



**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**

09/19/2011

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** Josephine County Plan Amendment  
DLCD File Number 003-11

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:** Friday, September 09, 2011

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

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

**\*NOTE:** The 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:** David Wechner, Josephine County  
Jon Jinings, DLCD Community Services Specialist

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FORM 2

DLCD

# Notice of Adoption

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

In person  electronic  mailed

**DATE STAMP**

**DEPT OF**

**SEP 12 2011**

**LAND CONSERVATION AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **Josephine County**

Local file number:

Date of Adoption: **9/7/2011**

Date Mailed: **9/9/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 5/16/2011

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".

Amendment to the Josephine County Rural Land Development Code as follows:

1. an amendment to Section 41.030 ~ adding an opportunity for an additional 2 year extension to land use permit approvals; and
2. an amendment to Section 11.030 ~ Terms Defined ~ revising the definition of Substantial Development

Does the Adoption differ from proposal? Yes, Please explain below:

At the legislative hearing for the first reading of the Ordinance, the Board of Commissioners at the request of public testimony, included a provision of a well or water supply on property as a criterion in the definition of "Substantial Development." The Board at the second reading approved the revision and adopted the Ordinance as revised.

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **n/a**

Acres Involved: **0**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

- 45-days prior to first evidentiary hearing?  Yes  No  
If no, do the statewide planning goals apply?  Yes  No  
If no, did Emergency Circumstances require immediate adoption?  Yes  No
- 

**DLCD file No.** \_\_\_\_\_

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

Department of Land and Conservation District (DLCD)

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Local Contact: **David Wechner** Phone: (541) 474-5421 Extension: 5428  
Address: 700 NW Dimmick Street Suite C Fax Number: 541-474-5422  
City: Grants Pass Zip: 97526- E-mail Address: [dwechner@co.josephine.or.us](mailto:dwechner@co.josephine.or.us)

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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).

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

**ORDINANCE NO. 2011-005**

**AN ORDINANCE AMENDING THE TEXT OF THE JOSEPHINE COUNTY RURAL LAND DEVELOPMENT CODE REGARDING THE EXTENSION OF LAND USE PERMIT APPROVALS BY [1] AMENDING SECTION 41.030 REGARDING TIME LIMITS, EXTENSION AND EXPIRATION OF LAND USE PERMITS BY ADDING THE OPPORTUNITY FOR AN ADDITIONAL TWO YEAR EXTENSION OF LAND USE PERMIT APPROVALS; AND [2] AMENDING SECTION 11.030 TERMS DEFINED BY ADDING AND CLARIFYING LANGUAGE FOR THE DEFINITION OF SUBSTANTIAL DEVELOPMENT**

WHEREAS, the planning office realizes conditions or circumstances can and do change for applicants during the land use permit process and the proposed new language expands opportunities for changes; and

WHEREAS, Section 41.130 of the Rural Land Development Code (RLDC), *Time Limit, Extension & Expiration of Permits*, currently states land use permits expire after 2 years unless a one-time 2 year extension is obtained prior to expiration of the original 2 years; and

WHEREAS, due to the current downturn in local real estate markets, the lack of market activity, and the resulting difficulties in obtaining or continuing financing for development, a local Developer and a Land Use Consultant of Josephine County had petitioned the Board of County Commissioners to change the code to allow an additional 2 year time extension for land use permit approvals; and

WHEREAS, new language is added to clarify the definition of substantial development so that it provides clear and objective language to apply to land use matters; and

WHEREAS, the Josephine County Planning Director proposed amendments to the Josephine County Rural Land Development Code relating to the item captioned above for consideration by the Josephine County Planning Commission; and

WHEREAS, the Planning Commission, pursuant to the review authority granted in Section 46.020 of the RLDC, and Goal 11, Policy 1, of the Josephine County Goals and Policies of the Comprehensive Plan, conducted a public hearing on June 27, 2011 regarding the proposed text amendments, after required notice by publication, community advertisement, and mailing to interested persons, agencies and organizations; and

WHEREAS, after due consideration of the proposed amendments and the testimony and evidence from those participating at the hearing, the Planning Commission concluded by a vote of 3-2 to approve the amendments; and

WHEREAS, written findings of approval were prepared, approved, and signed by the Planning Commission Chair on July 5, 2011, which findings have been entered into the official record of the proceedings kept by the Planning Director; and

WHEREAS, notice of the Planning Commission's decision was given as required by law, and the decision having now become final without appeal; and

WHEREAS, the Josephine County Board of Commissioners, upon review of the record of the Planning Commission proceedings and the written Findings of Approval, and after discussing these matters with the Josephine County Planning Director, find the approved text amendments advance the policies and purposes of the Josephine County Comprehensive Plan; and

WHEREAS, the authority to implement legislative amendments to the county's comprehensive plan by ordinance resides solely with the Board of Commissioners, as specified in Goal 11, Policy 1.D[2], and the RLDC, Section 46.020.B.2;

NOW, THEREFORE, based on the foregoing, the Board of County Commissioners of Josephine County Oregon, hereby ordain the following amendments to the text of the Josephine County Rural Land Development Code:

#### **Section 1. Text Amendment**

##### **41.030 - TIME LIMIT, EXTENSION & EXPIRATION OF PERMITS**

- A. All land use permits, except development permits and permits which have special conditions relating to expiration and/or renewal attached to them, shall expire 2 years after the date findings of approval are executed unless substantial development occurs.
- B. If substantial development does not occur within the life of the permit, the permit holder may be granted a 2 year extension of the permit. A second 2 year extension may also be granted, so that total permit life may exceed 4 years, but in no case more than 6 years subject to the following findings:
  1. The request is made by filing a request for an extension on forms provided by the planning office, together with a pre-application fee; and
  2. The request is made before the original permit expires, or, if the request is made after the original permit expires, the extension(s) shall include the time between expiration and extension so total permit life does not exceed 6 years; and
  3. No changes in applicable criteria-based state laws or rules or county land development regulations have occurred since the date of original approval. The Director may apply conditions to the extension as needed to implement changes in standards of approval only, using the Ministerial Review Procedures as set forth in Article 22.

4. In the event changes in applicable criteria-based laws, rules or regulations occur, a new application and application fee shall be required. The application shall be processed using quasi-judicial review procedures per Article 22.040.
  5. See, Article 11.030 for the definitions of "Substantial Development," "Criterion of Approval" and "Standards of Approval."
- C. When the permit involves the establishment of a specific use or activity and the use or activity actually commences, but then discontinues for any continuous period of 2 years, the permit shall expire, and the use shall be considered abandoned, unless an extension is obtained in conformance with requirements of subsection B. of this Section.
- D. Time limits, extension and expiration of land use permits for dwellings within the Farm and Forest Zones shall be governed separately by Sections 64.070.D and 65.070.G of this code.

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## **DEFINITIONS**

### **11.030 – TERMS DEFINED**

**Substantial Development.** Actions taken by the permit holder which encompass more than simple site preparation and grading. When actual site and/or physical improvements that constitute a considerable part of the whole project have been lawfully undertaken, such improvements must encompass more than simple site preparation or surveying, and must include physical site, structure and/or facility development:

- A. For individual home site approvals, substantial development shall mean:
1. A development permit as required by the land use approval has been issued; and
  2. Evidence the following site improvements have been installed:
    - a. A septic system, or approved connection to a sewerage system provided for the property; or,
    - b. A system of delivering an approved source of water supply to the property (i.e. well report and registration approved by the Water Resources Department of Oregon); verified for domestic use by a water quality report that confirms standards for potable water are met.

- B. For Industrial/Commercial site development approvals, substantial development shall mean:
1. A development permit as required by the land use approval has been issued; and
  2. Evidence the following site improvements have been installed:
    - a. A septic system, or approved connection to a sewerage system provided for the property; or
    - b. A system delivering an approved source of water supply to the property (i.e. well report and registration approved by the Water Resources Department of Oregon) adequate to support the approved use; and,

One of the following:

- a. An approved foundation has been constructed for the use subject to land use approval; or
- b. Final engineering plans have been reviewed and approved by the County for site development.

### **Section 2. Affirmation**

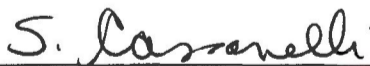
Except as specifically amended by the provisions of this Ordinance, the Comprehensive Plan (Ordinance 81-11) is hereby affirmed in all other respects.


### **Section 3. Effective Date:**

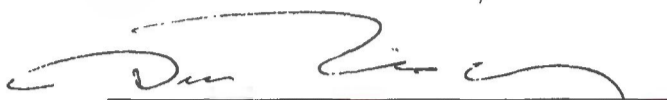
The first reading of this Ordinance by the Board of County Commissioners occurred this 11 day of August, 2011.

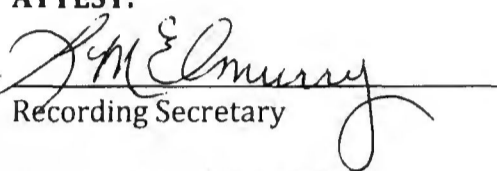
The second reading and adoption of this Ordinance by the Board of County Commissioners occurred on this 7 day of September, 2011, at least thirteen (13) days from the first reading. This Ordinance shall take effect ninety (90) days from the date of this second reading.


### **JOSEPHINE COUNTY BOARD OF COUNTY COMMISSIONERS:**

  
\_\_\_\_\_  
Sandi Cassanelli, Chair

  
Simon Hare, Vice-Chair

  
Don Reedy, Commissioner

**ATTEST:**  
  
Recording Secretary

**APPROVED AS TO FORM:**  
  
Steven E. Rich, Legal Counsel





# Josephine County, Oregon

## Planning Office

700 NW Dimmick Street, Suite C/Grants Pass OR 97526  
(541) 474-5421 / Fax: (541) 474-5422  
E-mail: [planning@co.josephine.or.us](mailto:planning@co.josephine.or.us)

DEPT OF

SEP 12 2011

LAND CONSERVATION  
AND DEVELOPMENT

September 9, 2011

Plan Amendment Specialist/DLCD  
635 Capitol Street NE Suite 150  
Salem OR 97301-2540

Lower Applegate CAC/Olaf Ahlstrom  
5713 Fish Hatchery Road  
Grants Pass OR 97527

Ed Moore/DLCD  
(via e-mail)

Williams CAC/Stephen Williams  
PO Box 472  
Williams OR 9754

LUBA/PUC Building  
550 Capitol Street NE Suite 235  
Salem OR 97301-2552

**Re:** *Josephine County Ordinance No. 2011-005 ~ 2 Year Permit Extension of Time and Substantial Development Definition*

Josephine County Ordinance No. 2011-005 amends the Josephine County Rural Land Development Code as follows:

An amendment to Section 41.030 providing an additional 2 year extension to land use permit approvals; and

An amendment to Section 11.030 revising the definition of Substantial Development only

The Ordinance was approved and signed by the Josephine County Board of Commissioners at their Weekly Business Session on September 7, 2011. The Ordinance becomes effective 90 days after that date, December 6, 2011. You may obtain a copy of the Ordinance on the county planning website: [www.co.josephine.or.us](http://www.co.josephine.or.us). Select planning under departments, select Ordinances on the left sidebar, and cursor down to 2011. Should you have questions, please contact our office.

Sincerely,

Anne Ingalls  
Sr. Department Specialist  
Josephine County Planning Office  
700 NW Dimmick, Suite C  
Grants Pass OR 97526  
541/474-5423  
[aingalls@co.josephine.or.us](mailto:aingalls@co.josephine.or.us)

Encs.: *As referenced in letter*

#### **41.030 - TIME LIMIT, EXTENSION & EXPIRATION OF PERMITS**

- A. All land use permits, except development permits and permits which have special conditions relating to expiration and/or renewal attached to them, shall expire 2 years after the date findings of approval are executed unless substantial development occurs.
- B. If substantial development does not occur within the life of the permit, the permit holder may request a 2 year extension of the permit. A second 2 year extension may also be granted, so that total permit life may exceed 4 years, but in no case more than 6 years subject to the following findings:
  - 1. The request is made by filing a request for an extension on forms provided by the planning office, together with a pre-application fee; and
  - 2. The request is made before the original permit expires, or, if the request is made after the original permit expires, the extension(s) shall include the time between expiration and extension so total permit life does not exceed 6 years; and
  - 3. No changes in applicable criteria-based state laws or rules or county land development regulations have occurred since the date of original approval. The Director may apply conditions to the extension as needed to implement changes in standards of approval only, using the Ministerial Review Procedures as set forth in Article 22.
  - 4. In the event changes in applicable criteria-based laws, rules or regulations occur, a new application and application fee shall be required. The application shall be processed using quasi-judicial review procedures per Article 22.040.
  - 5. See Article 11.030 for the definitions of "Substantial Development," "Criterion of Approval" and "Standards of Approval."
- C. When the permit involves the establishment of a specific use or activity and the use or activity actually commences, but then discontinues for any continuous period of 2 years, the permit shall expire, and the use shall be considered abandoned, unless an extension is obtained in conformance with requirements of subsection B of this Section.
- D. Time limits, extension and expiration of land use permits for dwellings within the Farm and Forest Zones shall be governed separately by Sections 64.070.D and 65.070.G of this code.

## **ARTICLE 11 - DEFINITIONS**

### **11.010 - PURPOSE**

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

### **11.020 - DEFINITIONS ADOPTED BY REFERENCE**

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

- A. Oregon Revised Statutes  
Chapter 92 - Subdivisions and Partitions
- B. Oregon Revised Statutes  
Chapter 197 - Comprehensive Plan Coordination; Planning Districts
- C. Oregon Revised Statutes  
Chapter 215 - County Planning; Zoning; Housing Codes

### **11.030 - TERMS DEFINED**

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

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

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

AC. This abbreviation stands for asphaltic concrete pavement.

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

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

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

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

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

- A. The development fronts on a county road or state highway with a valid access permit; or
- B. The development is served by a special access road under the control of the United States Bureau of Land Management, the United States Forest Service or the Oregon Department of Forestry with a valid long-term access use permit; or
- C. The development is served by a road decreed by a court to be a public usage road; or
- D. The development is served by a written and recorded easement which contains no language excluding commercial or industrial traffic, and the proposed activity is a home occupation business or resource use involving farm, forest, mining, or aggregate.

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

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

ADVERSELY AFFECTED. See SIGNIFICANT (ADVERSE) IMPACT

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

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

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

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

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

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

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

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

- A. Farmland, the operation or use of which is subject to any farm-related government program;
- B. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- C. Land planted in orchards or other perennials, other than land specified in subparagraph D of this paragraph, prior to maturity;
- D. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- E. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- F. Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213(1)(y) and 215.283(1)(v);
- G. Water impoundments lying in or adjacent to and in common ownership with farm use land;
- H. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- I. Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes

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

- J. Any land described under ORS 321.267(1)(e) or 321.415(5); and
- K. Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing.

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

As used in this definition, “cultured Christmas trees” means trees:

- A. Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;
- B. Of a marketable species;
- C. Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
- D. Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ASSESSOR. The county Assessor of Josephine County.

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

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

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

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

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

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

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

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

BILLBOARD. Same as "Advertising structure."

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

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

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

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

- A. The stabling, feeding, and grooming for a fee, or the renting of stalls; and
- B. Related facilities, such as training arenas, corrals, and exercise tracks.
- C. The boarding of horses for profit does not include the following:
  1. The mere pasturage of horses or the boarding of horses not owned by the property owner for the purpose of breeding with the owner's stock;
  2. Equestrian activities when the raising, feeding, training, or grooming of horses is an agricultural use of the land by a property owner qualifying for farm assessment under regulations of the state department of revenue,

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



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

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

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

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

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

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

BUILDING HEIGHT. See Height of Building.

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. HYDROLOGIC ANALYSIS. An analysis which defines the magnitude and frequency of channel discharges including but not necessarily limited to the mean annual runoff, 5-, 10-, 25-, and 100- year, 24 hour discharge events. Some statistical analysis may be appropriate.
- B. HYDRAULIC ANALYSIS. An analysis based on the above described hydrologic events and may include an evaluation of pre- and post-mining: (1) flood flow depths and water surface elevations; (2) channel and floodplain velocities and depths of inundation.
- C. FLUVIAL GEOMORPHIC ANALYSIS. An analysis which defines the relevant geomorphic characteristics of a stream channel and its adjacent flood plain. It is the intent of this study to address the potential for channel change due to proposed mining.
- D. SEDIMENT TRANSPORT ANALYSIS. An analysis which addresses the sediment transport capacity of existing stream channels and any potential changes in their ability to transport sediment. This analysis shall address aggradation and degradation potential for both the short and long term (i.e. pre- and post-mining) conditions.

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

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

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

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

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

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

- A. Storage, distribution, and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agricultural uses;
- B. Farm product receiving plants, including processing, packaging, and reshipment facilities, excluding canneries;
- C. Livestock feed or sales yards;
- D. Storage, repair, or sale of fencing, irrigation pipe, pumps, and other commercial farm-related equipment and implements;
- E. Farm equipment storage and repair facilities;
- F. Bulk storage and distribution facilities for fuels, pesticides, and fertilizers;
- G. Veterinarian clinic;
- H. Horticultural specialties such as nurseries or greenhouses for retail sales of plants and products;
- I. Slaughtering of animals, including attendant retail and wholesale sales, which may be conducted outside an enclosed building;

J. Wineries which may include retail sales;

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

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

COMMISSION. Shortened reference to the Josephine County Planning Commission.

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

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

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

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

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

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

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

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

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

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

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

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

COUNTY. Josephine County, Oregon.

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

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

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

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

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

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

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

- B. Of a species for which the Department of Revenue requires a "Report of Christmas Trees Harvested" for purposes of ad valorem taxation;
- C. Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture;
- D. Evidencing periodic maintenance practices of shearing for Douglas Fir and pine species, weed and brush control, and one or more of the following practices: basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, and irrigation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

FLOOD HAZARD AREAS (SPECIAL FLOOD HAZARD AREAS). Areas identified in the Federal Flood Insurance Study as the 100-year floodplain or the area of a floodplain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A. For the purpose of the administration of provisions contained in Article 69, *Flood Hazard Overlay*, flood hazard areas include the following definitions:

- A. APPROXIMATE FLOODPLAIN (OR UNNUMBERED "A" ZONE). That area of the 100-year floodplain in which base flood elevations and flood hazard factors have not been determined and where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year.

- B. BASE FLOOD ELEVATION (BFE). The crest elevation, in relation to mean sea level, expected to be reached by the base flood. A standard statistical calculation used by engineers to represent the flood magnitude having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "Base Flood" or the "100-year Flood.
- C. BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.
- D. DEVELOPMENT. Any alteration of improved or unimproved real estate, including but not limited to a land division, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- E. FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.
- F. FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- G. FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
- H. FLOODPLAIN. An area adjacent to a watercourse that is subject to a one percent or greater chance of flooding in any given year.

- I. FLOODWAY. The area within the floodplain consisting of the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- J. FLOODWAY FRINGE (OR NUMBERED "A" ZONE). The area of the floodplain outside the floodway, but within the boundary of the floodplain, in which base flood elevations and flood hazard factors have been determined and where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
- K. LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 69.190.
- L. SHALLOW FLOODING. A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.
- M. SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, beginning when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure, the cost of which equals or exceeds 50 percent of the market value of the structure as shown on the current Assessor's rolls or as determined by M.A.I. qualified appraiser either:
  - 1. Before the improvement or repair is started; or
  - 2. If the structure has been damaged and is being restored, before the damage occurred.
  - 3. The term does not, however, include either:
    - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
    - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- N. VARIANCE. A grant of relief from the requirements of this code which permits construction in a manner that would otherwise be prohibited by this code.

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

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

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

- A. The production of trees and the processing of forest products;
- B. Open space and to buffer conflicting uses (See Buffer);
- C. Watershed protection and wildlife and fisheries habitat;
- D. Soil protection from wind and water;
- E. Maintenance of clean air and water;
- F. Outdoor recreational activities and related support services and wilderness values compatible with these uses; and
- G. Grazing land for livestock.

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

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

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

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

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

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

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

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

GOLF COURSE. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and

often one or more artificial hazards. Special additional definitions apply to golf courses located in the Farm Zones per applicable Oregon Administrative Rules. See Article 64 of this code.

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

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

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

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

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

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

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

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

HEARINGS OFFICER. The Josephine County Land Use Hearings Officer.

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

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

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

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

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

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

- A. The person is engaged in making objects in the residence which are sold elsewhere including but not limited to arts and crafts, quilting, and/or sewing toys; or
- B. The person is engaged in a mail order business including but not limited to selling Avon or other cosmetics, Fuller Brush, toys, other items; or
- C. The person offers a service which is conducted within the residence including but not limited to computer programming, data entry, consulting, accounting, and/or bookkeeping;
- D. The business shall not have any employees;
- E. The business shall not have a sign;
- F. Customers shall not be coming to the residence to conduct business.

- G. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require delivery by a commercial vehicle or trailer (exceeding 2.5 tons GVW) not including a licensed parcel service or United States Mail.

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

HORTICULTURE. The science and pursuit of growing plants.

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

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

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

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

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

IMPROVEMENTS. Include the following:

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

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

INDOOR ANIMAL HUSBANDRY. The continuous, confined housing of livestock in a completely enclosed building with insulation and regulated ventilation and with all waste

material to be removed from the building and processed or otherwise disposed of as authorized by law and pursuant to any Conditional Use Permit issued under this code.

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

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

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

INTERIOR YARDS. The area enclosed by the designated setback.

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

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

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

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

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

- A. Whether the size, location and arrangement of counters and cabinets facilitate the storage, preparation and cooking of food; and
- B. Whether the number and location of electrical outlets accommodate the layout of kitchen appliances; and
- C. Whether the layout and plumbing accommodates the installation of a sink; and

- D. Whether the area functions as an independent living space because of intervening construction features and/or separate outside entry and exit; and
- E. Whether the area is served, or set up to be served, by 220 wiring or gas piping that can be used for a cooking stove; and
- F. Whether the area is designed and plumbed to function as a bathroom only.

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

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

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

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

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

LOT AREA. The total area within the boundary lines.

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

- A. A parcel of land in a recorded subdivision, legally created under the law in force at the time, as defined ORS 92.010;
- B. A parcel in an unrecorded subdivision that was filed with the Department of Commerce in accordance with regulations in effect at the time of filing;
- C. A parcel created by a land partitioning as defined in ORS 92.010; or
- D. By deed or land sales contract, if there were no applicable planning, zoning, or partitioning ordinances, codes, or regulations.

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

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

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

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

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



LOT LINE, FRONT. The property line abutting a public street is the front lot line. In the case of a corner lot, all property lines fronting a public street shall be considered front lot lines. In the case of a flaglot, the line in the main body of the lot that intersects the flagpole at an angle shall be the front lot line. Where two property lines intersect the flagpole at angles, the line most parallel to the front of the main residence shall be the front lot line. In cases where parcels do not abut a public street at any point, there shall be no front or rear lot lines and all lines shall be considered side lot lines.

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

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

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

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

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

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

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

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

- A. RESIDENTIAL TRAILER. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962 with a minimum size of at least 8 feet by 32 feet;
- B. MOBILE HOME. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;
- C. MANUFACTURED HOME. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human

occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards, (HUD standards), and regulations in effect at the time of construction.

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

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

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

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

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

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

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

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

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

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

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

- A. Excavation conducted by a landowner or tenant on the landowner's or tenant's property for the primary purpose of reconstructing or maintaining access roads to the property.
- B. Excavation or grading occurring in the process of farm or cemetery operations at the site of the farm or cemetery.
- C. Excavation or grading conducted within a road right-of-way or easement for the primary purpose of road construction, reconstruction or maintenance of the road right-of-way or easement where the excavation or grading occurs.
- D. Excavation of minerals in conjunction with site preparation for other development which has been authorized by a county Development Permit. The excavation may be in conjunction with plans for building pad, parking, landscape and drainage improvements, or other similar development activities.

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

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

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

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

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

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

MOTOR HOME. See the definition herein for RECREATIONAL VEHICLE.

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

- A. WILD RIVER AREAS. Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted;
- B. SCENIC RIVER AREAS. Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads;
- C. RECREATIONAL RIVER AREAS. Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

NATURAL AREAS. A designated physical or biological unit.

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

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

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

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

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

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

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

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

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

NURSING HOME. See the definition herein for CONVALESCENT HOME.

OAR. Oregon Administrative Rules.

OFFENSE. A violation of the provisions of this code.

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

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

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

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

ORS. Oregon Revised Statutes.

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

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

OVERNIGHT LODGINGS. Permanent, separately rentable accommodations which are not available for residential use. Overnight lodgings include hotel or motel rooms, cabins, and time-share units. Individually owned units may be considered overnight lodgings if they are available for overnight rental use by the general public for at least 45 weeks per calendar year

through a central reservation or check-in service. Tent sites, recreational vehicle parks, mobile homes, dormitory rooms, and similar accommodations do not qualify as overnight lodgings for this definition.

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

PAPA. A "post-acknowledgment plan amendment."

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

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

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

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

- A. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- B. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;
- C. The division of land resulting from the recording of a subdivision or condominium plat;
- D. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and other state laws applicable to farm and forest lands. However, any property divided by the sale or grant of property for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or
- E. A sale or grant by a public agency or public body of excess property resulting from the acquisition of land by state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. If the property line adjustment is approved, it shall be recorded in the Josephine County deed records.

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

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

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

- A. Participates in the hearing or review either orally or in writing; and
- B. Either:
  - 1. Was entitled to notice of the application prior to the hearing or review; or
  - 2. Would be adversely affected as defined in Section 11.030 by a final action of the Review or hearing body.

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

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

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

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

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

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

PLANNED UNIT DEVELOPMENT SUBDIVISION. A planned unit development is a subdivision that is permitted to depart from certain development and zoning standards and densities otherwise applicable to subdivisions. Departures must be justified by the accommodation of special geographical conditions at the site or by the provision of special benefits or amenities to the occupants or public not otherwise required by the applicable regulations. Planned unit development subdivisions are allowed in any zone where residential subdivisions are authorized, or in any commercial or industrial zone.

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

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

PLAT. The document that contains the final map and other applicable writings, signatures and approvals for the platting or replatting of a subdivision or partition or the platting of a property line adjustment that is prepared in conformance with this code and other applicable state requirements, and which must be recorded in the county deed records. The final plat is to be distinguished from the tentative plan. See the definition herein for TENTATIVE PLAN.

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

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

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

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

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

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

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

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

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

PROPERTY OWNER. The person or persons who own property.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

RECYCLING CENTER: A facility for the temporary collection, sorting and subsequent transport of non-putrescible solid waste. This use includes compacting of collected materials, but does not include any of the other processing activities described within the definition of

*Resource Recovery Facility.* Recycling centers are subject to special review procedures and standards for operation contained in Article 86 of this code.

REINFORCED PIER. A pier that has, at a minimum, a footing adequate to support the weight of a manufactured dwelling under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are placed in the hollows of the blocks and the hollows are filled with concrete or high strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.

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

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

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

RESIDENCE. See definition herein for DWELLING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. ARTERIAL STREET. A major street which functions to move large amounts of traffic. Generally consists of four lanes, or two lanes with adequate shoulders, and generally has higher speed limits than collector streets;
- B. MAJOR COLLECTOR. A rural road providing service between traffic generators and larger towns or with routes of higher classification, as designated on the Functional Highway Classification maps of Josephine County as periodically revised;
- C. MINOR COLLECTOR. Rural roads spaced at intervals consistent with population density to collect and distribute traffic from/to local rural roads and bring all developed areas within a reasonable distance of a collector system as designated on the Functional Highway Classification Maps of Josephine County as periodically revised;
- D. LOCAL. A rural road providing access between residential roads and road systems of higher order or providing alternate cross linkage between roads of higher order but not serving as a collector;

- E. RESIDENTIAL. A rural road providing direct access to abutting land and access to local rural roads or higher order road systems. The number of lots to be served shall be 60 or less;
- F. LIMITED RESIDENTIAL. A rural road providing direct access to abutting land and access to local rural roads or roads of higher order. This is a road intended exclusively for access to abutting property where the number of lots is permanently restricted because one end terminates in a cul-de-sac without a street plug. In areas where the topography is gently rising, less than 15% side slopes, the number of lots served shall be 10 or less and the length is not to exceed 1300 feet. In areas where the terrain is steeper, more than 15% side slopes, the number of lots served shall not exceed 20 lots and the length shall not exceed 2600 feet;
- G. RESTRICTED RESIDENTIAL. A rural road providing direct access to abutting land and access to local rural roads of a higher order. This is a road intended to serve a maximum of five (5) lots.

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

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

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

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

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

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

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

SERVICE STATION. See auto service station.

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

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

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

SIDEWALK. A pedestrian walkway with permanent surfacing.

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

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

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

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

- A. Based on a set of samples which in the judgement of an Oregon Registered Geologist is representative of aggregate material in the deposit, the material on the site meets:
  - 1. Oregon Department of Transportation (ODOT) specifications for base rock for air degradation and abrasion; and
  - 2. For material to be used in concrete, Portland cement and asphaltic concrete, the Oregon Department of Transportation (ODOT) specifications for sodium sulfate soundness (ODOT TM 206 test); and
  - 3. The estimated amount of material is more than 60,000 cubic yards; or
- B. The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.
- C. An aggregate site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I, Class II, or of a combination of Class II and Class I or Unique Soil on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996.
- D. Paragraph C above does not apply to an expansion area of an existing site if the operator of the existing site had on March 1, 1996 an enforceable property interest in the expansion area.

SILVICULTURE. Systematic management for the production of trees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBSTANTIAL DEVELOPMENT. Actions taken by the permit holder which encompass more than simple site preparation and grading. ~~The permit holder shall have accomplished significant physical development of the site which may include the commencement of one or more services (sewer, septic system, water, storm drainage, parking roads, etc.). If no physical improvements are required for the conditional use, operation of the project must have begun. The level of development must demonstrate a good faith commitment by the permit holder to beginning the project.~~ **When actual site and/or physical improvements that constitute a considerable part of the whole project have been lawfully undertaken, such improvements must encompass more than simple site preparation or surveying, and must include physical site, structure and/or facility development:**

**A. For individual home site approvals, substantial development shall mean:**

- 1. A development permit as required by the land use approval has been issued; and**
- 2. Evidence the following site improvements have been installed:**
  - a. A septic system, or approved connection to a sewerage system provided for the property; or,**
  - b. A system of delivering an approved source of water supply to the property (i.e. well report and registration approved by the Water**



**Resources Department of Oregon); verified for domestic use by a water quality report that confirms standards for potable water are met.**

**B. For Industrial/Commercial site development approvals, substantial development shall mean:**

- 1. A development permit as required by the land use approval has been issued; and**
- 2. Evidence the following site improvements have been installed:**
  - a. A septic system, or approved connection to a sewerage system provided for the property; or**
  - b. A system delivering an approved source of water supply to the property (i.e. well report and registration approved by the Water Resources Department of Oregon) adequate to support the approved use; and,**

**One of the following:**

- a. An approved foundation has been constructed for the use subject to land use approval; or**
- b. Final engineering plans have been reviewed and approved by the County for site development.**

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

- A. Before the improvement or repair is started; or
- B. If the structure has been damaged and is being restored, before the damage occurred.
- C. The term does not, however, include either:
  1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
  2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

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

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

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

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

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

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

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

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

TRAVEL TRAILER. See the definition herein for RECREATIONAL VEHICLE.

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

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

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

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

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

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

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

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

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

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

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

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

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

WET BAR. An accessory sink, used for convenience and is not used in conjunction with the preparation of food, located within the dwelling. A wet bar has the following dimensions: the

maximum size for the sink is 16 inches by 16 inches and is limited to one compartment; the waste line to the sink is limited to 1½ inches in size; and the P-trap is limited to 1¼ inches in size.

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

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

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

- A. Means a facility that produces wine with a maximum annual production of less than 50,000 gallons when the facility:
  1. Owns an on-site vineyard of at least 15 acres; or
  2. Owns a contiguous vineyard of at least 15 acres; or
  3. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
  4. Obtains grapes from any combination of 1, 2, or 3 above; or
- B. Means a facility that produces wine with a maximum annual production of more than 50,000 gallons and no more than 100,000 gallons when the facility:
  1. Owns an on-site vineyard of at least 40 acres; or
  2. Owns a contiguous vineyard of at least 40 acres; or
  3. Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery; or
  4. Obtains grapes from any combination of 1, 2, or 3 above; or
- C. Allows only the sale of:
  1. Wines produced in conjunction with the winery; and
  2. Items directly related to wine, the sales of which are incidental to retail sale of wine on-site. Such items include those served by a limited service restaurant as defined in ORS 624.010.
- D. The vineyards described in A and B above have been planted or the contract has been executed, whichever is applicable, as documented by the applicant prior to the issuance of a permit to establish the winery.

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

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

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

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

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

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

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

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



# Josephine County, Oregon

## PLANNING OFFICE

700 NW Dimmick Street Suite C/Grants Pass, OR 97526  
(541) 474-5421 / Fax (541) 474-5422  
E-mail: [planning@co.josephine.or.us](mailto:planning@co.josephine.or.us)

July 8, 2010

Planning Commission Members  
Lower Applegate CAC  
Williams CAC

Plan Amendment Specialist/DLCD/Salem  
DLCD/Ed Moore

## NOTICE OF LEGISLATIVE LAND USE DECISION

*Josephine County Planning Commission*

Notice is hereby given that a legislative land use decision regarding certain changes to the county's comprehensive plan or land use regulations has been made by the Josephine County Planning Commission.

**DECISION:** Approval of text amendments to the Josephine County Rural Land Development Code as follows:

- [1] A text amendment to the Josephine County Rural Land Development Code amending Section 41.030 providing a 2 year extension of time for land use permit approvals;
- [2] A text amendment to the Josephine County Rural Land Development Code amending Section 11.030, the definition of Substantial Development only; and
- [3] A new text amendment to the Josephine County Rural Land Development Code, Article 101.5 (Public Use Airport & Safety Overlay Zones), as it relates to the Grants Pass Airport located within the Merlin/North Valley Unincorporated Boundary. This section is to implement ORS 836.600 through 836.630 and policies of the Comprehensive Plan as they relate to the Grants Pass Airport.

**DATE OF DECISION:** June 27, 2011

**FINDINGS SIGNED:** July 5, 2011

**APPEAL INFORMATION:** Any person who participated, either orally or in writing, and was granted party status in the Planning Commission proceedings leading up to the adoption of the amendments may appeal this decision to the Josephine County Board of Commissioners by filing an appeal application with the Planning Office *within 10 days from the date this notice is mailed*, as determined by the postmark date. The appeal must utilize forms provided by the Planning Office, to include a written statement explaining the reasons for the appeal. A non-refundable \$2,000 filing fee must be paid at the time of filing the appeal.

**CONTACT:** Information about this decision may be obtained at the Planning Office during business hours (*business hours are limited; please see the bottom of this notice for hours*). The planner handling the file is David Wechner, 474-5421, Ext. 5428.

**CERTIFICATE OF MAILING**

I hereby certify that individual copies of the attached *Notice of Legislative Land Use Decision* issued on behalf of the Josephine County Planning Commission and dated **July 8, 2011** were deposited in the United States mail on the 8<sup>th</sup> day of July, 2011 addressed to the following persons or organizations:

DLCD/Ed Moore  
via email

Plan Amendment Specialist/DLCD  
635 Capitol Street NE, Suite 150  
Salem OR 97301-2450

Josephine County Planning  
700 NW Dimmick Street Ste C  
Grants Pass, OR 97526

Planning Commissioners

Williams CAC/Stephen Williams  
PO Box 472  
Williams OR 97544

Lower Applegate CAC  
Olaf Ahlstrom  
5713 Fish Hatchery Road  
Grants Pass OR 97527



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Anne Ingalls/Sr. Dept. Specialist  
Josephine County Planning

BEFORE THE RURAL PLANNING COMMISSION  
FOR JOSEPHINE COUNTY

In the Matter of a Proposed Text Amendment	}	
To the Rural Land Development Code	}	
Relating to Chapter 1 (General Provisions) and	}	FINDINGS
Chapter 4 (Application Procedures) by amending	}	OF
Various provisions regarding Definitions under	}	APPROVAL
Section 11.030 and Extension of Land Use	}	
Permits under Sections 41.030	}	

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SECTION 1. APPLICATION & HEARING INFORMATION

The Rural Planning Commission for Josephine County considered amendments to the *Rural Land Development Code (RLDC)* regarding various provisions for the extension of land use permits and the definition of “substantial development.” The amendments involve adding an opportunity for an additional 2 year extension for land use approvals and revising and clarifying the language found in the definition of substantial development.

The proposed amendments were considered at a public hearing on June 27, 2011 at the Anne Basker Auditorium, after notice of the hearing was published in the Grants Pass Daily Courier in conformance with the requirements of Article 32.040 of the RLDC at least 10 days prior to the initial hearing on June 27, 2011. A quorum of the Planning Commission was present at the hearing.

SECTION 2. TESTIMONY & EVIDENCE

Testimony and evidence was given and received during the hearing. The proceedings are summarized in written minutes of the hearing, and the Planning Director’s file, all submitted and received exhibits, documents, letters, and staff reports are included in these findings by reference.

SECTION 3. REVIEW STANDARDS & CRITERIA

The review procedures and standards for amending and updating the Josephine County Comprehensive Plan are contained in Goal 11, Policies 1 and 2 and Chapter 46 of the RLDC.

SECTION 4. FINDINGS OF FACT

The Planning Commission makes the following special findings of fact:

1. Due to the current economic environment the Board of County Commissioners, on request by a local developer and a land use consultant, directed Planning staff to amend the code to provide relief for all land use approvals affected by the current recession. The Commission recognized the amendment under Section 41.030 will allow all land use



approvals to qualify for a 2 year extension in addition to the current time limit of 4 years (total of 6 years).

2. The Commission finds that for reasons of language clarity, and for the purpose of providing a clear “standards based” decision, the current definition of substantial development should be revised as provided to the Commission. The amendments made herein will reflect the Commission’s finding.

#### SECTION 5. CONCLUSION & DECISION

Based upon the foregoing findings, and pursuant to the authority extended to the Planning Commission pursuant to Article 46.020.B.2 of the RLDC, to amend various sections of the Rural Land Development Code, and further based upon the good reasons as set forth above, and further based upon a vote of 3-2, the Planning Commission hereby adopts the following amendments, as follows:

#### ADMINISTRATION OF PERMITS

#### 41.030 - TIME LIMIT, EXTENSION & EXPIRATION OF PERMITS

- A. All land use permits, except development permits and permits which have special conditions relating to expiration and/or renewal attached to them, shall expire 2 years after the date findings of approval are executed unless substantial development occurs.
- B. If substantial development does not occur within the life of the permit, the permit holder may be granted request a one-time 2 year extension of the permit. A second 2 year extension may also be granted, so that total permit life may exceed 4 years, but in no case more than 6 years subject to the following findings:
  1. The request is made by filing a request for an extension on forms provided by the planning office, together with a pre-application fee; and
  2. The request is made before the original permit expires, or, if the request is made after the original permit expires, the ~~2-year~~ extension(s) shall include the time between expiration and extension so total permit life does not exceed 4 6 years; and
  3. No changes in applicable criteria-based state laws or rules or county land development regulations have occurred since the date of original approval. The Director may apply conditions to the extension as needed to implement changes in standards of approval only, using the Ministerial Review Procedures as set forth in Article 22.
  4. In the event changes in applicable criteria-based laws, rules or regulations occur, a new application and application fee shall be required. The application shall be processed using quasi-judicial review procedures per Article 22.040.

- C. See Article 11.030 for definitions of "Substantial Development," "Criterion of Approval" and "Standards of Approval." When the permit involves the establishment of a specific use or activity and the use or activity actually commences, but then discontinues for any continuous period of 2 years, the permit shall expire, and the use shall be considered abandoned, unless an extension is obtained in conformance with requirements of subsection B. of this Section.
- D. Time limits, extension and expiration of land use permits for dwellings within the Farm and Forest Zones shall be governed separately by Sections 64.070.D and 65.070.G of this code.

#### AMENDED TEXT WITHOUT CUES

#### 41.030 - TIME LIMIT, EXTENSION & EXPIRATION OF PERMITS

- A. All land use permits, except development permits and permits which have special conditions relating to expiration and/or renewal attached to them, shall expire 2 years after the date findings of approval are executed unless substantial development occurs.
- B. If substantial development does not occur within the life of the permit, the permit holder may be granted a 2 year extension of the permit. A second 2 year extension may also be granted, so that total permit life may exceed 4 years, but in no case more than 6 years subject to the following findings:
  1. The request is made by filing a request for an extension on forms provided by the planning office, together with a pre-application fee; and
  2. The request is made before the original permit expires, or, if the request is made after the original permit expires, the extension(s) shall include the time between expiration and extension so total permit life does not exceed 6 years; and
  3. No changes in applicable criteria-based state laws or rules or county land development regulations have occurred since the date of original approval. The Director may apply conditions to the extension as needed to implement changes in standards of approval only.
  4. In the event changes in applicable criteria-based laws, rules or regulations occur, a new application and application fee shall be required. The application shall be processed using quasi-judicial review procedures per Article 22.040.
  5. See, Article 11.030 for the definitions of "Substantial Development," "Criterion of Approval" and "Standards of Approval."
- C. Applications for an extension shall be processed using the Ministerial Review Procedures as set forth in Article 22.

- D. When the permit involves the establishment of a specific use or activity and the use or activity actually commences, but then discontinues for any continuous period of 2 years, the permit shall expire, and the use shall be considered abandoned, unless an extension is obtained in conformance with requirements of subsection B. of this Section.
- E. Time limits, extension and expiration of land use permits for dwellings within the Farm and Forest Zones shall be governed separately by Sections 64.070.D and 65.070.G of this code.

#### 11.030 – TERMS DEFINED

Substantial Development. Actions taken by the permit holder which encompass more than simple site preparation and grading. ~~The permit holder shall have accomplished significant physical development of the site which may include the commencement of one or more services (sewer, septic system, water, storm drainage, parking roads, etc.). If no physical improvements are required for the conditional use, operation of the project must have begun. The level of development must demonstrate a good faith commitment by the permit holder to beginning the project.~~ **When actual site and/or physical improvements that constitute a considerable part of the whole project have been lawfully undertaken, such improvements must encompass more than simple site preparation or surveying, and must include physical site, structure and/or facility development:**

A. **For individual home site approvals, substantial development shall mean:**

- 1. **Approved septic system has been installed, or approved connection to a sewerage system provided for the property; and,**
- 2. **A development permit required by the land use approval has been issued.**

B. **For Industrial / Commercial site development approvals, substantial development shall mean:**

- 1. **Approved septic system has been installed, or approved connection to a sewerage system provided for the property; and**
- 2. **A development permit required by the land use approval has been issued; and**
- 3. **One of the following:**
  - a. **An approved foundation has been constructed for the use subject to land use approval; or**
  - b. **Final engineering plans have been reviewed and approved by the County for site development.**

AMENDED TEXT WITHOUT CUES

11.030 – TERMS DEFINED

Substantial Development. Actions taken by the permit holder which encompass more than simple site preparation and grading. When actual site and/or physical improvements that constitute a considerable part of the whole project have been lawfully undertaken, such improvements must encompass more than simple site preparation or surveying, and must include physical site, structure and/or facility development:

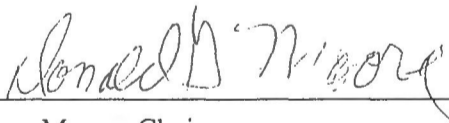
A. For individual home site approvals, substantial development shall mean:

1. Approved septic system has been installed, or approved connection to a sewerage system provided for the property; and,
2. A development permit required by the land use approval has been issued.

B. For Industrial / Commercial site development approvals, substantial development shall mean:

1. Approved septic system has been installed, or approved connection to a sewerage system provided for the property; and
2. A development permit required by the land use approval has been issued; and
3. One of the following:
  - a. An approved foundation has been constructed for the use subject to land use approval; or
  - b. Final engineering plans have been reviewed and approved by the County for site development.

DONE AND DATED THIS 5 DAY OF July, 2011.



Don Moore, Chair

Josephine County Rural Planning Commission

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NW Dimmick Street  
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ants Pass, OR 97526



DEPT OF

SEP 12 2011

LAND CONSERVATION  
AND DEVELOPMENT

DLCD/Text Amendment Specialist  
635 Capitol Street NE Ste. 150  
Salem OR 97301-2540