.2.5, for all structures located in Areas of Special Flood Hazard.

### 7.2.4 Application Requirements

- A) The floodplain development application will include the following whenever applicable:
  - 1) A site plan drawn to scale with elevations of the project area, including the elevations at the development site, and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities;
  - 2) Delineation of flood hazard areas, floodway boundaries including base flood elevations or flood depth in AO zones, where available;
  - 3) Where base flood elevations and/or floodways have not been determined, an applicant may submit a flood study analysis from an Oregon registered professional engineer certifying the base flood elevation(s) and/or floodway. The analysis will set forth the base flood elevation(s) and the location of the 100-year floodplain and floodway through hydrologic and hydraulic analyses performed in accordance with standard engineering practice as determined by the engineer. The calculated base flood elevation may be from mean sea level or may be based on an assumed elevation when tied to a benchmark as determined by the engineer. The location of the benchmark will be described in the flood study and shown on a map that must be included with the flood study.
  - 4) Certification from a registered professional engineer or architect that any proposed nonresidential flood-proofed structure will meet the flood-proofing criteria of the NFIP and Specialty Codes;
  - 5) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development (See Section 7.2.7);
  - 6) Proof that application has been made for necessary permits from

other governmental agencies from which approval is required by Federal or state law.

**B) *Records and Documentation***

- 1) Copies of all necessary permits from other governmental agencies from which approval is required by Federal or state law must be provided prior to issuance of permits.
- 2) At or prior to the time of application for building permits, the applicant will submit to Development Services Planning and the Building Divisions a preliminary Elevation Certificate showing the base flood elevation, if known, and the lowest natural grade adjacent to the building site. Where no Base Flood Elevation has been determined, the Elevation Certificate will show the highest adjacent grade to the building site.
- 3) Prior to pouring the foundation, an Elevation Certificate showing the elevation of the lowest floor will be submitted;
- 4) In addition to the requirements of the Specialty Codes pertaining to occupancy, prior to the final inspection, the owner or authorized agent will submit the following documentation for finished construction that has been signed and sealed by a registered surveyor or engineer:
  - (a) For elevated buildings and structures in Areas of Special Flood Hazard (A zones), the as-built elevation of the lowest floor, including basement or, where no Base Flood Elevation has been determined, the height above highest adjacent grade of the lowest floor; and
  - (b) For buildings and structures that have been flood-proofed, the applicant will submit a record of the actual elevation (in relation to mean sea level or based on an assumed elevation as determined by Section 7.2.4(A)(3)) to which the building or structure has been flood-proofed.
  - (c) The County will keep a permanent record of all Elevation and Flood-Proofing Certificates.
- 5) Failure to submit certification or failure to correct violations will be cause for the Floodplain Administrator or Building Official to withhold a final inspection and/or occupancy until such deficiencies are corrected.

- C) Per Building Division requirements, Chapters 1420 and 1428 of the Codified Ordinances for Jackson County, Oregon, a Building permit will expire 180 days after issuance or upon expiration of the permit unless the permitted activity has commenced and thereafter is pursued to completion. Commencement of work includes start of construction.

**7.2.5 Substantial Damage and Substantial Improvement Determination**

For applications for permits to improve buildings and structures, including



additions, repairs, renovations, and alterations, the Floodplain Administrator or staff designee, will:

- A) Require the applicant to obtain a professional appraisal of the market value of the building or structure before the proposed work is performed. When repair of damage is proposed, the market value of the building or structure will be the market value before the damage occurred;
  
- B) Compare the cost of improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure. For determining whether the improvement is a substantial improvement, the value of improvements, modifications, additions and/or reconstruction of an existing building will be counted cumulatively for a period of ten (10) years;
  - (1) Except as indicated in subsections (2) through (4) below, all costs to repair substantial damage, including emergency repairs, including the costs of complying with any county, state or federal regulation, must be included.
  
  - (2) The costs associated with the correction of pre-existing violations of state or local health, sanitary, or safety code specifications that were identified by the building official, the director of environmental health, or any other local code enforcement official prior to the improvement or repair and that are the minimum necessary to ensure safe living conditions will not be included;
  
  - (3) Costs associated with the following items are not included:
    - (a) The preparation and approval of all required plans, calculations, certifications, and specifications;
    - (b) The performance of surveys or other geotechnical or engineering studies and resulting reports;
    - (c) Permit and review fees; and
    - (d) The construction, demolition, repair, or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.
  
  - (4) Proposed alterations of a designated historic building or structure are not to be considered substantial improvement unless the alteration causes a loss of said designation.
  
- C) Jackson County will make the final determination of whether the proposed improvement and/or repair constitute a substantial improvement or substantial damage.

#### **7.2.6 Temporary Encroachments in the Floodway**

Temporary encroachments in the floodway for the purposes of capital improvement projects (including bridges) require a Floodplain Development Permit. No CLOMR/LOMR is required.

A) **Application Requirements**

The following requirements, as well as the applicable requirements of Section 7.2.4, will be included in a Floodplain Development Permit application under this section:

- (1) Identification of the temporary changes to the floodplain during a 100-year flooding event.
- (2) Identification of all insurable structures affected by any increase in the BFE during a 100-year flooding event.
- (3) The length of time the temporary structure or development will be allowed.

B) **Permit Conditions**

- (1) The permit will stipulate the days and dates the structure or other development will be on site. If a longer period is required, a new permit application must be submitted.
- (2) A flood warning system for the project will be required to allow equipment to be evacuated from the site and placed outside the floodplain.
- (3) Placement of equipment in the floodway is restricted to only that equipment which is absolutely necessary for the purposes of the project. All other accessory equipment and temporary structures (i.e. construction trailers) are restricted from the floodway.
- (4) Structures will be placed on site so that flood damages are minimized.
- (5) The applicant may be liable for any flood damages resulting from the temporary structure or development.

**7.2.7 Alteration or Relocation of a Watercourse**

- A) Development will not diminish the carrying capacity of a watercourse. If any watercourse will be altered or relocated as a result of proposed development the applicant must submit certification by an Oregon registered professional engineer that, in the engineer's professional opinion and based upon analysis, the flood carrying capacity of the watercourse will not be diminished.
- B) The alteration or relocation of a stream channel or watercourse is prohibited unless the applicant submits written verification from the Oregon Department of Fish and Wildlife that the proposal will have minimal adverse impact on fish habitat.
- C) Altered riparian areas will be restored with native vegetation in accordance with a landscape plan that has been approved by the Oregon Department of Fish and Wildlife, per Section 8.6.

- D) The applicant will be responsible for obtaining all necessary permits from governmental agencies from which approval is required by Federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 (U.S. Army Corps of Engineers (ASACE) and/or Oregon Department of State Lands (DSL)); the Endangered Species Act of 1973, 16 U.S.C. 1531-1544 (National Marine Fisheries Service (NMFS) and/or United States Fish and Wildlife Service (USFWS)); and State of Oregon Department of State Lands (DSL) permits.
- E) The applicant will notify adjacent communities and Oregon Department of Land Conservation and Development prior to any alteration or relocation of the watercourse. Evidence of notification must be submitted to the Floodplain Administrator or staff designee, and to the Federal Emergency Management Agency.
- F) The applicant will be responsible for ensuring necessary maintenance for the altered or relocated portion of the watercourse is provided so that the flood carrying capacity will not be diminished.
- G) The applicant will meet the requirements to submit technical data in Section 7.2.8 when an alteration of a watercourse results in the expansion, relocation or elimination of the special flood hazard area. Should an alteration or relocation of a watercourse result in the expansion, relocation or elimination of the special flood hazard area, a Conditional Letter of Map Revision will be obtained from FEMA prior to an approval under this section. A Letter of Map Revision will also be required.

### **7.2.8 Map Revision**

#### Required Technical Data:

- A) Within six months of project completion, an applicant who obtains an approved Conditional Letter of Map Revision (CLOMR) from FEMA, or whose development alters a watercourse, modifies floodplain boundaries or Base Flood Elevations, will obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM.
- B) It is the responsibility of the applicant to have technical data prepared in a format required for a CLOMR or LOMR and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions will be the responsibility of the applicant.
- C) Applicants will be responsible for all costs associated with obtaining a CLOMR or LOMR from FEMA.
- D) The Floodplain Administrator or designee will be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met all applicable requirements of Section 7.2.

**7.2.9 Enclosed Areas Below the Lowest Floor Limited**

To ensure that enclosed areas below the lowest floor will be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation, the Floodplain Administrator or staff designee will:

- A) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are greater than 4 feet; and
- B) Have the property owner record a Deed Declaration, "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS", on a form provided by Development Services. The Deed Declaration will be recorded with the Jackson County Clerk's Office and a copy will be provided to Development Services.

**7.2.10 Floodway Development**

In areas designated as floodways, either on the FIRM or DFIRM, or by methods described in Section 7.2.4(A)(3), the following standards apply due to the extreme hazard resulting from velocity of flood waters which carry debris, potential projectiles, and have erosion potential:

- A) The placement or construction of any new building in the floodway, which does not replace an existing building, is prohibited. Replacement, repair, addition to, or reconstruction of any existing building in a floodway must comply with all applicable standards of this Section as well as 7.2.13;
  - 1) If there is an area on the lot, parcel, or tract that is out of the floodway where the replacement of an existing building can be located, it must be replaced in a location outside of the floodway, if the area outside can accommodate the existing footprint and meet the dimensional and siting standards of this Ordinance; or
  - 2) If there is not an area on the lot, parcel, or tract outside of the floodway where a replacement building can be located, the replacement may be located within the floodway in the same location of the existing building. The area displacement of the replacement building's footprint will not exceed the area displacement of the original building's footprint and the footprint must be in the same configuration and location as the existing footprint of the building. The standard of subsection 7.2.10(C) (no-rise analysis and certification) is not required if the replacement building is in the same footprint, location and area displacement of the existing building.
  - 3) The replacement of or addition to an existing building that is not within the existing building's footprint, location and configuration may occur provided the standard of subsection 7.2.10(C) is met and other applicable standards of Section 7.2 are met.
- B) Sand filter septic systems are prohibited in the floodway unless standards set forth in Section 7.2.10(C) are met;

- C) Except as provided in E) below, encroachments, including fill, new construction, substantial improvements, fences, and other development in the regulatory Floodway, or the floodway as determined in 7.2.4(A)(3) or 7.2.12(B), are prohibited unless certification by an Oregon registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that, in the engineer's opinion, such encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge (no-rise analysis and certification).
- D) Any fill allowed to be placed in the floodway will be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.
- E) Projects for fish enhancement and stream habitat restoration may be permitted in the floodway provided:
  - 1) A qualified professional (an Oregon registered professional engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practicable given the goals of the project;
  - 2) No structures would be impacted by a potential rise in flood elevation; and,
  - 3) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged will be included as part of the local approval.
- F) The Floodplain Administrator or staff designee may accept an Oregon licensed surveyor's or Oregon registered professional engineer's determination of the 100-year floodplain boundary and floodway boundary, as depicted on the Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM). A survey (map) must include property boundaries, existing and proposed development and 100-year floodplain and/or floodway boundaries as depicted on the FIRM and/or DFIRM. The survey (map) must have the surveyor's or engineer's stamp included.
- G) Applicants will obtain a CLOMR from FEMA before an encroachment, including fill, new construction, substantial improvement, and other development, into the floodway is permitted that will cause any increase in the Base Flood Elevation. Per Section 7.2.8, a LOMR will also be required.

#### **7.2.11 Zones with Base Flood Elevations but No Floodway**

- A) Prior to the cumulative effect analysis, the floodway boundaries must be

determined by Section 7.2.4(A)(3) or as described in Section 7.2.12(B).

- B) In areas within Zones A1-30 and AE on the community's FIRM with a base flood elevations, but where no regulatory floodway has been designated, new construction, substantial improvements, or other development (including fill) will be prohibited, unless the applicant provides evidence from an Oregon registered professional engineer demonstrating, in the engineer's professional opinion, that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineer will apply the cumulative effect analysis to the area of the river/stream upstream and downstream to a point where no increase in the Base Flood Elevation is determined by the Oregon registered professional engineer for the proposed development. For purposes of administering subsection (B), "anticipated development" will mean development for which an application is currently under review by Development Services for permit approval or a development application, which has been approved by Development Services but has not been initiated. The placement of any new building in the floodway which does not replace an existing building is prohibited.
- C) The Floodplain Administrator or staff designee may accept an Oregon licensed surveyor's or Oregon registered professional engineer's determination of the 100-year floodplain boundary and floodway boundary, as depicted on the Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM). A survey (map) must include property boundaries, existing and proposed development and 100-year floodplain and/or floodway boundaries as depicted on the FIRM and/or DFIRM. The survey (map) must have the surveyor's or engineer's stamp included.
- D) Applicants of proposed projects that increase the Base Flood Elevation more than one foot will obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted. As soon as possible, but no later than 6 months after project completion, an application for a Letter of Map Revision (LOMR) will be submitted by the applicant to FEMA. The applicant is responsible for paying costs associated with the CLOMR and LOMR process.

#### **7.2.12 Zones Without Base Flood Elevations**

The following standards, as well as applicable sections of Section 7.2.13, apply in Areas of Special Flood Hazard where no base flood elevation and floodway data have been provided (A Zones):

- A) When Base Flood Elevations are not available from an engineering source, the Floodplain Administrator will require Base Flood Elevations to be developed in accordance with Section 7.2.4(A)(3) of this ordinance to determine whether a proposed development site or subdivision will be reasonably safe from flooding.
- B) Encroachments, including structures or fill, located in an Area of Special

## EXHIBIT B

Flood Hazard that are within an area equal to the width of the stream or fifty feet, whichever is greater (measured from the ordinary high water mark) will meet the applicable standards of Section 7.2.10 and will be considered the floodway for development purposes. The floodway may also be determined per Section 7.2.4(A)(3). New buildings within the floodway are prohibited.

- C) Development will not increase the base flood elevation more than one (1) foot.
- D) The Floodplain Administrator or staff designee may accept an Oregon licensed surveyor's or Oregon registered professional engineer's determination of the 100-year floodplain boundary and floodway boundary, as depicted on the Flood Insurance Rate Maps (FIRM) and/or Digital Flood Insurance Rate Maps (DFIRM). A survey (map) must include property boundaries, existing and proposed development and 100-year floodplain and/or floodway boundaries as depicted on the FIRM and/or DFIRM. The survey (map) must have the surveyor's or engineer's stamp included.

### 7.2.13 Construction Standards and Building Design

Buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, will be designed and constructed in accordance with the flood-resistant construction provisions of these codes, including but not limited to the Residential Specialty Code, the Manufactured Dwelling Installation Specialty Code, and the Structural Specialty Code.

- A) In all areas of special flood hazards (A, AE & AO zones),
  - 1) New construction and substantial improvements will be anchored to prevent flotation, collapse, or lateral movement of the structure;
  - 2) New construction and substantial improvements will be constructed with materials and utility equipment resistant to flood damage;
  - 3) New construction and substantial improvements will be constructed using methods and practices that minimize flood damage, and;
  - 4) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities will be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- B) ***Specific Building Design and Construction Standards for Residential Construction (A Zones)***  
In addition to Section (A) above,

## EXHIBIT B

- 1) New construction or the substantial improvement of any residential structure will have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. This includes floor framing, wood floor joist systems, beams, girders, ducts and all electrical components. If the substantial improvement includes a second story addition or the removal of a wall between a new addition and the existing dwelling, then both the existing dwelling and the addition must be elevated a minimum of one (1) foot above the base flood elevation. If the wall between a new addition and the existing dwelling will remain intact except for the addition of a standard doorway, then only the addition must be elevated;
- 2) Where Base Flood Elevations have not been determined, a flood study as explained in Section 7.2.4(A)(3) will be submitted to determine Base Flood Elevations. New construction or the substantial improvement of any residential building will meet the elevation requirements of 7.2.13(B)(1) above.
- 3) Any addition to a post-FIRM building (built after April 1, 1982) is considered new construction and must meet the requirements of this section regardless of the size or cost of the addition;
- 4) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or will be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by an Oregon registered professional engineer or architect or must meet or exceed the following minimum standards:
  - (a) A minimum of two (2) openings will be provided having a total net area of not less than one (1) square inch for every square foot of enclosed floor area subject to flooding (i.e., below base flood elevation). A window, door or garage door is not considered an opening;
  - (b) The bottom of all openings will be no higher than one (1) foot above grade; and
  - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- 5) Types of Substantial Improvements  
Basic types of substantial improvements are rehabilitations or reconstructions that do not increase square footage, and lateral or vertical additions that do increase square footage. In addition to the design and building standards of Section 7.2.13 (A) & (B), the following standards apply to these types of substantial improvements.
  - (a) If the substantial improvement is the rehabilitation or reconstruction of an existing building where there is not an



## EXHIBIT B

increase in square footage, the entire building must be elevated a minimum of one (1) foot above the base flood elevation. Where Base Flood Elevations have not been determined, see Section 7.2.13(B)(2) above for elevation requirements.

- (b) If the substantial improvement is a lateral addition where the existing footprint of the building increases, see Section 7.2.13(B)(1) above for elevation requirements. Where Base Flood Elevations have not been determined, see Section 7.2.13(B)(2) above for elevation requirements.
- (c) If the substantial improvement is a vertical addition to add a room or rooms on top of an existing building, the entire building must be elevated a minimum of one (1) foot above the base flood elevation. Where Base Flood Elevations have not been determined, see Section 7.2.13(B)(2) above for elevation requirements.

### 6) Manufactured Dwellings

- (a) If the manufactured dwelling is supported on solid foundations walls, the ground area reserved for the placement of a manufactured dwelling will be a minimum of 12 inches above BFE unless the foundation walls are designed to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - (i) A minimum of two (2) openings will be provided having a total net area of not less than one (1) square inch for every square foot of enclosed floor area subject to flooding (i.e., below base flood elevation). A window, door or garage door is not considered an opening;
  - (ii) The bottom of all openings will be no higher than one (1) foot above grade; and
  - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (b) The lowest floor of a manufactured dwelling must be elevated such that the bottom of the longitudinal chassis frame beam is a minimum of one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Anchoring methods may include, but are not limited to use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). The construction of the manufactured dwelling must meet the applicable requirements of Section 7.2.

**EXHIBIT B**

- (c) Electrical crossover connections will be a minimum of one (1) foot above BFE.
- (d) A manufactured dwelling which has incurred substantial damage as a result of a flood will be elevated on a permanent foundation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. All applicable requirements of Section 7.2 must be met.

**C) *Nonresidential Construction***

In addition to section (A) above, new construction and substantial improvement of any commercial, industrial or other nonresidential structure will either have the lowest floor, including basement, elevated one (1) foot above the base flood elevation, or, together with attendant utility and sanitary facilities, will,

- 1) Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- 3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications will be provided to the Floodplain Administrator or staff designee;
- 4) Nonresidential structures that are elevated, not flood-proofed, must meet residential standards described in Section 7.2.13 (B);
- 5) Applicants flood-proofing nonresidential buildings will be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building flood-proofed to the base flood level will be rated as one foot below).
- 6) **Substantial Improvements for Nonresidential Construction**  
In addition to the requirements for nonresidential construction, substantial improvements to nonresidential structures, the following standards also apply:
  - (a) A substantial improvement addition to a nonresidential structure may be either elevated or flood-proofed. If flood-proofing is used, the wall between the addition and the original structure must be flood-proofed.
  - (b) When the substantial improvement is a full or partial vertical addition, the entire structure must be elevated or flood-proofed.

**D) *Below-grade Crawl Spaces***

## EXHIBIT B

Below-grade crawlspaces are allowed, unless no base flood elevations are available, subject to the following standards as found in *FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:

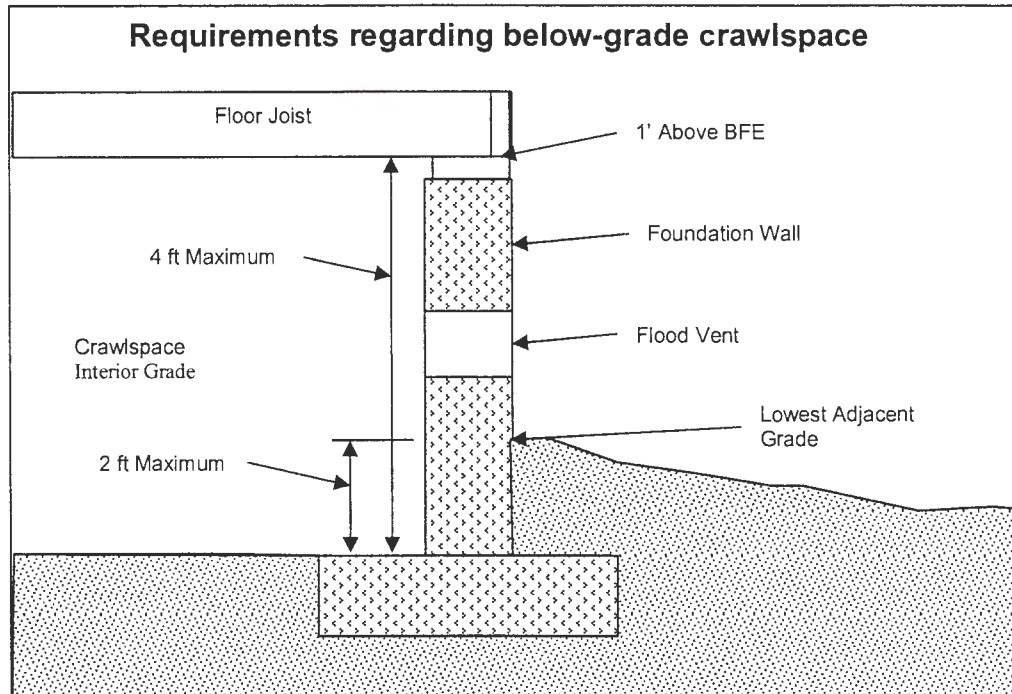
- 1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section (2) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- 2) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- 3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes the foundation walls of the crawlspace used to elevate the building. Per Section 7.2.13 (B)(1), floor framing, wood floor joist systems, beams, girders, ducts and all electrical components must be elevated a minimum of one (1) foot above BFE.
- 4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Per Section 7.2.13(B)(1), floor framing, wood floor joist systems, beams, girders, ducts and all electrical components must be elevated a minimum of one (1) foot above BFE.
- 5) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- 6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and Building Code requirements for flood hazard areas.
- 7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil

## EXHIBIT B

types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

- 8) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

For more detailed information refer to *FEMA Technical Bulletin 11-01*.



**There will be increased insurance cost associated with below-grade crawlspaces. There is a charge added to the basic policy premium for a below-grade crawlspace.**

### E) **Standards for Shallow Flooding Areas (AO Zones)**

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is often characterized as sheet flow. In these areas Section 7.2.13(A) and the following provisions will apply:

- 1) New construction and substantial improvements of residential structures and manufactured homes within AO zones will have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least three feet if no depth number is specified). This includes floor framing, wood floor joist systems, beams, girders, ducts and all electrical components.
- 2) New construction and substantial improvements of nonresidential

structures within AO zones will either:

- (a) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified). This includes floor framing, wood floor joist systems, beams, girders, ducts and all electrical components; or
- (b) Together with attendant utility and sanitary facilities, be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance will be certified by a registered professional engineer or architect, and;
- (c) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

F) ***Fences and Walls in Areas of Special Flood Hazard***

Fencing and walls located in the special flood hazard area require a floodplain development permit.

- 1) The replacement of a portion of a pre-existing fence, constructed prior to April 1, 1982 or approved through a Development Services review process, is exempt from a floodplain development permit if the replacement is 25 percent or less than the entire length of the fence.
- 2) In an emergency situation where livestock could be harmed or lost due to the failure of existing fencing located within the Special Flood Hazard Area, the fence may be replaced immediately without obtaining a Floodplain Development Permit. However, a Floodplain Development Permit application shall be submitted within 30 days following the construction of the replacement fence. This exception to the Floodplain Development Permit requirement for the construction of a replacement fence does not guarantee approval of the application. The replacement of the damaged fence is completed at the risk of property owner.

G) ***Accessory Structures***

Relief from the elevation or dry flood-proofing standards may be granted for new and replacement, or substantially improved accessory structures, containing no more than 200 square feet. Such a structure must meet the following standards:

- 1) It will not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;
- 2) Toxic material, oil or gasoline, or any priority persistent pollutant

**EXHIBIT B**

identified by the Oregon Department of Environmental Quality will not be stored below BFE, or where no BFE is available, lower than three feet above grade, unless confined in a tank installed in compliance with this Section;

- 3) Services such as electrical and heating equipment will be elevated or flood-proofed to or above the base flood elevation, and;
- 4) It will be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or
  - (a) Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (b) The bottom of all openings will be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
  - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

H) ***Recreational Vehicles in Areas of Special Flood Hazard***

Recreational Vehicles, defined in Section 13.3(100), located in all Areas of Special Flood Hazard may be occupied subject to the following standards:

- 1) Recreational or camping vehicles will not be used for temporary housing to accommodate visitors of the current resident more than 30 days in any 12 month period.
- 2) A maximum of one (1) self-contained recreational or camping vehicle may be used for recreational purposes for up to three (3) months in any 12 month period on vacant property with the owner's consent, subject to the provisions of this Section.
- 3) Not more than one (1) self-contained camping vehicle may be used as temporary housing for not more than 180 days on property owned by the owner of said vehicle, and only after permits have been issued for construction of the first dwelling, or during remodeling or replacement of a lawfully established dwelling. Such uses are subject to full compliance with the provisions of this Section and health and sanitation regulations.
- 4) Any electrical panel or outlet proposed to service a recreational vehicle will meet the requirement of Section 7.2.13(A).

I) ***Critical Facilities***

Construction of new critical facilities will be, to the extent possible, located outside the limits of the Area of Special Flood Hazard. Construction of

## EXHIBIT B

new critical facilities will be permissible within the Area of Special Flood Hazard if no feasible alternative site is available. Access elevated to or above the level of the Base Flood Elevation will be provided to all critical facilities to the maximum extent possible. Flood-proofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters.

### J) **Tanks**

- 1) New and replacement underground tanks in flood hazard areas will be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, assuming the tank is empty, during conditions of the base flood.
- 2) New and replacement above-ground tanks in flood hazard areas will be:
  - (a) Attached to and elevated above the base flood elevation (or depth number in AO zones) on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the base flood; or be
  - (b) Anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, assuming the tank is empty, during conditions of the base flood.

### K) **Utilities**

- 1) All new and replacement water supply systems will be designed to minimize or eliminate infiltration of floodwaters into the system;
- 2) New and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters;
- 3) Consistent with the Oregon Department of Environmental Quality, on-site waste disposal systems will be located to avoid impairment to them or contamination from them during flooding;
- 4) Underground public sewer lines will be certified by an Oregon registered professional engineer to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters. The County will accept the engineer's certification without further analysis by the County as meeting this standard; and
- 5) All other underground public utility lines will be certified by an Oregon registered professional engineer to minimize or eliminate infiltration of floodwaters into the systems. The County will accept the engineer's certification without further analysis by the County as meeting this standard

L) **Aggregate Mining Operations**

- 1) Applications for aggregate mining or surface mining operations within the Area of Special Flood Hazard or floodway will provide evidence that the mining will not cause an increase in flooding potential or stream bank erosion adjacent to, upstream or downstream from the operation; and
- 2) Approval of application for aggregate mining or surface mining operations will be conditioned to require that all mining and processing equipment and new stockpiles of mined or processed materials will be removed from the 100-year floodplain during the period of November 1 through April 30, unless the operation will be protected by a dike that is of sufficient width and height to prevent the base flood from inundating the site.

M) **Development on Areas Surrounded by Floodplain**

Building and other development on islands or other topographic features within or surrounded by the floodplain will be subject to the following:

- 1) Verification by an Oregon registered professional engineer or geologist that the island or other topographic feature is a stable land form and will not be subject to erosion during a 100-year flood;
- 2) Submission of topographic information from a registered surveyor showing the topography of the area (island); and
- 3) The roadway to the development site will be located or constructed in such a way as not to increase flood elevations or create an obstruction in the floodway, and must be designed to provide safe passage to and from the site during a flood event.

**7.2.14 Variance Procedures and Criteria**A) **Variance**

- 1) An application for a variance must be submitted to Jackson County on the form provided by the County and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.
- 2) The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.
- 3) Upon consideration of the criteria in Section 7.2.14(B) (Criteria for Variances) and the purposes of this Section, the County may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.
- 4) The Floodplain Administrator or staff designee will maintain a permanent record of all variances and report any variance to the



Federal Emergency Management Agency upon request.

**B) *Criteria for Variances***

- 1) Variances will not be issued within a floodway if any increase in flood levels during the base flood discharge would result.
- 2) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
- 3) Variances will only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 4) Variances will only be issued upon a:
  - (a) Showing of good and sufficient cause;
  - (b) Determination that failure to grant the variance would result in exceptional hardship to the applicant, and;
  - (c) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- 5) Variances may be issued for a water dependent use provided that the:
  - (a) Criteria of Section 7.2.14(B)(1-4) are met, and;
  - (b) Structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- 6) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Jackson County Register of Historic Landmarks, without regard to the procedures set forth in this section.
- 7) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

- C) The decision to either grant or deny a variance will be in writing and will

set forth the reasons for such approval or denial. If the variance is granted, the property owner will be put on notice along with the written decision that the permitted building will have its lowest floor below the base flood elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

#### **7.2.15 Violation and Enforcement**

No structure or land will hereafter be located, extended, converted or altered unless in full compliance with the terms of Section 7.2 and other applicable regulations. Enforcement of a violation of Section 7.2 is processed in accordance with the provisions of the Jackson County Codified Ordinance Chapters 202 and 203, as applicable. Sections 1.8 and 2.6.7 are also applicable to violations of Section 7.2.

### **7.3 TRANSPORTATION AND PUBLIC FACILITY OVERLAYS**

#### **7.3.1 Airport Approach (AA) and Airport Concern (AC) Overlays**

##### **A) *General***

##### **1) *Purpose***

The Airport Approach (AA) and Airport Concern (AC) Overlays are intended to reduce risks to aircraft operations and land uses within close proximity to airports and heliports. The AA and AC Overlays are not legally described by metes and bounds, but are defined by the Federal Aviation Regulations (FAR, Part 77), OAR 660-013, and OAR 738-070 pbl 2/26/03.

##### **2) *Applicability***

The provisions of this Section will be applied to any lands, waters and airspace, or portions thereof, surrounding an airport or heliport that have been mapped as being within the Primary, Approach, Transitional, Horizontal or Conical surface zones of the airport. An AA Overlay as applied to a private-use airport might include only a Primary and Approach surface, while all five (5) surface zones may be applied to public-use airports. Within the AA Overlay is a mapped subportion called the Runway Protection Zone (RPZ), where additional restrictions apply.

##### **3) *Supporting Documents***

The following documents, together with all explanatory matter therein, are adopted by reference and made a part of this ordinance:

- Rules and Regulations, Medford Municipal Airport Zoning, adopted November 13, 1956, or as amended.
- Approach and Clear Zone Plan, Medford-Jackson County Airport, July 1978, or as amended.
- Approach and Clear Zone Plan, Ashland Municipal Airport, June 1976, or as amended.

## EXHIBIT B

- Approach and Clear Zone Plans for the Pinehurst and Prospect Airports as defined by the Oregon Department of Aviation.
- Other private Airport Approach and Clear Zone Plans as recognized by the Oregon Department of Aviation

### B) **Administration**

#### 1) *Review Required*

- a) A Type 2 review is required when a proposed structure will penetrate the Approach, Transitional, Horizontal, or Conical surface of the airport in question, as indicated on an adopted Approach and Clear Zone Plan for the airport; and
- b) The determination as to whether a structure will penetrate the Approach, Transitional, Horizontal or Conical surface will be made using the best information available to the County (i.e., GIS and USGS topographic maps). If the County cannot conclusively determine that the structure will not penetrate the surface, the owner may be required to submit the following information to assist the County in making this determination:
  - i) A certificate from an Oregon registered professional engineer or land surveyor which clearly states that no airspace obstruction will result from the proposed use; and
  - ii) Either or both of the following:
    - (a) The maximum elevations of proposed structures based on datum of the Approach and Clear Zone Plan. Elevations will be based upon a survey by an Oregon registered professional engineer or land surveyor, accurate to plus or minus one (1) foot, shown as mean sea level elevation or other available survey data. The accuracy of all elevations will be certified by the engineer or land surveyor; and
    - (b) A map of topographic contours at two (2) foot intervals, showing all property within 100 feet of the proposed structure(s) for which the permit is being sought. This map will also bear the verification of an Oregon registered professional engineer or land surveyor.

#### 2) *Exemptions*

- a) For areas in the Horizontal or Conical surface zones, but outside the Approach and Transition surface zones, where the ground surface at the building site is higher in elevation than the airport runway, buildings or structures that will

## EXHIBIT B

penetrate the Horizontal or Conical surface are permitted provided the building or structure will be less than 35 feet in height [OAR 660-013-0070(2)];

- b) The regulations prescribed by this Overlay will not be construed to require a property owner to remove, lower, or make changes or alterations to any structure which lawfully existed prior to February 13, 1989. However, such structures will be considered nonconforming if they are in conflict with these regulations; and
- c) Notwithstanding subsection (b) of this Section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Oregon Department of Aviation will install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structure becomes more visible to pilots.

### C) **Restrictions on Specific Uses** [OAR 660-013-0080]

- 1) Within the RPZ (runway protection zone) portion of the approach, the following additional restrictions apply unless the underlying zone is more restrictive: [OAR 660-013-0080]
  - a) No residential, commercial, industrial, or public assembly structures are allowed;
  - b) No athletic fields, water treatment plants, mining, water impoundments, or wetland mitigation is allowed;
  - c) Farm use, as defined by ORS 215.203, not including associated commercial activities such as farm stands, and excluding the commercial raising of animals or fowl which would be adversely affected by aircraft passing overhead, is permitted. Farming practices that minimize wild fowl attractants are encouraged;
  - d) Utilities and pipelines must be underground; and
  - e) Golf courses are a Type 2 use that may be permitted upon demonstration, supported by substantial evidence, that management techniques will be used to reduce existing wild fowl attractants and avoid the creation of new wildlife attractants. Such techniques will be conditions of approval. Tee markers, tee signs, pin cups and pins are not considered to be structures;
- 2) New industrial uses and the expansion of existing uses are prohibited where, as part of regular operations, the use would cause emissions of smoke, dust, or steam that would obscure visibility within the airport approach corridor. An exemption may be granted upon demonstration, supported by substantial evidence, that mitigation measures will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level;
- 3) No new or expanded industrial, commercial or recreational use will project lighting directly onto an existing runway or taxiway or into an Approach surface except where necessary for safe and

## EXHIBIT B

convenient air travel. Lighting for these uses will incorporate shielding in their designs to reflect light away from Approach surfaces. No use will imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting;

- 4) No new sanitary landfills, sewage lagoons, sewage sludge disposal facilities or similar facilities will be permitted within 5,000 feet from any airport runway used by only piston-type aircraft or within 10,000 feet of any airport runway used by turbojet aircraft. The expansion of existing landfill or sewage treatment or disposal facilities within these distances will be permitted only upon demonstration that the facility is designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion will be provided to the airport sponsor, Department of Aviation and the FAA, and any approval will be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result [ORS 836.623];
- 5) *Water Impoundments*
  - a) New water impoundments of one-quarter ( $\frac{1}{4}$ ) acre or larger are prohibited within an approach corridor and within 5,000 feet of the end of a runway. Such impoundments are also prohibited on land owned by the airport or the airport sponsor where the land is necessary for airport operations. This prohibition does not apply to a storm water management basin established by the airport, a seaplane landing area, or agricultural water impoundments in which the water is used directly for growing crops such as cranberries or rice [ORS 836.623(2)(a), (4) and (5)];
  - b) Proposals for new water impoundments of one-quarter ( $\frac{1}{4}$ ) acre or larger that will be outside the approach corridor but within 5,000 feet of the runway will be reviewed under the Type 2 procedures. The proposed impoundment will be approved only upon sufficient evidence provided by the applicant that the impoundment is unlikely to result in a significant increase in hazardous movements of birds feeding, watering or roosting in areas across the runways or approach corridors. As used in this Section, "significant" means a level of increased flight activity by birds across approach corridors and runways that is more than incidental or occasional, considering the existing ambient levels of flight activity by birds in the vicinity. Effects of mitigation measures or conditions that could reduce safety risks and incompatibility will be considered. Any information and supporting evidence that is received that alleges a significant increase in hazardous movements of birds will be forwarded to the FAA for review and comment prior to any final decision [ORS 836.623(2)(b), (c) and (d) and (6)]; and
  - c) The limitations on water impoundments in (a) and (b) do not apply to wetlands mitigation where it is not practicable to provide off-site mitigation, storm water management basins

## EXHIBIT B

established by the airport, seaplane landing areas, or agricultural water impoundments in which the water is used directly for growing crops such as cranberries or rice [ORS 836.623(2)(e)& (4)];

- 6) Radio, cellular communication, television and other similar transmission facilities and electrical transmission lines may be allowed only when the height and location of the facility is approved by the Department of Aviation;
- 7) No use or activity will create electrical interference with navigational signals or radio communication between airport and aircraft; make it difficult for pilots to distinguish between airport lights and others; result in glare in the eyes of pilots using the airport; impair visibility in the vicinity of the airport; or otherwise create a hazard which may in any way endanger the landing, take-off, or maneuvering of aircraft using the airport;
- 8) No glare-producing materials will be used on the exterior of any building or structure or stored as exposed materials in a scrap or junkyard located within the Overlay. Glare-reducing agents used to prepare structures or buildings in this Overlay must be approved by the Department of Aviation and the County. The following site and roof characteristics or materials should be avoided:
  - a) Water is highly reflective, therefore anything that retains water should be avoided. This includes flat roofs and reflecting ponds;
  - b) Sloped glazing;
  - c) East and west facing storefronts;
  - d) Parking lots unshielded with trees;
  - e) A high rib metal roof with high gloss finish, and flat non-corrugated surface areas between the ribs;
  - f) Galvanized high rib or galva-lume high rib roof systems; and
  - g) Skylights and use of glass on roofs;

Roof materials that do not produce hazardous glare include: asphalt composition shingles; wood shingles and shakes; clay and cement tile roofs; painted and galvanized corrugated metal with no flat surfaces; flat roofs which do not retain water that have a gravel or dark surface;
- 9) No land use approval or other permit will be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this Overlay;
- 10) All structures are subject to Oregon Dept. of Aviation (ODA) height regulations, and if a conflict exists with the maximum height set out in this Ordinance or an ODA requirement, the lowest height limitation fixed will govern;

## EXHIBIT B

- 11) There will be no display of signs which produce a flashing or blinking effect, nor will any lighting project upward in a manner that would interfere with aircraft; and
- 12) No structures or uses will provide for space or allow areas to be used as a place of public assembly not associated with or accessory to the primary purpose of the structure or use.

### D) **Review Standards**

When review is required under this Section, the owner or developer will show that the proposed use or structure will not conflict with aviation activities by submitting the following:

- 1) A statement from the Oregon Department of Aviation that the proposed use or structure complies with state regulations; and
- 2) A statement from the Ashland Public Works Director, when the proposed use is within the Ashland Airport Concern Overlay, or from the airport director or airport owner or operator at all other airports, verifying that the proposed use or structure will not impact aviation activities.

### E) **Easement and Deed Declarations Required**

- 1) On lands within the AA or AC Overlays, an aviation easement in a form acceptable to the airport owner or operator will be signed and recorded in the deed records of the County prior to issuance of building permits for new residential, commercial, industrial, institutional or recreational buildings, or structures intended for inhabitation or occupancy by humans or animals, or for the expansion of such buildings or structures by 50% or 1,000 square feet, whichever is less. The aviation easement will allow unobstructed passage for aircraft;
- 2) A deed declaration that acknowledges the pre-existence of the airport and anticipated noise levels will be recorded prior to issuance of building permits for any noise sensitive use that will be located within the 55 DLN (yearly day-night average sound level in decibels) noise contour of the airport, as delineated in an Approach and Clear Zone Plan or as shown on the County GIS maps. Noise sensitive uses include structures used for sleeping, schools, hospitals, libraries and similar uses. The deed declaration will also be attached to any subdivision or partition approval; and
- 3) In areas where the noise level is anticipated to be at or above 55 DLN, prior to issuance of a building permit for construction of a noise sensitive use the applicant will demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 45 DLN.  
[OAR 660-013-0080]

## 7.3.2 Airport Boundary (AB) Overlay

A) **General**1) *Purpose*

The Airport Boundary (AB) Overlay is intended to encourage and support the continued operation and vitality of airports in the county by allowing airport-related uses that would otherwise not be permitted in the underlying zoning district.

2) *Applicability*

a) The AB Overlay applies to the Primary Surface of Class 1 and 2 airports:

i) Class 1 airports are publicly owned airports registered, licensed or otherwise recognized by the Department of Aviation on or before December 31, 1994, that in 1994 were the base for three (3) or more aircraft; and to other privately owned public-use airports specifically identified in administrative rules of the Oregon Department of Aviation as providing important links in air traffic in the state, providing essential safety or emergency services, or that are of economic importance to the County. Such airports include: *[ORS 836.610(1)]*

- Rogue Valley International - Medford Airport
- Ashland Municipal Airport
- Pinehurst Airport
- Prospect Airport

ii) Class 2 airports are private-use and privately owned public-use airports that were the base for three (3) or more aircraft, as shown in the records of the Department of Aviation, on December 31, 1994. Such airports include: *[ORS 836.608(2)]*

- Beagle Sky Ranch
- Burrill Airport
- Croman Heliport
- Erickson Heliport
- Shady Cove Airpark
- Snider Creek Airport
- Sutton-on-Rogue Airport

b) An airport boundary for a Class 1 airport may be expanded beyond the Primary Surface to include areas needed for planned airport operations, runways, taxiways, aircraft storage, maintenance, sales and repair facilities subject to compliance with the requirements of OAR 660-013-0040 and approval by the Board of Commissioners under a Type 4 procedure. An airport boundary for a Class 2 airport may be expanded to include areas that are developed or committed to airport uses



allowed under ORS 836.616(2), subject to approval by the Board of Commissioners under a Type 4 procedure.

**B) *Uses Allowed at Class 1 Airports***

In addition to the uses listed in Tables 4.2-1, 4.3-1, 4.4-1 and 6.2-1, the following are Type 1 uses within the AB Overlay of a Class 1 airport: *[ORS 836.608(3), 836.616(2); OAR 660-013-0100 and -0110]*

- 1) Customary and usual aviation-related activities, including but not limited to takeoffs and landings; aircraft hangars and tie-downs; construction and maintenance of airport facilities; fixed based operator facilities; a residence for an airport caretaker or security officer; and other activities incidental to the normal operation of an airport. Except as provided in this ordinance, "customary and usual aviation-related activities" do not include residential, commercial, industrial, manufacturing and other uses.
- 2) Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.
- 3) Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.
- 4) Flight instruction, including activities, facilities, and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.
- 5) Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.
- 6) Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

## EXHIBIT B

- 7) Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.
  - 8) Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft; aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving.
  - 9) Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.
  - 10) Agricultural and forestry activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.390.
  - 11) Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the state Airport System Plan.
  - 12) Commercial, industrial, manufacturing and other uses may be allowed if permitted in the underlying zoning district, provided the use will not create a safety hazard or otherwise limit approved airport uses. In addition, uses that existed at any time during 1996 are permitted upon demonstration that the use existed at that time [ORS 836.608(3)(a)].
- C) **Uses Allowed at Class 2 Airports**  
The following may be allowed within the AB Overlay of a Class 2 airport:  
[ORS 836.608(3) through (6); OAR 660-013-0155]
- 1) Construction of additional tie-downs, basing additional aircraft at the airport and increases in flight activity are permitted as Type 1 uses.
  - 2) Construction of additional hangars by the owner of the airport is permitted subject to Type 2 review and compliance with the following criteria:

## EXHIBIT B

- a) The use can be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals;
  - b) Will not force a significant change or significantly increase the costs of conducting existing uses on surrounding lands; and
  - c) Will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use if the airport is adjacent to land zoned for exclusive farm use.
- 3) New uses listed in Section 7.2.1(B) and "through the fence operations" (see Section 6.3.5(A)) may be established subject to Type 2 review. The use will only be approved when compliance with all of the following criteria are demonstrated by the applicant:
- a) The use is or will be supported by adequate types and levels of facilities and services and transportation systems authorized by applicable statewide land use planning goals;
  - b) The use does not seriously interfere with existing land uses in areas surrounding the airport; and
  - c) The use will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use if the airport is adjacent to land zoned for exclusive farm use.
  - d) An applicant may demonstrate that these criteria will be satisfied through the imposition of conditions.

### 7.3.3 Areas of Special Concern

#### A) **ASC 93-2 Transit Oriented Development**

##### 1) *Description*

This Area of Special Concern identifies transit trunk routes in Jackson County, which are Highway 99 from Ashland to Medford (also known as Rogue Valley Highway), Court Street, Riverside Avenue, Central Avenue, South Pacific Highway, Bear Creek Drive, Main Street, North Main, East Main, and Siskiyou Boulevard), and other designated routes in plans adopted by the Rogue Valley Transit District (RVTD).

##### 2) *Special Requirements*

Include the following:

- a) Special requirements for design and development of transit routes and transit facilities will apply within 1,000 feet of transit trunk routes through provision of bus stops or pullouts, shelters, signs, and other transit facilities. Coordination of transit routes by RVTD with cities or Jackson County will consider appropriate road standards to support bus traffic and on-road parking restrictions;
- b) Transit transfer stations and park-and-ride lots are planned by RVTD on or within 1,000 feet of the Highway 99 transit trunk route. All transfer stations and park-and-ride lots will provide

## EXHIBIT B

bicycle parking facilities as part of the development and connections to pedestrian ways;

- c) Along a transit route, industrial, institutional, retail or office developments generating over 250 trip ends per day will be required to either: connect to an existing transit stop, or provide a new transit stop site in accordance with RVTD recommendations. The conditions placed on new development to require transit improvements will be based on the requirements of the RVTD. Where a transit stop is needed, the conditions of approval will provide for no less than a transit easement and a commitment to install facilities within a specified time period;
- d) New retail, office and institutional buildings at or near existing or planned transit stops will provide preferential access to transit by orienting building entrances to the transit stop, clustering buildings around the transit stop, and locating buildings as close as possible to transit stops; and
- e) For residential land divisions of five (5) or more lots located along transit routes, transit stops must be provided when requested by RVTD.

### B) **ASC 2003-1, Goal 11 Exception Areas**<sup>3</sup>

This Area of Special Concern includes lands justified as "Reasons" Exception Areas to Statewide Planning Goal 11, Public Facilities and Services, where creation or extension of a public sewer facility has been approved to serve a specified use in the Goal Exception Area. This ASC may also be applied to "Physically Developed" and/or "Irrevocably Committed" Exception Areas where additional use restrictions are found to be merited beyond the base zoning district provisions. Development of properties within this ASC is subject to the restrictions outlined in the adopting ordinance for the Goal 11 Exception Area. Section 3.6.2 identifies the procedure for sewer connection approvals depicted in this ASC.

### C) **ASC \_\_\_ Highway 62 Special Land Area Use Plan** (Reserved)

This Area of Special Concern will provide a refinement plan for land use and transportation for the transportation corridor between Medford and White City.

### D) **ASC \_\_\_ Highway 99 Medford-Phoenix Special Area Plan** (Reserved)

This Area of Special Concern will provide a refinement plan for land use and transportation for the transportation corridor between Medford and Phoenix.

## 7.4 URBAN OVERLAYS

### 7.4.1 Areas of Mutual Planning Concern and Urban Growth Boundaries

Incorporated communities may agree with the County to designate lands lying immediately beyond their urban growth boundaries as areas where the County and city will coordinate planning activities, including those pertaining to requests

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<sup>3</sup>ASC 2003-1 adopted in File 2002-3-OA; amended Ordinance 2010-4, effective 8-2-2010

for changes in land use. All such agreements will be subject to mutual review and adoption by the governing bodies of the affected city and the County. Agreements currently in effect are hereby adopted by reference and govern County land use actions in their respective areas. Development standards adopted through such agreements supersede the development standards of this Ordinance when specified in the agreement.

**7.4.2 Area of Special Concern, ASC 82-1 Whetstone Industrial Park**

This area establishes the following policies for the development of the Whetstone Industrial Park (WIP). ASC 82-1 consists of two areas mapped as 82-1(a) and 82-1(b). Map 82-1(a) delineates the entire area of the WIP and Map 82-1(b) delineates the Whetstone Creek corridor. Sections A and B below apply to the entire WIP as mapped in 82-1(a). Section C below applies only to the area mapped in 82-1(b).

**A) Lot Size**

Minimum lot sizes are listed in Table 7.4.2-1 below:

Table 7.4.2-1 Minimum Lot Sizes for Whetstone Industrial Park

Use Category	Specific Use Criteria	Minimum Lot Size
<b>Independent Industrial Use</b>	<p>This category applies to the creation of a unit of land that is expected to operate independent of other units of land within the WIP. Units of land created under this category shall be subject to the following:</p> <ol style="list-style-type: none"> <li>1. A conceptual site plan depicting the intended use must be submitted along with findings demonstrating that the lot size is of adequate size to meet the needs of the intended use.</li> <li>2. No more than six (6) underdeveloped units of land less than 50 acres in size may exist at one time. For the purposes of this section, an 'underdeveloped unit of land' is a unit of land with less than \$500,000 in physical improvements according to the Jackson County Assessor's real market value. A unit of land created under the environmental stewardship and/or TDR category is not considered 'underdeveloped'.</li> </ol>	15 acres
<b>Integrated Industrial Use</b>	<p>This category applies to the creation of a unit of land that is reasonably expected to operate in conjunction with another unit of land within the WIP for its routine operations. Units of land created under this category shall be subject to the following:</p> <ol style="list-style-type: none"> <li>1. A conceptual site plan depicting the intended use must be submitted along with findings demonstrating that the lot size is of adequate size to meet the needs of the intended use.</li> <li>2. A deed declaration must be recorded, which restricts the use of the unit of land to the specified integrated use for a period of not less than six (6) years from the date of parcel or lot creation.</li> </ol>	7 acres
<b>Environmental Stewardship and/or Transfer of Development</b>	<p>This category applies to the creation of a unit of land for environmental stewardship and/or TDR purposes. Units of land created under this category shall be subject to the following:</p>	5 acres

Use Category	Specific Use Criteria	Minimum Lot Size
Rights (TDR)	1. Findings must be submitted demonstrating how the creation of the unit of land qualifies as environmental stewardship and/or TDR purposes. 2. A legal instrument and/or other evidence must be recorded, which reasonably assures the long-term preservation of the unit of land.	
Supporting Use	This category applies to the creation of a <b>unit</b> of land that will support industrial development within the WIP. Units of land created under this category shall be subject to the following:  1. A conceptual site plan depicting the supporting use must be submitted along with findings demonstrating how the specified use supports the industrial development of the Whetstone Industrial Park. 2. A deed declaration must be recorded, which restricts the use of the unit of land to the specified supporting use for a period of not less than ten (10) years from the date of parcel or lot creation.	1 acre
Other Use	None	50 acres

B) **Development Standards**

Unless otherwise specified in this section, development within the WIP shall comply with the standards outlined in Chapters 9 and 12.

1) *Improvements:*

- a) Building setback from public street rights-of-way will be a minimum of one and one-half (1½) times building height (D=1.5H);
- b) Any outdoor storage of equipment or materials will be screened from view from along all public streets and the Whetstone Creek riparian area;

2) *Drainage:*

- a) Developed areas are required to provide onsite detention, limiting runoff to 0.25 cfs per acre of development for the design year storm event
- b) Drainage systems shall be designed by an Oregon Registered Engineer who shall certify that the design employs best management practices to maintain good water quality consistent with Oregon Department of Environmental Quality guidelines.
- c) Surface waters leaving each site may drain to the roadside ditches or established drainage facilities.
- d) Only stormwater will be allowed to drain to Whetstone Creek and other drainage channels. Industrial wastes shall connect to the sanitary sewer or else demonstrate necessary water quality permits from DEQ can feasibly be obtained.

3) *Sewer:*

- a) All developments within the WIP will connect to the public sewer system. No septic systems are allowed.
- 4) *Landscaping:*
  - a) A minimum 20 foot xeriscape landscaped strip is required along all public street frontages (standards to match Section 12.12.4). If adequate irrigation can be provided, general White City General Landscape Standards (Section 12.12.3) may be applied at the discretion of the applicant.
  - b) No street trees are required per JCLDO Section 12.12.1.
  - c) Parking area landscaping requirements may be adapted to meet Xeriscape standards of Section 12.12.4.
  - d) All required landscaping within 20 feet of the Whetstone Creek Corridor shall be planted in native plantings identified and determined by an Oregon Registered Landscape Architect.

**C) *Whetstone Creek Corridor Restrictions***

The Whetstone Creek corridor, defined by map 82-1(b), is restricted, as follows:

- 1) Structural development designed and permitted for human occupancy is not allowed.

All development shall comply with LDO Section 8.6, Stream Corridors and Riparian Habitat.

**7.4.3 Urban Fringe**

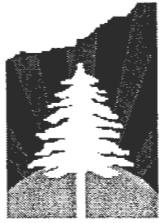
The following Urban Fringe protection regulations are adopted pursuant to OAR 660-004-0040(8).

- A) ***Designation***

Urban Fringe lands will include all unincorporated lands located within one (1) mile of the Urban Growth Boundaries of Medford, Ashland, and Central Point.
- B) ***Divisions of Land***

All Urban Fringe lands designated for residential use must maintain a 10-acre minimum lot size in accordance with OAR 660-004-0040.
- C) ***Plan/Zone Changes***

Urban Fringe lands are eligible for changes in Comprehensive Plan land use designations, and for zone changes, on the same basis as other lands in the County.



**JACKSON  
COUNTY**  
Oregon

**NOTICE OF ADOPTION**

DEPT OF

31 2012  
LAND CONSERVATION  
AND DEVELOPMENT

Pursuant to Oregon Revised Statutes (ORS) 197.615, you are hereby being notified that the Jackson County Board of Commissioners adopted Ordinance No. 2012-7 at a properly advertised public hearing on August 29, 2012, at 1:30 p.m., in the Auditorium of the Jackson County Offices, 10 South Oakdale, Medford, Oregon 97501.

The ordinance will go into effect on October 28, 2012 (60 days from the date of adoption). A description of the ordinance follows:

Ordinance No. 2012-7 amends the Jackson County Land Development Ordinance revising Section 7.2, Floodplain Overlay. File LRP2011-00008.

This notice is being mailed to you on August 30, 2012, which is within five working days after the adoption date of the ordinance(s) as required by ORS 197.615. If you have any questions on the effect of this ordinance, please contact **Mike Mattson** at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501. Telephone: Medford 774-6937; Jackson County residents outside of Medford's local calling area 1-800-452-5021 and enter the next four digit extension 6937.

You may review this ordinance, or you may purchase a copy for \$.25 for the first page and \$.10 for each additional page, at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501, between the hours of 8:00 a.m. and 4:00 p.m., Monday, Tuesday, Thursday and Friday; and 11:00 a.m. to 4:00 p.m on Wednesday.

The Board of County Commissioner's Ordinances are the final decisions on this action. Pursuant to State law, Jackson County is hereby notifying all persons who participated in the hearings, either in writing or orally. 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 August 30, 2012, and the LUBA appeal period will expire on September 20, 2012. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

Attachments: Notary Packet



NOTARY PAGE

STATE OF OREGON     )  
                                  )  
COUNTY OF JACKSON )

I, Patricia A. Guida, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of Board of Commissioners Ordinance No. 2012-7 by mailing a copy of the Notice of Adoption by regular mail to each of the following named persons at their respective last known addresses, to wit: (as attached)

Each of said copies of the Notice were enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on August 30, 2012.

Patricia A. Guida  
Signature

Personally appeared before me this 30th day of August, 2012, the above named Patricia A. Guida who acknowledged the foregoing affidavit to be her voluntary act and deed.



Laura A. Marshall  
Notary Public for Oregon  
My Commission Expires: 2-6-2016

NOTICE OF ADOPTION SENT TO: AGENCIES AND INTERESTED PERSONS.

APPLICANT NAME: JA CO FLOODPLAIN TEXT AMENDMENT  
FILE NO: LRP2011-00008

BOARD OF COMMISSIONERS  
ADOPTION NOTICE LABELS  
LRP2011-00008  
JA CO FLOODPLAIN TEXT AMEND.

BOC LRP2011-00008  
DON SKUNDRICK, CHAIR  
BOARD OF COMMISSIONERS

BOC LRP2011-00008  
DENNIS "C.W." SMITH  
BOARD OF COMMISSIONERS

BOC LRP2011-00008  
JOHN RACHOR  
BOARD OF COMMISSIONERS

STAFF LRP2011-00008  
KELLY MADDING  
DIRECTOR

STAFF LRP2011-00008  
MICHAEL MATTSON  
PLANNER

LRP2011-00008  
JOEL BENTON  
COUNTY COUNSEL

LRP2011-00008  
LAW OFFICES OF FRANK HAMMOND  
711 MEDFORD CENTER #173  
MEDFORD OR 97504

IP LRP2011-00008  
GREG ALEXANDER  
5286 TABLE ROCK RD  
CENTRAL POINT OR 97502

IP LRP2011-00008  
ROBERT J STERLING TRUSTEE  
6166 BEAGLE RD  
WHITE CITY OR 97503-9516

IP LRP2011-00008  
JOHN MINTER  
2066 LENORA LN  
CENTRAL POINT OR 97502

IP LRP2011-00008  
RICK GORDON  
18045 E EVANS CR RD  
ROGUE RIVER OR 97537

IP LRP2011-00008  
HOMER HAYNES  
10375 WHEELER RD  
CENTRAL POINT OR 97502

IP LRP2011-00008  
STEVE ROUSE  
PO BOX 13260  
APPLEGATE OR 97530

IP LRP2011-00008  
DEBORAH MOKIMA  
~~2253 HWY 99 N~~  
ASHLAND OR 97520

IP LRP2011-00008  
RON ROTH  
6950 OLD 99 S  
ASHLAND OR 97520

IP LRP2011-00008  
KYLE WHITE  
9678 WAGNER CR RD  
TALENT OR 97540

IP LRP2011-00008  
GORDON CHALLSTROM  
426 STONEHAM CIR  
MEDFORD OR 97504

IP LRP2011-00008  
DAN VAN D'YKE  
ODF&W  
1495 E GREGORY RD  
CENTRAL POINT OR 97502

IP LRP2011-00008  
DOLORES LISMAN  
7219 APPEL GATE RD  
JACKSONVILLE OR 97530

IP LRP2011-00008  
PETE BAKI  
647 RIVER HILLS DR  
SPRINGFIELD OR 97477

IP LRP2011-00008  
BRAD FUSS  
1495 E GREGORY RD  
CENTRAL POINT OR 97502

IP LRP2011-00008  
DANIEL TILLOTSON  
1894 GIBBON RD  
CENTRAL POINT OR 97502

IP LRP2011-00008  
HERBERT E FARRIS  
1887 GIBBON RD  
CENTRAL POINT OR 97502

IP LRP2011-00008  
LESLEY ADAMS  
PO BOX 102  
ASHLAND OR 97520

IP LRP2011-00008  
BOB SHUCK  
712 SISKIYOU BLVD  
ASHLAND OR 97520



## Development Services

10 South Oakdale Ave., Room 100  
Medford, Oregon 97501-2902



Hasler

016H26515385

\$05.25<sup>0</sup>

08/30/2012

Mailed From 97501  
US POSTAGE

DEPT OF  
AUG 31 2012  
LAND CONSERVATION  
AND DEVELOPMENT

DLCD  
ATTN: PLAN AMENDMENT  
SPECIALIST  
635 CAPITOL STREET NE STE 150  
SALEM OR 97301-2540

