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**Updated 9-21-18**

COPY

BEFORE THE BOARD OF CURRY COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment to )  
The Curry County Code Repealing )  
Article One Division One Regarding )  
The Local Contract Review Board )

ORDINANCE NO. 05-04

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1 TITLE

This ordinance shall be known as Ordinance 05-04, an ordinance amending the Curry County Code.

SECTION 2 FINDINGS

A. The 2003 Legislature, through HB 2341, repealed the public contracting laws under ORS Chapter 279 (with the exception of products of disabled individuals) effective March 1, 2005.

B. In concert with these changes, Section 334 of HB 2341 provides that contracting rules and exemptions adopted by local agencies such as counties will also expire on March 1, 2005.

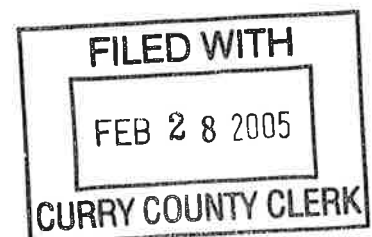
C. Based upon these changes in law, it is appropriate for the County to adopt new public contracting rules.

D. It is in the best interests of the County that local public contracting rules be adopted by order rather than ordinance to maintain greater flexibility in amending rules.

E. Notwithstanding Finding "B" above, it is appropriate to repeal Article One Division One of the Curry County Code (Ordinance No. 00-01) so that the record is clear that this ordinance is repealed.

SECTION 3 REPEALER

Article One Division One of the Curry County Code that was previously adopted by Ordinance 00-01 is hereby repealed in its entirety.



SECTION 4 EMERGENCY CLAUSE

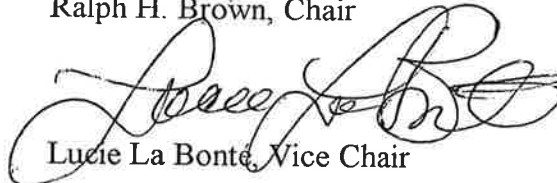
Based upon the above findings, and the need for the ordinance to be effective on March 1, 2005, to be in compliance with HB 2341 of 2003, the Board finds that an emergency exists. More generally, the Board of Commissioners for the County of Curry deems this ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this ordinance shall be in effective on March 1, 2005.

DATED this 25<sup>th</sup> day of February, 2005.

BOARD OF CURRY COUNTY COMMISSIONERS



Ralph H. Brown, Chair



Lucie La Bonte, Vice Chair



Marlyn Schafer, Commissioner



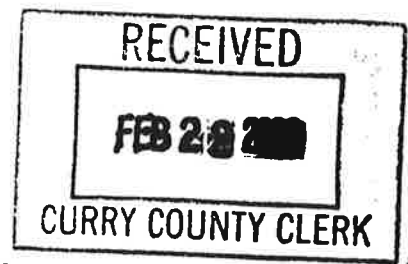
Recording Secretary

Reviewed as to Form:



M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 2/25/05  
Second Reading: N/A  
Emergency Adoption: yes  
Effective Date: 3/01/05



IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment to the )  
Curry County Code Repealing and )  
Replacing Article One Division One )  
Regarding the Local Contract. )  
Review Board )

ORDINANCE NO. 00-01

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1 TITLE

This Ordinance shall be known as Ordinance 00-01, an ordinance amending the Curry County Code.

SECTION 2 AUTHORITY AND FINDINGS

The Board makes the following findings:

- A. ORS 279.055 authorizes a county to adopt an ordinance establishing a Local Contract Review Board to consider and grant exemptions from competitive bidding on certain public contracts or classes of public contracts. Article One Division One of Ordinance 96-7 and its predecessor ordinance established the Board as the County's Local Contract Review Board. It also adopted a series of rules which included standard exemptions from competitive bidding for classes of public contracts.
- B. The Board, sitting as the Local Contract Review Board, is authorized under ORS 279.055 to adopt and from time to time to amend administrative rules prescribing the procedures and regulations for administration of public contracts. This ordinance is necessary to substantially amend Article One Division One of Ordinance 96-7 and re-establish the Board as the Local Contract Review Board.
- C. It is appropriate for the County to amend its contracting procedure and laws in light of changes by the 1999 Legislature including those found in Oregon Laws 1999, Chapter 29.
- D. The Board finds that the exemption of certain contracts or classes from formal competitive bidding requirements as set forth in the attached Exhibit "A" are either



expressly authorized by state law or will not encourage favoritism in public contracts or substantially diminish competition and will result in cost savings to the county because:

- 1) The nature of the particular classes of contracts exempted makes competitive bidding pointless or not cost effective in such cases;
- 2) Each exemption requires alternative contracting procedures which will ensure reasonable competition and the best contract price for the public; or
- 3) The exemptions are substantially similar to the exemptions adopted by the State of Oregon Department of General Services contained in OAR Chapter 125, Divisions 300, 310, 320, 330 340, 350 and 360 pursuant to its authority to act as the public contract review agency for the State of Oregon.

### SECTION 3 PURPOSE

The purpose of this Ordinance is to amend Article One Division One of Ordinance 96-7 which is outdated and in need of revision.

### SECTION 4 REPEALER

Article One Division One of the current Code which includes Sections 1.01.040 to Sections 1.01.130 is hereby repealed in its entirety.

### SECTION 5 ADOPTION

Exhibit "A", attached hereto and incorporated herein by this reference, is adopted as an amendment to the Curry County Code.

### SECTION 6 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

### SECTION 7 EMERGENCY CLAUSE; EFFECTIVE DATE

This Ordinance, being necessary for the health, safety and welfare of the residents of Curry County, and an emergency having been unanimously declared to exist, shall become

effective upon its passage.

ADOPTED this 22 day of February, 2000.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Cheryl Thorp, Chair

  
Bill Roberts, Vice Chair

  
Lloyd Olds, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Counsel

First Reading: February 7, 2000  
Second Reading: February 22, 2000  
Emergency Adoption: \_\_\_\_\_  
Effective Date: February 22, 2000

## EXHIBIT "A"

### ARTICLE ONE - GENERAL ADMINISTRATION

#### DIVISION ONE: LOCAL CONTRACT REVIEW BOARD AND PUBLIC CONTRACTING

##### SECTION 1.01.010 PURPOSE

- (1) The purpose of this Section is to qualify the Board of Curry County Commissioners as a Local Contract Review Board under ORS 279.055, and to establish a method of establishing procedures and regulations for the administration of public contracts.
- (2) The rules found herein apply to Curry County. The Attorney General's Contract Rules adopted under ORS 279.049 do not apply to Curry County.

##### SECTION 1.01.020 DEFINITIONS

The following words and phrases mean:

- (1) "Board": The Board of Commissioners of Curry County acting under ORS 270.055 as the Local Contract Review Board for County.
- (2) "Commission": The Board of Commissioners of Curry County.
- (3) "Competitive Bidding": The solicitation of competitive offers which follow the formal process for advertising, bid and bid opening required by ORS Chapter 279 or applicable rules of the Board.
- (4) "Competitive Quotes": Offers from competitive vendors. Solicitation may be by advertisement or by request to vendors to make an offer. Solicitation of the offer may be in writing or oral.
- (5) "Public Contracting Officer": Unless the Board should designate another official as the Public Contracting Officer in the case of a particular contract or class of contracts, the following county officials are the Public Contracting Officers for Curry County:
  - (a) The Chair of the Board of County Commissioners or his/her designee for county public contracts in general.
  - (b) The Roadmaster or his/her designee for county public contracts relating to matters within the area of responsibility of the Road Department.

- (6) "Public Contract": Any purchase, lease, or sale of personal property, public improvements, or services other than agreements which are exclusively for personal services.

#### SECTION 1.01.030 LOCAL CONTRACT REVIEW BOARD

The Commission is hereby reappointed to serve as the Local Contract Review Board for Curry County government under ORS 279.055. The Local Contract Review Board is vested with all authority by the laws and Constitution of the State of Oregon, including the authority to make rules prescribing public contracting. As part of its role the Commission shall serve as the Contract Review Board for local public agencies headquartered within Curry County that do not have their own review board. The Board may impose fees not to exceed the actual cost incurred by the Board when serving a local public agency.

#### SECTION 1.01.040 COMPETITIVE BIDS; WHEN NOT REQUIRED

- (1) Every contract or class of contracts for the purchase of goods or services shall be based upon the Competitive Bidding except for the following:
- (a) A contract or class of contracts made exempt by Commission or Board action under ORS 279.015; or
  - (b) A contract or class of contracts made exempt by Board action under Sections 1.01.050 or 1.01.060 of these rules; or
  - (c) A contract or class of contracts which falls under one of the categories listed in Subsection (2) of this Section.
- (2) Schedule of Exemptions. The following categories of contracts are exempt from Competitive Bidding provided the department head or department head's designee identifies the basis for the exemption. In circumstances where the basis for the exemption is not readily apparent, the department head or designee shall consult with county legal counsel:
- (a) Contracts made with other public agencies or the federal government.
  - (b) Contracts which are exclusively for personal services. Such contracts may include incidental materials such as written reports or opinions, architectural or engineering renderings and other supplemental materials required for providing the services.
  - (c) Contracts for the purchase of goods or services where the rate or price for the

goods or services being purchased is established by federal, state or local regulatory authority.

- (d) Contracts for the purchase of copyrighted material.
- (e) Contracts for the purchase of advertising, including legal advertising intended for the purpose of giving public notice.
- (f) Purchases of goods or services from a supplier when the price of the goods or services has been established under a previously competitive bid requirements contract.
- (g) Contracts for the purpose of investment of public funds or the borrowing of funds.
- (h) Contracts for insurance.
- (i) Contracts for purchase or acquisition of computer hardware or software including telecommunications products and telecommunications services, subject to the following:
  - (i) If the contract does not exceed \$25,000., informal quotes shall be obtained, from three or more qualified vendors, if recommended by the Data Processing Department. When deciding whether to obtain competitive quotes the Data Processing Department shall consider the operational needs of the Agency Department acquiring the product.
  - (ii) If the contract exceeds \$25,000., written proposals from five or more qualified vendors shall be solicited or an advertisement in a major trade publication of general circulation shall be published.
- (j) Contracts for purchase where there is only one seller or price of a product of the quality required available within a reasonable purchase area.
- (k) Contracts for purchase of goods, services (other than personal services), or for public improvements where the amount does not exceed \$25,000., subject to the following rule:
  - (i) Where contracts are for more than \$5,000., at least three Competitive Quotes shall be obtained. If three quotes are not reasonably available as determined by the public official soliciting the quote, a lesser number will suffice provided that a written record is made of the effort to obtain the quote. Although the contract must not necessarily be awarded

based on the lowest Competitive Quote, a written record shall be made containing the source and amount of the quotes received and setting forth the reasons for believing that awarding the contract without Competitive Bidding would result in cost savings.

- (l) Any contract amendment, including change orders, extra work, field orders, or other change in the original specifications which changes the original contract price or alters the work to be performed, may be made with the contractor without Competitive Bidding subject to the following conditions:
  - (i) The original contract imposes a binding obligation on the parties covering the terms and conditions regarding the changes in the work; or
  - (ii) The amended contract does not substantially alter the character of the project; or
  - (iii) If the amendment has the effect of substantially altering the character of the project, the amount of the aggregate cost change resulting from all amendments creating such new obligations shall not exceed 10% of the initial contract.
- (m) Contracts for the purchase of services, equipment or supplies for the maintenance, repair or conversion of existing equipment are exempt if required for the efficient utilization of the equipment. Where practicable in the judgment of the department head, competitive quotes shall be obtained.
- (n) Contracts for the purchase of asphaltic concrete or rock where the material is to be used for maintenance. Where practicable, competitive quotes shall be obtained.
- (o) Contracts for the purchase of materials where competitive bids for the same materials have been obtained by the State of Oregon, and the contract is to be awarded to the party to whom the contract was awarded by the State so long as the price of the materials is the same or lower than that paid by the State.
- (p) Contracts for the purchase of food or food supplies.
- (q) Contracts for the purchase of goods or services made exempt for state agencies under OAR Chapter 125, Division 30.
- (r) Purchase of items or services of an artistic nature.

- (s) Contracts for equipment repair or overhaul provided that service and/or parts required for repair or overhaul are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; or service and/or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source.
- (t) Contracts for periodicals, including journals, magazines, and similar publications.
- (u) Contracts for the purchase or lease of ballots, ballot pages and ballot cards or equipment necessary to conduct elections.
- (v) Contracts for the purchase of gasoline, diesel fuel, heating oil, lubricants, and other petroleum products.
- (w) Contracts for removal, cleanup or transport of hazardous materials. As used in this subsection "hazardous materials" include any material or substance which may pose a present or future threat to human health or the environment, including Hazardous Waste as that term is used in the Resources Conservation and Recovery Act (42 USC 6901 et seq. ).
- (x) Contracts for employee benefits.
- (y) Contracts for purchase or lease of office photocopiers.
- (z) Contracts for the purchase of used equipment. If the purchase is for \$15,000 or less, no further requirements need be met. However, if the purchase is for greater than \$15,000, the following condition applies:
  - (i) The contracting officer or the governing body must determine that there is no comparable used equipment in a reasonable purchase area that can be purchased at greater cost savings to the County.

#### SECTION 1.01.050 EXEMPTIONS FOR ADDITIONAL CONTRACTS

The Board may, by resolution, exempt other contracts from Competitive Bidding if it finds:

- A. The lack of bids will not result in favoritism, or substantially diminish competition in awarding the contract; and
- B. The exemption will result in substantial cost savings. In making such findings, the Board may consider the type, cost, amount of the contract, number of persons

available to bid, and such other factors as the Board may deem appropriate.

#### SECTION 1.01.060 EMERGENCY CONTRACTS

- (1) **General Rule.** A contract may also be exempted from Competitive Bidding if the Board or the Commission, by majority vote of members present, determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the meeting at which the determination is made.
- (2) **Emergency Exemption by Public Contracting Officer.** A contract under \$25,000 may also be exempted from Competitive Bidding if the Public Contracting Officer determines that emergency conditions require prompt execution of the contract. A determination of such an emergency shall be entered into the record of the acquisition of the materials or services purchased.
- (3) **"Emergency" Defined.** For purposes of this section, an "emergency" consists of circumstances creating a substantial risk of loss, damage, interruption of services or threat to public health, safety, welfare or property that could not have been reasonably foreseen and requires prompt execution of a contract to remedy the condition.

#### SECTION 1.01.070 PROCEDURES AND REGULATIONS FOR THE ADMINISTRATION OF PUBLIC CONTRACTS

Additional County procedures and regulations for the administration of public contracts in Curry County shall be adopted by order of the Commission.

#### SECTION 1.01.080 ADDITIONAL AUTHORITY OF THE BOARD

In addition to the powers and duties established by this division, the Commission shall have such additional powers as are authorized by law.



## ARTICLE ONE

### DIVISION TWO

### UNCLAIMED PROPERTY IN THE POSSESSION OF THE CURRY COUNTY SHERIFF

#### SECTION 1.02.010

#### SCOPE AND DEFINITION

(1) The provisions of Sections 1.02.010-1.02.070 shall apply to unclaimed property which is valued at less than \$100.00.

(2) In Sections 1.02.010-1.02.070 "property" shall mean any property, including money, which is valued at less than \$100.00.

#### SECTION 1.02.020

#### REPORT -- DISPOSAL AUTHORIZATION REQUEST

Whenever the sheriff of the county has any property, including money, in his possession, the ownership of which is unknown and which is unclaimed for thirty days after the property came into his possession, the Sheriff may report the fact to the Board of County Commissioners and request authority to dispose of it as provided in this Division.

#### SECTION 1.02.030

#### NOTICE OF SALE -- PRIOR CLAIM OF OWNERSHIP

The Board of County Commissioners shall act upon the request of the Sheriff within thirty days after the receipt of the request. If the request is to have the property disposed of by public sale and if the Board approves the request, the County Accountant shall post written or printed notice of sale in three public places within the county at least ten days before the sale. The County Accountant shall also publish notice of the sale once in a newspaper of general circulation in the County at least ten days before the auction. The notice shall describe the property and shall state the time and place of public sale at which the property may be purchased by the highest bidder. Until the date of the sale, the property may be claimed at the Sheriff's Office. If ownership is proved, the Sheriff shall turn the property over to the owner and cancel the sale insofar as the claimed property is concerned.

#### SECTION 1.02.040

#### RESERVED

SECTION 1.02.050

DISPOSITION OF SALE PROCEEDS

The County Accountant shall conduct the sale and shall deposit the proceeds, after deducting the cost of the sale, together with any other money included in the notice, in the county treasury to the credit of the county general fund.

SECTION 1.02.060

COUNTY USE OF UNCLAIMED PROPERTY

In lieu of a sale of the property under Sections 1.02.020 through 1.02.050 of this Division, the Sheriff with the approval of the Board of County Commissioners, may transfer any portion of unclaimed property to the county for use by the county. Such transfer of property may be donated by the county to any charitable organization when the public interest will be furthered.

SECTION 1.02.070

CLAIM BY OWNER AFTER DISPOSITION

If the property is sold as provided in this Division, and if, within six months after the sale, the owner of the property files with the Board of County Commissioners a claim for the property and proves the owner's right to it, the Board shall direct that the money or the amount received for the property, less expenses of the sale, shall be paid to the owner from the county treasury. The Board shall not approve any claims filed more than six months after the sale. If the property is transferred to the county in lieu of sale, it may be claimed by the lawful owner at any time within one year from the transfer to the county. The Sheriff in disposing of the property in the manner provided in this Division shall not be liable to owner of the property.

SECTION 1.02.080

PROCEDURE FOR DISPOSITION OF UNCLAIMED  
PROPERTY VALUED AT \$100.00 OR MORE

Unclaimed property valued at \$100.00 or more shall be disposed of in accordance with the procedures outlined in ORS 98.005-98.025.

## ARTICLE ONE

### DIVISION THREE

### BONDING FOR COUNTY OFFICIALS

#### SECTION 1.03.010

#### OFFICIAL UNDERTAKING OF SHERIFF, CLERK, TREASURER, ASSESSOR, SURVEYOR

(1) The official undertaking of the above officials must be given to the county in the sum of \$10,000.00, with two or more sufficient sureties, who must be residents of the county, and have the qualifications of bail upon arrest, or a surety company authorized to do business in this state.

(2) The undertaking must be approved by the Board of Commissioners and filed with the County Clerk.

(3) The undertaking may be substantially in the following form:

“Whereas at an election held on November \_\_\_\_\_, 19\_\_\_\_, AB was duly elected county \_\_\_\_\_ (title)\_\_\_\_\_ for Curry County, we, CD and EF, hereby undertake that if AB shall not faithfully keep, account for and pay over according to all moneys that may come into AB’s hands by virtue of the office of \_\_\_\_\_ (title)\_\_\_\_\_, and otherwise well and faithfully perform the duties of that office, then we, or either of us, will pay to the County of Curry the sum of \$10,000.00.”

#### SECTION 1.03.020

#### PAYMENT OF PREMIUMS ON BONDS OF THE SHERIFF, CLERK, TREASURER, ASSESSOR, SURVEYOR

The Board of Commissioners shall pay out of the general fund the premiums or corporate surety bonds furnished by the Sheriff, Clerk, Treasurer, Assessor, Surveyor.

#### SECTION 1.03.030

#### WHEN NEW UNDERTAKING REQUIRED; EFFECT OF DEFAULT

When it appears to the Board of Commissioners that the sureties in an official undertaking are dead or insufficient, or are no longer residents of the county, the Board, upon reasonable notice to the officer giving the undertaking, may require the officer to give a new undertaking with sufficient sureties. In default of compliance with the requirement, the office is to be deemed vacant.

SECTION 1.03.040

BLANKET UNDERTAKING

The County may provide through its insurance program for a blanket undertaking to cover all county employees and elected officials. If this procedure is utilized it shall be approved by the County Commissioners and filed with the County Clerk.

## ARTICLE ONE

### DIVISION FOUR      CREATION OF THE OFFICE OF COUNTY ACCOUNTANT

#### SECTION 1.04.010      CREATION OF THE OFFICE OF COUNTY ACCOUNTANT

The Office of Curry County Accountant is hereby created effective December 21, 1992.

#### SECTION 1.04.020      DUTIES, POWERS, AND FUNCTIONS

The County Accountant shall hold all the duties, powers and functions as provided by law including acting as the County Fiscal Officer, appointing deputies, and performing duties as may be required in conformance with law from time to time by the Board of Commissioners.

#### SECTION 1.04.030      QUALIFICATION FOR POSITION

Within 30 days from the appointment of a person as County Accountant, said person shall qualify for the position by doing the following:

- (1) File with the County Clerk an oath to faithfully perform the duties of County Accountant as prescribed by law.
- (2) Execute an official bond in conformance with requirements of ORS Ch. 210, with sureties to be approved by the Board of Curry County Commissioners in the amount of \$20,000. The premium for the bond shall be paid by the Board of Commissioners.

#### SECTION 1.04.040      ADDITIONAL BONDS OR BOND COVERAGE

The County Account shall provide additional bonds or bond coverage as may be required by the Board of Curry County Commissioners, the premium(s) being paid by the Board of Commissioners.

#### SECTION 1.04.050      FISCAL SERVICES DEPARTMENT

The Fiscal Services Department shall be managed and supervised by the County Accountant.

SECTION 1.04.060

APPOINTED POSITION

The County Accountant shall be appointed by and serve at the pleasure of the Board of Curry County Commissioners.

## ARTICLE ONE

### DIVISION FIVE                      INVENTORYING IMPOUNDED MOTOR VEHICLES

#### SECTION 1.05.010                      RESERVED

#### SECTION 1.05.020                      AUTHORITY

This Division is enacted pursuant to ORS 203.035.

#### SECTION 1.05.030                      PURPOSE

The purpose of this Division is to provide authority for peace officers to conduct inventories of impounded vehicles. Such inventories are necessary to protect private property while in police custody, to reduce or prevent the assertion of false claims for lost or stolen property, and to protect people and property from any hazardous condition or instrumentality that may be associated with the vehicles.

#### SECTION 1.05.040                      DEFINITION

“Impounded Vehicle” means any motor vehicle that is lawfully impounded.

#### SECTION 1.05.050                      INVENTORY POLICY

Any peace officer who impounds a motor vehicle shall conduct an inventory of said motor vehicle as soon as practical. Inventories of impounded vehicles under this Division shall be conducted according to the policies and procedures of the law enforcement agency.

#### SECTION 1.05.060                      INVENTORY PROCEDURES

(1) Every vehicle lawfully impounded by this Sheriff's Office shall have its contents inventoried. The purpose of the inventory is:

- (a) To protect private property while in custody;
  - (b) To reduce or prevent the assertion of false claims for lost or stolen property;
- and

(c) To protect people and property from any hazardous condition or instrumentality that may be associated with the vehicle.

(2) The inventory of property in a vehicle is not a search for evidence of criminal activity. Items should be scrutinized only to the extent necessary to complete an accurate inventory list. Once completed, the list shall be made a part of the narrative section of the appropriate report. The inventory should occur as soon as practicable after the vehicle has been impounded.

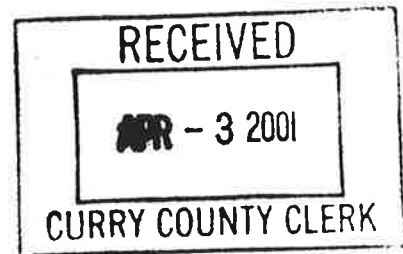
(3) Areas to be inventoried include the entire passenger compartment, uncovered hatchback, unlocked glove boxes, and unlocked trunks. The contents of locked areas shall be inventoried if there is an unlocking mechanism provided within the vehicle.

(4) Members may seize contraband or evidence of criminal activity discovered during the inventory. However, absent consent from the owner to open a closed container, or probable cause to believe the contents of a closed container are subject to search or seizure without a warrant, closed containers found in the course of an inventory search shall remain closed unless the containers appears insecure or its contents appears imminently harmful.

(5) If, during the inventory, extraordinary valuable property (jewels, watches, cash) is discovered, that property shall be entered into an evidence locker for safekeeping.

(6) All items seized during an inventory shall be listed on a Property/Evidence form. A property receipt relating to the seized property shall be given to the owner of the seized property or to the owner/operator of the vehicle. If no owner is available, the property receipt may be left in a conspicuous place in or about the vehicle.





IN THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY

2

In the Matter of an Ordinance                     )  
Repealing Article One Section                    )  
Six of the Curry County Code                    )     ORDINANCE NO. 01-05

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1   TITLE

This ordinance shall be known as Ordinance 01-05, an ordinance amending the Curry County Code.

SECTION 2   FINDINGS

On February 26<sup>th</sup>, 2001, the Public Safety Coordinating Council (LPSCC) recommended that the Curry County Community Justice Department cease to exist as a consolidated department effective July 1<sup>st</sup>, 2001, and the Board of Curry County Commissioners is in agreement with that recommendation.

SECTION 3   REPEALER

Article One Section Six of the Curry County Code which was previously adopted by Ordinance 98-4 and which established the Curry County Community Justice Department is hereby repealed in its entirety.

SECTION 4   EMERGENCY CLAUSE

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this ordinance shall be in full force and effect on July 1<sup>st</sup>, 2001.

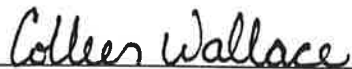
DATED this 2<sup>nd</sup> day of April, 2001.

BOARD OF CURRY COUNTY COMMISSIONERS


  
Marlyn Schafer, Chair

  
Lucie La Bonté, Vice Chair

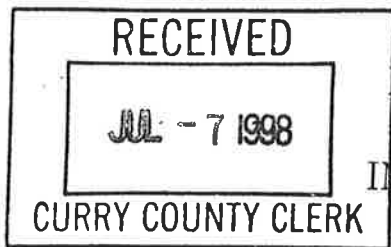
  
Cheryl Thorp, Commissioner

  
Recording Secretary

Reviewed as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading 3/19/01  
Second Reading 4/2/01  
Emergency Adoption Yes  
Effective Date 7/1/01



IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of An Amendment  
to the Curry County Code

)  
)

ORDINANCE NO. 98-4

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1: TITLE

This ordinance shall be known as Ordinance 98-4, an ordinance amending the Curry County Code.

SECTION 2: ADOPTION

Exhibit "A," attached hereto and incorporated by reference, is adopted as an amendment and new Section to the Curry County Code.

SECTION 3: SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

DATED this 6<sup>th</sup> day of July 1998.

BOARD OF CURRY COUNTY COMMISSIONERS


Attest:

Heidi Speers  
Recording Secretary

\_\_\_\_\_  
T. V. Skinner, Chairman

  
Lloyd Olds, Vice Chairman

Reviewed As To Form:

  
M. Gerard Herbage  
Curry County Counsel

  
Bill Roberts, Commissioner

First Reading 5-18-98  
Second Reading 6-1-98  
Third Reading 7-6-98  
Emergency Adoption NONE  
Effective Date 10-5-98

## ARTICLE ONE - GENERAL ADMINISTRATION

### DIVISION SIX

### DEPARTMENT OF COMMUNITY JUSTICE

#### SECTION 1.06.010

#### AUTHORITY

This division is enacted pursuant to ORS 203.035

#### SECTION 1.06.020

#### POLICY AND PURPOSE STATEMENT

The Board of Curry County Commissioners Finds and Follows:

- (1) That the residents of Curry County should be entitled to the highest level of public safety; and
- (2) That increasing rates of juvenile and adult crime pose a threat to our residents being and feeling safe; and
- (3) That a comprehensive crime reduction strategy requires a balanced emphasis on crime prevention, early intervention and effective corrections efforts; and
- (4) That the participation and restoration of victims should be a central responsibility of the criminal justice system; and
- (5) That Community Justice embodies a philosophy that engages the community to lead all crime prevention and crime reduction strategies; and
- (6) That there is a need for more productive use of limited tax dollars by the possible elimination of duplicated and clerical services.

#### SECTION 1.06.030

#### ADOPTION OF COMMUNITY JUSTICE

The Curry County Board of Commissioners adopts Community Justice as the central mission and purpose of the County's community corrections efforts.

SECTION 1.06.040

ESTABLISHMENT OF THE DEPARTMENT OF  
COMMUNITY JUSTICE

The County of Curry hereby creates a Department of Community Justice to replace the current Department of Corrections, and the Juvenile Department. The consolidation of both departments will take place on 10.5.98, and operate under the Department of Community Justice.

SECTION 1.06.050

GOAL OF THE DEPARTMENT OF COMMUNITY  
JUSTICE

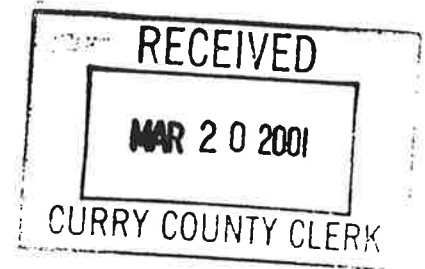
The Department of Community Justice shall work in partnership with the County's citizenry to carry out effective crime prevention, crime control and crime reduction initiatives.

SECTION 1.06.060

GENERAL SCOPE OF PROGRAMS OF THE  
DEPARTMENT OF COMMUNITY JUSTICE

Within the Department of Community Justice the County shall provide programs for victims of crimes to be restored, for offenders to be held accountable and to gain competencies to become responsible and productive citizens, and for the community to have access to the organization for a broad range of crime fighting efforts.

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON



In the Matter of An Amendment )  
to the Curry County Code by Adding )  
a New Article One, Division Seven )

ORDINANCE NO. 01-04

H

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1: TITLE

This Ordinance shall be known as Ordinance 01-04, an ordinance amending the Curry County Code which addresses "Maintenance of Order and Decorum of Board of Commissioner Meetings".

SECTION 2: ADOPTION

Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment and new Section to the Curry County Code.

SECTION 3: SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

SECTION 4: EMERGENCY CLAUSE

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be in full force and effect on its passage.

DATED this 19 day of March, 2001.

BOARD OF CURRY COUNTY COMMISSIONERS


  
Marilyn Schafer, Chair

  
Lucie La Bonté, Vice Chair

  
Cheryl Thorp, Commissioner

  
Recording Secretary

Reviewed as to Form:

  
M. Gerard Herbage  
Curry County Counsel

First Reading 3/19/01  
Second Reading none  
Third Reading none  
Emergency Adoption yes  
Effective Date 3/19/01



## EXHIBIT "A"

### ARTICLE ONE - GENERAL ADMINISTRATION

#### DIVISION SEVEN    MAINTENANCE OF ORDER AND DECORUM OF BOARD OF COMMISSIONER MEETINGS

##### SECTION 1.07.010    DEFINITIONS

As used in Article One, Division Seven, the following definitions apply unless the context indicates otherwise:

- (1) "Board" means the Board of Curry County Commissioners.
- (2) "Presiding Officer" means the Chair, or in his or her absence, the Vice Chair, of the Board.
- (3) "Unreasonably Loud or Disruptive Language" means language which obstructs the work or the conducting of business of the Board.

##### SECTION 1.07.020    AUTHORITY TO MAINTAIN ORDER

It shall be the duty of the presiding officer to maintain order during Board meetings.

##### SECTION 1.07.030    CAUSE FOR REMOVAL OF A PERSON FROM A BOARD MEETING

Any of the following conduct shall be sufficient cause, at the direction of the presiding officer, for removal of any person from the Commissioners' Hearing Room, or other meeting place, for the duration of the meeting:

- (1) Use of unreasonably loud or disruptive language.
- (2) Making loud or disruptive noise.
- (3) Engaging in violent or distracting action.
- (4) Refusal to obey the rules of conduct providing within this Division.
- (5) Refusal to obey a lawful order of the presiding officer or an order which has been approved by a majority of the Board.

#### SECTION 1.07.040 WARNING

Before the removal of any person from the Commissioners' Hearing Room or other meeting place for conduct outlined in Section 1.07.030 above, that person may be given a warning by the presiding officer to cease his or her conduct.

#### SECTION 1.07.050 OTHER OPTIONS IN THE EVENT OF DISRUPTION

If a meeting is disrupted by members of the audience, the presiding officer or a majority of the Board may call a recess or order that the Commissioners' Hearing Room, or other meeting place be cleared.

#### SECTION 1.07.060 LAW ENFORCEMENT ASSISTANCE

In the event that any of the conduct outlined in Section 1.07.030 occurs which is beyond the ability of the presiding officer to control, that officer is empowered to instruct a law enforcement agency to preserve order.



ORDINANCE NO. 03-04

## SECTION 1: TITLE

## SECTION 2: ADOPTION

### SECTION: 3 SEVERANCE CLAUSE

## SECTION 4: EMERGENCY CLAUSE

Page 1


ordinance shall be effective on September 1, 2003, (to allow sufficient time for the merger of two departments, while expediting the time for implementation.)

DATED this 7 day of July, 2003.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Lucie La Bonté, Chair

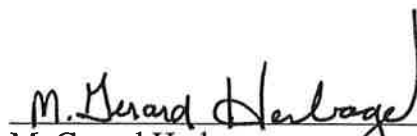
  
Marlyn Schafer, Vice Chair

  
Ralph H. Brown, Commissioner

Attest:

  
Recording Secretary

Reviewed as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 7/7/03  
Second Reading: N/A  
Emergency Adoption: Yes  
Effective Date: 9/1/03

EXHIBIT "A"

**ARTICLE ONE - GENERAL ADMINISTRATION**

DIVISION EIGHT    CURRY COUNTY HEALTH AND HUMAN SERVICES  
DEPARTMENT

SECTION 1.08.010    AUTHORITY

This division is enacted pursuant to ORS 203.035.

SECTION 1.08.020    POLICY AND PURPOSE STATEMENT

The Board of Curry County Commissioners finds as follows:

- (1) Curry County is receiving decreased revenues from the State of Oregon for health and human services.
- (2) Over the last several months the Board of Curry County Commissioners has considered in open meeting various organizational changes in social services to help improve efficiency and to respond to decreased overall revenues.
- (3) One of the proposals discussed was combining the Public Health and Human Services Departments.
- (4) Combining the two departments will coordinate and integrate physical health care services with mental health services in the service area.
- (5) Further, the combination of the two departments will promote accountability, continuity, and efficiency in the use of public funds for mental and physical health services.

SECTION 1.08.030    ESTABLISHMENT OF THE CURRY COUNTY HEALTH  
AND HUMAN SERVICES DEPARTMENT

The County of Curry hereby creates a Curry County Health and Human Services Department to replace the current Public Health Department and the Human Services Department. The consolidation of both departments shall take place on the effective date of this ordinance which is September 1, 2003.

JAN 15 2008

CURRY COUNTY CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance )  
 Repealing Article One Division )  
 Nine of the Curry County Code )

ORDINANCE NO. 08-01

COPY

The Board of Commissioners for the County of Curry ordains as follows:

SECTION ONE      TITLE

This ordinance shall be known as Ordinance 08-01, an ordinance amending the Curry County Code.

SECTION TWO      FINDINGS

- 1) Ballot Measure 49 was recently approved by the voters of the State of Oregon, and went into effect December 6, 2007.
- 2) Ballot Measure 49 substantially revised Measure 37, creating a new process and rules for evaluating claims filed with Curry County.
- 3) As a result of the above-referenced changes in law, claims can no longer be received and processed under Measure 37.
- 4) It is appropriate for the Board of Curry County Commissioners to repeal Curry County's Measure 37 Ordinance (Article One Division Nine of the Curry County Code).

SECTION THREE      REPEALER

Article One Division Nine of the Curry County Code which was previously adopted by Ordinances 04-14 and 05-01 and which established Measure 37 procedures, is hereby repealed in its entirety.

DATED this 14<sup>th</sup> day of JANUARY, 2008.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Georgia Yee Nowlin, Chair

  
Lucie La Bonte, Vice Chair

*ABSENT*  
Marlyn Schafer, Commissioner

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 1/2/08  
Second Reading: 1/14/08  
Emergency Adoption: No  
Effective Date: 4-13-08

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment       )  
To the Curry County Code               )  
Regarding the Curry County            )  
Measure 37 Compensation              )  
Claims Ordinance                        )

ORDINANCE NO. 05-01

The Board of Curry County Commissioners ordains as follows:

SECTION 1                TITLE

This ordinance shall be known as Ordinance 05-01, an ordinance amending the Curry County Code.

SECTION 2                AUTHORITY

This ordinance is enacted pursuant to ORS 203.035 and Section 7 of Measure 37.

SECTION 3                PURPOSE

The purpose of this ordinance is to amend Ordinance 04-14, which has been made a part of Ordinance 96-7 as amended, the Curry County Code. The specific amendments update and supplement the Curry County Measure 37 Compensation Claims Ordinance.

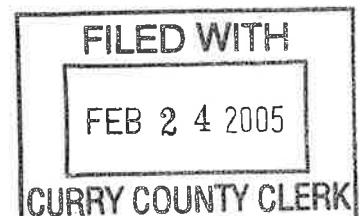
SECTION 4                ADOPTION

Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment to Ordinance 04-14 and the Curry County Code (Ordinance 96-7, as amended).

SECTION 5                SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of the Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

SECTION 6                EMERGENCY CLAUSE





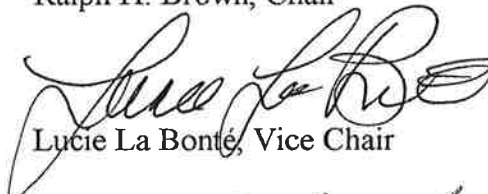
The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be in full force and effect upon its passage.

The need for the emergency clause relates to the fact that Measure 37 became effective on December 2, 2004, and this amendment is necessary to adopt a definition of "enforces" for purposes of administering claims.

ADOPTED this 22<sup>nd</sup> day of February, 2005.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Ralph H. Brown, Chair

  
Lucie La Bonte, Vice Chair

  
Marlyn Schafer, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:



M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 2/7/05  
Second Reading: 2/22/05  
Emergency Adoption: 2/22/05  
Effective Date: 2/22/05

## **EXHIBIT "A"**

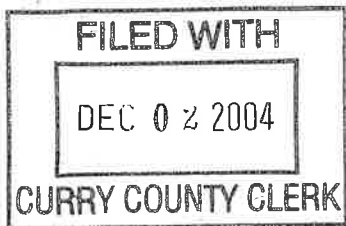
A new definition "enforces" is added to, and made a part of Section 1.09.020 of the Curry County Code as follows:

(5.5) For purposes of Measure 37 claims, "Enforces" means, with respect to a land use regulation, that one of the following events occurs:

(a) The County denies a land use application seeking permission to use an owner's property in a specific way because a land use regulation does not allow the use; or

(b) In response to a written request from a property owner, The Planning Director or his/her designee issues a written statement determining that the use of an owner's property in a specific way is not allowed by a land use regulation; or

(c) An owner has been cited into the Circuit Court by an enforcement officer of the County for violating a Curry County land use regulation.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment to the       )  
Curry County Code by Adding Article       )       ORDINANCE NO. 04-14  
One Division Nine Regarding Curry       )  
County Measure 37 Compensation       )  
Claims       )

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1   TITLE

This Ordinance shall be known as Ordinance 04-14 an ordinance amending the Curry County Code.

SECTION 2   AUTHORITY AND FINDINGS

The Board makes the following findings:

A.     This ordinance is adopted to comply with the results of the statewide vote on November 2, 2004, that approved an amendment to the Oregon Revised Statutes chapter 197 (Comprehensive Land Use Planning Coordination) on the subject of compensation for owners of private real property when the enactment or enforcement of a land use regulation has the effect of reducing the fair market value of their land. The amendment was placed on the ballot through the initiative process and is designed as Ballot Measure 37 or the "Act". The Ballot Title and Summary of the measure is attached as Exhibit "A", the text is attached as Exhibit "B", and the Explanatory Statement is attached as Exhibit "C". Measure 37 takes affect on December 2, 2004.

B.     The voters of Curry County approved Ballot Measure 37 by a majority vote of 67.90% for and 32.10% against.

C.     Ballot Measure 37 provides that, in order to receive compensation, a present owner of real property must make a written "demand for compensation" to the government entity enacting, enforcing or applying a land use regulation that allegedly restricted the use of their property and has allegedly had the effect of reducing the fair market value of the property.

D.     Ballot Measure 37 authorizes the County to adopt and apply procedures for processing claims for compensation.

E. Ballot Measure 37 imposes an unfunded mandated duty on the County to review demands for compensation and make decisions on disposition of those demands, and prudent management of the public treasury, and fairness to all taxpayers of Curry County requires that a person submitting a claim for compensation under Ballot Measure 37 pay the actual costs of processing the claim.

F. Fairness to persons making claims under Ballot Measure 37 and the public interest mandates that determination of any claim made under Ballot Measure 37 be based on substantial factual information and analysis, which can only be provided by present real property owners.

G. It is in the best interest of the County to establish a process to assess such demands in a timely manner by establishing, among other things, a procedure that requires the necessary factual and analytical information be included with the demand for compensation at the time the County accepts any written demand for compensation.

### SECTION 3 ADOPTION

Exhibit "D", which is referenced as Article 1, Division 9 of the Curry County Code, attached hereto and incorporated herein by this reference, is adopted as an amendment to the Curry County Code, Ordinance No. 96-7 as amended.

### SECTION 4 SEVERABILITY

The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

### SECTION 5 EMERGENCY

The Act will be effective December 2, 2004. The provisions of the Act provide that a written demand for compensation may be filed with the County after the effective date of the Act and give the County only 180 days to consider written demands for compensation filed under the Act, after which time the claimant has the right to a cause of action for compensation in circuit court. It is thus necessary and appropriate to establish the procedures set forth in this ordinance in order for this ordinance to be effective December 2, 2004. Therefore, the Board finds and declares that an emergency exists because of a deadline imposed by the Act and that because of the regulatory inadequacy that would threaten imminent harm to property and the general welfare if a procedure for processing claims under Measure 37 were not established by December 2, 2004, this ordinance shall be in full force and effect from and after its effective date established herein.

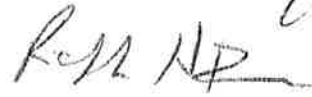
SECTION 6 EFFECTIVE DATE


To protect the health, safety, and welfare of the citizens of the County this ordinance shall take effect on December 2, 2004.

ADOPTED this 2<sup>nd</sup> day of December, 2004.

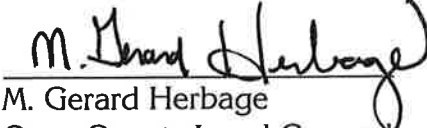
BOARD OF CURRY COUNTY COMMISSIONERS

  
Marilyn Schafer, Chair

  
Ralph H. Brown, Vice Chair

  
Lucie LaBonté, Commissioner

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

Attest:

  
Recording Secretary

First Reading: 12/1/04  
Second Reading: N/A  
Emergency Adoption: Yes  
Effective Date: 12/2/04

**Text of Measure 37**

The following provisions are added to and made a part of ORS chapter 197:

(1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation.

(2) Just compensation shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.

(3) Subsection (1) of this act shall not apply to land use regulations:

(A) Restricting or prohibiting activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of a finding of compensation under this act;

(B) Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

(C) To the extent the land use regulation is required to comply with federal law;

(D) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights provided by the Oregon or United States Constitutions; or

(E) Enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

(4) Just compensation under subsection (1) of this act shall be due the owner of the property if the land use regulation continues to be enforced against the property 180 days after the owner of the property makes written demand for compensation under this section to the public entity enacting or enforcing the land use regulation.

(5) For claims arising from land use regulations enacted prior to the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the effective date of this act, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner of the property, whichever is later. For claims arising from land use regulations enacted after the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

(6) If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under this act, the present owner of the property, or any interest therein, shall have a cause of action for compensation under this act in the circuit court in which the real property is located, and the present owner of the real property shall be entitled to reasonable attorney fees, expenses, costs, and other disbursements reasonably incurred to collect the compensation.

(7) A metropolitan service district, city, or county, or state agency may adopt or apply procedures for the processing of claims under this act, but in no event shall these procedures act as a prerequisite to the filing of a compensation claim under subsection (6) of this act, nor shall

the failure of an owner of property to file an application for a land use permit with the local government serve as grounds for dismissal, abatement, or delay of a compensation claim under subsection (6) of this act.

(8) Notwithstanding any other state statute or the availability of funds under subsection (10) of this act, in lieu of payment of just compensation under this act, the governing body responsible for enacting the land use regulation may modify, remove, or not to apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property.

(9) A decision by a governing body under this act shall not be considered a land use decision as defined in ORS 197.015(10).

(10) Claims made under this section shall be paid from funds, if any, specifically allocated by the legislature, city, county, or metropolitan service district for payment of claims under this act. Notwithstanding the availability of funds under this subsection, a metropolitan service district, city, county, or state agency shall have discretion to use available funds to pay claims or to modify, remove, or not apply a land use regulation or land use regulations pursuant to subsection (6) of this act. If a claim has not been paid within two years from the date on which it accrues, the owner shall be allowed to use the property as permitted at the time the owner acquired the property.

(11) Definitions - for purposes of this section:

(A) Family member shall include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

(B) Land use regulation shall include:

(i) Any statute regulating the use of land or any interest therein;

(ii) Administrative rules and goals of the Land Conservation and Development Commission;

(iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;

(iv) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and

(v) Statutes and administrative rules regulating farming and forest practices.

(C) Owner is the present owner of the property, or any interest therein.

(D) Public entity shall include the state, a metropolitan service district, a city, or a county.

(12) The remedy created by this act is in addition to any other remedy under the Oregon or United States Constitutions, and is not intended to modify or replace any other remedy.

(13) If any portion or portions of this act are declared invalid by a court of competent jurisdiction, the remaining portions of this act shall remain in full force and effect.

## Measure 37 Explanatory Statement

Ballot Measure 37 adds a new statute to ORS chapter 197. As specified in the measure, the **owner** of private real property is entitled to receive just compensation when a **land use regulation** is enacted after the **owner** or a **family member** became the **owner** of the property if the regulation restricts the use of the property and reduces its fair market value.

If a property **owner** proves that a **land use regulation** restricts the use of the **owner's** property, and reduces its value then the government responsible for the regulation will have a choice: pay the **owner** of the property an amount equal to the reduction in value or modify, change or not apply the regulation to the **owner's** property.

The measure allows the state, county, city or metropolitan service district to adopt procedures for processing claims for compensation, but prohibits those procedures from being treated as a prerequisite to the filing of a claim in circuit court.

The measure does not apply to commonly and historically recognized public nuisances, public health and safety regulations, regulations required to comply with federal law, and regulations restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing.

The measure specifies that compensation is due if the regulation remains in force 180 days after the **owner** makes written demand for compensation. After that time, the present **owner** may file an action in the circuit court in the county in which the property is located. The measure also specifies that the present **owner** is entitled to reasonable attorney fees, expenses, costs and other disbursements reasonably incurred to collect compensation.

The measure provides no new revenue source for payments, if any, required under this measure.

The measure defines several terms that are used in the statute including "**family member**" which is defined as wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the **owner** of the property, an estate of any of the foregoing **family members**, or a legal entity owned by any one or combination of these **family members** or the **owner** of the property.

Committee Members / Appointed by:  
David Hunnicutt / Chief Petitioners  
Dale Riddle / Chief Petitioners  
Bernie Bottomly / Secretary of State  
Patricia McCaig / Secretary of State  
Jack Roberts / Members of the Committee

(This committee was appointed to provide an impartial explanation of the ballot measure pursuant to ORS 251.215.)



Exhibit "D"

ARTICLE ONE

DIVISION NINE      CURRY COUNTY MEASURE 37 COMPENSATION CLAIMS

SECTION 1.09.010 PURPOSE

Article 1, Division 9 of this code implements the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 (November 2, 2004). These provisions:

- (1) establish a prompt, open, thorough, consistent, and courteous process that enables property owners to have an adequate and fair opportunity to present their claims to the County;
- (2) preserve and protect limited public funds; and
- (3) establish a record of the County's decision capable of circuit court review.
- (4) protects the public safety and health of the residents of the County, and the integrity of the Comprehensive Plan and land use regulations of the County.
- (5) inform the claimant that the decision of the Board whether to pay just compensation or to waive a restrictive land use regulation enacted by the County that has reduced the fair market value of claimant's property shall be a final decision. However, whether the decision is to pay or waive a discretionary land use regulation or a non-discretionary land use regulation, such as a state statute imposing a requirement on the County to enforce the state enactment, the decision of the Board on the claim, although final as to the claim on the County, does not address the developability of claimant's property. Developability of property under the waiver remains subject to:
  - (a) in the case of all final decisions made by the Board regarding non-discretionary enactments and enforcements, claimant's obtaining the appropriate decision from any other governmental entity that has enacted or enforces its laws or rules whether directly or through the County; and
  - (b) in the case of all final decisions made by the Board, any and all land use development standards and public health and safety standards applicable to the development and use.

## SECTION 1.09.020 DEFINITIONS

A term not defined in this division shall have its ordinary accepted meaning within the context in which it is used.

As used in this division the following words and phrases are defined as follows:

- (1) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, the term "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by written certificate.
- (2) "Board" means the Board of Curry County Commissioners.
- (3) "Claim" means a written demand for compensation filed with Curry County purporting to be filed under and in accordance with Ballot Measure 37. A claim accepted by the County for processing, or a claim to be processed by the County shall in no way be construed as a statement that the claim has merit or is a valid claim. Accepting and processing a claim shall not be construed by anyone in any manner that would act as an estoppel against the County from arguing that the claim was or is an invalid claim for any reason. The validity of a claim is not decided until the Board so determines and so states in its final decision on the matter in the public meeting process described in section 1.09.060.
- (4) "Claimant" means an owner of property who files a claim with the County pursuant to the provisions of this division.
- (5) "County" means Curry County, Oregon.
- (6) "Exempt land use regulation" means a land use regulation that:
  - (a) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
  - (b) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
  - (c) Is required in order to comply with federal law;
  - (d) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or

- (e) Was enacted prior to the date of acquisition of the property by the owner or a family member of the owner.
- (7) "Family member" includes:
- (a) the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property;
  - (b) an estate of any of the foregoing family members, or
  - (c) a legal entity owned by any one or combination of these family members or the owner of the property.
- (8) "Land use regulation" includes:
- (a) Any statute regulating the use of land or any interest therein;
  - (b) Administrative rules and goals of the Land Conservation and Development Commission;
  - (c) County's comprehensive plan, zoning ordinances, land division ordinances, and transportation ordinances; and
  - (d) Statutes and administrative rules regulating farm and forest practices.
- (9) "Measure 37" means the amendments to ORS 197 adopted by the People of the State of Oregon on November 2, 2004, having that Ballot Title.
- (10) "Owner" means the present owner of real property, or any interest therein that is the subject of the claim for compensation.
- (11) "Property" means any private real property or interest therein. It includes only a single unit of land or contiguous units of land in single ownership which, at the time of acquisition by the claimant, the restrictive use would have been developable under then existing land use regulations. It does not include contiguous units of land or units of land not contiguous that are under different ownerships.
- (12) "Reduction in value" means reduction in the fair market value of the property or any interest therein resulting from the enactment or enforcement of a restrictive land use regulation as of the date the claimant makes written demand for compensation under Measure 37 and this ordinance.

(13) “Restricts” or “restriction,” for purposes of the Measure 37 term (“restricts the use of private real property or any interest therein”) means use regulation enacted or enforced by the County after the claimant acquired the property that prohibits a particular use of or interest in claimant’s property.

(a) The term does not include any of the exemptions described in Measure 37 such as, but not limited to, public health and safety standards that may include such matters as the form of development, how a structure must be constructed, or how grading or fill is to be conducted, such as yard setback requirements, height limitations, erosion control measures and building code standards, or regulations.

(b) The term does not include resolutions requiring or setting fees to be charged in the land use planning process.

(14) “Valid Claim” means a claim that the Board has determined in a public process to be timely filed under Measure 37 and this division and to have met the requirements for compensation pursuant to Measure 37 and this division.

#### SECTION 1.09.030 CLAIM SUBMISSION PROCEDURE

(1) Applicability. An owner of property located within unincorporated Curry County may file a claim under this division if County enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of Ballot Measure 37, which amended Oregon Revised Statutes Chapter 197, and it restricts the use of property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein. Consistent with the above, claims shall not be allowed for exempt land use regulations as defined in Measure 37 and section 1.09.020(6) of this division.

#### (2) Application materials

(a) *County materials.* The County will provide a claimant with a claim submission packet containing at a minimum a County form seeking the information listed in subsection (4) of this section and a copy of the sections of this ordinance on Measure 37 compensation claims.

(b) *Multi-jurisdictional forms.* At the time of the filing of the claim, the County may include in the packet forms for the making of a claim and providing notice to other governmental agencies having jurisdiction and decision-making authority with respect to the land use regulations affecting the property. It shall be the claimant’s responsibility to submit such claims and notices to the affected agencies.

(3) Place of filing claims. The claim shall be filed with the County Public Services Department.

(4) Minimum content on claim form. The claimant shall submit a claim that contains the following minimum information or items (Note: If the information required in subsections (c) through (g) is made available in the title report, it need not be separately provided):

- (a) Identification of the affected property which may be by street address, Assessor map and tax lot number, or any other information that legally identifies the property.
- (b) A current title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by the claimant, the date the property was acquired, the title history, easements of record, a statement of the date the owner acquired ownership of the property, and the ownership interests of all owners. The title report must also specify any restrictions on use of the property unrelated to the land use regulation including, but not limited to, any restrictions established by covenants, conditions and restrictions (CC&Rs), other private restrictions, or other regulations, restrictions or contracts.
- (c) Copy of the deed describing the property subject to the claim.
- (d) The name, address, and telephone number of all owners and anyone with an interest in the property, including lien holders, trustees, renters, and lessees, together with a description of the ownership interest of each.
- (e) The date the claimant acquired ownership of or an interest in the property and a copy of the legal document which provides proof of this ownership.
- (f) If the claim is based upon the date a family member acquired the property, then documentation sufficient to establish the familial relationship along with a chain of title showing continual ownership.
- (g) Copies of any Covenants, Conditions and Restrictions (CCR's), leases, or other encumbrances applicable to the property.
- (h) Identification of the specific land use regulation which restricts the owner's use of the property, and for which the owner is claiming compensation.
- (i) A statement describing the manner in which, and the extent to which, the regulation restricts the use of the property and has the effect of reducing the

fair market value of the property for which the owner is claiming compensation.

- (j) The amount of the claim, based upon the alleged reduction in value, supported by an appraisal of the property for which the owner is asserting a claim.
- (k) A statement of the relief sought by the owner, such as a monetary payment in a specific amount; waiver of the applicable regulation; or modification of the applicable regulation. If a modification of the regulation is sought, then a description of the desired modification must be included.
- (l) The signature of claimant(s).
- (m) The filing fee.

(5) Recommended additional information to be provided by claimant. County may require additional information from claimant which may be needed to assist the claimant and County in processing the claim. The claimant bears the burden to establish a proof of a reduction in market value by a restrictive land use regulation and unless the claimant provides this requested information, the County may be unable to properly and adequately address the claim and to assist the claimant in achieving claimant's objective.

(6) Severability. The Board may sever claims whenever such claims are determined to relate to multiple unrelated properties or to multiple or unrelated owners or to unrelated enactments or enforcement of land use regulations. When claims are severed, the Board may require payment of additional filing fees for processing additional claims.

#### SECTION 1.09.040 FEES AND COSTS

(1) Filing fee. At the time a claimant files a claim, the claimant shall pay a fee set by resolution and/or order of the Board.

(2) Processing costs. In addition to the fee described in subsection (1) of this section, the Planning Department shall maintain a record of the actual reasonable costs in excess of the fee incurred by the County in processing a claim, including the costs of obtaining information required by sections 1.09.030(4) and 1.09.050(5) which a property owner does not provide to the County. Following final action by the County on the claim at the local level, the County shall send to the property owner a bill for the actual reasonable costs, including staff and legal costs, that the County incurred in reviewing and acting on the claim. Notwithstanding any provisions to the contrary, the County is under no obligation to seek or to pay for services or materials in order for the Claimant to meet his/her burden of proof. The County may, but is not obligated to, incur expenses for information which is the responsibility of the claimant to provide.

(3) Collection. The amount established in subsection (2) of this section shall be due and payable within 60 days of billing the claimant. If the claimant does not pay the amount within 60 days, then the County may pursue collection, including, but not limited to, filing a lien on the property or deducting that amount from any compensation granted.

#### SECTION 1.09.050 CLAIM REVIEW AND STAFF RECOMMENDATION

(1) Claim distribution. Following the submission of a claim, a copy of the claim and all information submitted by the claimant shall be made available by the Planning Department to the following County individuals or their designees for review and comment:

- (a) Roadmaster
- (b) County Legal Counsel
- (c) Assessor
- (d) Environmental Health Coordinator
- (e) Public Services Director

(2) Notice to multi-jurisdictional agencies. In addition the County shall attempt to notify all agencies that, in the opinion of the County, have an interest in resolution of the claim.

(3) Staff review and comment. The officials identified in subsection (1) of this section receiving the information described in subsection (1) of this section shall review and may comment on the claim. If any officials' department is not affected by the application he or she shall so note. The comments submitted shall identify any information or issues needed to properly address the claim (see for example the list of the more common information listed in subsection (5) of this section). The County shall attempt to obtain comments from the other governmental agencies notified under subsection (2) of this section.

(4) Conference with claimant. The County may schedule a conference at a time mutually agreeable to the claimant and the County at which time the claimant, if present, and the County will seek to identify how to understand and to efficiently meet the claimant's objective. This effort may include identifying and obtaining any of the information listed in subsection (5) of this section and in Section 1.09.030(4). In addition to the claimant, County staff, including the officials and agencies identified or notified in subsections (1) and (2) of this section, but excluding County Counsel, shall be invited to participate in the conference. If the claimant is represented by an attorney, County Counsel shall be present. The purposes of the conference are to discuss with the claimant matters relating to the claim, to assist the claimant to the degree possible in achieving the claimant's objective, to identify any information needed by the County to adequately and properly address the claimant's objective, and to discuss any issues that hinder adequate or proper processing of the claim. The claimant is responsible to cooperate in assisting the County to process the claim. The County may process the claim on the basis of the information provided by

the claimant whether or not the claimant participates in or cooperates with the County in the processing of the claim.

(5) Additional Information. In order for thoroughness, completeness, and fairness to the claimant, and to assist the County in efficiently and expeditiously addressing the claim, the claimant should be prepared to provide or make available to the County any of the additional information described in this subsection that is needed to process the claim.

- (a) A statement describing the extent to which the regulation would need to be waived, suspended, or modified to avoid the need for compensation.
- (b) A copy of the land use regulation in existence and that was applicable to the property when the owner became the owner of the property, that the claimant claims restricts the use of the property, and a copy of the land use regulation in existence immediately before the regulation that was enacted or enforced or applied to the property, that the owner claims restricts the use of the property and, that the owner claims, caused a reduction in fair market value due to the land use regulation in question being more restrictive. If family member status is claimed, it must also be addressed in the title report required by this sub-section.
- (c) A statement by the claimant why the land use regulation in question is not an exempt land use regulation as defined in section 1.09.020(6).
- (d) A statement by the claimant explaining their understanding of what effect a modification, removal or non-application of the land use regulation would have on the potential development of the property, stating the greatest degree of development that the claimant believes would be permitted on the property if the identified land use regulation were modified, removed or not applied.
- (e) Copies of any land use actions, development applications or other relevant applications for permits that have previously been filed in connection with the property and the action taken. Any such actions that represent the required enforcement and/or application of the land use regulation that are prerequisites to making a claim must be described and identified as such.
- (f) Traffic study information.
- (g) Information regarding access permits to public roads.
- (h) Information regarding easements of record.



- (i) A copy of the site plan and drawings related to the expected use of the property should the land use regulation be modified, removed or not applied, in a readable/legible format.
- (6) County's ability to act on a claim. Notwithstanding a claimant's failure to provide all of the information identified in section 1.09.030(4) and subsection (5) of this section, the County may review and act on a claim.
- (7) Staff report. The County Public Services Department shall forward a written staff report supported by comments to the Board.
- (8) Public meeting scheduled. The County Commissioner's Office shall schedule a time for the matter to be decided by the Board at a regular public meeting and cause notice to be given pursuant to ORS 192.610-192.690.

#### SECTION 1.09.060 DECISION OF THE COUNTY BOARD OF COMMISSIONERS

- (1) Public meeting requirement. The Board of Commissioners shall consider the claim in a public meeting before taking final action on the claim. The matter will be considered pursuant to ORS 192.610 to 192.690 and under the rules adopted by the Board for the conduct of county business.
- (2) Multi-jurisdictional impact and effect on a Board decision. The decision on the claim from the County's perspective shall be final. Notwithstanding the finality of the Board's decision, the developability of the property may depend on other factors such as existing County development standards and public health and safety standards. In addition, the developability of the property may depend on the claimant seeking and obtaining the same relief sought from the County from any other governmental entity that has enacted or enforced a land use regulation governing the use of the property.
- (3) The taking of comments. The Board may, but is not obligated to, take comments orally or in writing prior to and at the meeting. The Board may also allow for comments by announcing a time certain limiting submission of written comments following the meeting, however, such time limit, shall in no way impede or adversely impact or threaten to impact the 180-day time limit for acting on the claim. All comments shall be limited to those issues that are addressed in Measure 37 such as whether the land use regulation at issue is exempted from the definition of land use regulation. Comments specifically aimed at the impacts of the claim on the protection of public health and safety will be encouraged.
- (4) Claims involving another jurisdiction. If the claim involves another jurisdiction having a higher level of governmental control over the uses allowed on the property, such as the State of Oregon, and the claimant has appropriately filed a claim with the other jurisdiction, and the jurisdiction has made a decision granting the claimant relief, then the County may expedite the decision-making process by making a similar decision.

(5) Final decision on the claim. The Board shall consider the matter and make a decision and adopt a written resolution or order thereon prior to the expiration of 180 days from the date the claim was filed that does one of the following:

- (a) Determines that the claim is a valid claim under County land use regulations and removes, modifies, or will not apply the challenged land use regulation(s) with respect to the subject property;
- (b) Determines that the claim is a valid claim under County land use regulations and that compensation is due to the claimant in an amount set forth in the Board's resolution or order. The amount shall be supported by the evidence in the record. Payment of any compensation is subject to the availability and appropriation of funds for that purpose;
- (c) Determines that the claim is valid under County land use regulations and that the County should acquire the property through negotiation or eminent domain;
- (d) Denies the claim.
- (e) Take such other actions as the Board deems appropriate consistent with Measure 37.

(6) Findings if claim is denied. If the Board denies the claim, the Board shall make findings supporting the denial, including, but not limited to, one of the following:

- (a) The land use regulation does not restrict the use of the property;
- (b) The fair market value of the property is not reduced by the enactment, enforcement or application of the land use regulation;
- (c) The claim was not timely filed;
- (d) The claimant failed to comply with the requirements for making a claim as set forth in section 1.09.030;
- (e) The claimant is not the present property owner, or the property was not owned by a family member if that is required for compensation, or was not the property owner at the time the land use regulation was enacted, enforced or applied;

- (f) The land use regulation is an exempt land use regulation as defined in Measure 37 and section 1.09.020(6), such as, but not limited to the following:
    - (i) The regulation is a historically and commonly recognized nuisance law or a law regulating pornography or nude dancing;
    - (ii) The regulation is required by federal law;
    - (iii) The regulation protects public health and safety;
  - (g) The land use regulation in question is not an enactment of the County;
  - (h) The County has not taken final action to enact, enforce or apply the land use regulation to the property; or
  - (i) The owner is not entitled to compensation under Measure 37, for a reason other than those provided herein.
- (7) Burdens of proof.
- (a) The claimant, throughout the proceeding, shall bear the burden of proving that the claimant's use of claimant's property is restricted by a land use regulation that was enacted or enforced after the claimant acquired the property and that the restriction has the effect of reducing its fair market value. The failure of the claimant to meet the burden of proof will be deemed a failure to meet the burden of proof and may result in a denial by the County of claimant's claim. Upon judicial review, such failure may be deemed a failure by the claimant to exhaust claimant's available administrative remedies and may therefore be grounds for dismissal of the claim.
  - (b) The County shall bear the burden of proof to show that the regulation is exempt under Measure 37, or section 1.09.020(6). The standard of proof shall be by a preponderance of the evidence.
- (8) Findings and facts to support decision. The Board's decision to waive, modify, or not apply a land use regulation, or to compensate the owner shall be based upon facts and findings demonstrating the decision. Notwithstanding the availability of funds to pay the claim, the Board has the sole and final discretion whether to make such payment.
- (9) Potential impact of land use regulations on decision.
- (a) If the Board pays compensation, the County shall continue to apply and enforce the regulation. Any compensation shall be paid from funds appropriated for that purpose.

- (b) A land use regulation may be modified only to the extent that it does not give rise to the claim for compensation. Any such modification shall be as to the property only unless the County follows the procedure for a legislative land use decision.

(10) Recordation of decision. If the Board adopts a resolution or order modifying, removing, or not applying a land use regulation, the Board shall cause it to be recorded in the County property records.

(11) Multi-jurisdictional disclaimer. The County is not responsible for any law, rule, ordinance, resolution, goal or other enactment if the law, rule, ordinance, resolution, goal or other enactment is not enacted or enforced by the County.

(12) Notice of decision. A copy of the Board decision shall be sent by mail to the claimant, to all persons having an interest in the property, and to each individual or entity that participated in the County review process including the public meeting, provided a mailing address was provided to the County as part of the review process. The County shall also provide notice to any other governmental agencies, known to the County, that are responsible under Measure 37 to pay compensation or to waive the restrictive use.

(13) Conditions of approval. The Board may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under this section.

#### SECTION 1.09.070 VIOLATING THE TERMS OF THE DECISION

Failure to comply with any condition of approval is grounds for seeking relief under but not limited to the provisions of Article 10 of the Curry County Code as amended.

#### SECTION 1.09.080 EX PARTE CONTACTS, CONFLICT OF INTEREST AND BIAS

(1) Any factual information obtained by a Board member outside the information provided by County staff, or outside of the formal written comments process or meeting will be deemed an ex parte contact. The Board member who has obtained any material factual information through an ex parte contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between County staff and the Board or any member of the Board.

(2) Whenever a Board member or any member of their immediate family or household, has a direct financial interest in the outcome of a particular claim, the Board member shall comply with ORS Chapter 244.

#### SECTION 1.09.090 AVAILABILITY OF FUNDS TO PAY CLAIMS

Compensation, if granted, may only be paid based on the availability and appropriation of funds for this purpose.

#### SECTION 1.09.100 APPLICABLE STATE LAW

For all claims filed with the County, the applicable state law is Measure 37 as amended, modified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or Oregon State Administrative Agencies. Any claim that has not been processed completely under the sections of this ordinance shall be subject to any such amendments, modifications, clarifications or other actions taken at the state level and the sections of this ordinance shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the state level. The sections of this ordinance are adopted solely to address claims filed under the authority of those provisions of Measure 37. Except as expressly provided in this ordinance, no rights independent of said provisions are created by adoption of the sections of this ordinance.

#### SECTION 1.09.110 TAX STATUS – NOT PART OF THIS ORDINANCE

The decision of the Board in any proceeding under this division shall not determine the taxable status of an individual property, but the right to make such determination shall be reserved to the County Assessor in consultation with the Oregon Dept. of Revenue and shall be in accordance with the laws and regulations of the State of Oregon.

#### SECTION 1.09.120 LAND USE AUTHORITY RETAINED

- (1) Nothing in this division shall be construed to repeal or modify those laws and regulations of the Federal Government, State of Oregon, or of the County relating to land use.
- (2) A claimant who applies for compensation and is granted a waiver in lieu of compensation is not exempt from land use regulations except those that have been waived on the property that is the subject of the claim.

COPY

legal

BEFORE THE BOARD OF CURRY COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment )  
To the Curry County Code )  
Adding a New Article One )  
Division Ten Regarding the )  
Prohibition of Taking Property )  
For Private Use )

ORDINANCE NO. 05-14

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1 TITLE

This ordinance shall be known as Ordinance 05-14, an ordinance amending the Curry County Code.

SECTION 2 FINDINGS

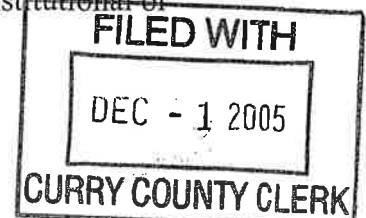
- A. A recent decision of the United States Supreme Court, Kelo v. City of New London, Connecticut (04-108), may allow the use of eminent domain powers for the benefit of purely private entities despite the limitations on that power contained in the federal constitution.
- B. The Curry County Board of Commissioners is philosophically opposed to such encroachments on the traditional rights of owners of real property.
- C. The Curry County Board of Commissioners believes that the power of eminent domain should be used to acquire property only for public purposes, as traditionally has been the case in Oregon.

SECTION 3 ADOPTION

Exhibit "A", attached hereto and incorporated by this reference, is adopted as an amendment to the Curry County Code; to wit, as a new Article One Section 10.

SECTION 4 SEVERANCE CLAUSE

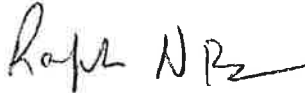
If any section, subsection, provision, clause or paragraph of the Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or



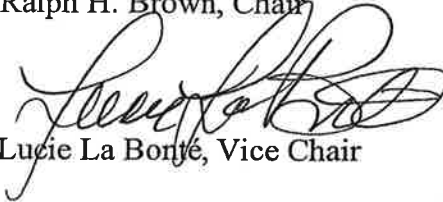
invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision clause or paragraph of this Ordinance, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

ADOPTED this 28<sup>th</sup> day of NOVEMBER, 2005.

BOARD OF CURRY COUNTY COMMISSIONERS



Ralph H. Brown, Chair



Lucie La Bonté, Vice Chair



Marlyn Schaefer, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:



M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 11/7/05  
Second Reading: 11/28/05  
Emergency Adoption: No  
Effective Date: 2/26/06

**EXHIBIT "A"**

**ARTICLE ONE**

**DIVISION TEN**

**PROHIBITION OF TAKING PROPERTY FOR  
PRIVATE USE**

**SECTION 1.10.010**

**NO EMINENT DOMAIN FOR PURELY PRIVATE  
BENEFIT**

Curry County shall not use the power of eminent domain for the sole benefit of private entities. Curry County's use of the power of eminent domain shall continue to be limited by Article I, Section 18 of the Oregon Constitution.



BEFORE THE BOARD OF CURRY COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the Adoption )  
of a Measure 49 Vested Rights )  
Ordinance to Determine Whether )  
an Applicant has a Common )  
Law Vested Right to Complete )  
and Continue a Use Allowed by )  
a Measure 37 Waiver )

ORDINANCE NO. 08-02

COPY

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1 TITLE

This ordinance shall be known as Ordinance 08-02, an ordinance amending the Curry County Code to provide a Measure 49 vesting rights section.

SECTION 2 FINDINGS

- A. On November 2, 2004, the voters of the State of Oregon approved Ballot Measure 37 which added provisions to the Oregon Revised Statutes (ORS) Chapter 197 to require, under certain circumstances, payment of just compensation to landowners if a government land use regulation reduced property value. In lieu of payment for just compensation, Ballot Measure 37 authorized the governing body of a local government to modify, remove, or not apply the land use regulation. (Such actions are generally referred to as "Measure 37 waivers.")
- B. The Board of Curry County Commissioners approved multiple Measure 37 claims in lieu of payment of just compensation.

FILED WITH

FEB 21 2008

- C. In June of 2007 the Legislative Assembly referred House Bill 3540 to the voters. House Bill 3540 substantially amended ORS 197.352. House Bill 3540 was considered by the voters in the election of November 6, 2007 as Ballot Measure 49. The voters approved Measure 49, and Measure 49 became effective December 6, 2007.
- D. Section 5 of House Bill 3540 provides as follows with respect to development of property in accordance with Measure 37 relief:

SECTION 5. A claimant that filed a claim under ORS 197.352 on or before the date of adjournment sine die of the 2007 regular session of the Seventy- fourth Legislative Assembly is entitled to just compensation as provided in ...

(3) a waiver issued before the effective date of this 2007 Act to the extent that the claimant's use of the property complies with the waiver and the claimant has a common law vested right on the effective date of this 2007 Act to complete and continue the use described in the waiver.

- E. The State of Oregon has determined that a local government may determine vesting rights under Section 5(3) of House Bill 3540 for those Measure 37 waivers the local government issued. Thus, it is appropriate to establish a process for Curry County's determination whether a "claimant's use of the property complies with the waiver and the claimant has a common law vested right on the effective date of this 2007 Act to complete and continue the use described in the waiver."

### SECTION 3 ADOPTION

Exhibit "A", attached hereto and incorporated by this reference, is adopted as an amendment to the Curry County Code; to wit, as a new Article One Section 11.

### SECTION 4 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision clause or paragraph of this Ordinance, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

**SECTION 5 EMERGENCY CLAUSE**

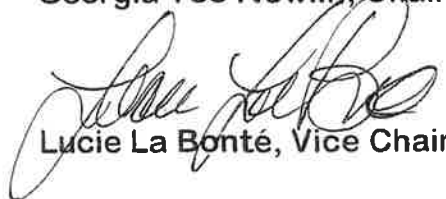
This ordinance being necessary for the immediate preservation of the health, safety and welfare of the community, an emergency is declared to exist and this ordinance shall take effect upon its passage.

ADOPTED THIS 19<sup>th</sup> day of February, 2008.

**BOARD OF CURRY COUNTY COMMISSIONERS**



Georgia Yee Nowlin, Chair



Lucie La Bonté, Vice Chair

— ABSENT —

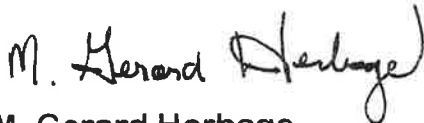
Marlyn Schafer, Commissioner

Attest:



Recording Secretary

Approved as to Form:



M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 2/4/08  
Second Reading: 2/19/08  
Emergency Adoption: 2/19/08  
Effective Date: 2/19/08

## **EXHIBIT "A"**

### **ARTICLE ONE**

#### **DIVISION ELEVEN**

#### **MEASURE 49 VESTED RIGHTS**

##### **SECTION 1.11.010**

##### **AUTHORITY**

This division is enacted pursuant to ORS 203.035.

##### **SECTION 1.11.020**

##### **PURPOSE**

The purpose of this division is to establish a procedure for determining whether a property owner who was granted a waiver from land use regulations pursuant to ORS 197.352 before it was amended by the adoption of Ballot Measure 49, enacted by the voters on November 6, 2007, has a common law vested right to complete and continue the use described in the waiver.

##### **SECTION 1.11.030**

##### **DEFINITIONS**

For purposes of this division, the following definitions apply:

- (1) "Applicant" means a person who has obtained Measure 37 relief from the Board and the State of Oregon, and who has applied to the Public Services Department for a Final County Vesting Decision.
- (2) "Application" means an application form created by the Public Services Director and filed with the Public Services Department by an applicant for a Final County Vesting Decision.
- (3) "Board" means the Board of Curry County Commissioners.
- (4) "Completed Application" means an application deemed complete by the Director of Public Services or his designee.
- (5) "Final County Vesting Decision" means a final written decision by the Board on an application that the applicant does or does not have a vested right to continue and complete a use under a Board order granting the applicant Measure 37 relief.

#### SECTION 1.11.040

#### APPLICATION

- (1) Any person who wishes to complete or continue any use of property allowed pursuant to a Measure 37 waiver shall file an application for a Final County Vesting Decision as required by Measure 49. Until the Board's determination of vested rights has been made, permits shall be issued.
- (2) A completed application shall include the following information:
  - (a) Name, address, telephone number and signature of the owner filing the application.
  - (b) A copy of the conveyance document that shows the applicant's interest in the subject real property and includes a legal description and physical address of the property.
  - (c) Copies of both Curry County's and the State of Oregon's orders approving a waiver for the subject property.
  - (d) A copy of any land use approvals and construction permits issued that allow development of the subject property.
  - (e) Identification of expenditures made to develop the subject property and the dates of those expenditures.
  - (f) A written statement describing how the applicant's use of the subject property is consistent with the waiver, and how the applicant has a common law vested right to complete or continue the use described in the waiver.
  - (g) An application fee, if any, if set by Board Resolution.

#### SECTION 1.11.050

#### PROCESS

- (1) An applicant shall submit applications to the Public Services Department with the information required in Section 1.11.040 above. The Public Services Director or his designee is empowered to determine when the application becomes a completed application and may require additional information beyond that originally submitted when necessary to address the criteria to establish a common law vested right. The applicant is responsible for the completeness and accuracy of all information submitted with the application and all of the supporting documentation.

- (2) The Public Services Director or his designee will prepare a staff report that describes the vested rights application, sets forth pertinent facts, and makes a recommendation on how the application should be resolved. The Public Services Department shall forward the staff report to the Board, County Legal Counsel, and the applicant, and make it available to others upon request in accordance with the County's public record policy.
- (3) The Board shall make the Final County Vesting Decision as outlined in Section 1.11.060 below. The Board will exercise reasonable efforts to make a timely decision on a completed application.

**SECTION 1.11.060**      **PUBLIC HEARING**

- (1) The Board shall conduct a public hearing on the application to make a Final County Vesting Decision.
- (2) The Board shall consider the Public Service Director's (or his designee's) recommendation and all documents, evidence and testimony in the record.
- (3) In determining whether the applicant has a vested right to continue and to complete a use allowed under a Board order granting Measure 37 relief, the Board shall consider the following factors based upon evidence submitted in the application:
  - (a) The amount of money spent on developing the use in relation to the actual cost of establishing the use.
  - (b) The good faith of the property owner.
  - (c) Whether the property owner had notice of the proposed change in law before beginning development.
  - (d) Whether the improvements could be used for other uses that are allowed under the new law.
  - (e) The kind of use, location and cost of the development.
  - (f) Whether the owner's acts rise beyond mere contemplated use or preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects.
  - (g) Other relevant factors.

- (4) The Board shall enter an order determining whether an applicant's use of the subject property complies with the waiver and whether applicant had a common law vested right on December 6, 2007, to complete and continue the use described in the waiver.

#### SECTION 1.11.070

#### NOTICE OF PUBLIC HEARINGS

- (1) Notice of a public hearing under this division shall be mailed to the following not less than seven days prior to a scheduled hearing:
  - (a) The applicant.
  - (b) The Department of Land Conservation and Development.
  - (c) Owners of real property located within 500 feet of the property that is the subject to the Final County Vesting Decision as those owners are identified by existing records in the Curry County Assessor's Office.
- (2) Notice shall also be posted on the Commissioners' Bulletin Board in the Courthouse Annex and E Mailed to the media at least seven days prior to the hearing.
- (3) The notice shall include a brief summary of the Public Service Director's report.
- (4) The failure of any person to receive notice of a public hearing shall not affect or invalidate a proceeding under this division.

#### SECTION 1.11.080

#### NOTICE OF FINAL COUNTY VESTING DECISION

Not later than five (5) working days after the Board has made and signed a Final County Vesting Decision, the Public Services Department shall provide notice of the decision by first class mail to the persons named in this subsection:

- (1) The Applicant.
- (2) The Department of Land Conservation and Development.
- (3) Owners of real property located within 500 feet of the property that is subject to the Final County Vesting Decision as those owners are identified by existing records in the Curry County Assessor's Office.

- (4) Persons who testified before the Board, or who submitted written evidence, comments or arguments into the record before the Board.

**SECTION 1.11.090**

**JUDICIAL REVIEW OF FINAL COUNTY VESTING  
DECISION**

- (1) A Final County Vesting Decision of the Board made under this division is not a land use decision subject to review by the Land Use Board of Appeals.
- (2) A Final County Vesting Decision of the Board made under this division is subject to review by the Curry County Circuit Court in a Writ of Review proceeding filed under Oregon Revised Statutes Chapter 34 by an Applicant or a person adversely affected by a Final County Vesting Decision.
- (3) Judicial review of a Final County Vesting Decision by the Board is:
  - (a) Limited to the evidence in the record before the Board at the time it made and signed a Final County Vesting Decision.
  - (b) Available only for issues that are raised before the Board with sufficient specificity to afford the Board and Applicant an opportunity to respond.

**SECTION 1.11.100**

**EFFECT OF VESTED RIGHTS DETERMINATION  
ON SUBSEQUENT OWNERS**

A Final County Vesting Decision by the Board under this ordinance shall apply to a future owner or otherwise run with the land to the fullest extent allowed by law when the Final County Vesting Decision determines that:

- (1) An applicant's use of the subject property complies with the Measure 37 waiver issued by the Board; and
- (2) The applicant has a common law vested right as of December 6, 2007, to complete and continue the use described in the waiver.



FILED WITH

JUN 03 2008

CURRY COUNTY CLERK

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the Adoption of an )  
Ordinance Referring to the Voters )  
the Question of Whether the Offices )  
of Curry County Commissioner )  
Should Become Nonpartisan )  
Beginning with the Primary Election )  
of May, 2010; Referred for the )  
November, 2008 General Election )

ORDINANCE NO. 08-06

COPY

THE BOARD OF COMMISSIONERS OF CURRY COUNTY, OREGON  
(the Board) sat for the transaction of county business in formal session on  
June 2, 2008, with Commissioners Georgia Nowlin, Lucie La Bonté and  
Mariyn Schafer being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. Oregon Revised Statutes Chapter 249 establishes rules for election  
to public office within the state. ORS 249.002(7) defines a  
nonpartisan office as follows:

“(7) ‘Nonpartisan office’ means the office of judge,  
Superintendent of Public Instruction, Commissioner of the Bureau  
of Labor and Industries, any elected office of a metropolitan service  
district under ORS chapter 268, justice of the peace, county clerk,  
county assessor, county surveyor, county treasurer, sheriff, district  
attorney or any office designated nonpartisan by a home rule  
charter.”

- B. The Board believes that the offices of Curry County Commissioner  
should be nonpartisan as are the offices of clerk, assessor,  
surveyor, treasurer and sheriff.

- C. Oregon Revised Statutes 203.035 grants broad authority to counties to enact ordinances to "exercise authority within the county over matters of county concern, to the fullest extent allowed by Constitutions and laws of the United States and of this state..."
- D. ORS 203.035 provides that county voters must approve any ordinance which changes the mode of selection of elective county officers:

"(3) An ordinance adopted by a county governing body that changes the number or mode of selection of elective county officers shall not take effect unless the ordinance is submitted to and approved by the electors of the county at a primary election, general election or election held on the first Tuesday after the first Monday in November of an odd-numbered year."

- E. The Board believes it is reasonable and appropriate to ask the voters whether the offices of Curry County Commissioners should be nonpartisan. Thus, this ordinance is referred to the voters for the general election of November, 2008. If approved, it will establish that the offices of Curry County Commissioners will be nonpartisan beginning with the 2010 primary election. NOW, THEREFORE,

**THE PEOPLE OF CURRY COUNTY ORDAIN AS FOLLOWS:**

- Section 1. NONPARTISAN NATURE OF OFFICE OF COMMISSIONER.** Beginning with filings for election to the office of Curry County Commissioner for the primary election of 2010, all offices of Curry County Commissioner shall thereafter be "nonpartisan" within the meaning of ORS Chapter 249 and other state election laws.
- Section 2. REFERRAL TO VOTERS IN NOVEMBER, 2008 GENERAL ELECTION; EFFECTIVE DATE.** This ordinance shall be referred to the voters as a county measure in the general election of 2008. This ordinance shall become effective only if approved by a majority of the voters at the general election of November, 2008. If approved by the voters, this ordinance shall become effective upon the first date allowed by the Oregon Constitution.
- Section 3. COUNTY CODE.** If this ordinance is approved by the voters, Exhibit "A" which is attached hereto and incorporated by reference shall be made part of the Curry County Code.

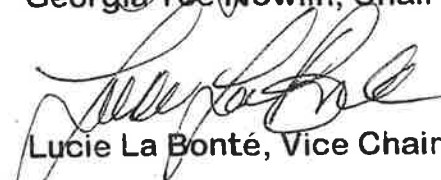
APPROVED by the Curry County Board of Commissioners for referral to the voters following the second reading of this ordinance on June 2, 2008.

DONE at Gold Beach, Oregon on JUNE 2, 2008.

BOARD OF CURRY COUNTY COMMISSIONERS



Georgia Yee Nowlin, Chair



Lucie La Bonté, Vice Chair



Marilyn Schafer, Commissioner

Attest:

Patricia R. Cook

Approved as to Form

  
M. Gerard Herbage  
M. Gerard Herbage  
Curry County Legal Counsel

## **EXHIBIT "A"**

### **ARTICLE ONE-GENERAL ADMINISTRATION**

#### **DIVISION TWELVE**

#### **NONPARTISAN NATURE OF OFFICE OF COMMISSIONER**

#### **SECTION 1.12.010**

#### **NONPARTISAN STATUS OF COMMISSIONERS**

Beginning with filings for election to the office of Curry County Commissioner for the Primary election of 2010, all offices of Curry County Commissioner shall thereafter be "nonpartisan" within the meaning of ORS Chapter 249 and other state election laws.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance )  
Repealing Article One, Division )  
Thirteen of the Curry County )  
Code (Ordinance No. 09-06) )  
Regarding the Curry County )  
Surveyor )

ORDINANCE NO. 15-01

The Board of Commissioners for the County of Curry ordains as follows:

**SECTION ONE TITLE**

This ordinance shall be known as Ordinance 15-01, an ordinance amending the Curry County Code.

**SECTION TWO FINDINGS**

- 1) ORS 204.005(2) provides that "Unless an adopted county charter or a county ordinance provides otherwise, the governing body of a county shall appoint a county surveyor."
- 2) On September 21, 2009, the Board of Curry County Commissioners adopted Ordinance 09-06, an "Ordinance Continuing the Practice of Electing the Curry County Surveyor, Oregon Laws 2009 Chapter 491", which provides for an elected surveyor in Curry County."
- 3) Circumstances regarding the surveyor position have dramatically changed in Curry County since the adoption of Ordinance 09-06.
- 4) The Curry County Surveyor passed away in December of 2014, which created a vacancy in the office pursuant to ORS 236.010(1)(a).
- 5) The Board discussed the vacancy in the Surveyor's Office at its regular meeting on January 7, 2015, and found that the pool of eligible candidates for the position will be extremely small in part because ORS 204.116(3) requires an elected surveyor to be a registered professional land surveyor in Oregon, and in part because Article VI, Section 8 of the Oregon Constitution states that: "Every county officer shall be an elector of the county..."
- 6) By making the position of county surveyor an appointed position instead of an elected one, the Board can potentially expand the eligible pool of surveyor candidates, which is important and beneficial in the selection process.


- 7) It is the intent of this ordinance to allow the Board of Curry County Commissioners to appoint a Surveyor to fill out the term of the elective office which terminates on January 9, 2017, and then to appoint a County Surveyor thereafter.
- 8) It is in the best interests of the County that the Board of Curry County Commissioners repeals Article One, Division Thirteen of the Curry County Code (Ordinance No. 09-06), effective on January 9<sup>th</sup> of 2017.

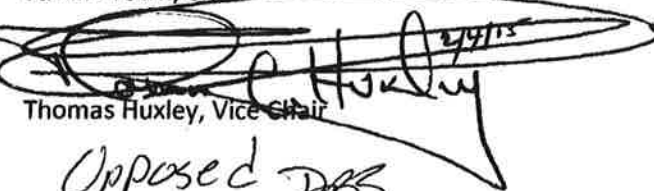
**SECTION THREE REPEALER**


Article One, Division Thirteen of the Curry County Code (Ordinance No. 09-06) is repealed in its entirety effective January 9, 2017.

DATED this 4<sup>th</sup> day of February, 2015.

**BOARD OF CURRY COUNTY COMMISSIONERS**

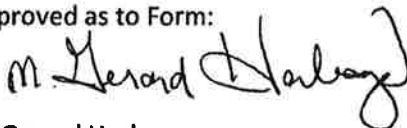
  
Susan Brown, Chair

  
Thomas Huxley, Vice Chair

  
Opposed DBS  
David Brock Smith, Commissioner

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 1-21-15  
Second Reading: 2-04-15  
Emergency Adoption: No  
Effective Date: 1-09-17

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**IN AND FOR THE COUNTY OF CURRY, OREGON**

**In the Matter of an Ordinance  
Continuing the Practice of  
Electing the Curry County  
Surveyor, Oregon Laws 2009  
Chapter 491**

)  
)  
)  
)  
)

**ORDINANCE NO. 09-06**

**The Board of Commissioners for the County of Curry ordains as follows:**

**SECTION 1 TITLE**

**This ordinance shall be known as Ordinance 09-06, an ordinance amending the Curry County Code.**

**SECTION 2 FINDINGS**

- A. Senate Bill 344 became law as Oregon Laws 2009 Chapter 491. Section 1(2) provides that "Unless an adopted county charter or county ordinance provides otherwise, the governing body of a county shall appoint a county surveyor." The previous law provided that surveyors in a general law county such as Curry are elected unless the voters adopt a measure making the surveyor an appointed official.**
- B. Following published notice, the Board of Curry County Commissioners held public hearings on September 8, 2009, and September 21, 2009, on this Ordinance as proposed. Following public input, the Board finds that it is appropriate to exercise the authority granted to it by Oregon Laws 2009 Chapter 491 and continue to allow the voters of Curry County to elect their surveyor.**

**SECTION 3 ADOPTION**

**Exhibit "A", attached hereto and incorporated by this reference, is adopted as an amendment to the Curry County Code; to wit, as a new Article One Division Thirteen.**

#### SECTION 4 SEVERANCE CLAUSE

If any section, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

DATED this 21<sup>st</sup> day of September, 2009.

#### BOARD OF CURRY COUNTY COMMISSIONERS

*Bill Waddle*

Bill Waddle, Chair

*George Rhodes*

George Rhodes, Vice Chair

OPPOSED

Georgia Yee Nowlin, Commissioner

Attest:

*Patricia R. Cook*

Recording Secretary

Approved as to Form:

*M. Gerard Herbage*

M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 9-8-09  
Second Reading: 9-21-09  
Emergency Adoption: NO  
Effective Date: 12-20-09



**EXHIBIT "A"**

**ARTICLE ONE**

**DIVISION THIRTEEN**

**ELECTION OF COUNTY SURVEYOR**

**SECTION 1.13.010**

**SURVEYOR AS AN ELECTIVE POSITION**

**Under authority of Oregon Laws 2009 Chapter 491, the position of Curry County Surveyor shall continue as an elective position.**

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Amendment                     )  
to the Curry County Code Adding                 )  
a New Article One Division                     )  
Fourteen Relating to a Federal                 )  
Coordination Policy                                 )

**ORDINANCE NO. 13-03**

**SECTION 1 TITLE**

This ordinance shall be known as Ordinance 13-03, an ordinance amending the Curry County Code.

**SECTION 2 FINDINGS**

The Board of Commissioners for Curry County wishes to coordinate with federal resource agencies regarding agency action that affects the County and its residents.

**SECTION 3 ADOPTION**

Exhibit "A" attached hereto and incorporated by reference, is adopted as an amendment to the Curry County Code, to wit, as a new Article One Division Fourteen.

**SECTION 4 SEVERANCE CLAUSE**

If any section, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

DATED this 7 day of August, 2013.

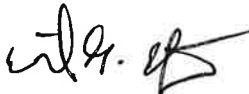
BOARD OF CURRY COUNTY COMMISSIONERS



David Brock Smith, Chair

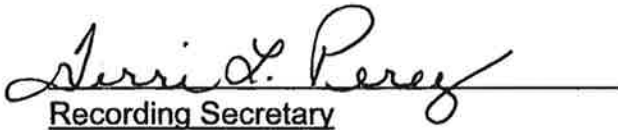


Susan Brown, Vice Chair



David G. Itzen, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: May 1, 2013

Second Reading: May 15, 2013

Third – Sixth Readings: June 5, 2013, June 19, 2013, July 10, 2013, August 7, 2013

Emergency Adoption: No

Effective Date: November 5, 2013

## **EXHIBIT "A"**

### **ARTICLE ONE**

#### **DIVISION FOURTEEN    FEDERAL COORDINATION POLICY**

##### **SECTION 1.14.010 BACKGROUND.**

(1) **Federal Coordination Laws.** Federal law requires several federal agencies to coordinate with affected local governments regarding their respective planning and permitting activities and other federal actions. Most coordination laws address land and resource management planning on federal lands. Federal agencies are also required to seek comments from affected local governments regarding designating critical habitat for endangered species, licensing energy projects, and evaluating the environmental impacts of major federal actions.

Most federal coordination laws specify only that an agency must coordinate with local governments without providing further guidance. However, some of the federal land management statutes impose more detailed coordination requirements. For example, the Federal Land Policy Management Act (FLPMA) and the regulations promulgated thereunder describe federal coordination in more detail. The FLPMA and the regulations promulgated thereunder impose more detailed coordination requirements on the Bureau of Land Management (BLM), including:

- (a) Keeping apprised of local land use plans;
- (b) Considering local land use plans in developing federal land use plans;
- (c) Resolving any inconsistencies between local and federal land use plans to the extent practical and;
- (d) Providing for meaningful local government involvement in the development and revision of land use plans, land use regulations, and land use decisions regarding public lands.

In addition to the FLPMA, the regulations promulgated under the National Forest Management Act (NFMA) require the Forest Service to "provide early and frequent opportunities for...local governments to participate in the planning process."

To commence federal coordination, Curry County hereby exercises its right to coordinate regarding federal actions affecting its jurisdiction and its right to be notified of

such actions. When a federal agency contemplates such an action, the agency must notify Curry County of such action so Curry County can monitor, analyze and comment on the process and the local effects of the action. The federal agency should also seek consistency between the proposed action and the Curry County laws and plans.

(2) Federal Coordination Policy Function. The function of this Federal Coordination Policy is to provide a sound policy basis to negotiate formal coordination procedure agreements with individual federal agencies and communicate the Board of Commissioners' policy positions on federal policy and actions that affect Curry County.

(a) Relationship to Other County Departments and Policies. This Federal Coordination Policy is not a land use decision or comprehensive plan as these terms are defined in Oregon Revised Statutes (ORS) Chapter 197. The Federal Coordination Policy is only applicable where federal land ownership, federal projects, and/or federal permitting requirements assign land use decision-making to the federal government. In this way, the Federal Coordination Policy is a limited scope document that functions only to guide federal policies and activities.

(b) Federal Coordination Policy Organization. This Federal Coordination Policy is divided into three sections: overarching policies, federal land management and federal projects. The first section addresses Curry County's general policies relating to the process for coordination between Curry County and the federal agencies and the development of and modifications to federal policy. This section provides a set of overarching policies that are intended to apply to all other policies and to which all other policies are subservient. The second section addresses federal land management policies. This section provides policies relating to the executive administration of federal land management laws, rules and policies. The third section addresses federal projects. Projects are very different from policies, plans, laws, and rules, because they involve physical actions. This section provides policies relating to both the process for coordinating on projects generally and the methods for coordination actions on specific projects.

(3) Amendments and Updates to the Federal Coordination Policy. The Federal Coordination Policy contemplates that updates will be required from time to time to respond to changes in federal laws, rules and coordination procedures and with Curry County's economic, social and political priorities. Minor updates may be scheduled on an annual or bi-annual basis. The Federal Coordination Policy contemplates that major policy reviews will occur every 5-7 years. The Federal Coordination Policy contemplates that Curry County Coordination comments on specific projects or management policy proposals will be ongoing and these constitute implementation of the Federal Coordination Policy.

## SECTION 1.14.020 OVERARCHING POLICIES

Subsequent sections of this Federal Coordination Policy are subservient to the overarching policies and implementation strategies contained in this section. The policies in the subsequent sections should be interpreted consistent with this section.

### (1) Purpose of the Federal Coordination Policy.

- (a) Curry County asserts its maximum rights to coordination, as provided by law, with all federal agencies conducting activities in or affecting Curry County.
- (b) The policies contained in the Federal Coordination Policy are enacted with the express intent of developing meaningful and productive relationships with the federal agencies that coordinate with Curry County.

### (2) Coordination Agreement.

- (a) Curry County will transmit a formal request to initiate immediate and ongoing coordination with federal agencies that the Curry County Board of Commissioners find conduct activities in or that may affect Curry County. These agencies include, but are not limited to, the following: USDA Forest Service; Bureau of Land Management (BLM); Bureau of Reclamation (Reclamation); US Fish and Wildlife Service (FWS); NOAA's National Marine Fisheries Service (NOAA Fisheries); Army Corps of Engineers; Federal Regulatory Energy Commission (FERC); and Natural Resource Conservation Service.
- (b) In its transmittal requesting coordination, Curry County may consider making a request to a respective recipient agency to develop a formal coordination agreement with Curry County. The agreement may include, but is not limited to, the following: mechanisms for agreement amendments; policy development notification procedure; policy development review and comment; policy development conferences; project notification; project review and comment; and project coordination conferences.

(3) Federal Policy Changes. Curry County recognizes and respects that the federal government has many policy priorities that change over time and that these changes affect federal land management. Political, cultural, economic, environmental, and national security dynamics are in constant states of change and these changes sometimes translate into land management changes. This section describes Curry County's general policies regarding changes to federal land management. This section applies only to changes in federal ownership interests and does not extend to leasehold interests or mining claims.

- (a) Curry County supports changes to coordination laws, rules and administrative procedures that will strengthen requirements for coordination and consistency between federal and local plans and policy.
- (b) Curry County opposes major land management policy actions enacted by the executive branch of the federal government outside of the ordinary land management planning and policy development process and deem such actions to subvert the coordination requirements otherwise required.
- (c) Coordinating federal agencies are expected to notify Curry County of any proposed changes to any administrative rule or guidance regarding coordination procedures within 42 days of project initiation and that provides for not less than 60 days for response and comment from Curry County on the proposed changes. The agency and Curry County may consider amending their coordination agreement, if such agreement exists, accordingly to reflect any resulting changes.
- (d) Coordinating federal agencies are expected to notify Curry County of any land management policy changes contemplated by the agency at the earliest practicable point in the policy development process and not later than 60 days from project initiation, consistent with any coordination procedure agreement between Curry County and the respective coordinating federal agency. Curry County will exercise its rights to coordinate and participate in policy development relating to any policy changes that are material to the interests of Curry County.

(4) Federal Land Ownership Changes. There are many federal interests associated with federal land holdings in Curry County. Curry County recognizes that changes to the federal government's land holdings may occur from time to time. Curry County, similarly, has a wide array of interests that are affected by changes in federal land holdings in Curry County. This section describes Curry County's overarching policies regarding changes to the federal government's land holdings in Curry County.

- (a) Curry County finds that changes to federal land holdings may function to support economic development opportunities in areas such as renewable energy production, transportation, and tourism. Curry County supports federal land holding changes to capitalize on economic development opportunities that are otherwise appropriate.
- (b) Curry County finds that federal land holding changes may function to preserve or enhance historic and cultural assets. Curry County supports land holding changes that advance these interests and are otherwise appropriate.
- (c) Curry County finds that federal land holding changes may function to improve the environment and make land management more effective.

Curry County supports land holding changes that make management more efficient and better balance environmental asset preservation with land use and utility and are otherwise appropriate. Land exchanges or donations should not result in a net loss of general fund revenue to Curry County as a result of property taxes that would have otherwise accrued.

- (d) Curry County finds that federal land holding changes may function to support developed recreation and Curry County's tourist economy. Curry County supports land holding changes that support developed recreation investments and are otherwise appropriate for the area.
- (e) Curry County finds that national security is the most important national interest. Curry County supports changes in federal land holdings that serve national security interests and are otherwise appropriate.

#### SECTION 1.14.030 FEDERAL LAND MANAGEMENT POLICY

This section describes Curry County's policies regarding the federal government's management of lands it owns or controls. Subsequent sections address policies for federal projects. Although the policies include references to target agencies as examples, the policies are not exclusive to those agencies and apply to any other agencies under similar circumstances.

(1) Forestland and Rangeland Management Policies. This section describes Curry County's policies regarding federal land management plans that affect forestland and rangeland in Curry County.

- (a) Curry County supports forest planning that will result in sustainable timber yields from lands in Curry County. Calculations of sustainable yields should be based upon the best science and forest management practices available and should adequately account for lands that have environmental restrictions or other similar constraints.
- (b) Curry County supports forest management plans, such as the Curry County Healthy Forest Collaborative, that provide for effective and efficient timber harvests and achieve planned timber yields. Forest management plans should encourage timber harvest proposals that are likely to withstand legal challenges.
- (c) Curry County supports forest management plans that contain policies and implementation that will achieve timber sales and begin harvests within 12 months of wildfire events. This policy applies to any area where the forest management plan otherwise supports timber harvests as an appropriate land utilization.



- (d) Curry County supports forest planning that will improve forest health and decrease the risk of wildfires, especially in the urban-wildland interface areas of Curry County. Curry County recognizes and supports forest plans that include components for stewardship, small diameter logging and similar active management practices as well as road access for firefighting.
- (e) Curry County supports continued maintenance and operation of most, if not all, of the existing Forest Service and BLM roads. Curry County recognizes that some roads and roadway networks may become obsolete or cost prohibitive and that management must prioritize the needs of its system. To provide funds for continued operation and maintenance of existing roads, Curry County encourages forest planning that can be expected to generate sufficient revenue to support the existing Forest Service and BLM road network in Curry County.
- (f) Curry County supports rangeland management planning that does not decrease the level of federal grazing allotments (and/or grazing leases) that existed on January 1, 2011, to local area ranchers. Curry County supports the creation of offsetting allotments of comparable or superior quality to assure no net-loss of grazing allotments for any proposed management policy change that would reduce the total gross acreage of grazing allotments in Curry County.
- (g) Curry County supports rangeland management planning that would return the level of federal grazing allotments (and/or grazing leases) to those that existed on January 1, 2000, to local area ranchers. Curry County supports the creation of offsetting allotments of comparable or superior quality to assure no net-loss of grazing allotments for any proposed management policy change that would reduce the total gross acreage of grazing allotments in Curry County.
- (h) When an agency that is required to coordinate with Curry County initiates any evaluation of a proposal for land preservation within Curry County, Curry County seeks the highest level of coordination practicable and requests all information generated by or provided to the agency on the proposal be provided as early as practicable. Preservation actions include, but are not necessarily limited to the following:
  - i. Study areas to be forwarded to Congress for consideration as Wilderness.
  - ii. Areas being considered for National Park designation.
  - iii. Areas being considered for executive land management and policy actions outside the ordinary land management planning and policy

development process such as monument designation or secretarial wildlands designations.

(2) O&C Land Act Specific Policies. In addition to the general policies regarding all federal land management policy choices, Curry County has specific interest in regard to the O&C Lands. Implementation of the O&C Lands Act has significant implications for the general fund and Curry County's financial health. For this reason, Curry County adopts the following policies specific to the management of O&C Lands.

- (a) Curry County recognizes that federal agencies manage O&C Lands subject to the Federal Land Management Policy Act (FLMPA) for lands managed by BLM and the National Forest Management Act (NFMA) for lands managed by the Forest Service. Curry County also recognizes that FLMPA and NFMA require federal agencies to coordinate with local governments affected by amendments to federal land management plans. Accordingly, Curry County asserts its right to coordinate with federal agencies regarding any change in management policies relating to O&C Lands, including but not exclusive of any change in the annual sustained timber yield capacity for O&C Lands.
- (b) Curry County recognizes that the primary purpose of the O&C Lands under the O&C Lands Act is timber production. Curry County supports the minimization of projects for purposes other than the management of a sustained yield of timber on O&C Lands. When considering a use for O&C Lands other than timber production, federal agencies should evaluate non-O&C Lands as alternatives and utilize non-O&C Lands whenever the management objective can otherwise be advanced without the utilization of O&C lands. Because the O&C Lands Act includes lands managed by multiple agencies, this alternative analysis should include inter-agency coordination and alternative sites for land managed by any agency that manages land under the O&C Lands Act.
- (c) Curry County recognizes that the federal agencies establish an annual sustained yield capacity for O&C Lands under the O&C Lands Act. Curry County also recognizes that actual timber sales may be significantly reduced from the sustained yield adopted in the management plan as a result of the individual environmental review processes necessary for each harvest project. Curry County supports the maximization of timber sales within the annual sustained yield capacity. To account for the reduction from planning to actual timber harvest, Curry County supports harvest planning and environmental review processes that will be sufficient to meet the annual sustained yield capacity; the planning and environmental review process may need to include significantly greater acreages with more aggregate timber production potential than the planned sustained yield in any given year to assure that actual timber harvests in any given

year can properly account for delay or reduction which often occurs during the environmental review process.

(3) Mining Policies. Existing and potential sources of minerals and aggregates are affected by federal policies. Mining can provide significant economic development and employment opportunities. The Forest Service, BLM, and other agencies have resources and policy jurisdictions related to mining activities. However, like energy production and transmission, mining activities can have significant negative externalities such as pollution, aesthetic impacts, and environmental changes. This section describes Curry County's policies regarding mining on federal land.

- (a) Curry County supports the rights of existing mining claims and the acquisition of new rights to newly discovered resources or where technologically advances provide increased access to existing resources.
- (b) Curry County supports the minimization of negative externalities to a practical extent. Curry County supports requirements for appropriate reclamation of any mining site at the conclusion of mining activity.
- (c) Curry County supports the reclamation of abandoned mines and the prioritization for reclamation of abandoned mines that pose a significant health or environmental hazard.

(4) Recreation Policies. Recreation on federal lands is important to Curry County. The Forest Service, BLM, BOR, the Army Corps of Engineers, and other agencies have resources and policy jurisdictions that affect recreation in Curry County. Recreation on federal land in Curry County provides economic development through tourism. Recreation on federal land also serves long-term economic development in Curry County because recreation opportunities support migration and associated investment decisions. Recreation opportunities on federal land range from low impact, low intensities and nominal investments, to high impacts, intensive, and high levels of investment. This section describes Curry Counties' policies regarding recreation opportunities and associated land uses on federal lands.

- (a) Developed Recreation/Enrichment. Developed recreation includes uses where significant physical improvements and investments are made on federal land to support the recreation uses. Developed recreation opportunities on federal land may include, but are not necessarily limited to, the following: nordic and/or alpine ski areas; trails; privately held long-term leased and short-term leased forest cabins; reservoirs; campgrounds and picnic areas; marinas; educational facilities and research stations (e.g., telescopic observatories and interpretive centers).
  - i. Curry County recognizes that some areas are appropriate for developed recreation and that other areas are not. Curry County

supports federal land planning for developed recreation in appropriate locations. To evaluate suitable locations for developed recreation, federal agencies should review Curry County's Destination Resort Map and align federal plans with local land use plans that support large-scale developed recreation investments.

- ii. Curry County generally supports planning and designation for developed recreation in locations where developed recreation improvements already exist. Curry County prioritizes these areas for reinvestment and expansion to meet existing and future needs.
- iii. Curry County supports opportunities for additional developed recreation in Curry County. Curry County-wide level of developed recreation should not be decreased. Any decreases in the level of a major developed recreation amenity in Curry County should be offset by a corresponding replacement or increase of a similar type of developed recreation opportunity elsewhere in Curry County.

(b) Low-Impact Recreation Uses. Low-impact recreation uses generally involve relatively small scale physical improvements and low-levels of investments on federal land to support the recreation uses. Low-impact recreation opportunities on federal land may include, but are not necessarily limited to, the following: horseback riding; hiking; hunting; fishing; unregistered boating (boats not requiring registration under Oregon law); and bird-watching.

- i. Curry County supports most all low-impact recreation uses.
- ii. Curry County supports the preservation and maintenance of existing physical improvements that support low impact recreation uses, such roads to trailheads, boat ramps and similar infrastructure.

(c) High-Impact Recreation Uses. High-impact recreation uses may or may not require significant physical improvements and investments on federal land to support the recreation uses and may affect the natural environment to varying degrees. Impacts on the natural environment may include erosion, noise, permissible levels of pollution discharge, and similar impacts. Intensive recreation opportunities on federal land may include, but are not necessarily limited to, the following: registered boating (boats requiring registration under Oregon law); off-highway vehicles; snow-machines; and motorized commercial recreation, such as snow-cat tours, snow-cat skiing, and jet-boat tours.

- i. Curry County recognizes that some areas are appropriate for high-impact recreation activities while other areas are not. Curry County

supports federal land planning for high-impact recreation in appropriate locations.

- ii. Curry County prioritizes locations with existing intensive recreation uses for reinvestment and expansion to meet existing and future needs.

(5) National Security. Agencies such as the Department of Defense and the Department of Homeland Security use lands to meet the security needs of the United States of America. Local concerns or issues are usually secondary to investment and strategic decisions about federal lands for national security.

- (a) Curry County recognizes that priorities and investments in our national defense will change over time and that national security investment and strategic decisions must take precedent over local concerns or issues. Where local issues and concerns can reasonably be addressed without compromise to national security interests, then Curry County supports the minimization of local conflicts and potential adverse impacts.

#### SECTION 1.14.040 AIR AND WATER RESOURCES

In addition to other requirements and obligations imposed by federal and state law, this section describes Curry County's policy regarding land use management planning and Federal projects affecting air and water resource issues.

- (1) When Curry County coordinates on projects that implicate air and water resources, Curry County will rely on approved implementation plans, permit requirements, and adopted processes to determine whether water and air resource issues are adequately addressed by the project.

#### SECTION 1.14.050 ENDANGERED SPECIES

(1) Species Listing. Species listing can occur either by agency initiated action or by private petition. The applicable agency (FWS or NOAA Fisheries) reviews the data to make one of three determinations for the species: not warranted, warranted but precluded, and warranted. This section describes Curry Counties' policies regarding the listing of species occurring in Curry County under the Endangered Species Act (ESA).

- (a) The agency will notify the County of any petitions submitted for species and the lists of candidate species occurring in Curry County. If Curry County determines a petition for listing or candidate species is vital to Curry County's interests, then Curry County may, if feasible, collaborate with others and/or take a leadership role in the listing evaluation process. Leadership activities may include but are not limited to the following:

- i. Review of scientific data and development of data supplements if determined appropriate.
- ii. Determine if it is appropriate for Curry County to be the permit holder for a Programmatic Candidate Conservation Agreement with Assurances (PCCAA) as a pre-emptive measure to accomplish ESA objectives through habitat preservation and other negotiated species support actions.

(2) Critical Habitat Designation. When commenting on proposed critical habitat designations, Curry County may take into account potential benefits by considering qualified scientific professionals, economists and/or environmental law experts in the development of Curry County's comments on the proposed designation.

(3) Habitat Conservation Plans. Habitat Conservation Plans (HCP) are planning documents required as part of an application for an incidental take permit. Certain HCP may be beneficial depending on the species and the types of actions and specific locations affected by the specific species listing. Curry County may consider proposals to collaborate on and/or be the lead agency for the development of HCP for listed species known to exist or with habitat in Curry County. At a minimum, any such proposal brought to Curry County by a third party must include the following:

- (a) Timeline to complete the HCP.
- (b) Contact information and any preliminary communications with the applicable FWS or NMFS field or regional office agent who is expected to be assigned staff support for the project.
- (c) Estimated costs to file the HCP and the proposed responsible party(s) for the project costs. Costs should be itemized according to major categories like – GIS Habitat Mapping, Field Data Collection, Plan Preparation, Other Agency Permits, Draft NEPA Documentation, etc.

For the HCP related to a specific project, Curry County will apply applicable policies herein,, but may provide additional comment through the NEPA review that relate specifically to the HCP aspect of the project.

(4) Safe Harbor Agreements. A Safe Harbor Agreement (SHA) is an agreement between the agency and a private landowner, providing that where a baseline habitat condition is established, actions that may enhance the habitat conditions and increase species prevalence on the property will not result in additional use restrictions beyond those that would have been applicable under the baseline condition. A Programmatic SHA provides a process to establish a baseline and details a list of actions that could be taken to support the species and then prescribes the "programmatic" or "blanket safe harbors" that will apply for any property owner who elects to participate.

- (a) Curry County's policy is that Programmatic SHAs may be beneficial depending on the species and the types of actions and specific locations affected by the specific species listing. Curry County may consider proposals to collaborate on and/or be the lead agency for the development of a Programmatic SHA for listed species known to exist or with habitat in Curry County. At a minimum, any such proposal brought to Curry County by a third party must include the following:
  - i. Timeline to complete the Programmatic SHA.
  - ii. Contact information and any preliminary communications with the applicable FWS or NMFS field or regional office agent who is expected to be assigned staff support for the project.
  - iii. Estimated costs to develop the Programmatic SHA and the proposed responsible party(s) for the project costs. Costs should be itemized according to major categories like – GIS Habitat Mapping, Field Data Collection, Agreement Preparation, etc.

#### **SECTION 1.14.060 FEDERAL PROJECT REVIEW**

Certain projects that are federally funded, located on federal land, or require federal permitting are considered "major federal actions" and require the agency to perform an environmental review under the National Environmental Policy Act (NEPA). Projects subject to this section include both federal, state or local government project and private projects subject to federal requirements.

(1) Federal Projects. This section describes Curry County's general policies regarding federal actions subject to environmental review under NEPA.

- (a) If the project is of material interest to Curry County (as determined by Curry County leadership), then Curry County may request a role in the NEPA project scoping that may include, but not necessarily be limited to the following:
  - i. Curry County and the relevant agency(s) will follow any procedures contained in a mutually adopted coordination agreement.
  - ii. Curry County will make reasonable efforts to provide constructive input to the agency(s) on the project purpose and need.
  - iii. Curry County will make reasonable efforts to provide constructive input to the agency(s) on the initial alternatives to be analyzed.

- iv. Curry County will make reasonable efforts to identify data needs and technical analysis the County believes are essential to the NEPA process during the scoping and project development stage. Examples of data needs and technical analysis that is of interest to Curry County may include, but is not limited to, issues such as: proliferation of invasive species; impacts to water quality or quantity; risk of wildfire; impacts to air quality; habitat mapping; and carbon emissions.
  - (b) Curry County supports maximizing net benefits to Curry County and minimizing adverse environmental impacts of the project.
  - (c) Curry County supports project alternatives that demonstrate the optimum economically achievable balance between national benefits, local benefits, and minimized adverse environmental impacts.
- (2) Selected Project Types. The policies in this section are directed at typical or common project types often located on Federal land. These project types should not be construed to represent the universe of potential project types or impair or limit the need for specific positions on the types of projects addressed in this section.
- (a) Waterworks.
    - i. Curry County supports waterworks facilities that expand access to low-cost domestic and/or agricultural water, create new tax revenue sources, provide employment, encourage technological development, improved public safety, provide aqueduct lease payments, and increase flood control.
  - (b) Recreation Development.
    - i. Curry County supports recreation facilities that expand recreation opportunities for local residents, create economic development opportunities, and enhance alternative recreation uses that currently exist or which would be suitable for the area.
  - (c) Transportation.
    - i. For transportation projects subject to transportation system planning under Oregon's land use laws, Curry County support will limit comments to the evaluation of NEPA alternatives for the planned projects.
    - ii. For projects that are not subject to transportation system planning under Oregon's land use laws, Curry County will evaluate projects based on the benefit to Curry County. These benefits may include



expanded access to federal lands, reduced travel times, and improved integration with the existing transportation system. For proposed closures or relocations, Curry County will consider how access will be retained, why the action is necessary to implement the management plan for the area, and what changes may occur on the existing transportation system in the affected area.

(d) Historic and/or Cultural Preservation.

- i. Curry County supports cultural and historic preservation projects that do not prevent implementation of other types of needed projects in the area. Where cultural and historic preservation prevents the implementation of other projects, Curry County will carefully consider the competing interests and related benefits to Curry County.

(e) Public Safety, Security and/or Property Protection.

- i. Curry County recognizes that public safety is of paramount importance and supports projects that protect life and property. Curry County supports all public safety, security and property protection projects that do not negate opportunities for other very high priority project.

(f) Timber Harvests.

- i. Curry County supports timber harvests that expand access to low-cost lumber for consumers and businesses, create new tax revenue sources, provide employment, improve public safety, and improve forest health.

(3) Application of the Federal Coordination Policy to Other Projects. The Federal Coordination Policy is not intended to restrict Curry County's participation in and comment on federal actions not specifically described in the preceding sections. The Federal Coordination Policy may function as a guide in such instances, but shall not be considered determinative. Moreover, many of such projects also require review by Curry County under state and local land use laws and regulations, in which case the Federal Coordination Policy shall not have precedence over any other type of information that may be submitted to the record during the course of a land use proceeding by Curry County. Such land use proceedings, and any decisions made therein, must be based on the requirements of state and local land use laws and regulations including, but not limited to, Curry County's Comprehensive Plan and Land Development Ordinance.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY

In the Matter of an Amendment )  
To the Curry County Code Adding )  
A New Article One Division Fifteen )  
Authorizing the County to Enter )  
Into an Intergovernmental )  
Agreement under ORS Chapter 190 )  
Creating an Association to Promote, )  
Foster and Advance Community )  
Based Renewable Energy, to Be )  
Known as Community Renewable )  
Energy Association (CREA) )

ORDINANCE NO. 14-01

The Board of Commissioners for the County of Curry Ordains as Follows:

SECTION 1      TITLE

This ordinance shall be known as Ordinance No. 14-01, an ordinance amending the Curry County Code.

SECTION 2      ADOPTION

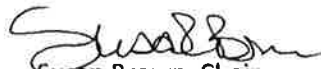
Exhibit "A", attached hereto and incorporated by this reference, is adopted as an amendment to the Curry County Code; to wit, as a new Article One Section 15.

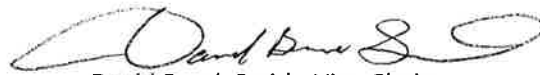
SECTION 3      SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of the ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

ADOPTED this 19th day of February, 2014.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Susan Brown, Chair

  
David Brock Smith, Vice Chair

**Absent**  
David G. Itzen, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: Jan 29, 2014  
Second Reading: Feb 19, 2014  
Emergency Adoption: No  
Effective Date: Mar 20, 2014

## **Community Renewable Energy Association (CREA)**

### **EXHIBIT "A"**

**Section 1.15.010 Authority.** ORS Chapter 190 authorizes units of local government, including counties, to enter into intergovernmental agreements.

**Section 1.15.020 Effective Date.** The effective date of the Intergovernmental Agreement shall be 90 days after adoption of this ordinance.

**Section 1.15.30 Purpose.** The primary purpose of the Association created by the Intergovernmental Agreement is as follows:

1. To promote, foster and advance, through cooperative action of community based renewable energy industry of the State served by the Association, the economic application and public understanding of community based renewable energy.
2. To provide cooperation and liaison with other persons, organizations and institutions having an interest in community based renewable energy.
3. To cooperate in and contribute towards the enhancement of widespread understanding of the various applications of community renewable energy through public and professional activities.
4. To engage in any lawful activity that will enhance the efficient and economic progress of community based renewable energy industry and inform the public of its scope and character, such as, but not limited to, collecting and disseminating market and trade statistics and other useful information; to carry on and assist in research investigations and experiments; to conduct conferences and produce publications, and to conduct trade promotion activities.
5. To voluntarily extend aid or assistance, financial or otherwise, and to cooperate with such private or governmental bodies, corporations, associations, institutions, societies, agencies or persons as are now or may hereafter be engaged in whole or in part in furtherance of the objectives and purposes herein named.
6. Act as intervenor spokesperson and lobbyist at PUC and legislative hearings and other public forums.

**Section 1.15.40 Powers.** CREA, the Association created by the Intergovernmental Agreement, shall have the power:

1. To exercise all powers that may be necessary to enable it to perform and carry out the duties and responsibilities conferred upon its Members or which may hereafter be imposed upon it by law, contract or the Agreement.

2. To accept gifts and bequests, to apply for and use subsidies, grants or appropriations of money and personal or real property from any lawful source, and enter into any and all agreements required in connection therewith, in accordance with the terms of the gift, subsidy, grant, appropriation, agreement or contract related thereto.

3. To accept appointments to act as agents or assignees of others, including the Members, as is necessary to carry out its functions and purposes.

4. To establish, join and cooperate with communities and advisory groups of citizens, private or governmental bodies, corporations, associations, institutions, societies, agencies as are now or may hereafter be engaged in furtherance of community based renewable energy objectives.

**Section 1.15.50 Apportionment of Expenses and Revenue.** The expenses of the Association shall be apportioned among the parties to the Agreement equally, as shall the revenue or fees derived from any functions or activities of the Association. The Association shall establish a budget on an annual basis, which budget shall be approved by the Members of the Association. The Association shall generally follow the budget laws for cities and counties in the State of Oregon, as set forth in Oregon law.

In the Matter of the Second )  
Amendment Preservation ) Ordinance No. 16-05  
Ordinance for Curry County )

WHEREAS, the rights of the people to keep and bear arms are further protected from infringement by State and Local Governments under the Ninth and Tenth Amendments to the Constitution of the United States of America as well as Article 1 of the Constitution of the Great State of Oregon; and

WHEREAS, the Supreme Court of the United States of America in *District of Columbia v. Heller* upheld the individual rights to bear arms as protected by the Second Amendment of the Constitution of the United States of America with Justice Scalia's opinion stating that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and to use that firearm for traditionally lawful purposes, such as self-defense within the home; and

WHEREAS, the Supreme Court of the United States of America in *McDonald v. Chicago*, invalidated Chicago's handgun ban and held the Second Amendment to the Constitution of the United States of America applies to the States;

**NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDAINS:**

That Curry County strongly affirms our commitment to the rights and liberties enshrined within the Constitution of the United States of America and the Constitution of the Great State of Oregon; and

That Curry County opposes any state or federal law that abridges or is contrary to the provisions of the Constitutions of the United States of America and the Great State of Oregon preserving the people's right to keep and bear arms; and

That Curry County strongly supports the right of the people to keep and bear arms as stated in the Constitution of the United States of America, and the Constitution of the Great State of Oregon as interpreted by the United States Supreme Court and the Oregon Supreme Court, and vigorously opposes any state or federal law that unconstitutionally infringes upon these rights; and

That any laws enacted that violate or infringe upon the Constitution of the United States of America or the Constitution of the Great State of Oregon would be in direct conflict and violation of the Oath of Office taken to fulfill the duties of the Elected Position represented; and

To preserve the right of the People of, on and in Curry County, the Curry County Board of Commissioners do further resolve by this instrument that:

Curry County Government will not authorize or appropriate governmental funds, resources, employees, agencies, contractors, buildings, detention centers or offices for the purpose of enforcing any element of such acts, laws, orders, mandates, rules or regulations, that infringe on the right by the People to keep and bear arms, including, but not limited to the following:

1. Registration requirements for existing lawfully owned firearms; and

2. Prohibitions, regulations, and/or use restrictions related to ownership of non-fully automatic firearms, including but not limited to semi-automatic firearms; including semiautomatic firearms that have appearance or features similar to fully automatic firearms and/or military "assault style" firearms; and
3. Prohibition, regulations, and/or use restrictions limiting hand grips, stock, flash suppressors, bayonet mounts, magazine capacity, clip capacity, internal capacity, or types of ammunition available for sale, possession or use; and
4. Registration and background check requirements beyond those customarily required at time of purchase prior to December 2012; and
5. Restrictions prohibiting the possession, carry or transport of lawfully acquired firearms or ammunition by law abiding adult citizens or minors supervised by adults.

This Ordinance acknowledges provisions of preexisting law that:

- a. Prohibit the possession of firearms by certain felons per ORS 166.270; and
- b. Prohibit the purchasing or possession of firearms by individuals who have been adjudicated mentally ill and a danger to self and others per ORS 426.130; and
- c. Prohibit the possession of unlawful machine guns, short-barreled shot guns and silencers per ORS 166.272; and
- d. Prohibit the possession of unlawful concealed firearms, or possession by minors per ORS 166.250; and
- e. Prohibit the possession of firearms in public buildings or court facilities per ORS 166.360-166.370; and
- f. Prohibit the possession of firearms to certain convicted domestic violence perpetrators under the Gun Control Act of 1968.

DATED this 3<sup>rd</sup> day of August, 2016.

**BOARD OF CURRY COUNTY COMMISSIONERS**

  
\_\_\_\_\_  
Thomas Huxley, Chair



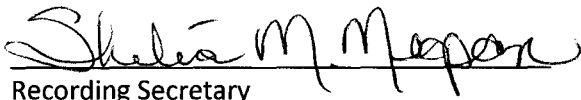


Susan Brown, Vice Chair



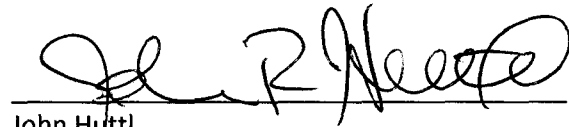
David Brock Smith, Commissioner

**Attest:**



Recording Secretary

**Approved as to Form:**



John Hutt  
Curry County Legal Counsel

First Reading: 07-20-2016

Second Reading: 08-03-2016

Effective Date: 11-01-2016

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Ordinance )  
Creating the Office and Position )  
of Curry County Administrator )  
and Adding Article One, Division )  
Seventeen )

**ORDINANCE NO. 17-01**

**THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.17.010      TITLE**

This Ordinance shall be known as Ordinance No. 17-01 and may be cited as the "Creation of the Office and Position of County Administrator". The County Administrator shall be the Chief Administrative Officer of the County and shall be responsible only to the Board of Commissioners.

**SECTION 1.17.020      AUTHORITY**

The Board of County Commissioners hereby delegates to the County Administrator broad authority to perform his or her job functions. The County Administrator is responsible to the Board for the manner of his or her administration. The Board reserves to itself all of its legislative and judicial or quasi-judicial authority, unless expressly delegated. This Ordinance is to be interpreted as a broad delegation to the County Administrator of Board of Commissioner authority, unless non-delegable or expressly reserved to the Board.

- (a) Any additional delegation of the authority from the Board to the County Administrator shall be by duly adopted order or ordinance.
- (b) Prior delegations by the Board of Commissioners to other Officers of the County shall remain in effect only where not inconsistent with this code. In the event of a potential conflict between a prior delegation and this Code, the County Administrator shall bring the matter to the attention of the Board.

**SECTION 1.17.030      APPOINTMENT OF COUNTY ADMINISTRATOR**

The County Administrator shall be appointed by and serve at the pleasure of the Board of County Commissioners. The relationship between the County and the County Administrator shall be as set forth in this Chapter and any employment agreement between the County and the County Administrator not inconsistent with this Chapter. The County Administrator shall be appointed for an indefinite term. The County Administrator is an at-will employee and may be removed at the pleasure of the Board, consistent with any applicable employment agreement.

**SECTION 1.17.040 BOARD MEMBER INTERACTIONS WITH COUNTY ADMINISTRATOR, EMPLOYEES**

In the exercise of their authority as members of the governing body of the County, and subject to the limits of the Oregon Public Meeting Laws, Board members may individually, or as a group in a public meeting, discuss fully and freely with the County Administrator any matter pertaining to County affairs or the interests of the County. Board members may not direct any County employee in the performance of their duties. Any direction to the Administrator shall be by majority vote of the Board.

**SECTION 1.17.050 QUALIFICATIONS, RESIDENCE, and SALARY**

The County Administrator shall be appointed by the Board of County Commissioners solely on the basis of his or her executive and administrative qualifications and experience and need not be a resident of the County or the State prior to his or her appointment. Within 30 days after the time of his or her appointment the County Administrator shall reside outside the County only by express permission of the Board. He or she shall receive a salary fixed by the Board commensurate with his or her experience and the responsibilities of the office.

**SECTION 1.17.060 POWERS AND DUTIES OF COUNTY ADMINISTRATOR**

(1) The County Administrator shall be responsible to the Board of County Commissioners for the administration and management of the County and shall have control and supervision of all County departments, divisions and offices, subject to his or her jurisdiction, except County Sheriff, County Counsel and District Attorney, and their respective offices and staff, or as otherwise provided by law.

(2) The County Administrator shall be responsible to the Board for the following functions:

(a) Coordinating the activities of all other County Elected Departments, devising ways and means whereby efficiency and economy may be secured in the operation of all offices and departments. County Administrator shall exercise no authority over the actions of elected County officials while they are performing the duties of their offices.

(b) Directing of the activities of all other County Appointed Administrative Departments.

(c) Select, appoint, supervise, discipline or dismiss all County staff and all employees.

(i) Recruitment, appointment, corrective action and dismissal of non-elected Department Directors.

(ii) Preparation and administration of annual Department Director performance evaluations.

(iii) The setting and adjusting of salaries of administrative Department Directors in annual merit adjustments within the ranges approved by the Board.

(iv) Before taking final action on appointment or dismissal of department directors, the Administrator shall advise the Board of the cause and process used in such action.

(v) Adjusting of salaries of employees and non-elected Department Heads in accordance with the performance evaluations and within the salary ranges approved by the Board.

County Administrator has no such power under this subsection over employees in the Sheriff's Office or District Attorney's Office.

(d) Acting as the County Budget Officer responsible for the preparation and recommendation of the annual budget and compensation plan. Administer the provisions of the budget as adopted by the Board.

(e) Preparing and administering a management and employee compensation and benefits plan.

(f) Planning, directing and evaluation of the development of internal management systems and procedures.

(g) Preparing administrative regulations and policies to carry out the efficient operation of the County.

(h) Enforcing ordinances, orders, rules, regulations, procedures and policies adopted by the Board and Administrator.

(i) Preparing and submitting an annual report on the status of County operations; and other reports upon request of the Board.

(j) Performing community relations functions, to include internal publications, external communications, media liaison, community organization liaison, advisory committee liaison, citizen assistance, information center, publication coordination and graphics support services, website management.

(k) Preparing and managing Board agenda and performing clerk of the Board meeting functions and providing other staff support for the Board.

(l) Providing intergovernmental relations staff functions for the Board.

(m) Overseeing Economic Development functions.

(n) Executing, enforcing and administering all contracts and grants as per Board Order or Ordinance.

(o) Attending all Board meetings and keep the Board informed of pertinent matters related to the administration and management of the County.

(p) Administering the risk management program for the County and its service districts.

(q) Directing the use, operation, maintenance, control and custody of all County and district property, buildings, works and improvements.

(r) Other duties as assigned by majority vote or Board Order.

#### **SECTION 1.17.070 SUB-DELEGATION OF AUTHORITY BY COUNTY ADMINISTRATOR**

The County Administrator may sub-delegate any authority granted by this Chapter to County department heads or other County or district staff, in a manner consistent with the provisions of the

County Code. Notwithstanding such delegation, the County Administrator shall be responsible for execution of all matters delegated.

**SECTION 1.17.080 TEMPORARY ABSENCES OR DISABILITY**

The County Administrator may designate an administrative officer of the County to exercise and perform his or her powers and duties conferred by the Chapter during his or her temporary absence or disability, until further order of the Board.

**SECTION 1.17.090 PERMANENT VACANCY; ACTING COUNTY ADMINISTRATOR**

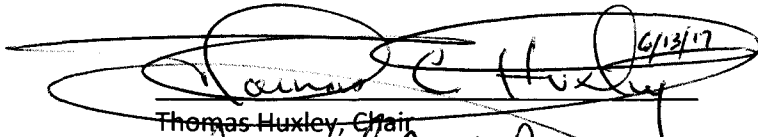
When a permanent vacancy occurs in the Office of County Administrator, the Board of County Commissioners shall designate an Acting County Administrator until such time as a County Administrator is appointed. The Acting County Administrator shall have all powers and duties conferred by this Chapter on the County Administrator, except the Acting County Administrator shall have no power to terminate an employee except by order of the Board. The Acting County Administrator may not serve for a period of longer than one year.

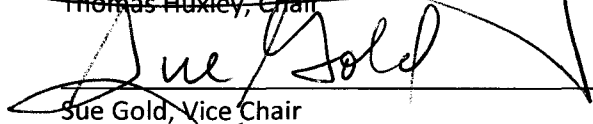
**SECTION 1.17.100 DECLARATION OF EMERGENCY**

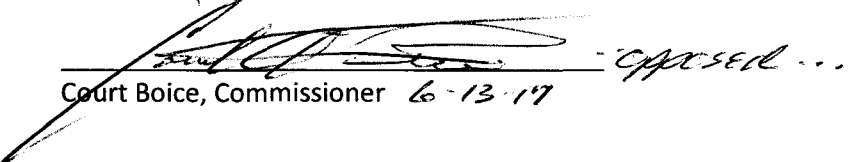
This ordinance being necessary for the preservation of the health, safety, and welfare of the community, an emergency is declared to exist and this ordinance will take effect July 1, 2017.

DATED this 7<sup>th</sup> day of June, 2017.

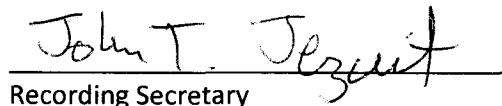
**BOARD OF CURRY COUNTY COMMISSIONERS**

 6/13/17  
Thomas Huxley, Chair

  
Sue Gold, Vice Chair


 - closed ...  
Court Boice, Commissioner 6-13-17

**ATTEST:**

  
Recording Secretary

First Reading: May 24, 2017  
Second Reading: June 7, 2017  
Effective Date: July 1, 2017  
(Adopted as Emergency)

**APPROVED AS TO FORM**

  
John Hutt  
Curry County Legal Counsel

**IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Amendment )  
to the Curry County Code )  
Regarding General Administration )  
of the County )

ORDINANCE NO. 17-05

The Board of Commissioners for the County of Curry ordains as follows:

**SECTION 1: TITLE**

This Ordinance shall be known as Ordinance 17-05, an Ordinance amending the Curry County Code with respect to General Administration, Article One.

**SECTION 2: ADOPTION**

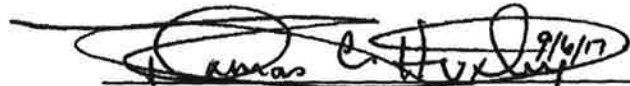
Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment and new Section Eighteen to the Curry County Code.


**SECTION 3: SEVERANCE CLAUSE**


If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgement shall not affect the validity of the remaining portions of the Ordinance; and it is hereby expressly declared that every other section, subsection, provision clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

DATED this 6<sup>th</sup> day of September, 2017.

**BOARD OF CURRY COUNTY COMMISSIONERS**

  
Thomas Huxley, Chair

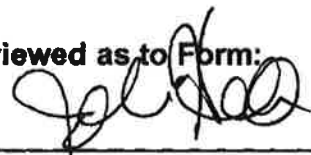
  
Sue Gold, Vice Chair

  
Court Boice, Commissioner 9-6-17

**Attest:**

  
Recording Secretary

**Reviewed as to Form:**

  
John Hutt  
Curry County Counsel

First Reading: August 16, 2017  
Second Reading: September 6, 2017  
Emergency Adoption: \_\_\_\_\_  
Effective Date: December 5, 2017

## **EXHIBIT "A"**

**THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:**

### **SECTION 1.18.010 TITLE**

This Ordinance shall be known as Ordinance No. 17-05 and shall amend the Curry County Code. It may be cited as the "Powers and Duties of County Counsel in Preparing Future Additions to Ordinances, Orders or Resolutions; Delegating Authority to Correct Typographical and Scrivener's Errors".

### **SECTION 1.18.020 AUTHORITY**

The Board of County Commissioners hereby delegates to County Counsel the following:

In preparing future supplements, changes, and additions to the Codified Ordinances, Ordinances, Orders, or Resolutions of the Board of Commissioners, or integrating amendments into code sections, County Counsel shall not alter the meaning, effect or substance of any ordinance, order or resolution, but within these limitations County Counsel may renumber said Ordinances, Orders and Resolutions, sections and parts of sections thereof, change the wording of section titles, rearrange sections or parts thereof, change reference numbers to agree with renumbered sections or other parts, substitute the proper subsection, section, or other division number, strike out figures or words which are merely repetitious, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical and scrivener's errors.



IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment        )  
to Curry County Code adding        )  
Article One, Division Nineteen        )  
Regulating Elected Official Travel    )

ORDINANCE NO. 18-04

The Board of Commissioners for the County of Curry Ordains as follows:

SECTION 1: TITLE

This Ordinance shall be known as Ordinance 18-04, an ordinance amending the Curry County Code adding Article One, Division Nineteen which addresses Elected Official Travel.

SECTION 2: POLICY AND PURPOSE

The purpose of this Ordinance is to authorize only reasonable and necessary travel expenses by encouraging use of telephonic or electronic training and conferencing, encouraging use of county pool cars for authorized in-state travel, dis-allowing use of pool cars for in-county travel, and establish limits for meals and lodging expense reimbursement. Any travel expense incurred beyond that which is budgeted or otherwise approved by the Board of Commissioners is subject to enforcement per Article 10, Division One of the Curry County Ordinances.

SECTION 3: ADOPTION

Exhibit "A," attached hereto and incorporated by reference, is adopted as an amendment to the Curry County Code adding Article One, Division Nineteen.

SECTION 3: SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the


remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.


#### SECTION 4: EMERGENCY CLAUSE


The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public, peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be in full force and effect on its passage.


DATED this 5<sup>th</sup> day of September 2018.

#### BOARD OF CURRY COUNTY COMMISSIONERS

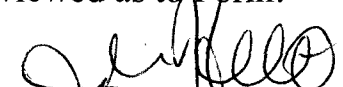
  
Sue Gold, Chair

 9/14/18  
Tom Huxley, Vice Chair

  
Court Boice, Commissioner 9/10/18

  
Recording Secretary

Reviewed as to Form:

  
John R. Hutt, County Counsel

First Reading: September 5, 2018  
Second Reading: None  
Third Reading: None  
Emergency Adoption: Yes  
Effective Date: September 5, 2018

## EXHIBIT A

### ARTICLE ONE—GENERAL ADMINISTRATION

#### DIVISION NINETEEN ELECTED OFFICIAL TRAVEL ORDINANCE

##### SECTION 1.19.010 DEFINITIONS

As used in Article One, Division Seven, the following definitions apply unless the context indicates otherwise:

- (1) “Board” means the Curry County Board of Commissioners
- (2) “Elected Official” means any Curry County Elected Official except the Sheriff and District Attorney
- (3) “Travel expenses” includes but is not limited to meals, lodging, transportation (including county vehicle use) and other incidental expenses.

##### SECTION 1.19.020 SCOPE

This Ordinance applies to travel of all Curry County Elected Officials, except for the Sheriff and District Attorney. The County Assessor is not subject to these rules while engaged in County taxation and assessment work within the County.

##### SECTION 1.19.030 COMMISSIONER DISCRETION

The Board of Commissioners (Board) retains the right to determine:

- a. The mode of transportation utilized by a County Commissioner or Elected Official.
- b. The number, type and availability of County vehicles.
- c. The process for determining who will be authorized to drive any vehicle on behalf of the County.

#### SECTION 1.19.040 ELECTED OFFICIAL TRAVEL WITHIN BUDGET

All elected official cumulative travel expenses must be within approved travel budgets. Any travel expense beyond that which is budgeted is the personal responsibility of the individual elected official.

#### SECTION 1.19.050 NO TRAVEL EXPENSE WITHIN COUNTY

The County does not have funds to cover the extensive amount of travel any elected official can be expected to undertake within the limits of Curry County; therefore, the County will not cover elected official travel in Curry County.

#### SECTION 1.19.060 DOCUMENTS FOR TRAVEL EXPENSES

All travel reimbursement requests for hotel and travel/airfare/car rental expenses shall be supported by three quotes. Three quotes are NOT required when the vendor is on a County or state-approved vendor list and the charge is at the County or state-approved list rate.

##### A. Out-of- County Travel Plan Requirement

1. All out-of-county travel for which County reimbursement or payment will be sought must be approved in advance by the Board. Approval shall be considered following review of a written travel plan. The plan must contain the following information:

- a) A statement as to the nature and purpose of the trip.
- b) A list of dates on which the Commissioner or Elected Official will be gone on the trip.
- c) An estimate of expected expenses for which County reimbursement or payment will be sought. (Example: meals and lodging, airfare, ground transportation, and other expenses related to the out-of-state travel.)
- d) The current budget line item from which payment is sought to be made.

2. Approval or denial of County funding of out-of-state travel shall be based upon an evaluation by the Board, including but not limited to, the following factors:

- a) The reasonable necessity in making the trip;
- b) Whether there are reasonable alternatives to making the trip;
- c) The availability of County funding to finance the trip;
- d) The reasonableness of the costs submitted in the travel plan;
- e) Whether County business will be jeopardized by the trip

#### SECTION 1.19.070      USE OF COUNTY VEHICLES OUT-OF-COUNTY TRAVEL

Commissioners and Elected Officials are encouraged (not required) to use County vehicles or public transportation before using private vehicles when conducting County business out of County but within the state.

While a Commissioner or Elected Official is traveling out of the County for business or training activities in a County vehicle, the vehicle is available for use by the Commissioner or Elected Official for reasonable incidental personal activities.

Reasonable incidental personal activities include obtaining meals and services and providing for other usual personal needs. It is expected that personal use of County vehicle will be confined to the immediate area of necessary travel.

Travel to non-work related places or events may be considered action outside the scope of County business and is undertaken at the Commissioner or Elected Official's own time, expense and liability.

#### SECTION 1.19.080      USE OF PERSONAL VEHICLE COUNTY BUSINESS

- 1) When County vehicle is available.

While not encouraged, Commissioners and Elected Officials may use a personal vehicle when conducting County business out of County but within the state.

Reimbursement shall be paid, on the most direct route (typically an on-line mapping travel application), at the rate of \$0.30 per mile.

2) When no County vehicle is available.

The County will reimburse the Commissioner or Elected Official for use of his/her vehicle, on the most direct route, at the rate of \$0.45 per mile.

3) Insurance for Personal Vehicles Required and is Primary.

In the event a Commissioner or Elected Official uses a personal vehicle for County authorized business, liability coverage for third party claims is provided under the County auto insurance policy. The insurance coverage by the County is secondary; the insurance coverage under the personal vehicle is primary.

Personal damage or theft to the personal vehicle (collision and comprehensive insurance), repairs, maintenance or operating costs, personal injury protection and uninsured or underinsured motorist coverage are not available under the County insurance policy or reimbursable by the County and must be provided by the Commissioner or Elected Official, if desired.

Commissioner or Elected Officials must still provide insurance required under Oregon law to lawfully operate a personal vehicle.

## SECTION 1.19.090 OTHER RULES AND EXPENSES

1. Whether a Commissioner or Elected Official uses a County vehicle or is authorized to use a personal vehicle on official County business, bridge, road, and ferry tolls, and other expenses such as parking and storage fees shall be reimbursed at cost, if itemized.

2. Claims for maintenance and repair of personal automobiles will not be allowed. Individual Commissioner or Elected Official shall be responsible for responding to alleged traffic and parking violations (which result in citations) incurred while a County car is checked out or a personal vehicle is used for County business, and for paying any fines and assessments which result from the violations. Individual Commissioner or Elected Official shall report said moving violations to the Board

at the first regularly scheduled Board business meeting after return to the workplace. Three moving violations within a year constitute grounds for suspending County vehicle driving privileges. The County will conduct a DMV background check annually on Public Officials who use County vehicles.

3. Meal Per Diem Outside the County within the State or Outside the State

Commissioner or Elected Official traveling outside of Curry County on official County business may claim reimbursement, on a per diem basis, for meals that are not included in conference or seminar. If Commissioner or Elected Official chooses to eat meals other than those provided as part of a conference or seminar, they will be at their own expense. If Commissioner or Elected Official chooses to decline a meal provided as part of a conference or seminar, they cannot apply for reimbursement for that meal. Travel costs supported by various state and federal grants normally require special accounting for allowable costs to be tracked at the departmental level. Please consult the County Accountant for guidance.

When a Commissioner or Elected Official is required to travel outside Curry County on official County business for more than twenty-four (24) hours, he/she shall receive a daily per diem of

\$42.00 for each full twenty-four (24) hour period.

Receipts are not required to support payment of per diem. Advances for per diem may be allowed for travel from the workplace when the request is made at least two weeks in advance of departure.

SECTION 1.19.100 RESPONSIBILITY FOR TRAVEL BEYOND BUDGET

Any claim paid for travel expenses outside of the respective Commissioner or Elected Official budget Travel Expense Accounts not pre-approved by a majority vote of the Board of Commissioners shall be the personal responsibility of the Commissioner or Elected Official.

## SECTION 10.19.110 ADMINISTRATION RULES AND FORMS

County vehicles are County property. The County Administrator is responsible for oversight of all County property. Therefore, the County Administrator shall be responsible for the administration of this Ordinance with respect to use of County vehicles.

The County Administrator is authorized to make all administrative rules necessary and proper to see to the enforcement of this Ordinance with respect to use of County vehicles, and staff functions in processing claims for travel expense payment.

Unexpected costs or expenses may be paid by the County upon approval by the County Accountant and County Administrator; or in the County Administrator's discretion, the Board. If the County Administrator exercised his or her option to approve any unexpected expense, the County Administrator shall then file a written report for information purposes for the Board to review at its next regular business meeting.

## SECTION 10.19. 120 ENFORCEMENT

Violations of this Ordinance may be enforced by any lawful means, including by enforcement under Article 10, Division One of the Curry County Code.

The County Administrator, or any other person authorized by the Board, may enforce violations of this ordinance in the name of the County.

Every day a violation occurs shall constitute a separate violation.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment     )  
To the Curry County Code             )  
Regarding Article Two Division     )     ORDINANCE NO. 14-02  
One- The Curry County Ambulance    )  
Service Ordinance                    )

The Board of Curry County Commissioners ordains as follows:

Section 1     TITLE

This ordinance shall be known as Ordinance 14-02, an ordinance amending the Curry County Code.

Section 2     AUTHORITY

This ordinance is enacted pursuant to ORS 203.035 and ORS 682.031.

Section 3     FINDINGS

- A. Both CAL-ORE Life Flight (CAL-ORE) and the Port Orford Community Ambulance (POCA) have requested to Liaison Commissioner Susan Brown that the Board of Curry County Commissioners modify the Curry County Ambulance Service Ordinance to allow each entity another five year extension to their respective franchises, and to allow them exclusive rights to non-emergent ambulance transports as part of the ASA franchise.
- B. On January 15, 2014, the Ambulance Service Area Advisory Committee heard the above-referenced suggestions, and moved to recommend to the Board of Curry County Commissioners that it amend the Curry County Ambulance Service Ordinance to implement the suggestions.

Section 4      ADOPTION

Attachment "A" is adopted as an amendment to Ordinance 04-13 as amended, and becomes part of the Curry County Code (Ordinance 96-7, as amended.)


Section 5      SEVERANCE CLAUSE

If any section, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

DATED this 19 day of March, 2014.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Susan Brown, Chair

  
David Brock Smith, Vice Chair

  
David G. Itzen, Commissioner

Attest:

  
Recording Secretary

## **ATTACHMENT "A"**

**Section 2.01.030(4) is amended to read:**

**Each of these designated emergency ambulance providers are also the only authorized non-emergency ambulance service providers.**

**Section 2.01.080 is amended to read:**

**Effective July 1, 1994, no person shall provide emergency ambulance service in Curry County, Oregon unless such person is franchised in accordance with the applicable provisions of this ordinance. Effective June 17, 2014, this section is also applicable to all non-emergency ambulance service providers.**

**Section 2.01.130 is amended to read:**

**This subsection describes the procedure for processing an informal request for a franchise renewal. This is an alternative method available (instead of subsection 3 above) for applying for a franchise renewal. A franchise may apply on a written form provided by the county for a renewal by the end of the third year of an original five-year franchise. Following receipt of the application, the ASA Committee may recommend a franchise renewal. The Board has the discretion to renew the current franchise agreement for an additional five-year term without invoking the RFP process so long as the present franchise is in compliance with the criteria described in this ordinance and the franchise agreement under this section, three consecutive renewals (may be allowed following each term of a franchise that is awarded under subsection 4 above.**

**Section 2.01.180(2) is amended to read:**

**The provision of emergency or non-emergency ambulance services by any person in violation of this ordinance, or regulation promulgated thereunder, is a nuisance and the Court may, in addition to other remedies provided by law or by this ordinance, institute injunctive abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such ambulance service.**

Approved as to Form:

M. Gerard Herbage

M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 3/5/14

Second Reading: 3/19/14

Emergency Adoption: No

Effective Date: 6/17/14

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Amendment	)	
to the Curry County Code	)	ORDINANCE NO. <u>09-02</u>
Regarding Article Two Division	)	
One-the Curry County Ambulance	)	
Service Ordinance	)	

The Board of Curry County Commissioners ordains as follows:

**SECTION I     TITLE**

This ordinance shall be known as Ordinance 09-02, an ordinance amending the Curry County Code.

**SECTION II     AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035 and ORS 682.031.

**SECTION III     FINDINGS**

- A. On October 29, 2008, the Curry County ASA Committee recommended that Curry County grant to Cal-Ore Life Flight and to Port Orford Ambulance Association, Inc. a five year extension to their franchises which expire on June 30, 2012.
- B. A principal reason for the recommendation by the ASA Committee to extend the franchises is to allow the ambulance providers a better opportunity to secure loans.

- C. Under Section 2.01.130 of County Ordinance 04-13, only one extension for informally processing a franchise renewal is allowed, and that has already been granted to Cal-Ore Life Flight and to Port Orford Ambulance Association, Inc. The Board of Curry County Commissioners is amenable to allowing an application under the informal process for an additional franchise extension of five years, which will require an amendment to the Curry County Ambulance Service Ordinance.

#### SECTION IV REPEALER

The current subsection 2.01.130(4) as found in Ordinance No. 04-13 and the Curry County Code (Ordinance 96-7, as amended) is repealed.

#### SECTION V ADOPTION

Attachment "A", the new Section 2.01.130(4) is adopted as an amendment to Ordinance 04-13 and the Curry County Code (Ordinance 96-7, as amended).

This amendment shall be incorporated by reference into the Curry County Ambulance Service Plan which in turn contains a copy of the Curry County Ambulance Service Ordinance.

#### SECTION VI SEVERANCE CLAUSE

If any section, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of the Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.


DATED this 18<sup>th</sup> day of May, 2009.

BOARD OF CURRY COUNTY COMMISSIONERS

*Bill Waddle*

Bill Waddle, Chair

  
George Rhodes, Vice Chair

  
Georgia Yee Nowlin, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: May 4, 2009  
Second Reading: May 18, 2009  
Emergency Adoption: NO  
Effective Date: August 16, 2009

## **ATTACHMENT "A"**

### **SECTION 2.01.130(4)**

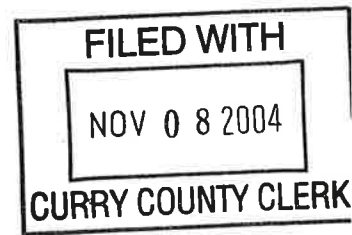
**This subsection describes the procedure for processing an informal request for a franchise renewal. This is an alternative method (instead of subsection 3 above) for applying for a franchise renewal. A franchisee may apply on a written form provided by the County for a renewal after the end of the second year and before the end of the fourth year of a five-year franchise. Following receipt of the application, the ASA Committee may recommend a franchise renewal. The Board has the discretion to renew the current franchise agreement for an additional five-year term without invoking the RFP process so long as the present franchisee is in compliance with the criteria described in this ordinance and the franchise agreement. Under this subsection, only two renewals (one five year term at a time) may be allowed following each term of a franchise that is awarded under subsection 4 above.**



**COPY**

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment       )  
To the Curry County Code               )     ORDINANCE NO. 04-13  
Regarding the Ambulance               )  
Service Areas and Plan                  )



The Board of Curry County Commissioners ordains as follows:

SECTION 1               TITLE

This ordinance shall be known as Ordinance 04-13, an ordinance amending the Curry County Code.

SECTION 2               AUTHORITY

This ordinance is enacted pursuant to ORS 203.035 and ORS 682.031.

SECTION 3               PURPOSE

The purpose of this ordinance is to amend Ordinance 96-7 (and all amendments thereto) which adopted the Curry County Code, a compilation of Curry County ordinances. The specific amendments update the County's ordinance regarding ambulance service areas and the ambulance plan.

SECTION 4               ADOPTION

Exhibits "A" and "B", attached hereto and incorporated by reference, are adopted as amendments to the Curry County Code, Ordinance 96-7 as amended.

SECTION 5               REPEALER

The former Article Two, Section One of the Curry County Code, Ordinance 96-7, as amended, is repealed in its entirety.

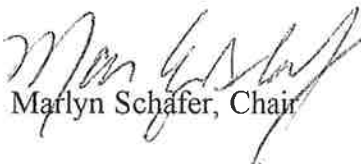
SECTION 6               SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or

invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.


ADOPTED this 18<sup>th</sup> day of October, 2004.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Marlyn Schäfer, Chair

Absent

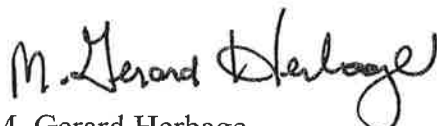
Ralph H. Brown, Vice-Chair

  
Lucie La Bonté, Commissioner

Attest:

  
Recording Secretary

Reviewed as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 10/4/04  
Second Reading: 10/18/04  
Emergency Adoption: No  
Effective Date: 1/16/05

## **EXHIBIT "A"**

### **SECTION 2.01.010 TITLE**

This Division shall be known as the Curry County Ambulance Service Ordinance, and may be so cited and pled.

### **SECTION 2.01.020 AUTHORITY**

This Ordinance is enacted pursuant to ORS 682.035, 682.062, 682.063, 682.275 and ORS 203.035, and other applicable law.

### **SECTION 2.01.030 POLICY AND PURPOSE**

The Curry County Board of Commissioners finds:

- (1) That ORS 682.062 requires Curry County to develop and adopt a plan for the county relating to the need for a coordination of emergency ambulance services and to establish Ambulance Service Areas (ASAs) consistent with the plan to provide efficient and effective emergency ambulance services.
- (2) That this Ordinance, which establishes ASAs, methods for selecting an emergency ambulance provider for an ASA, and the Ambulance Service Area Advisory Committee, together with the document known as the Curry County Ambulance Service Area Plan (ASA Plan), attached hereto, and incorporated herein by this reference, make up the complete plan for emergency ambulance services for Curry County.
- (3) That the provisions of ORS 221.485 and 221.495, 478.260(3), and 682.025 through 682.065 requires Curry County to develop and adopt a plan for emergency ambulance services that recognizes the authority of cities and rural fire protection districts to operate and regulate emergency ambulance services within their own territories subject to the ASA Plan. That the provision of effective and efficient emergency ambulance services pursuant to the Curry County ASA Plan within cities and rural fire protection districts must be accomplished primarily on a cooperative basis. Curry County will employ formal sanctions and litigation to enforce the provisions of the Curry County ASA Plan when voluntary compliance cannot be obtained.
- (4) The board recognizes that in April of 2001, the Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section amended its rules to allow for the county designation of one or more non-emergency ambulance providers in each ASA, OAR 333-260-0070(3). In compliance with the rule, the board has and will designate

only one emergency ambulance provider for each ASA. Each of these designated emergency ambulance providers are also authorized to provide non-emergency ambulance service. However, at this time the Board elects to not require county designation for additional non-emergency providers, acknowledging that any such providers must meet the licensing and regulatory requirements imposed under state law as implemented by the Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section.

#### **SECTION 2.01.040     DEFINITIONS**

The words and phrases in this Ordinance shall have the meaning provided in ORS Chapter 682 and OAR Chapter 333, Divisions 250, 255, 260, and 265, unless specifically defined herein to have a different meaning.

- (1) "Administrator" means a person designated by order of the Board to administer this Ordinance and the duly authorized deputy or assistant of such person.
- (2) "Ambulance" or "Ambulance Vehicle" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury, or disability.
- (3) "Ambulance Service Area (ASA)" means a geographical area which is served by one ambulance service provider, and may include all or a portion of a county, or all or portions of two or more contiguous counties.
- (4) "Ambulance Service Area Advisory Committee (Committee)" means the committee that will advise the Board as it pertains to the ASA Plan.
- (5) "Board" means the Curry County Board of Commissioners for Curry County, Oregon.
- (6) "DHS-EMS" means Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section.
- (7) "Franchise" means a franchise to provide emergency ambulance service issued by the Board pursuant to this Ordinance.

- (8) "Persons" means and includes individuals, corporations, associations, firms, partnerships, joint stock companies, cities, rural fire protection districts, and special service districts formed and existing pursuant to the Oregon Revised Statutes.

#### **SECTION 2.01.050     EXEMPTIONS**

This Ordinance shall not apply to:

- (1) Vehicles owned or operated under the control of the United States Government, the State of Oregon, Curry County, and the cities of Port Orford, Gold Beach, and Brookings;
- (2) Vehicles and aircraft being used to render temporary assistance in the case of a major catastrophe or emergency with which the ambulance services of the surrounding locality are unable to cope, or when directed to be used to render temporary assistance by an official at the scene of an accident;
- (3) Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any public street, road or highway through the property or grounds is involved;
- (4) Vehicles operated by lumber industries solely for the transportation of lumber industry employees.
- (5) Private vehicles not used for hire;
- (6) Ambulances or vehicles transporting patients from outside the county to a health care facility within the county, or which are passing through without a destination in the county;
- (7) Any person who drives or who attends an ill, injured or disabled person transported in a vehicle mentioned in Sections 1-6 of this Section;
- (8) Any person who otherwise by license is authorized to attend patients.

#### **SECTION 2.01.055     PROHIBITED ACTIVITIES**

- (1) No applicant or franchisee, applicant's or franchisee's employee, or any other person doing business as defined herein shall:
  - (A) Make a false statement of a material fact, or omit disclosure of a material fact, in an application for a franchise, or during a duly authorized investigation by the

Administrator and/or his designee

(B) Monitor or intercept emergency medical services communications for profit or gain.

(C) Charge for services not performed or make duplicate charges for the same service.

(D) Perform services of an EMT or EMT trainee unless authorized by state law.

(2) Except as provided for in this ordinance, it shall be unlawful to provide emergency transport by any vehicle other than a BLS or ALS ambulance. This prohibition shall include stretcher cars, which are defined as motor vehicles for hire constructed and equipped or regularly provided for non-emergency transportation of persons in a supine or recumbent position for reasons related to health conditions.

#### **SECTION 2.01.060     ADMINISTRATION**

The administrator, under the supervision of the Board and with the assistance of the Committee, shall be responsible for the administration of this Ordinance. In order to carry out the duties imposed by this Ordinance, the administrator, or persons authorized by the administrator, are hereby authorized to enter on the premises of any person regulated by this Ordinance at reasonable times and in a reasonable manner to determine compliance with this Ordinance and regulations promulgated pursuant thereto. The administrator shall also have access to records pertaining to ambulance service operations of any person regulated by this Ordinance. These records shall be made available within five (5) working days to the administrator at the person's place of business, or copies made and provided as requested by the administrator.

#### **SECTION 2.01.070     AMBULANCE SERVICE AREAS**

For the efficient and effective provision of emergency ambulance services in accordance with the ASA Plan, the ASA shown on the map attached hereto as Appendix #1, and incorporated herein by this reference, are hereby adopted as the ASA for Curry County. The Board, after notice to the affected ASA provider and by the adoption of an order, may adjust the boundaries of an ASA from time to time as necessary to provide efficient and effective emergency ambulance services.

#### **SECTION 2.01.080     AMBULANCE SERVICE PROVIDERS REGULATED**

Effective July 1, 1994, no person shall provide emergency ambulance services in Curry County, Oregon, unless such person is franchised in accordance with the applicable provisions of this Ordinance.

#### **SECTION 2.01.090     APPLICATION FOR AMBULANCE SERVICE FRANCHISE**

- (1) Any person desiring to provide ambulance service within Curry County shall submit an application to be assigned an ASA. The application shall be submitted to the Administrator.
- (2) Applications for franchises shall be on forms provided by the Board. In addition to information required on the forms, the Board may require additional information it deems necessary to insure compliance with this Ordinance.
- (3) The applicant shall provide the following information:
  - (a) The name and address of the person or agency applying.
  - (b) The ASA the person desires to serve, the location(s) from which ambulance services will be provided, and the level of service to be provided.
  - (c) A statement as to whether or not the person will subcontract for any service to be provided. If some service will be provided by subcontract, a copy of that subcontract shall be provided.
  - (d) A list of vehicles to be used in providing emergency ambulance services including year, make and model, and verification that each vehicle is licensed as a basic and/or advance life support ambulance by DHS-EMS.
  - (e) A statement that all equipment and supplies in each ambulance conforms to DHS-EMS standards.
  - (f) A list of personnel to be used in providing emergency ambulance service and their current Emergency Medical Technician level and certificate number, or other appropriate certification.
  - (g) Proof of financial ability to operate, including an operating budget for public bodies or financial statement for private entities, references and/or statement of past ambulance service. Appropriate financial information, such as income, tax returns, or reports by governmental authorities shall also be submitted upon request. Public bodies must provide information regarding the sources and amounts of funding for emergency ambulance services.
  - (h) Proof of public liability insurance in the amount of not less than the limits of claims made under the Oregon Tort Claims Act shall be provided. The minimum coverage shall be \$500,000 per occurrence (combined single limit for bodily injury and property damage claims) or \$500,000 per occurrence for bodily injury and \$100,000 per occurrence for property damage.

- (i) A statement of experience in providing emergency ambulance service of a comparable quality and quantity to insure compliance with this Ordinance, regulations promulgated thereunder, any franchise issued, and the ASA Plan.
- (j) Proof of ability to comply with the terms and conditions of the ASA Plan and applicable county ordinances, in the form of a narrative summary.
- (k) A description of any prepaid ambulance service plan, including number of members, number of years of operation, funding and term.
- (l) If requested, information, in the form of run logs, medical records, medical director correspondence, audit reports, training records, policy and procedure manuals and equipment records and inventories, and any other records or materials that may be requested.
- (m) In the case of an application to transfer or take over an already assigned franchise:
  - (i) A detailed summary of how the proposed change will improve emergency ambulance response time, and the quality and level of services to the ASA. It shall include an assessment of how the proposed change will impact the existing first response system.
  - (ii) Evidence that the call volume in the ASA is sufficient to financially or otherwise justify the change in service.
  - (iii) If requested, information, in the form of run logs, medical records, medical director correspondence, audit reports, training records, policy and procedure manuals and equipment records and inventories, and any other records or materials that may be requested.
- (4) The Board may from time to time, by order, adopt fees to defray the actual reasonable costs incurred by Curry County in processing applications, and adopt annual franchise fees to defray the reasonable costs of Curry County in administering this Ordinance.
- (5) The applications shall be reviewed by the Committee, which shall recommend the assignment of the ASAs to the Board. The assignment of an ASA shall be made by an Order of the Board. The recommendation and order is to be based upon the proposal(s) which are the most functionally practical and likely to deliver the best quality of service.

#### **SECTION 2.01.110 REVIEW OF APPLICATION FOR FRANCHISE**



- (1) Applications shall be reviewed by the Committee, who shall make such investigation as it deems appropriate, and who may request assistance of other persons as necessary.
- (2) The administrator shall notify the holder of a franchise for providing emergency ambulance service to an ASA of any applications by another person to take over that franchise.
- (3) Unless the time is extended by the Board for good cause, the Committee shall make its recommendation to the Board to grant, deny, modify or attach appropriate conditions to the application. The Committee shall transmit its recommendation within sixty (60) days after the application and any required supplemental information has been received.

#### **SECTION 2.01.120 BOARD ACTION ON APPLICATION FOR FRANCHISE**

Upon receipt of the Committee's recommendation, the Board:

- (1) Shall publish notice of its intent to hold a public hearing on the application and recommendations at least ten (10) days, but not later than thirty (30) days following publication of notice.
- (2) May require additional investigation by the Committee if it finds that there is insufficient information on which to base its action.
- (3) Shall, upon the basis of the application, the Committee's recommendation, such other information as is permitted by this Ordinance, and such information as is presented to the Board at the public hearing make an order granting, denying or modifying the application or attaching conditions thereto.
- (4) Shall not make an order adverse to the applicant or to the holder of, or applicant for, another franchise effective less than 30 days after the date of such order and shall notify such persons in writing of the order. The Board may suspend operation of this subsection and enter an emergency order if it finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.
- (5) After the Board makes an order granting an emergency ambulance service franchise, with or without conditions, and the franchisee finds he/she is unable to provide a particular service, the Board may permit the franchisee to subcontract such service to another person if the Board finds that the quality and extent of the service would not be jeopardized. The Board may require the filing of such information as it deems necessary.

#### **SECTION 2.01.130 FRANCHISE TERMS AND RENEWALS**

- (1) Thereafter, unless the Board finds that a longer or shorter term is required in the public

interest, the term of an emergency ambulance service franchise shall be five (5) years, beginning on July 1 of a year and ending June 30 five (5) years later.

- (2) Unless grounds exist for refusal to renew a franchise under provisions for suspension or revocation as set forth in Section 2.01.160, or unless the franchise is to be given to a new person, franchises shall be renewable. Application for renewal shall be made on forms provided by the Board.
- (3) This subsection describes the procedures for processing a formal request for a franchise renewal. Not more than one hundred eighty (180) days and not less than one hundred twenty (120) days prior to the expiration of the franchise, a franchisee wanting to renew the franchise and any person desiring to take over the franchise shall submit an application to the administrator. Review of all applications for renewal or take over of a franchise shall be conducted in the same manner as for an application pursuant to Sections 2.01.090, 2.01.110 and 2.01.120 of this Ordinance.
- (4) This subsection describes the procedure for processing an informal request for a franchise renewal. This is an alternative method available (instead of subsection 3 above) for applying for a franchise renewal. A franchisee may apply on a written form provided by the county for a renewal by the end of the third year of an original five-year franchise. Following receipt of the application, the ASA Committee may recommend a franchise renewal. The Board has the discretion to renew the current franchise agreement for an additional five-year term without invoking the RFP process so long as the present franchisee is in compliance with the criteria described in this ordinance and the franchise agreement. Under this subsection, only one renewal may be allowed following each term of a franchise that is awarded under subsection 4 above.

#### **SECTION 2.01.140 EARLY DISCONTINUANCE OF SERVICE BY FRANCHISEE**

- (1) If a franchisee discontinues service before the expiration of his/her franchise, the Board shall set a time by which applications must be submitted for a new franchise in the ASA.
- (2) The administrator shall recommend to the committee appropriate temporary franchisee(s) to provide services within the ASA until a permanent replacement franchisee can be assigned.
- (3) The Committee shall develop an interim plan for coverage of the ASA, using existing franchisees and/or other available resources until the ASA can be reassigned.
- (4) The Board shall endeavor to select temporary franchisee(s), and shall issue a temporary certificate, valid for a stated period not to exceed six (6) months, entitling the selected temporary franchisee(s) to provide emergency ambulance service in all or part of the ASA.

ASA. The Board may renew a temporary certificate for one additional six (6) month period.

#### **SECTION 2.01.150 TRANSFER OF FRANCHISES**

A franchisee may transfer his/her franchise to another person only upon written notice to and approval by the Board. Review of an application for transfer of a franchise shall be conducted in the same manner as for an application pursuant to Sections 2.01.090, 2.01.110, and 2.01.120 of this Ordinance.

#### **SECTION 2.01.160 ENFORCEMENT OF FRANCHISE PROVISIONS**

- (1) Subject to the policies stated in Section 2.01.030, and in addition to the remedy provided in Section 2.01.170, and penalties provided elsewhere in this Ordinance, the administrator shall, upon reasonable cause, make an investigation to determine if there is sufficient reason and cause to suspend, modify, revoke or refuse to renew a franchise as provided in this Subsection.

If in the judgment of the Board, there is sufficient evidence to constitute a violation of applicable local, state or federal law, this Ordinance, ORS Chapter 682 or the Rules promulgated thereunder, the ASA Plan, or if the franchisee has materially misrepresented facts or information given in the application for the franchise, the Board shall notify the franchisee in writing, by certified mail, return receipt requested, or by personal service, as is provided by law for the service of a summons, of the violation and what steps he/she must take to cure the violation. The Board shall send a copy of the notice to the Committee.

Ten (10) days following the receipt of notice of violation, the Board may enter its order of revocation, modification, suspension or non-renewal, and may thereby revoke, modify, suspend, or not renew the franchise, unless prior thereto the franchisee shall file with the Board his/her request for a hearing on the Board's notice of violation. If said request is timely filed, or if the Board so moves on its own, revocation, modification, suspension, or non-renewal will be stayed until the Board can, at its earliest convenience, hold a public hearing thereon. Notice of said hearing shall be given to the franchisee by mail and to all others by publication in a newspaper of general circulation in the county or the ASA at least ten (10) days prior to such hearing. The burden of proof at the hearing held hereunder shall be upon the franchisee.

- (2) In lieu of the suspension or revocation of the franchise, the Board may order that the violation be corrected and make the suspension or revocation contingent upon compliance with the order within the period of time stated therein. Notice of the Board action shall be provided by mail to the franchisee. The notice shall specify the violation, the action necessary

to correct the violation, and the date by which the action must be taken. The franchisee shall notify the Board of the corrective action taken. If the franchisee fails to take corrective action within the time required, the Board shall notify the franchisee by certified mail, return receipt requested, or by personal service that the franchise is suspended or revoked upon service of the notice.

- (3) The Board may also execute a compliance agreement with the franchisee, stating the violation(s) and the corrective action necessary to correct the violation(s). Failure of the franchisee to make the agreed upon corrections will result in possible suspension or revocation according to subsection (2) above.
- (4) Should the franchisee fail to comply with the Board's order, then the Board may take any steps authorized by law to enforce its order.

#### **SECTION 2.01.170 PREVENTING INTERRUPTION OF SERVICE**

Whenever the Board finds that the failure of service or threatened failure of service would adversely impact the health, safety or welfare of the residents of this county, the Board shall, after reasonable notice, but not less than twenty-four (24) hours notice to the franchisee, hold a public hearing. Upon appropriate findings after the hearing, the Board shall have the right to authorize another franchisee or other person to provide services.

#### **SECTION 2.01.180 APPEALS, ABATEMENT AND PENALTIES**

- (1) All the decisions of the Board under this Ordinance shall be reviewable by the Circuit Court of the State of Oregon for the County of Curry, only by way of writ of review.
- (2) The provision of emergency ambulance service by any person in violation of this Ordinance, or regulations promulgated thereunder, is a nuisance and the Court may, in addition to other remedies provided by law or by this Ordinance, institute injunctive abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such emergency ambulance service.
- (3) Any person who violates any of the provisions of this Ordinance is guilty of a violation. Failure from day to day to comply with the terms of these provisions shall be a separate offense for each day. Failure to comply with any provision shall be a separate offense for each such provision. Violations are subject to Article Ten (10) of the Curry County Code.

#### **SECTION 2.01.190 DUTIES OF AMBULANCE SERVICE FRANCHISEE**

The Franchisee:

- (1) Shall conduct its operation in compliance with all applicable state and federal laws, rules

and regulations, the terms of this Ordinance and the Curry County ASA Plan;

- (2) Shall not fail or refuse to respond to an emergency call for service when an ambulance is available for service;
- (3) Shall not respond to a medical emergency located outside its assigned ASA except:
  - (a) When a request for specific emergency ambulance service is made by the person calling for the ambulance and the call does not dictate an emergency response;
  - (b) When the franchisee assigned to the ASA is unavailable to respond and the franchisee is requested by another franchisee or 9-1-1 dispatch to respond; or
  - (c) When the response is for supplemental assistance or mutual aid.
- (4) Shall not voluntarily discontinue service to his/her assigned ASA until he/she has:
  - (a) Given sixty (60) days written notice to the administrator, or
  - (b) Obtained written approval of the Board.
- (5) Subsection 4 of this Section shall not apply to:
  - (a) Change, restriction or termination of service when required by any public agency, public body or court having jurisdiction; or
  - (b) Transfer of franchises pursuant to Section 2.01.150 of this Ordinance.
- (6) Each franchisee shall send a representative to all ASA committee meetings. Such representative shall present a report to the committee concerning franchisee activities, ambulance runs, and any other information deemed appropriate, since the last ASA committee meeting.

**SECTION 2.01.200 AMBULANCE SERVICE AREA (ASA) ADVISORY COMMITTEE**

- (1) There is hereby created an Ambulance Service Area (ASA) Advisory Committee.
  - (a) The committee shall consist of nine members.
    - 1. One physician with emergency medical care experience.
    - 2. One EMT or Paramedic.
    - 3. One hospital administrator.
    - 4. One registered nurse with emergency medical care experience.
    - 5. One law enforcement officer.
    - 6. One representative of a fire department.
    - 7. One representative of a dispatch center.

8. Two members of the public who are not included in categories specified by subsections a1-7.

- (b) The administrator and other Curry County staff as the Board deems appropriate shall be ex-officio members of the Committee.
- (2) Members shall be appointed by and serve at the pleasure of the Board. The Board may appoint additional persons to the Committee to serve as ex-officio members or advisors. The Board may appoint or approve designation of alternates to serve in the absence of persons appointed to the Committee.
- (3) Except for the ASA administrator and other Curry County staff, appointments shall be for staggered terms on the initial Committee for a term not to exceed three (3) years. Subsequent appointments shall be for three (3) year terms. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the Board for the balance of the unexpired term. Persons may be appointed to successive terms.
- (4) The Committee shall elect a chairperson. The Committee shall meet at such times as it deems necessary or as called by the Administrator or the Chairperson. The Administrator, chairperson, or any two members of the Committee may call a special meeting.
- (5) The Committee shall elect a secretary. The secretary shall be responsible for taking detailed minutes of committee meetings, and for distributing the minutes to the administrator, and to the other members of the committee.
- (6) Five (5) members constitute a quorum for the transaction of business. A majority vote of the total members is required to pass motions.
- (7) In addition to other duties prescribed by this Ordinance the Committee shall:
  - (a) Review and make recommendations to the administrator regarding the selection criteria for determining a franchise to provide ambulance service.
  - (b) Regularly provide information to the Board from prehospital care consumers, providers and the medical community.
  - (c) Periodically review the ASA Plan and make recommendations to the Board including, but not limited to:
    - (i) Review the standards established in the Plan and make recommendations regarding improvement of or new standards as required by OAR 333-260-0050;

- (ii) Monitor the coordination between emergency medical service resources;
  - (iii) Review dispatch procedures and compliance; and
  - (iv) Review the effectiveness and efficiency of the ASA boundaries.
- (d) Implement the quality assurance program outlined in the ASA Plan to insure compliance with the ASA Plan.
- (e) Perform such other duties as directed by the Board.
- (8) Committee members shall comply with ORS Chapter 244 regarding conflict of interest.

**SECTION 2.01.210 REGULATIONS OF AMBULANCE SERVICE**

Upon its own motion or upon a recommendation of the Committee, the Board may adopt ordinances, resolutions or orders regulating emergency ambulance service or implementing this Ordinance. Such regulations shall not conflict with ORS 682 and rules promulgated pursuant thereto.

**SECTION 2.01.220 INITIAL RESPONDER**

Nothing in these provisions prohibits a 9-1-1 agency, responsible for the dispatching of emergency services, from dispatching an initial responder to the scene of a medical emergency in addition to dispatching an emergency ambulance service provider.

**SECTION 2.01.230 MISCELLANEOUS MATTERS**

1. Any judgment or declaration by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other portion of this Ordinance.
2. Upon recommendation of the Committee or upon its own motion, the Board may from time to time amend the provisions of this Ordinance. Amendments shall be made only after a public hearing before the Board with such advance notice of the hearing as deemed appropriate by the Board or as generally provided by ordinance, regulation or order of the Board.

"Exhibit B"



**AMBULANCE SERVICE AREA PLAN**  
**FOR**  
**CURRY COUNTY, OREGON**



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## CERTIFICATION BY GOVERNING BODY OF COUNTY AMBULANCE SERVICE PLAN

In accordance with OAR 333-260-0020(3) and 333-260-0030(2), the Curry County Board of Commissioners hereby certifies that:

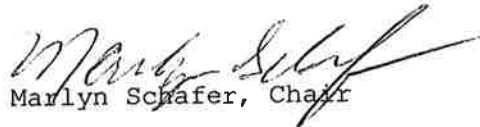
(a) Each subject or item contained in the Curry County Ambulance Service Plan was addressed and considered in the adoption of this plan;

(b) In our judgment, the ambulance service areas (ASA's) established in this plan provide for the efficient and effective provision of ambulance services; and

(c) To the extent they are applicable, the County has complied with ORS 682.062(2)(3) and 682.063 and existing local ordinances and rules.

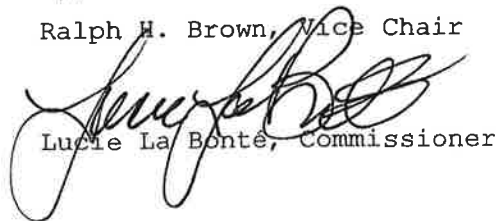
DATED this 18<sup>th</sup> day of October, 2004.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Marilyn Schaefer, Chair

Absent

Ralph H. Brown, Vice Chair

  
Lucie La Bonté, Commissioner

## II. OVERVIEW OF CURRY COUNTY

Curry County is located in the southwest corner of the state and is bordered by Coos County to the north, Douglas and Josephine Counties to the east, Del Norte County, California to the south and the Pacific Ocean to the West. The county covers approximately 1648 square miles of largely sloping terrain indented with costal and river valleys. The elevation of the county seat - Gold Beach - is 60 feet.

The county is characterized by an overall average January temperature of 47 degrees F and an average July temperature of 59 degrees F with an average annual precipitation of 82.67 inches.

The population of the county as of January 2003 was approximately 22,000. The Cities of Brookings with a population of 5,400, Gold Beach - 2,115 and Port Orford -1,050 are the county's largest cities and are located on U.S. Highway 101 that runs north and south adjacent to the Pacific Ocean through the county. Most of the inhabitants reside in or around the three incorporated cities located in the county. Lumber, agriculture, commercial and sport fishing, recreation and tourism provide the basis of the county's economy.

Curry County is divided into three separate ambulance service areas. The ambulance service providers may offer basic, intermediate and advanced life support emergency medical care and transportation. The three ambulance service providers that serve Curry County, their boundaries and other general information are described in this ASA Plan. A current set of maps are on file in the Curry County Office of Emergency Services. These maps depict current boundaries for ambulance service areas, fire districts, response times and the location of the PSAPS.

### III. DEFINITIONS

1. "Administrator" means the person designated by order of the Board of Commissioners to administer the ASA Ordinance and the duly authorized deputy or assistant of such person.
2. "ALS" means Advanced Life Support
3. "Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury, or disability.
4. "Ambulance Service" has the meaning given that term by ORS 682.043.
5. "Ambulance Service Area (ASA)" means a geographic area which is served by one ambulance service provider, and may include all or a portion of a county, or all or portions of two or more contiguous counties.
6. "Ambulance Service Plan" means a written document, which outlines a process for establishing a county emergency medical services system. A plan addresses the need for and coordination of ambulance services by establishing ambulance service areas for the entire county and by meeting the other requirements of these rules. Approval of a plan will not depend upon whether it maintains an existing system of providers or changes the system. For example, a plan may substitute franchising for an open-market system.
7. "ASA Advisory Committee (Committee)" means a committee formed to review standards, make recommendations to or set new standards for the Board of County Commissioners for all matters regarding EMS and to review and make recommendations regarding soundness of the ASA.
8. "BLS" means Basic Life Support.
9. "Communication System" means two-way radio communications between ambulances, dispatchers, hospitals and other agencies as needed. A two-channel multi-frequency capacity is minimally required.
10. "Curry County Board of Commissioners (Board)" means the elected officials that have jurisdiction over the Curry County ASA Plan.
11. "Department" means the Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section, (DHS-EMS), and its authorized representatives.

12. "Effective Provision of Ambulance Services" means ambulance services provided in compliance with the county ambulance service plan provisions for boundaries, coordination and system elements.
13. "Efficient Provision of Ambulance Services" means effective ambulance services provided in compliance with the county ambulance service plan provisions for provider selection.
14. "Emergency" means any non-hospital occurrence or situation involving illness, injury or disability requiring immediate medical or psychiatric services, wherein delay in the provision of such services is likely to aggravate the condition and endanger personal health or safety.
15. "Emergency Medical Service (EMS)" means those pre-hospital functions and services whose purpose is to prepare for and respond to medical emergencies, including rescue and ambulance services, patient care, communications and evaluation.
16. "Emergency Medical Technician-Basic (EMT-Basic)" means a person certified by DHS-EMS as defined in OAR 333-265-0000(10).
17. "Emergency Medical Technician-Intermediate (EMT-Intermediate)" means a person certified by DHS-EMS as defined in OAR 333-265-0000(11).
18. "Emergency Medical Technician-Paramedic (EMT-Paramedic)" means a person certified by DHS-EMS as defined in OAR 333-265-0000(12).
19. "Emergency Services Coordinator" means the person primarily responsible for disaster planning, and for coordination of emergency services throughout the county in the event of a large scale emergency or disaster.
20. "First Responder" means a person certified by DHS-EMS as defined in ORS 682.025(7)(a)(b).
21. "ILS" means Intermediate Life Support.
22. "License" means those documents issued by DHS-EMS to the owner of an ambulance service and ambulance, when the service and ambulance are found to be in compliance with ORS 682.017 to 682.991 and OAR 333-250-0000 through 333-250-0100 and 333-255-0000 through 333-255-0079.
23. "Move Up" means the process of moving other response resources in to cover a response territory when the primary responder is engaged in providing services and cannot respond to additional calls for service.
24. "Notification Time" means the length of time between the initial receipt of the request for emergency medical service by either a provider or a PSAP, and the notification of all

responding emergency medical service personnel.

25. "Owner" means the person having all the incidents of ownership in an ambulance service or an ambulance vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an ambulance service under a security agreement or a lease for a term of 10 or more successive days.
26. "Patient" means an ill, injured, or disabled person who may be transported in an ambulance.
27. "Provider" means any public, private or volunteer entity providing EMS.
28. "Provider Selection Process" means the process established by the county for selecting an ambulance service provider or providers.
29. "Public Service Answering Point (PSAP)" means a 24 hour communications facility established as an answering location for 9-1-1 calls originating within a given service area.
30. "Quick Response Team (QRT)" means an agency that provides initial response and basic life support care without transportation capabilities by certified First Responders.
31. "Response Time" means the length of time between the notification of each provider and the arrival of each provider's emergency medical service unit(s) at the incident scene.
32. "Supervising Physician" has the meaning of a supervising physician as provided in ORS 682.025(18). The term "Medical Director" shall also mean supervising physician.
33. "System Response Time" means the elapsed time from when the PSAP receives the call until the arrival of the appropriate provider unit(s) on the scene.

#### **IV. BOUNDARIES**

Curry County consists of three ASAs. The three ASAs are described in the ASA narrative description below.

Maps depicting boundaries for the ASAs, Appendix #1; PSAP location and 9-1-1 coverage, Appendix #2; fire districts, Appendix #3 and incorporated cities, Appendix #4 are a part of this plan. Larger and more detailed maps are on file in the Curry County Offices of Emergency Services.

#### **ASA NARRATIVE DESCRIPTION**

The boundaries for each of the three (3) ambulance service areas are as follows:

##### **ASA #1 (Northern Curry County):**

Beginning at the Pacific Ocean and the Curry County - Coos County line; Thence easterly along the Curry County - Coos County line; Thence southeasterly and southerly along the Curry County - Coos County line to the southern edge of Sec. 21 T33S R12WWM; Thence westerly to the southwest corner of Sec. 21 T33S R12WWM; Thence southerly along the section lines to the southwest corner of Sec. 33 T33S R12WWM; Thence westerly along the section lines to the northwest corner of Sec. 2 T34S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 10 T34S R13WWM; Thence westerly along the section line to the southwest corner of Sec. 10 T34S R13WWM; Thence southerly along the section line to the southeast corner of Sec. 16 T34S R13WWM; Thence westerly along the section line to the southwest corner of Sec. 16 T34S R13WWM; Thence southerly along the section line to the southeast corner of Sec. 20 T34S R13WWM; Thence westerly along the section lines to the southwest corner of Sec. 19 T34S R13WWM; Thence south along the section line to the southwest corner of Sec. 30 T34S R13WWM; Thence westerly along the section lines to the Pacific Ocean.

##### **ASA #2 (Central Curry County):**

Beginning at the Pacific Ocean and the southerly section line of Sec. 30 T34S R14WWM; Thence easterly along the section lines to the southeast corner of Sec. 25 T34S R14WWM; Thence north along the section line to the northeast corner of Sec. 25 T34S R14WWM; Thence easterly along the section lines to southeast corner of Sec. 20 T34S R13WWM; Thence north along the section line to the northeast corner of Sec. 20 T34S R13WWM; Thence east along the section line to the southeast corner of Sec. 16 T34S R13WWM; Thence north along the section line to the northeast corner of Sec. 16 T34S R13WWM; Thence east along the section line to the southeast corner of Sec. 10 T34S R13WWM; Thence north along the section lines to the northwest corner of Sec. 2 T34S R13WWM; Thence east along the section lines to the southeast corner of Sec. 32 T33S R12WWM; Thence north along the section lines to the southwest corner of Sec. 21 T33S R12WWM; Thence east to the Curry County - Coos County line; Thence south and east along the Curry County - Coos County line to the junction of the Curry County - Coos County - Douglas County line; Thence along the Curry County - Douglas County line to the junction of the Curry County - Douglas County - Josephine County line;



Thence southwesterly along the Curry County - Josephine County line to the southeast corner of Sec. 12 T37S R12WWM; Thence south along the section line to the southeast corner of Sec. 13 T37S R12WWM; Thence west along the section line to the southwest corner of Sec. 13 T37S R12WWM; Thence south along the section line to the southeast corner of Sec. 26 T37S R12WWM; Thence west along the section lines to the southwest corner of Sec. 27 T37S R12WWM; Thence south along the section line to the southeast corner of Sec. 33 T37S R12WWM; Thence west along the section lines to the northwest corner of Sec. 27 T37½S R12WWM; Thence south along the section line to the southwest corner of Sec. 27 T37½S R12WWM; Thence westerly along the section lines to the northwest corner of Sec. 11 T38S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 15 T38S R13WWM; Thence westerly along the section lines to the southeast corner of Sec. 16 T38S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 32 T38S R13WWM; Thence westerly along the section line to the southwest corner of Sec. 32 T38S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 7 T39D R13WWM; Thence westerly along the section lines to the Pacific Ocean.

#### **ASA #3 (Southern Curry County):**

Beginning at the Pacific Ocean and the north section line of Sec. 16 T39S R14WWM; Thence easterly along the section lines to the southeast corner of Sec. 7 T39S R13WWM; Thence northerly along the section lines to the southwest corner of Sec. 32 T38S R13WWM; Thence easterly along the section line to the southeast corner of Sec. 33 T38S R13WWM; Thence northerly along the section lines to the southeast corner of Sec. 16 T38S R13WWM; Thence easterly along the section lines to the southeast corner of Sec. 15 T38S R13WWM; Thence northerly along the section lines to the northwest corner of Sec. 11 T38S R13WWM; Thence easterly along the section lines to the southwest corner of Sec. 27 T37½S R12WWM; Thence northerly along the section line to the northwest corner of Sec. 27 T37½S R12WWM; Thence easterly along the section lines to the southeast corner of Sec. 33 T37S R12WWM; Thence northerly along the section lines to the southwest corner of Sec. 27 T37S R12WWM; Thence easterly along the section lines to the southeast corner of Sec. 26 T37S R12WWM; Thence northerly along the section lines to the southwest corner of Sec. 13 T37S R12WWM; Thence easterly along the section line to the southeast corner of Sec. 13 T37S R12WWM; Thence northerly along the section line to the northeast to the corner of Sec. 13 T37S R12WWM at the Curry County - Josephine County line; Thence southeasterly and southerly along the Curry County - Josephine County line to the Oregon - California border; Thence westerly along the Oregon - California border to the Pacific Ocean.

#### **ASA Maps (See Appendix #1)**

These maps represent the ASA's as designated in the Ambulance Service Area plan.

#### **9-1-1 Map (See Appendix #2)**

#### **Fire District Boundaries (See Appendix #3)**

## **Incorporated Cities (See Appendix #4)**

### **Alternatives To Reduce Response Times**

Heavily forested, mountainous terrain and severe winter weather conditions present difficult access and long response time to ground ambulances. In those situations, when an urgent response is indicated, the PSAP may elect to call the nearest appropriate rotary-wing air ambulance or Curry County Search and Rescue.

In addition, a tiered response system is used to provide the best available patient care while maximizing the available resources.

In some instances, for various reasons, an ambulance service provider from an adjoining county's ASA could respond quicker to an incident. This would be covered under a signed Mutual Aid Agreement.

## **V. SYSTEM ELEMENTS**

**9-1-1 Dispatched Calls**—all calls received by the local 9-1-1 center(s) shall be dispatched to the appropriate provider within a two-minute time period. The call for service shall be dispatched to the provider that is assigned the franchise for the area of the location of the emergency, unless other arrangements have been made due to extenuating circumstances.

Pre-arranged non-emergency transports will normally not be dispatched by 9-1-1. These calls should be handled by the EMS agency directly.

Emergency transfers, and inter-facility transfers of an emergency nature shall be handled by the 9-1-1 dispatch center as any other emergency call for service.

### **Notification/Response Times (See Appendix #5)**

The Curry County ASA system response times shall be as depicted on the Curry County time zone map 90% of the time, barring inclement weather or other extraordinary conditions.

Notification Times for ambulances shall be within two (2) minutes 90% of the calls.

Provider Response Time shall be as listed as follows for 90% of the calls: Urban - 6 min.; Suburban - 13 min.; Rural - 43 min.; and Frontier - 4 hours and 28 min.

System Response Time shall be as listed as follows for 90% of the calls: Urban - 8 min.; Suburban - 15 min.; Rural - 45 min.; and Frontier - 4 hours and 30 min.

Monitoring of notification and response times shall be accomplished by the following:

1. Information received from the public, dispatch center, prehospital care providers, hospitals, or county EMS administration.
2. Types of information received are written or verbal complaints, patient care report forms, radio transmission tapes, notification and response time incident cards, trauma registry forms, etc.

### **Level of Care**

An ambulance operating in Curry County and providing basic life support level care must consist of a qualified driver and one certified EMT-Basic or above. The EMT must always be with the patient in the patient compartment of the ambulance.

An ambulance operating in Curry County and providing intermediate life support level care must consist of one certified EMT-Basic and one certified EMT-Intermediate. The EMT-Intermediate must

always be with the patient in the patient compartment of the ambulance when intermediate level care is required or rendered.

An ambulance operating in Curry County and providing advanced life support level care must consist of at least an EMT-Basic and an EMT-Paramedic. The EMT-Paramedic must always be with the patient in the patient compartment of the ambulance when ALS care is required or being rendered.

### **Personnel**

When operating an ambulance in Curry County, all personnel must meet the requirements of ORS 682.017 to 682.991 and OAR 333-250-0048. The practice of staffing an ambulance on a part-time basis with EMTs certified to a higher level of care than is possible at other times does not construe a requirement that the ambulance provide the same level of care on a regular basis.

### **Medical Supervision**

Each EMS agency utilizing EMTs shall be supervised by a physician licensed under ORS 677, actively registered and in good standing with the Board of Medical Examiners as a Medical Doctor (MD) or Doctor of Osteopathic Medicine (DO). The physician must also be approved by the Board of Medical Examiners as a medical director.

Each EMS agency or ambulance service may have its own medical director. The medical director shall:

- a. comply with the requirements listed in OAR 847-035-0025;
- b. hold at least one meeting a year with the EMTs affiliated with the respective ambulance services;
- c. designate an EMT coordinator who shall conduct case reviews in the physician's absence and send summaries of the reviews and problems identified and proposed problem resolution to the physician; and
- d. provide or authorize at least one case review meeting for all EMTs quarterly.

Sutter Coast Hospital in Crescent City, California and Bay Area Hospital in Coos Bay, Oregon shall be the Medical Resource Hospitals.

## **Patient Care Equipment**

Patient care equipment must meet or exceed the Department of Human Resources, Emergency Medical Services and Trauma Systems Section (DHS-EMS) requirements as specified in ORS 682.017 to 682.991 and OAR 333-255-0070, 333-255-0071, and 333-255-0072. The ambulance service provider shall maintain a list of equipment for their ambulances, which shall be furnished to the Board upon their request.

## **Vehicles**

All ambulances must be a Type I, II, or III and be licensed by DHS-EMS. All ambulances must meet or exceed the requirements as set forth in ORS 682.017 to 682.991 and OAR 333-255-0060. An up-to-date list of each provider's ambulances shall be furnished to the Board upon their request.

## **Training**

Southwestern Oregon Community College located in Coos Bay, Gold Beach, and Brookings, Oregon is the primary institution of learning to provide EMT training. If Southwestern Oregon Community College does not offer a particular level of training, it may require an individual to obtain that level of training at another teaching institute, which would be further away.

Whenever possible, the ambulance service provider shall provide assistance (tuition, textbooks, exam fees, etc.) for prospective ambulance personnel taking initial BLS training.

Each EMS provider in Curry County shall provide continuing medical education, which meets recertification standards as specified by DHS-EMS. EMT recertification and continuing medical education shall be obtained through in-house training programs and seminars that are sponsored by local EMS agencies or teaching institutions. When classes are not available within the county, it may require individuals to augment their continuing education by attending classes, workshops and conferences outside of the ASA and/or county. When possible, the ambulance service provider shall provide assistance with registration, lodging, meals, fuel costs, etc. for their EMTs.

## **Quality Assurance**

In order to ensure the delivery of efficient and effective pre-hospital emergency medical care, an EMS Quality Assurance Program is hereby established.

## **Structure**

"Curry County Ambulance Service Area Advisory Committee (Committee)", shall be formed by ordinance and be composed of nine members:

- (i) One (1) physician with emergency care experience
- (ii) One (1) EMT or paramedic;
- (iii) One (1) hospital administrator;
- (iv) One (1) registered nurse with emergency medical care experience
- (v) One (1) law enforcement officer;
- (vi) One (1) representative of a fire department
- (vii) One (1) representative of a dispatch center
- (viii) Two (2) members of the public who are not included in categories specified by subsections 1-7.

Appointments shall be for staggered terms on the initial Committee for a term not to exceed three (3) years. Subsequent appointments shall be for three (3) year terms.

The principal function of the Committee shall be to monitor the EMS system within Curry County.

### **Process**

The Board, in order to ensure the delivery of the most efficient and effective pre-hospital emergency care possible with the available resources, has directed that the ASA Advisory Committee be established.

Quality assurance in Curry County shall be accomplished through frequent case review, peer review, and periodic review by the medical directors and/or ambulance governing bodies (see respective Provider Profiles for definitions of governing bodies). Complaints regarding violation of this ASA Plan, or questions involving pre-hospital care provided, shall be submitted in writing to the Board who shall forward it to the Administrator, who may call a meeting of the Committee. The Administrator, and/or the Committee shall then review the matter and make recommendations or changes on such complaints or questions to the Board.

The Board shall also resolve any problems involving system operations (changing protocols to address recurring problems, etc.). Ongoing input may be provided by consumers, providers or the medical community to any individual on the Board, the Administrator, or members of the Committee. This individual, in turn, will present the complaint, concern, idea or suggestion (in writing) to the full Board for consideration.

### **Problem Resolution**

Problems involving protocol deviation by EMTs or dispatchers shall be referred to the respective medical director or dispatch supervisor. Problems involving a non-compliant

provider shall be referred to the Board. The Board may seek background data and recommendations from the Committee in such instances. However, any member of the Committee who may have a conflict of interest in the matter shall declare such conflict and follow the law as outlined in Chapter 244.

#### **Sanctions for Non-Compliant Personnel or Providers**

See Section 2.01.160, and Article Ten of the County Code for information regarding sanctions for non-compliant personnel or providers.

#### **Penalties**

See Section 2.01.180, and Article Ten of the County Code for information regarding penalties.

#### **Nuisance**

In addition to the penalties provided in this plan, violations of any of the provisions of this plan and ordinance is declared to be a nuisance and may be regarded as such in all actions, suits, or proceedings.

## **VI. COORDINATION**

### **Authority For Ambulance Service Area Assignments:**

The Board has the authority to assign an ASA within Curry County in compliance with ORS 682.017 to 682.991. Applications by new providers and requests for assignment change or revocation will be considered for approval if they will improve efficient service delivery and benefit public health, safety and welfare. Cities have the authority to develop and apply ambulance licensing ordinances within their jurisdictional boundaries, and nothing in this plan is intended to obviate that authority.

Future updates to this plan and proposals for assignment changes will be the responsibility of the Board. The Board shall receive all requests for changes, present those requests to the Committee for their review and recommendations. Upon completing its review, the Committee shall present recommendations to the Board. In addition, the Board has the authority to review service providers records and initiate an assignment change or service area revocation. For the purpose of this plan, the Board shall recognize the Committee as an advisory group.

The Curry County ASA Plan was prepared with a great deal of input from all county pre-hospital care providers. The Plan requires that the ambulance services providers maintain service records in order that the County can carry out its ASA Plan responsibilities.

### **Entity That Will Administer the ASA Plan**

The Curry County ASA Committee is hereby established with the adoption of this Plan. The Committee shall serve as the principal entity to administer and accept written proposals for amendments to this ASA Plan.

The Committee may be called upon at any time a concern is submitted, in writing, to the Board, or when deemed appropriate by the Administrator, the Chairperson, or two or more members of the Committee.

This Committee, as with any governmental body, will be subject to the Oregon Open Meeting Law (ORS Chapter 192), but may temper its activities, within legal limits, according to the sensitivity of the EMS matter involved. Appeals from the Board, in any case where the Board would otherwise have the final decision at the county level shall be directed to the appropriate state regulatory agency, or a Circuit Court, as appropriate.

The Committee shall submit a brief written report of its activities or recommendations periodically to the Board.

Existence of this committee will:

- a. prevent needless attention of state regulatory agencies to problems that can be resolved locally;



- b. increase local awareness of potential problems that may exist; and
- c. increase the awareness of ambulance medical directors regarding area concerns and activities.

### **Complaint Review Process**

Complaints regarding violation of this ASA Plan, or questions involving pre-hospital care provided, shall be submitted in writing to the Board. The Board shall then forward the complaint to the Administrator, who may call a meeting of the Committee for its review and recommendations or changes on such complaints or questions. The Committee shall make recommendations to the Board to resolve any problems involving system operations (changing protocols to address recurring problems, etc.).

Ongoing input may be provided by consumers, providers or the medical community to any individual on the Committee, the Administrator, or members of the Board. This individual, in turn, will present the complaint, concern, idea or suggestion (in writing) to the full Board for consideration.

### **Mutual Aid Agreements (See Appendix #6)**

Each ambulance service provider shall sign a mutual aid agreement with the other providers in the County and with other providers in adjoining counties to respond with needed personnel and equipment in accordance with the agreement.

All requests for mutual aid shall be made through the appropriate PSAP.

All mutual aid agreements will be reviewed annually and modified as needed by mutual consent of all parties.

### **Disaster Response**

The Committee shall coordinate the EMS medical function of disaster planning with any formal disaster management plan developed by the Curry County Emergency Services Coordinator or other appropriate county authorities.

As an interim goal, until an Emergency Services Plan is implemented, ambulance provider personnel faced with a multiple-casualty incident shall examine the situation in terms of its potential or actual magnitude of disaster, and request any appropriate additional resources that may be available.

### **County Resources Other Than Ambulances**

When resources other than ambulances are required for the provision of emergency medical services

during a disaster, a request for additional resources shall be made through the appropriate PSAP to the County Emergency Management Office.

The Emergency Services Coordinator shall be responsible for coordinating all county EMS resources any time that the MCI Plan is implemented.

The Emergency Services Coordinator shall work directly with local agencies, departments and governments to coordinate necessary resources during any implementation of the MCI Plan.

### **Out of County Resources**

When resources from outside Curry County are required for the provision of emergency medical services during a disaster, a request for those resources shall be made through the appropriate PSAP to the County Emergency Management Office.

The Curry County Emergency Services Coordinator shall be responsible for coordination of all out of county resources any time the MCI Plan is implemented.

### **Mass Casualty Incident (MCI) Management Plan**

The Mass Casualty Incident Management Plan is located in an annex to the Curry County Emergency Operations Plan titled "MCI."

The purpose of the MCI plan is to provide guidance to EMS response personnel in the coordination of response activities relating to mass casualty incidents in Curry County.

The plan is intended for use when any single incident or combination of incidents depletes the resources of any single provider or providers during the normal course of daily operations or at the request of the Emergency Services Coordinator.

The plan shall identify the responsibility of the provider concerning:

- a. coordination;
- b. communication;
- c. move up;
- d. triage; and
- e. transportation.

The Committee will periodically review the medical component MCI plan and revise it to meet the county's need. Following the review and changes the Emergency Services Coordinator will be asked to append the changes to the medical component of the County Emergency Management Plan and the modified MCI plan will be promulgated.

#### Coordination:

- a. The highest ranking officer of the fire or police agency in whose jurisdiction the incident occurs shall be the incident-commander.
- b. The senior/highest certified EMT at the scene will have overall responsibility for patient care (triage officer); he/she shall work closely with the incident-commander.
- c. The on-scene command frequency and staging area will be determined by the incident-commander. Dispatch center will advise responding units as to location of the staging area.

#### EMS Responder Guidelines:

- a. The senior EMT on the first EMS unit to arrive at the scene shall become the triage officer and shall:
  - (1) Assess nature and severity of the incident;
  - (2) Advise the appropriate PSAP of the situation;
  - (3) Request appropriate fire and police services, if not already at the scene;
  - (4) Request initiation of EMS mutual aid if needed;
  - (5) Alert area hospital(s) of the situation; and
  - (6) Establish and organize the transportation of all injured or ill patients.
- b. Additional EMS units arriving at the scene shall:
  - (1) Check-in with Incident-Commander;
  - (2) Effect needed rescue, if trained and equipped to do;
  - (3) Provide emergency medical care and transport patient(s) to the appropriate hospital(s).

**Response to Terrorism—response to a terrorism incident will share many of the elements of any other disaster response. The exception will be that the terrorism incident is a crime scene, and**

coordination of patient care with the law enforcement personnel in charge will be required. There is also a very high likelihood that there is a hazardous materials component to the response, so coordination with ranking fire/hazmat officials may also be required. This coordination is especially critical to ensure the safety of EMS personnel and equipment.

### Personnel and Equipment Resources

The following additional personnel and equipment resources are available to support the ambulance service provider. The current telephone numbers are:

3. Additional Ambulances:

a. Rotary-wing air ambulances:

- (1) U.S. Coast Guard (Coos Bay, Oregon)  
(541) 756-4141

b. Fixed-wing air ambulances:

- (1) Cal-Ore Life Flight (Crescent City, California)  
(707) 951-7534 , (707) 464-8000
- (2) Bay Cities Ambulance Service (Coos Bay, Oregon)  
(541) 269-1155
- (3) Mercy Flights (Medford, Oregon)  
(541) 779-6552

c. Ground ambulances:

- (1) Bay Cities Ambulance Service (Coos Bay, Oregon)  
(541) 269-1155 or (541) 347-3973
- (2) Del Norte Ambulance Service (Crescent City, California)  
(707) 464-9551

4. The following additional personnel and equipment resources are available to support the ambulance service provider. The current telephone numbers are:

- a. Hazardous Materials: State Hazardous Materials Response Team, located in Coos Bay, Oregon (call OERS, below, to activate).

(1) O.E.R.S. ~ (provides notification and activation of state agencies, federal agencies, and some private agencies.)  
1-800-452-0311

(2) CHEMTREC ~ 1-800-424-9300

b. Search and Rescue and Specialized Rescue:

(1) Curry County Sheriff's Office ~ 9-1-1 or (541) 247- 3242

(2) Oregon Civil Air Patrol ~ 1-800-452-0311

(4) U.S. Coast Guard, since the Pacific Ocean falls under the jurisdiction of the U.S. Coast Guard, they will provide specialized aircraft and watercraft for rescue operations. These units shall respond from North Bend, Oregon ~ (541) 756-4141.

The majority of search and rescue within Curry County is provided by Curry County Search and Rescue, through the Sheriff's Office. It is on call and available on a 24-hour basis. In many instances, Search and Rescue will act as First Responders in remote areas that are inaccessible to conventional ambulance. Search and Rescue shall either transport to the nearest ambulance or at its discretion, or use the services of U.S. Coast Guard or others, whichever is medically appropriate. Search and Rescue teams have direct radio contact with all local ambulances, hospitals, and the 9-1-1 Centers. In winter months, Search and Rescue will respond to remote areas covered with snow and not accessible by the usual ambulance service. When advanced life support is called for, Search and Rescue may transport the ambulance crews to the patient.

c. Extrication:

(1) Brookings Fire and Rescue Department ~ 9-1-1

(2) Gold Beach Fire Department ~ 9-1-1

(3) Port Orford Fire Department ~ 9-1-1

(4) Harbor Fire Department ~ 9-1-1

(5) Langlois Fire Department 911

(6) Curry County Road Dept ~ heavy equipment ~ (541) 247-7097

d. Towing of Vehicles weighing over 2½ Tons:

(1) Ev's High Tech Auto & Towing & Chevron ~ (541) 247-7525

(2) Coast Auto Center ~ (541) 469-5321

## **Emergency Communications and Systems Access**

### **Telephone Access:**

There are two 9-1-1 Centers located in Curry County. The first center is located in the Curry County Sheriff's Office in Gold Beach, Oregon which serves the telephone prefixes of 247, 332 and 348. The second center is located in Brookings City Hall in Brookings, Oregon, which serves the telephone prefix of 469 and 412. These centers shall receive all emergency service requests in Curry County. Persons having access to telephone service will have access to the Curry County Communications Centers by dialing 9-1-1. Upon receipt of a request, all emergency service providers in Curry County, including fire and ambulance, are dispatched by one of the two Curry County 9-1-1 Centers.

### **Dispatch Procedures:**

- a. The appropriate personnel shall be notified by the dispatcher via radio-pagers within two (2) minutes of receipt of a life threatening call.
- b. The dispatcher will obtain from the caller, and relay to the first responders the following:
  - (1) Location of the incident;
  - (2) Nature of the incident; and
  - (3) Any specific instructions or information that may be pertinent to the incident.
- c. EMS personnel shall inform the dispatch center by radio when any of the following occurs:
  - (1) In-service;
  - (2) Enroute to scene or destination and type or response;
  - (3) Arrival on scene or destination;

- (4) Transporting patient(s) to hospital or medical facility, the number of patients, and name of facility; and
- (5) Arrival at receiving facility.
- d. Ambulance personnel shall inform the receiving hospital by radio at the earliest possible time of the following:
  - (1) Unit identification number;
  - (2) Age and sex of each patient;
  - (3) Condition and chief complaint of the each patient;
  - (4) Vital signs of each patient;
  - (5) Treatment rendered; and
  - (6) Estimated time of arrival

**Radio System:**

- a. The PSAP shall:
  - (1) Restrict access to authorized personnel only;
  - (2) Meet state fire marshal standards;
  - (3) Maintain radio consoles capable of communication directly with all first response agencies dispatched by them via the following frequencies; primary 155.220; and secondary 155.340 (HEAR system);
  - (4) Maintain radio logs which contain all information required by the Federal Communications Commission and Oregon Revised Statutes;
  - (5) Utilize plain English or 12-code; and
  - (6) Be equipped with a back-up power source capable of maintaining all functions of the center.
- b. The ambulance service provider shall equip and maintain 50 watt or greater, multi-channel radios in each ambulance that allows for the transmission and reception on 155.220 and 155.340 (HEAR). Each ambulance crew shall have one five (5) watt, portable

hand-held radio with a minimum of two (2) channel capability. All ambulances in County shall be equipped to communicate on the following frequencies Curry: 155.340 (HEAR), and 155.220 (Med Net). In most instances, once an ambulance crew has been summoned by the dispatcher, there is further capability of radio communications between the ambulance and the dispatcher via mobile or hand-held radios. Requests for mutual aid, other resources or agencies, etc., generally must be arranged with the third-party assistance of the dispatch center (via radio).

Providers are dispatched by either of the two Curry County 9-1-1 Center by radio pagers. Unless specifically determined by the nature of the call (i.e., non-emergency patient transfer, etc.) the highest level of ambulance staffing available at that time shall be dispatched. Other resources (police, fire) will be dispatched as deemed appropriate.

#### **Emergency Medical Services Dispatcher Training:**

- a. Curry County EMS dispatchers must successfully complete an Emergency Medical Dispatch (EMD) training course as approved by the Oregon Emergency Management Division and the Department of Public Safety Standards and Training.
- b. All EMS dispatchers are encouraged to attend any class, course or program, which will enhance their dispatching abilities and skills.

## **VI. PROVIDER SELECTION**

### **Reassignment of an ASA**

In the event that a reassignment of an ASA is necessary, the Committee shall make a written recommendation to the Board. The committee shall develop appropriate criteria, utilizing the selection process described in this plan to be presented to the Board for consideration and/or action by the Board.

### **Application Process for Applying for an ASA**

See County Ordinance Section 2.01.090 regarding application process for applying for an ASA.

### **Notification of Vacating an ASA**

In the event that an ASA provider wishes to vacate its ASA, the provider shall provide at least sixty (60) days written notice to the Board. The ASA provider must provide notification in accordance with the



provisions of the initial service agreement or contract.

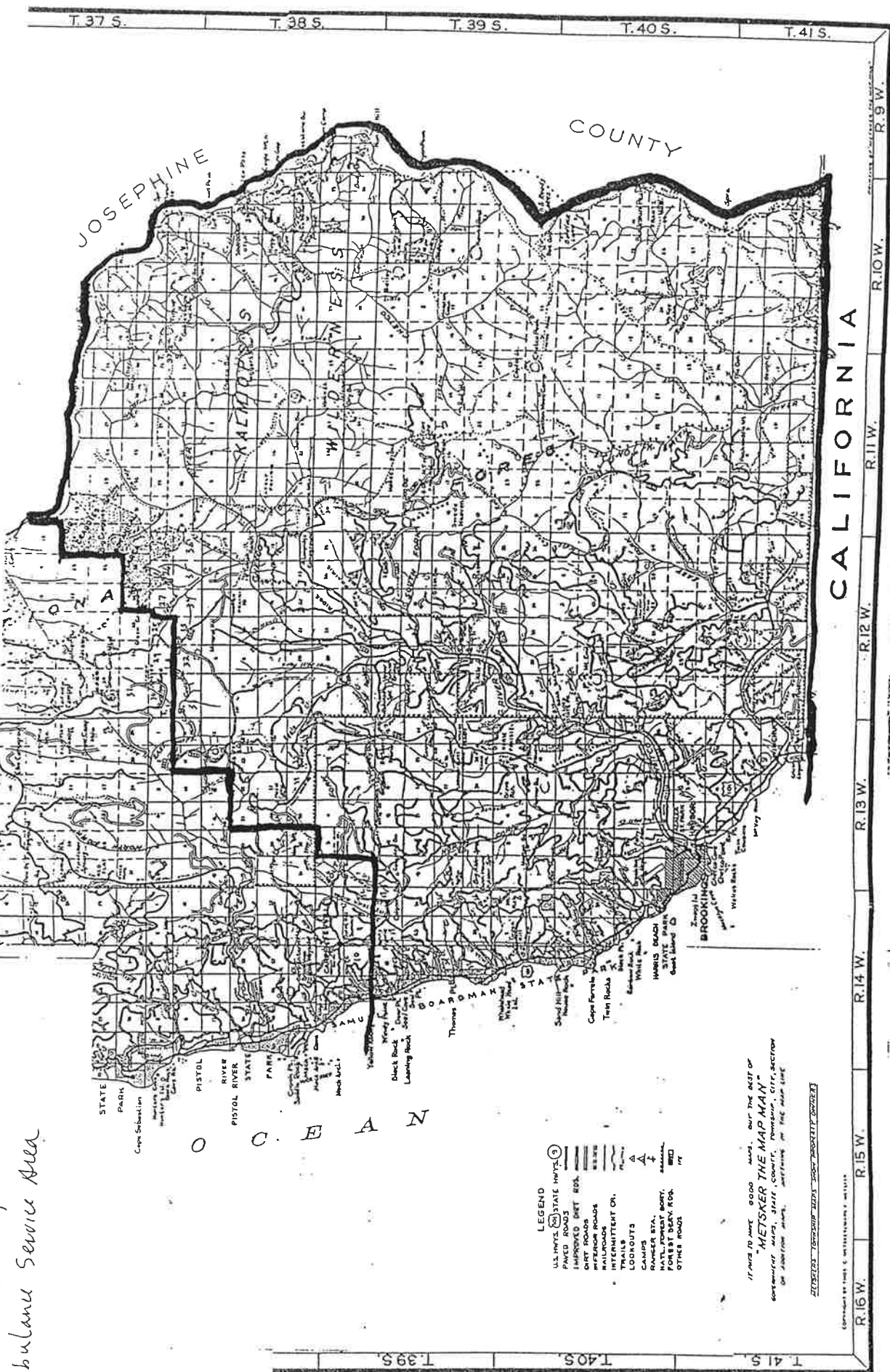
### **Maintenance of Level of Service**

In the event that an ASA provider is unable to comply with the standards promulgated for the ASA by this Plan, the provider will notify the Board in writing of its inability to comply and identify which standards are involved. The Board will determine if other qualified providers are available for the ASA who can comply with the standards. If the Board determines no other qualified providers are available it will apply to the Department of Human Resources, Emergency Medical Services and Trauma Systems Section under ORS 682.079 for a variance from the standards so that continuous ambulance service may be maintained, by the existing provider, in the ASA.

### **CURRY COUNTY ORDINANCE**

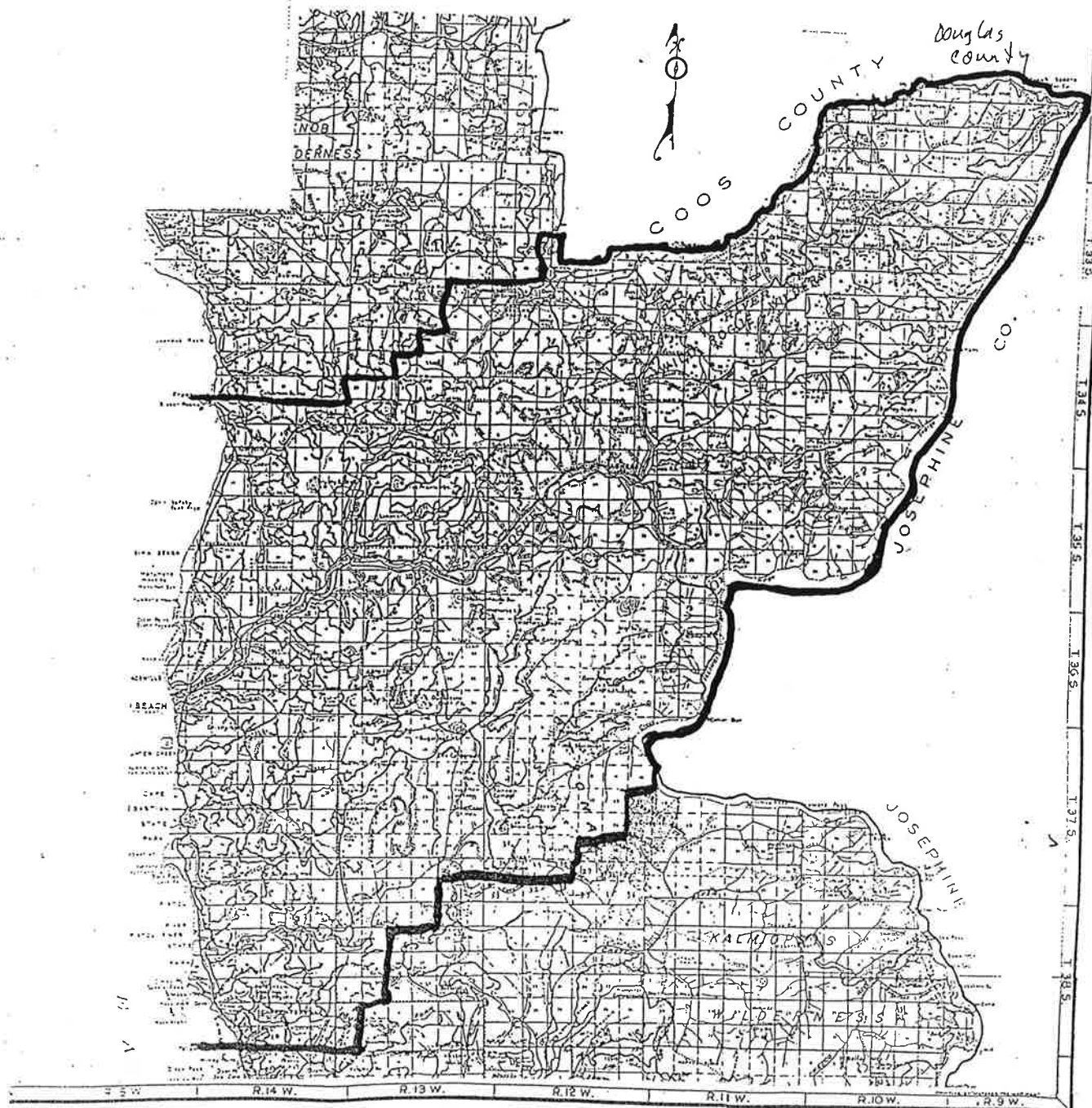
The Curry County Board of Commissioners shall adopt a county emergency medical services ordinance. The ordinance shall include criteria for administering the Curry County Ambulance Service Area Plan; limiting ambulance services that may operate in the county; establishing an application process; ambulance franchise terms; enforcement; preventing interruption of service; appeals, abatement and penalties; duties of the franchisee; and establishing membership and duties of the advisory committee. (See Appendix # 7)

Southern Curry



## Appendix H1

Central Gunn  
Ambulance Service Area



This is a detailed topographic map of Coos County, Oregon. The map shows the county's irregular shape, bounded by Curry County to the west, Josephine County to the east, and Clatsop County to the south. Major towns like Medford, Grants Pass, and Port Orford are clearly marked. The map features a grid with township labels (T.30S., T.31S., T.32S., T.33S., T.34S.) along the left edge and range labels (R.1E., R.2E., R.3E., R.4E., R.5E., R.6E.) along the top edge. A scale bar at the bottom indicates distances from 0 to 10 miles. A north arrow is positioned in the upper right quadrant. The map depicts numerous geographical features, including mountains (e.g., Mount Ashland, Mount Hood), rivers (e.g., Rogue River, Klamath River), and lakes (e.g., Lake Umatilla). Various smaller settlements and landmarks are also labeled throughout the county.

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Appendix #2

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ORFORD REEF  
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Best Rock  
OREGON ISLANDS  
NAT'L WILDLIFE REFUGE  
West  
Arch Rock

PARADISE POINT  
OC PORT  
ORFORD  
R.F.P.D.

Kloaugh  
Rock  
The Heads  
Nellies Point  
Tichenor Rock

R.F.P.D.

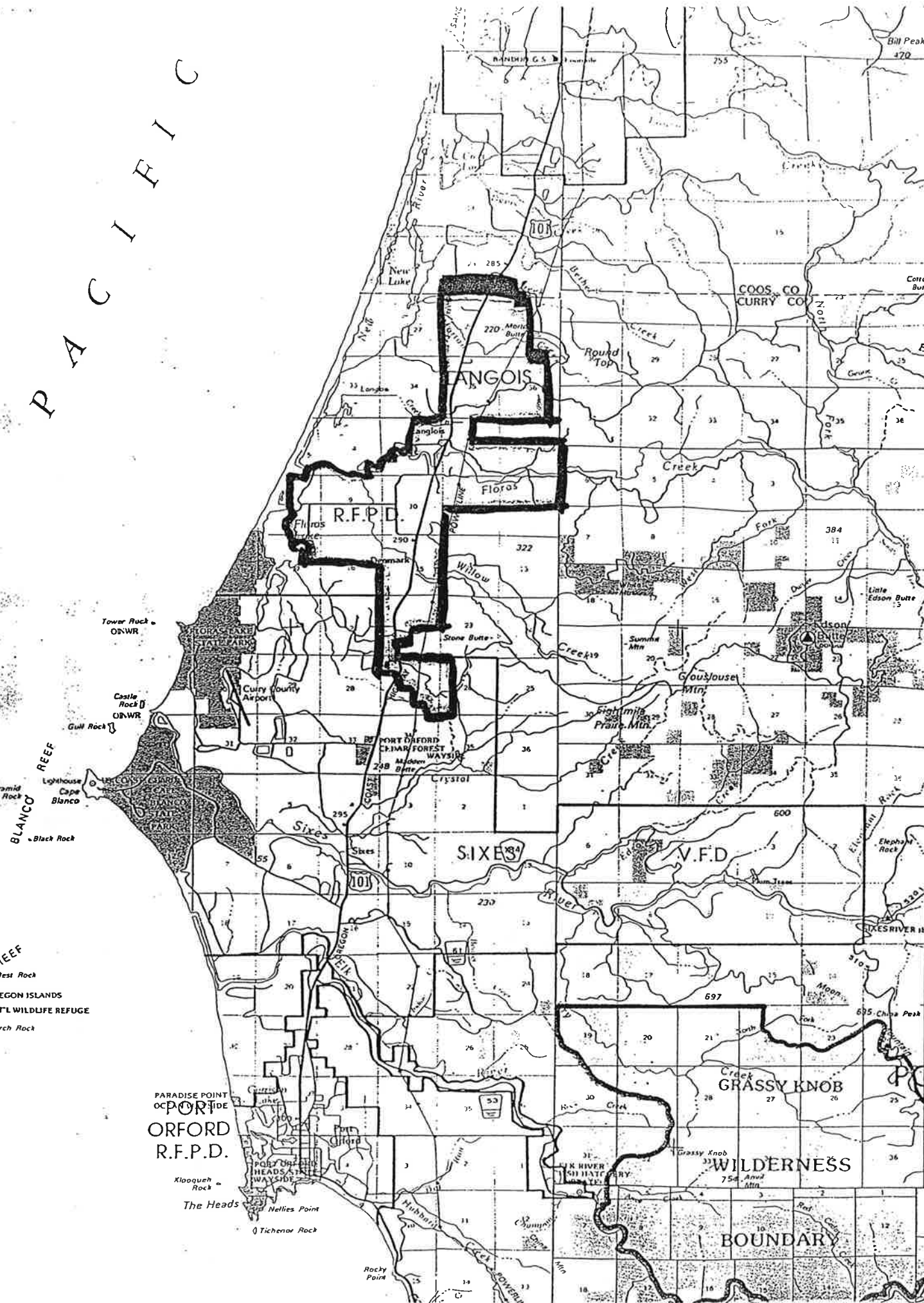
SIXES

V.F.D.

GRASSY KNOB  
WILDERNESS

BOUNDARY

Appendix #



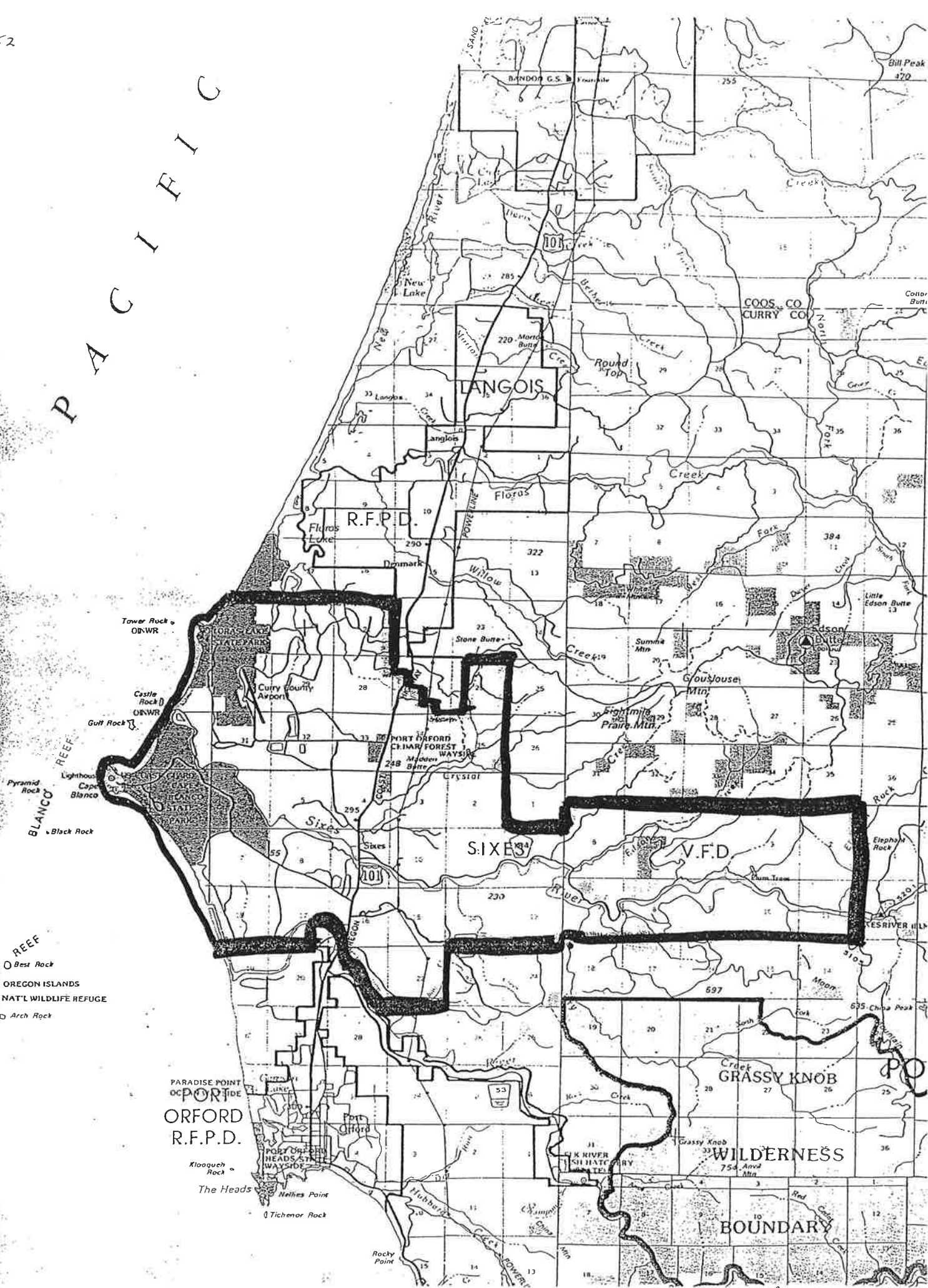


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Rock  
ORFORD REEF  
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OREGON ISLANDS  
NAT'L WILDLIFE REFUGE  
West  
Conical Rock  
Arch Rock



Appendix 42

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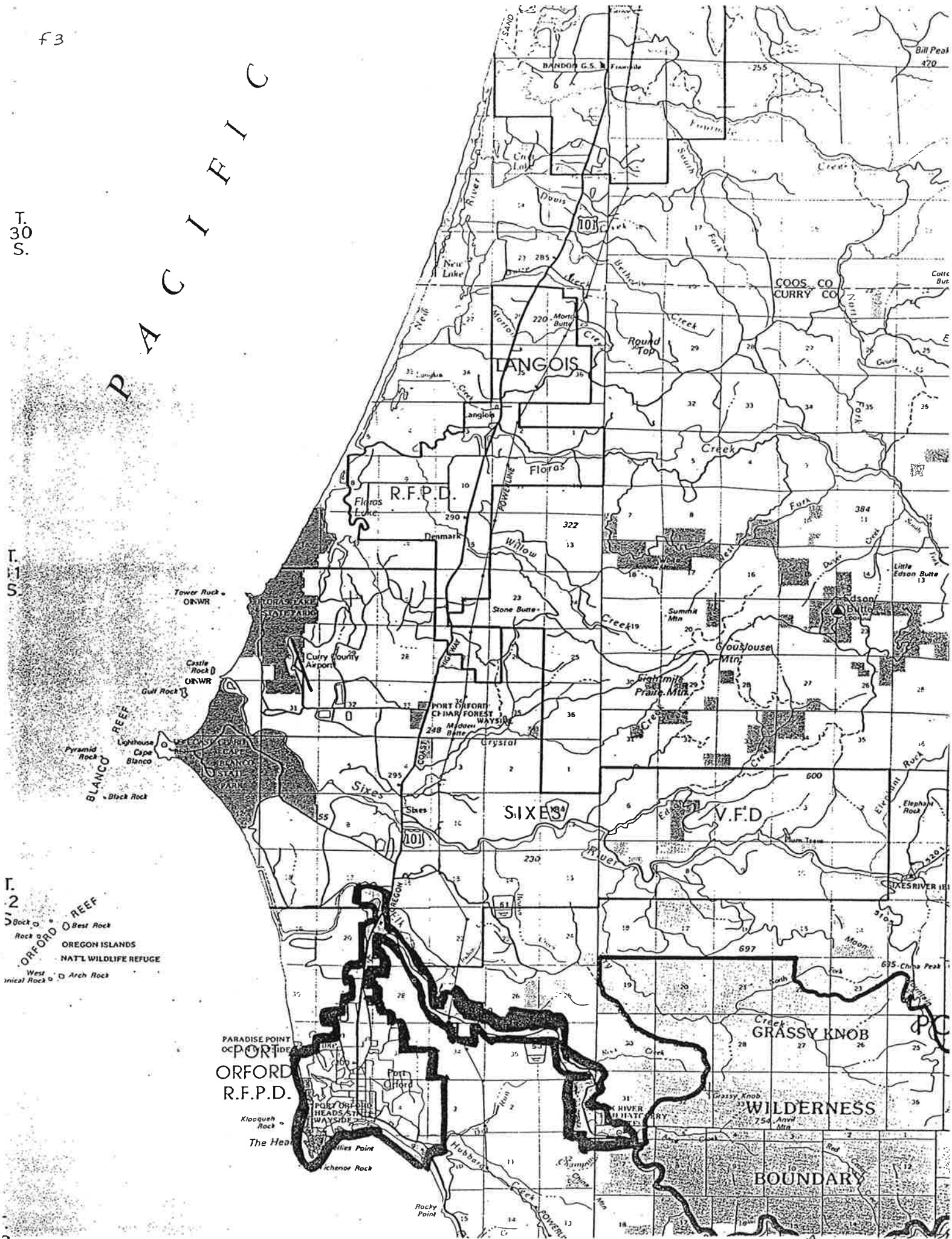
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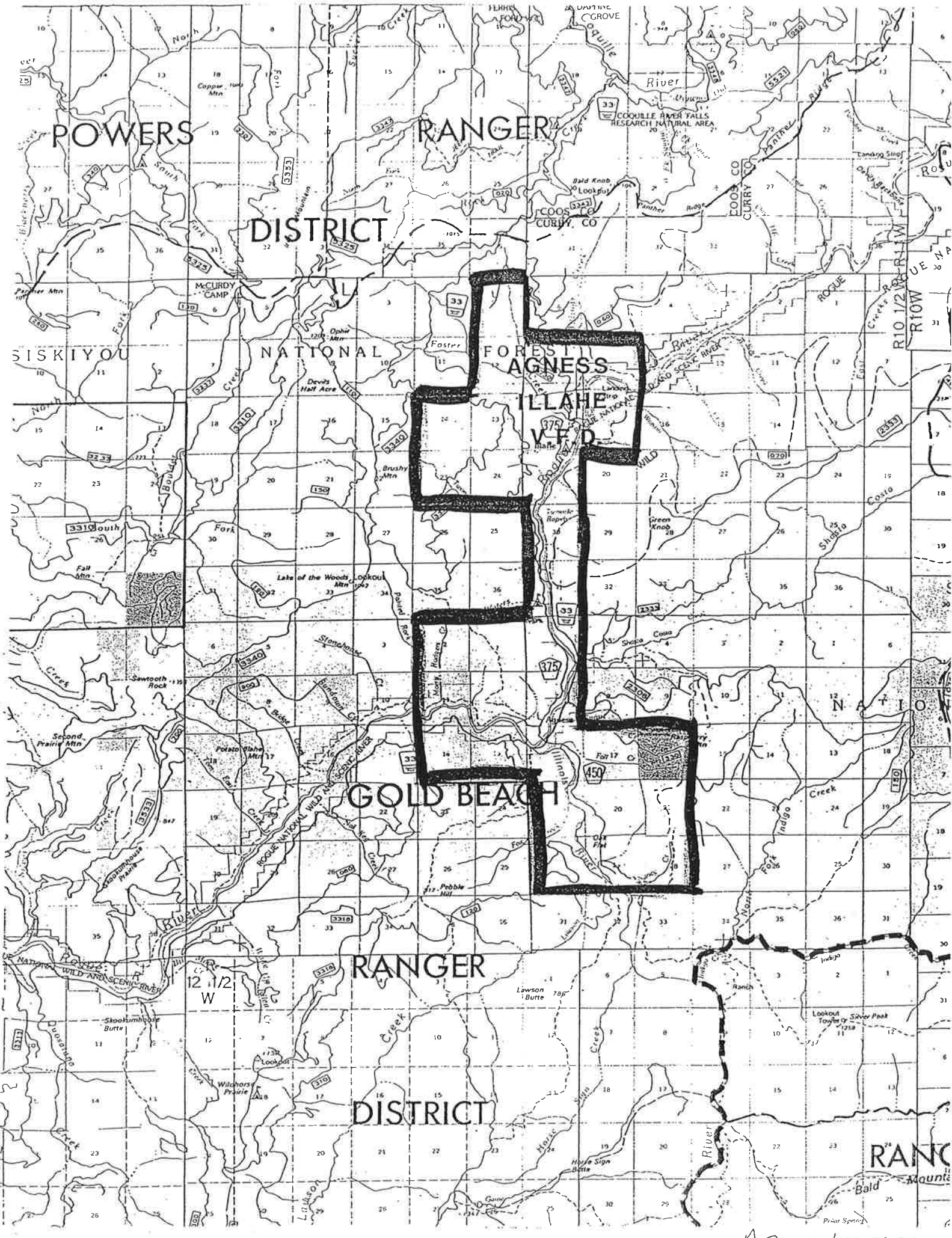
ORFORD REEF  
OREGON ISLANDS  
NAT'L WILDLIFE REFUGE  
West  
Initial Rock

PARADISE POINT  
ORFORD  
R.F.P.D.

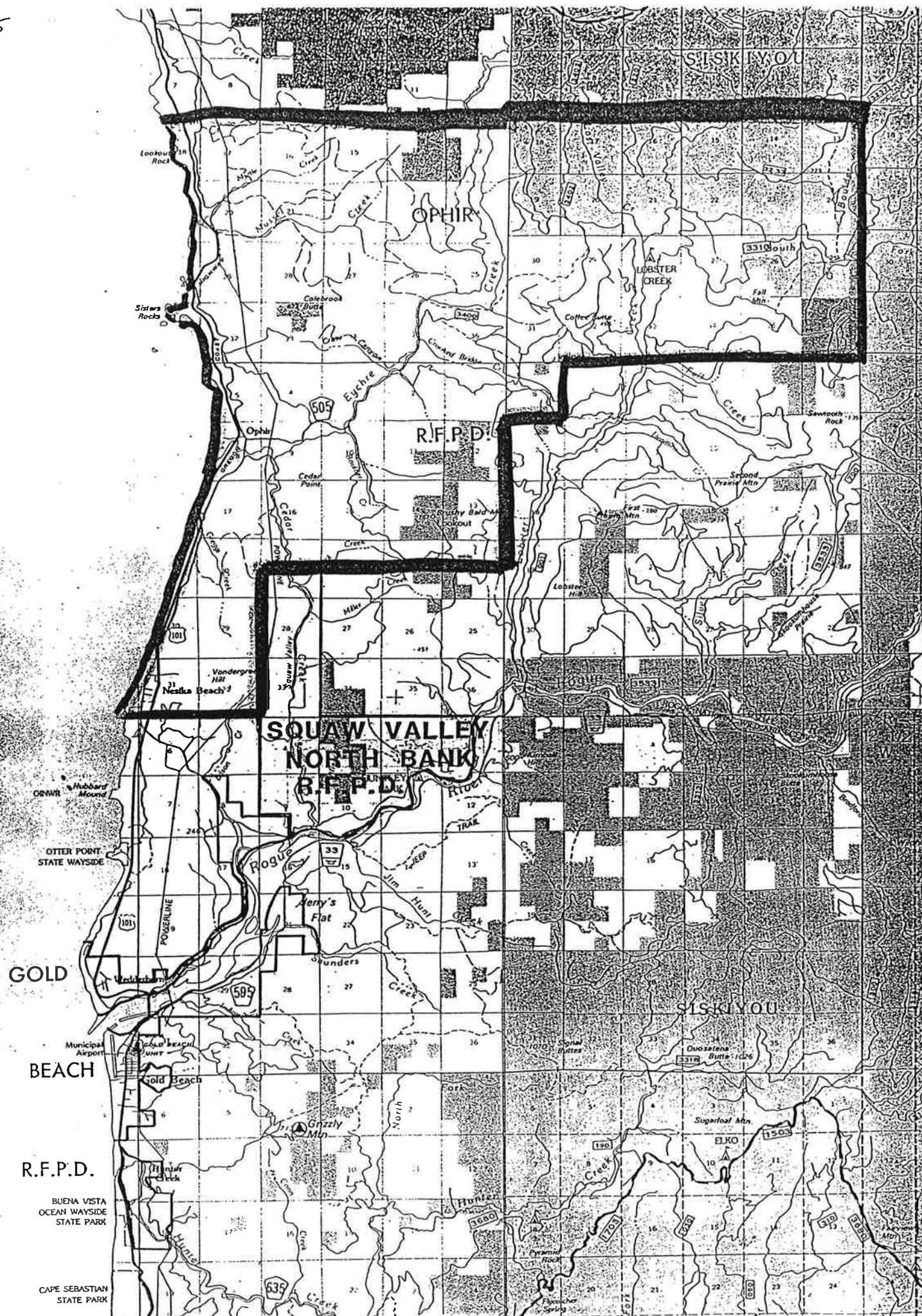
The Head  
Miles Point  
Klaquish Rock  
Chenar Rock







# ENAN



CAPE SEBASTIAN  
STATE PARK



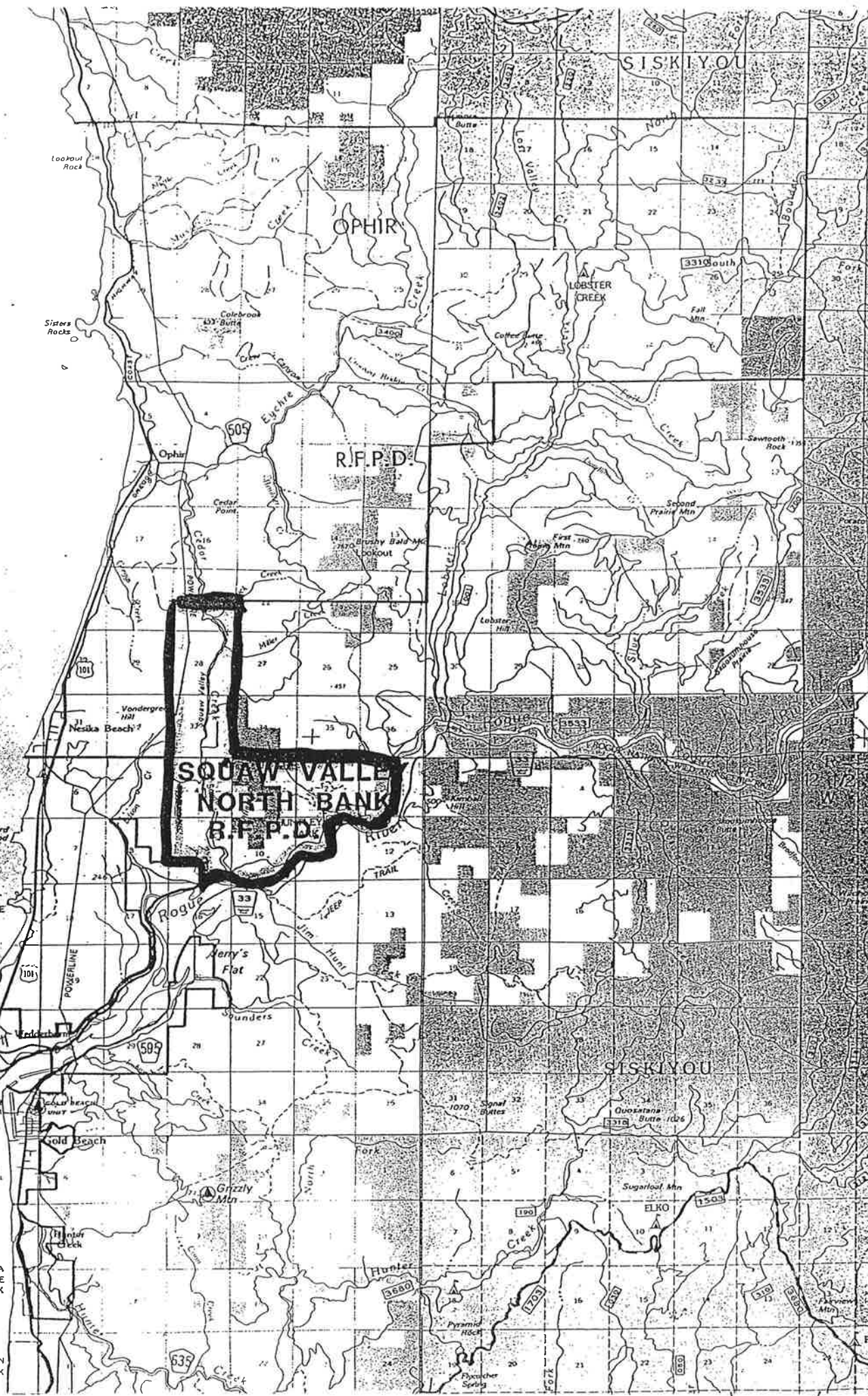
GOLD

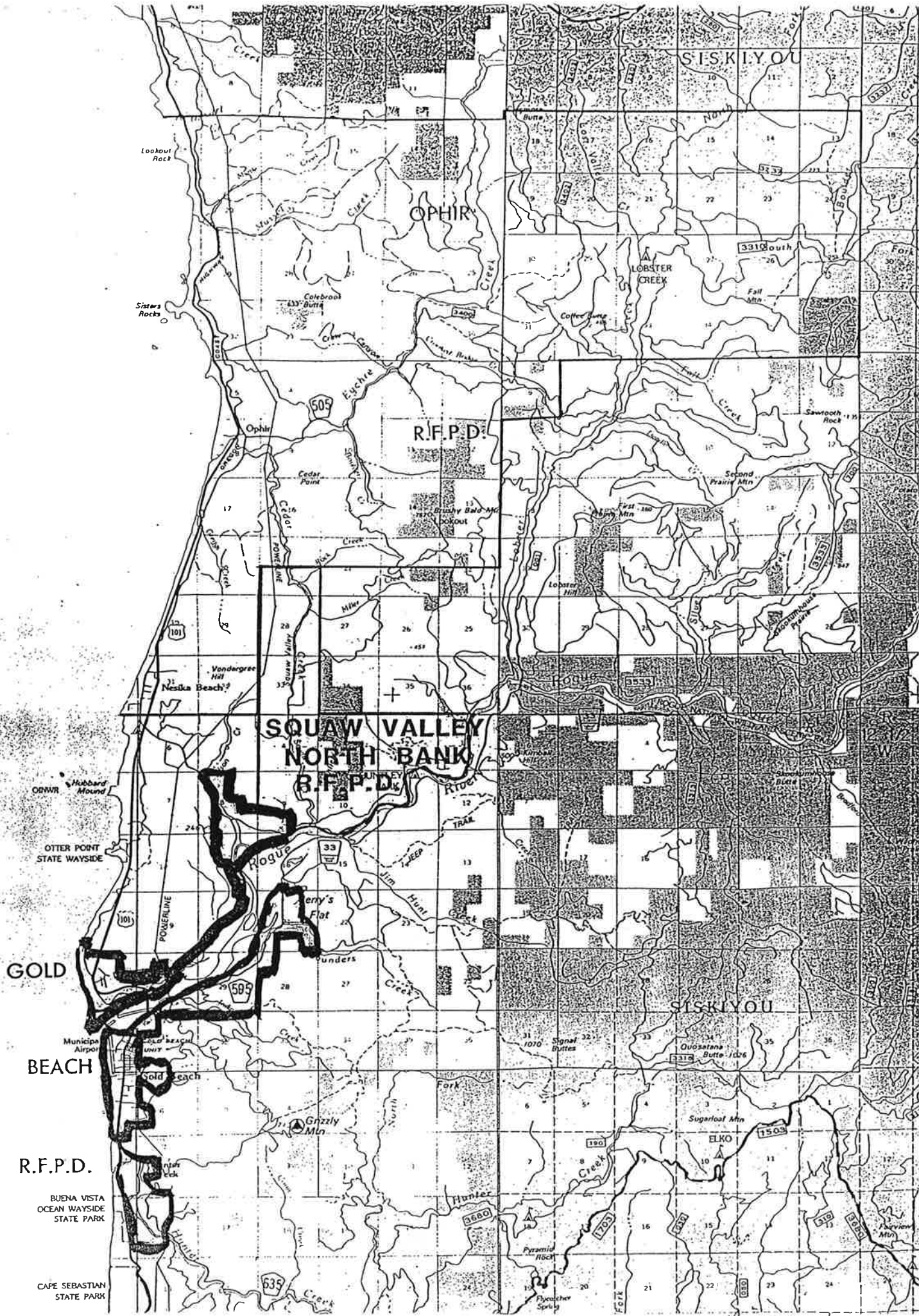
BEACH

R.F.P.D.

BUENA VISTA  
OCEAN WAYSIDE  
STATE PARK

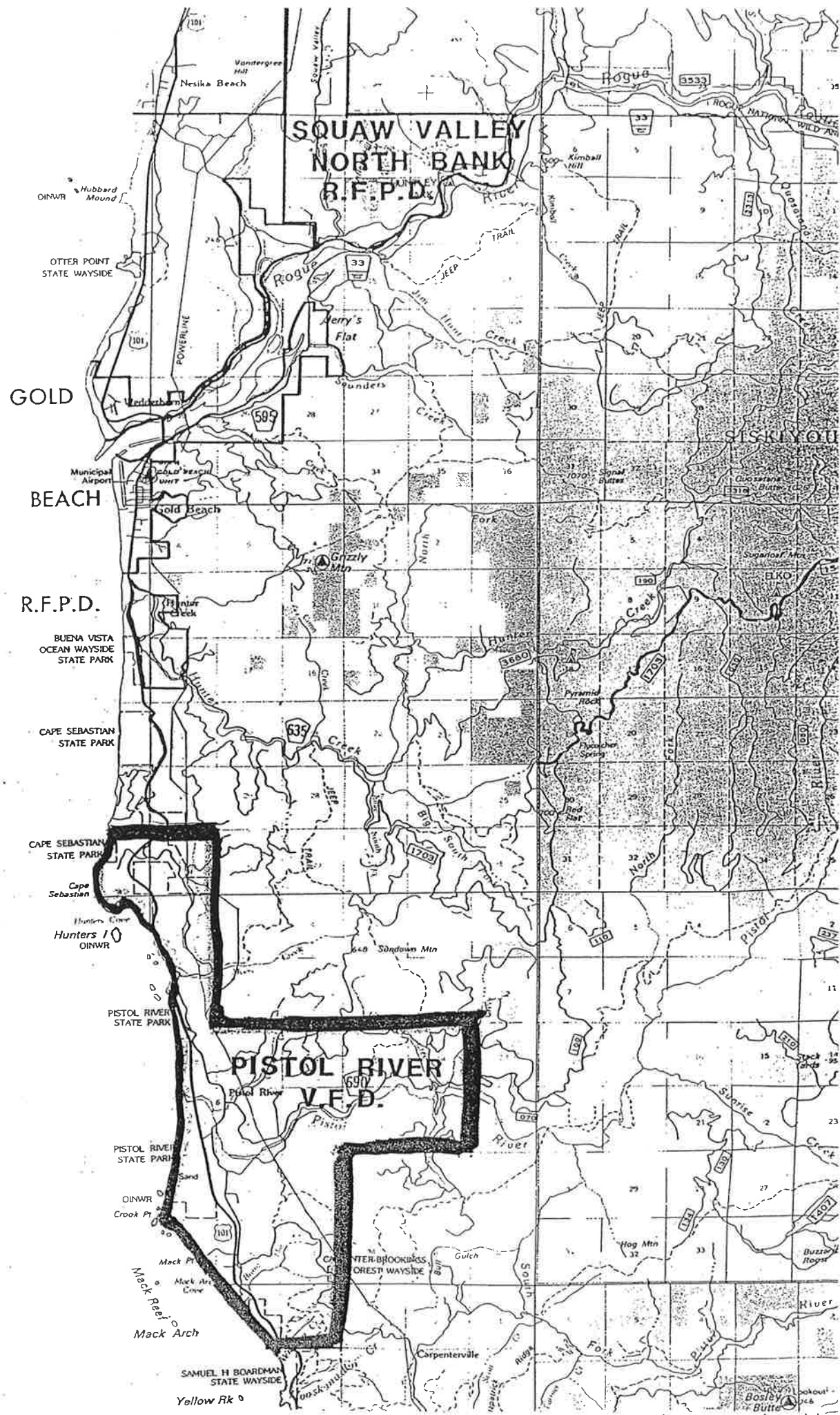
CAPE SEBASTIAN  
STATE PARK

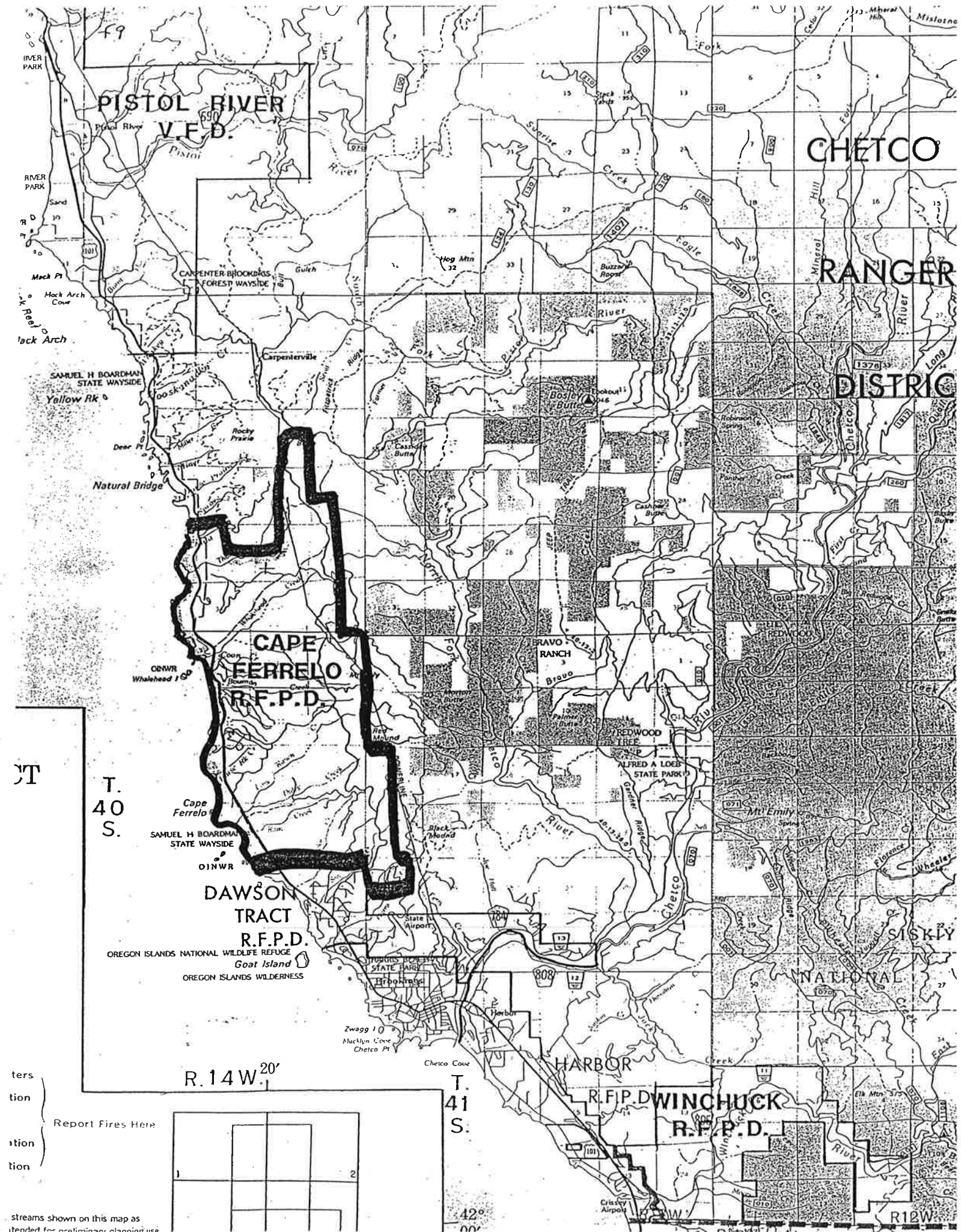






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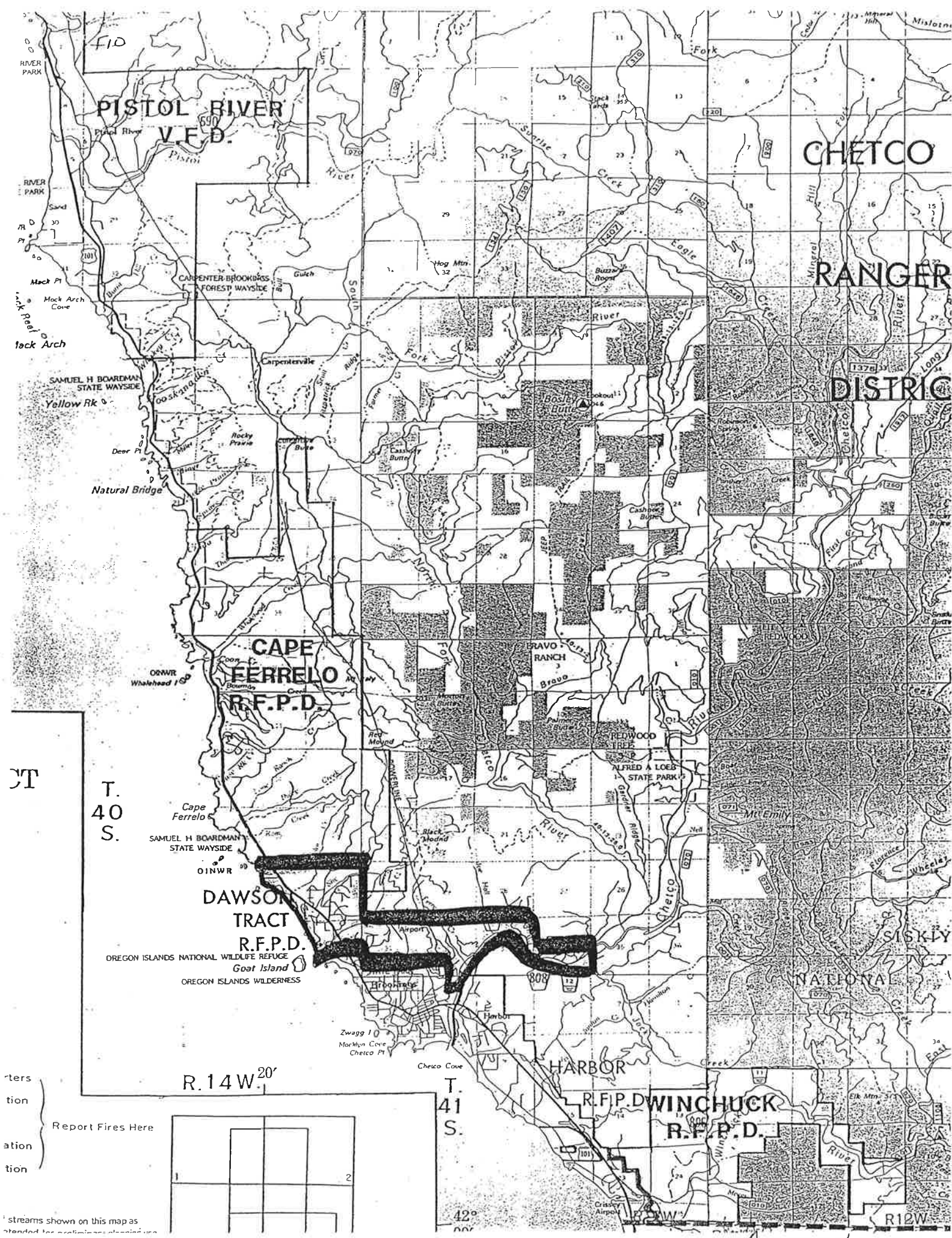


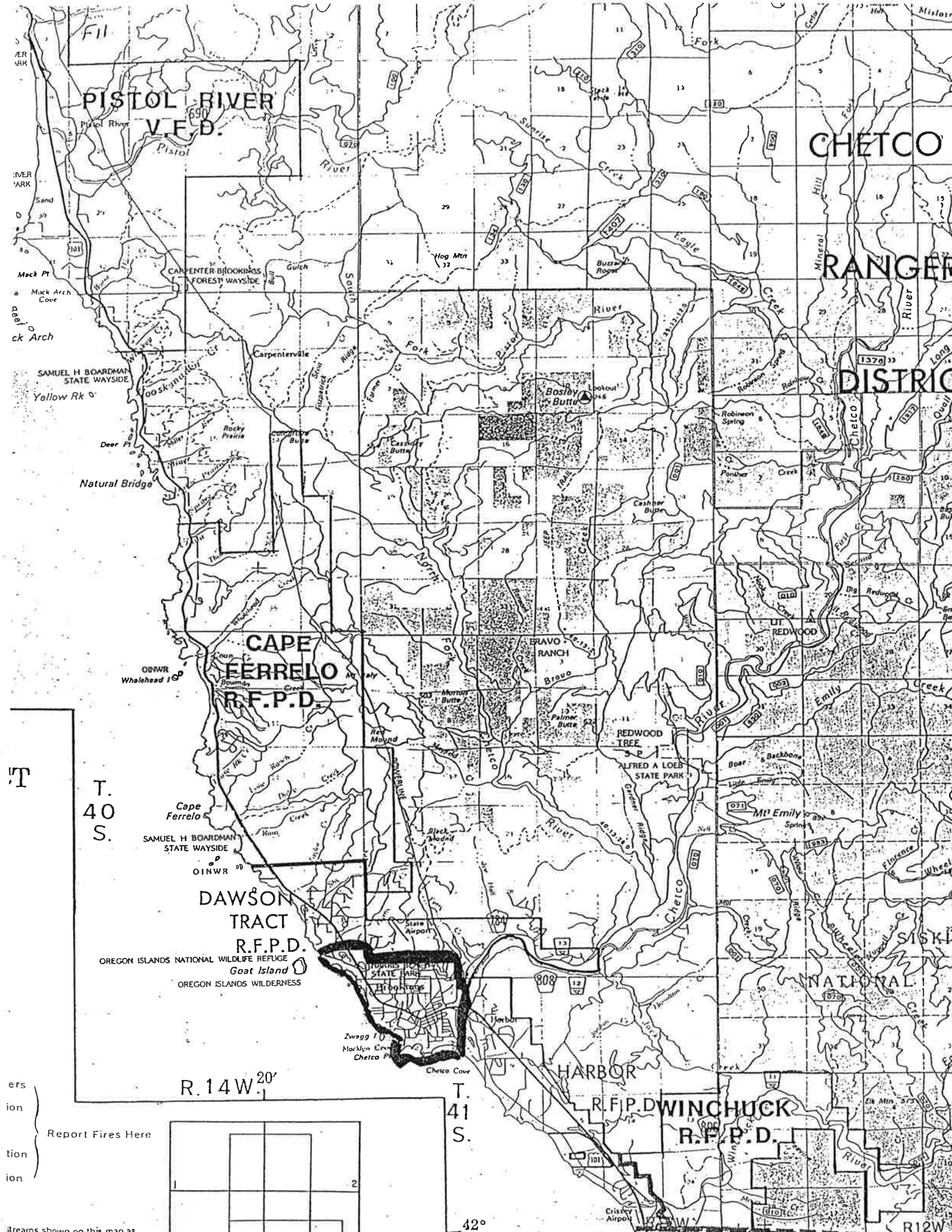


Report Fires Here

streams shown on this map as intended for preliminary planning use







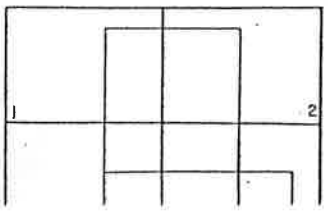
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Streams shown on this map as indicated by the blue lines

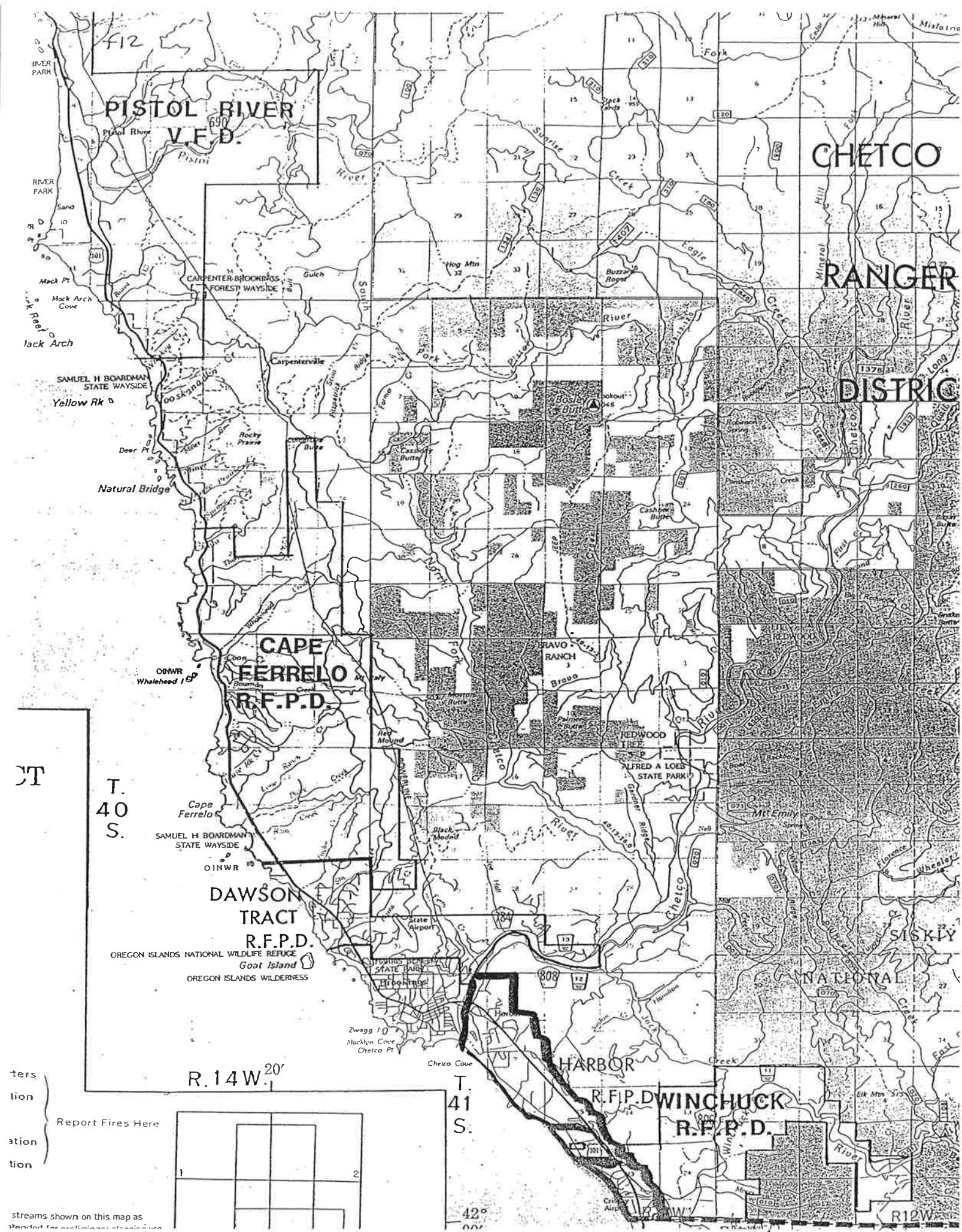


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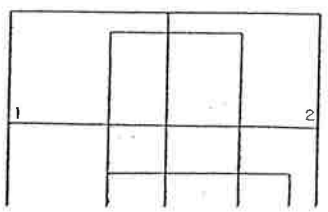


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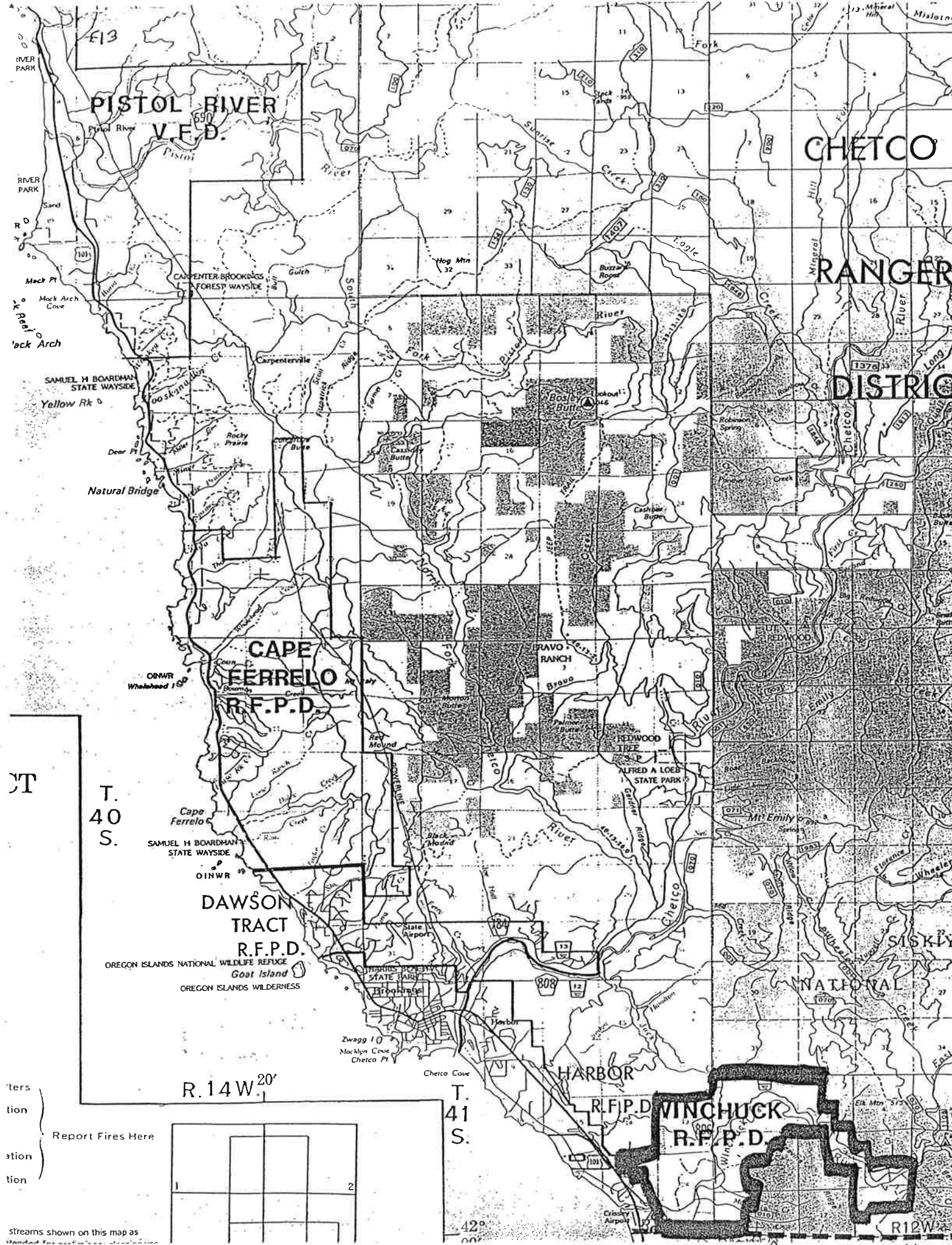
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marked for preliminary classification



PISTOL RIVER  
V.F.D.

CHETCO

RANGER

DISTRICT

CAPE  
FERRELO  
R.F.P.D.

PRAVO  
RANCH

DAWSON  
TRACT  
R.F.P.D.

REDWOOD  
TREE

ALFRED A LOES  
STATE PARK

HARBOR  
R.F.P.D.  
WINCHUCK  
R.F.P.D.

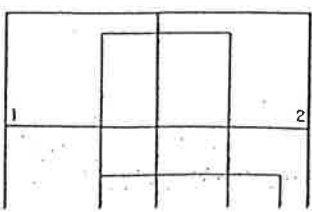
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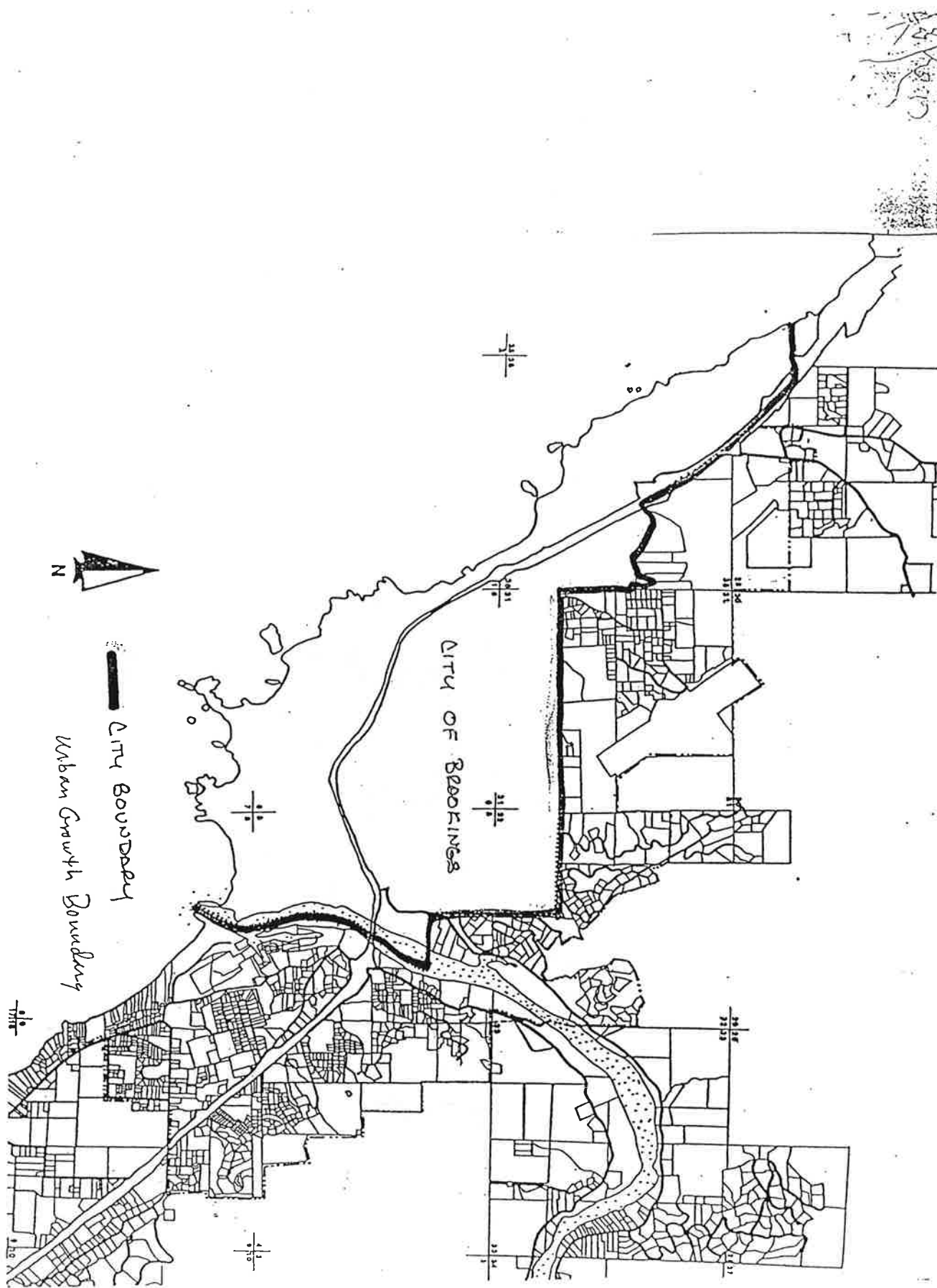


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Map No. 43





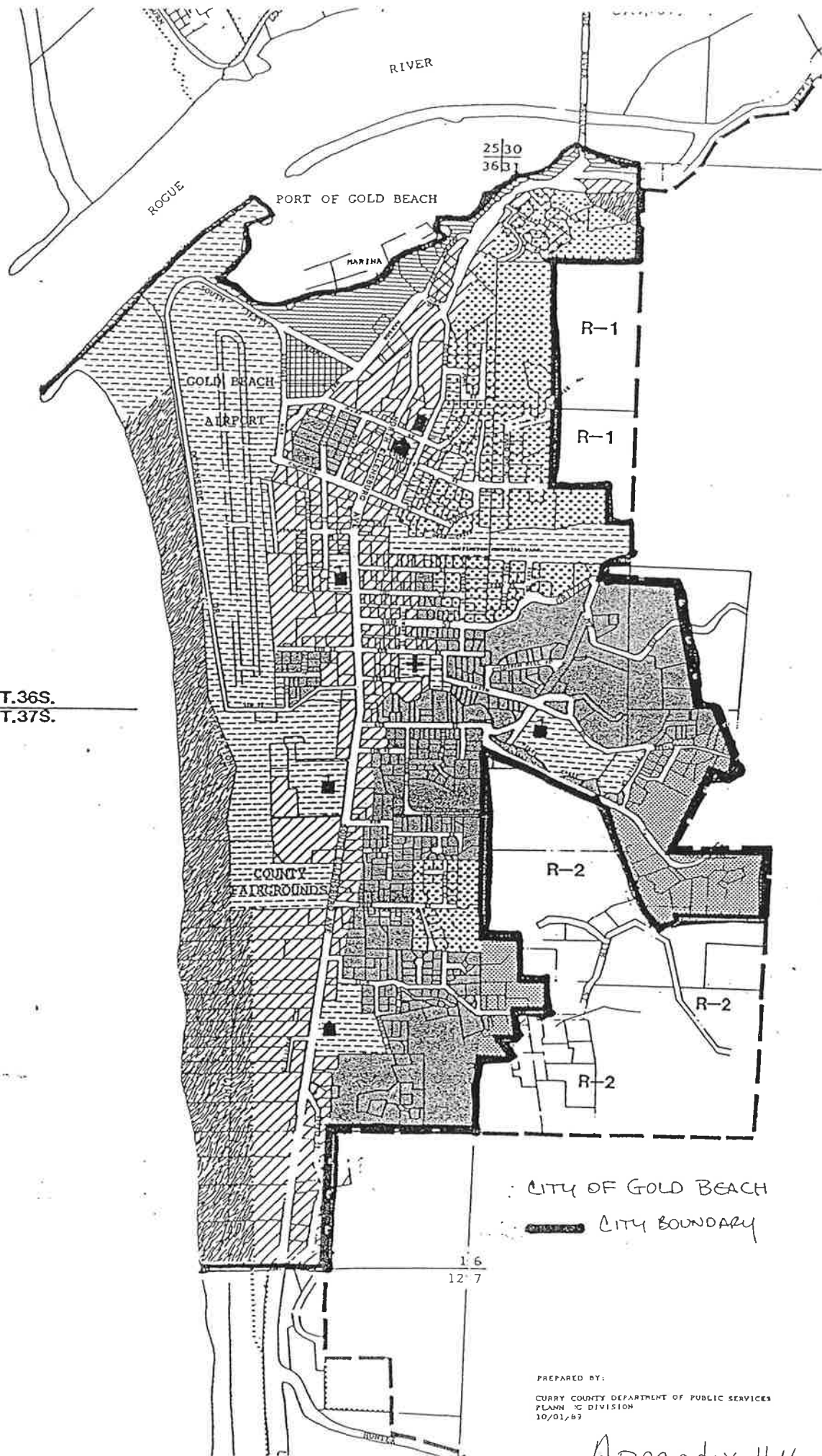


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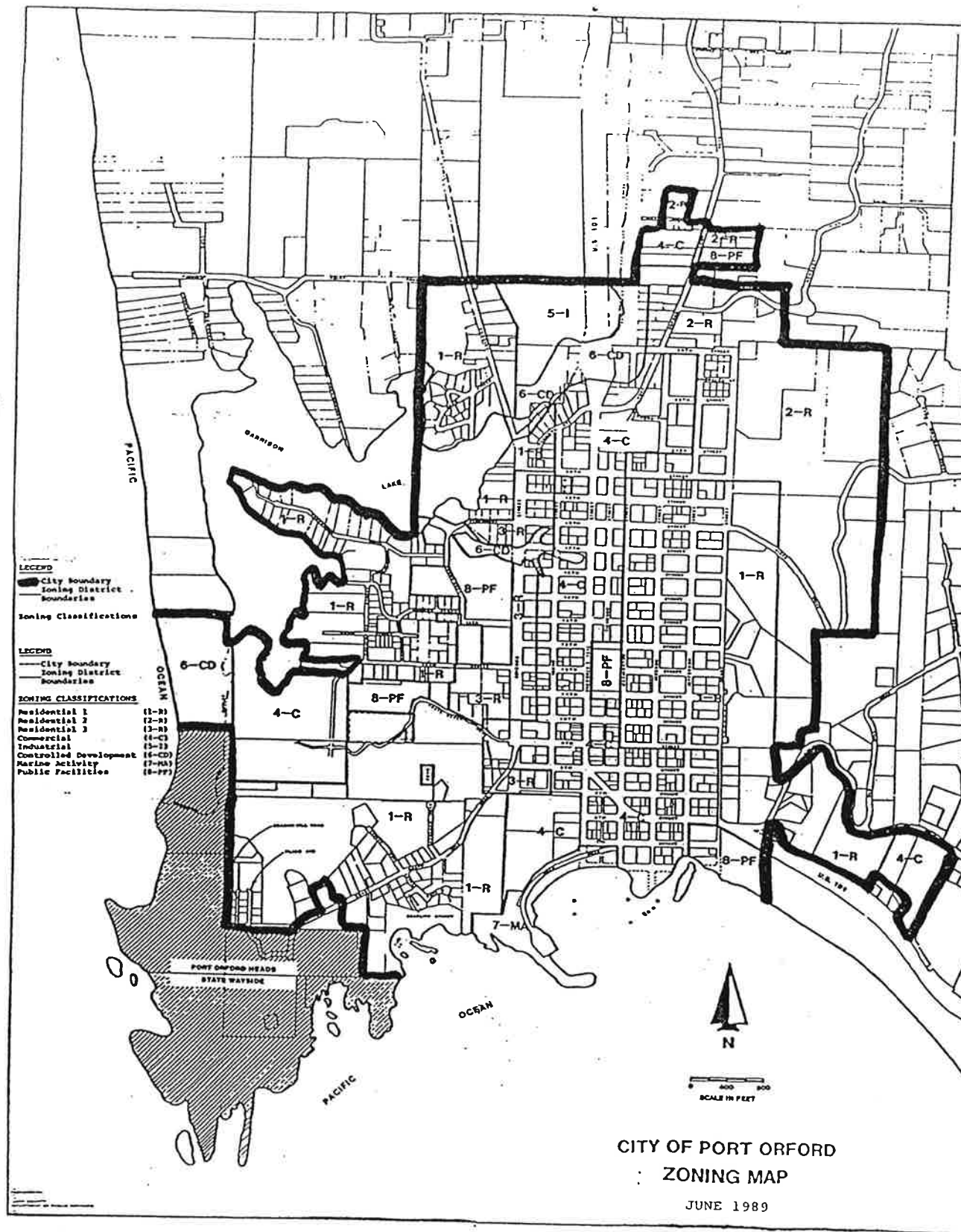
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PREPARED BY:  
CURRY COUNTY DEPARTMENT OF PUBLIC SERVICES  
PLANNING DIVISION  
10/01/89

Appendix #4



# SOUTHERN CURRY AMBULANCE SERVICE AREA

## RESPONSE TIMES

EMT's respond to 911 dispatch within 5 minutes, with addition of 5 minutes added to calls lengthened by traffic, weather, and road conditions.

8 minutes with city limits of Brookings	90%
15 minutes out of city within UGB	90%
45 minutes Rural	90%
4.5 hours Frontier Roaded Areas	90%
24 hours Frontier Roadless Areas	90%

Inside city limits, on scene	8 minutes
Deer Park Road-North	
Checto River Bridge-South	
East Harris Heights	
Hampton Road	
Brooke Lane	
Meadow Lane	
Marina Heights to the fork	
North Bank Chetco Road - Worlton Place	
West - the Pacific Ocean shoreline	

North on 101, on scene	22 minutes
------------------------	------------

Whales Head R.V. Park	10 minutes
Martin Ranch Road	15 minutes
Thomas Creek Bridge	15 minutes
Burnt Hill Salmon Ranch	18 minutes
Pistol River Flat	22 minutes
Cape Ferrelo Road	8 minutes
Cape Ferrelo Road - Homestead Market	12 minutes
Cape Ferrelo Road - Carpenterville Road	15 minutes
Carpenterville Road - South Coast Lumber	8 minutes
DeMoss Road	10 minutes
Duley Creek Road	12 minutes
Blandau's Ranch	20 minutes

East, on scene	4.5 hours
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North Bank Chetco River Road	
Thomspon Road	10 minutes
Mountain View Drive to end	15 minutes
Riverside Market	12 minutes
Gardner Ridge Road	15 minutes
Gardner Ridge Road to end	45 minutes
Lobe State Park	15 minutes
Second Bridge	20 minutes
Little Redwood	25 minutes
South Fork Bridge	30 minutes

Valcan Lake Trail Head	3 hours
Windy Valley Trail Head	3 hours
South Bank Chetco River Road	
River Bend R.V. Park	10 minutes
Jacks Creek Bridge	12 minutes
Mt. Emily Road	15 minutes
Fallert's Ranch	20 minutes
South, on scene	35 minutes
Harbor Shopping Center	8 minutes
Southcoast Shopping Center	8 minutes
West/East Benham Lane	10 minutes
Pedrolli Drive	15 minutes
Port of Brookings Harbor	8 minutes
Oceanview Drive - North end	15 minutes
Oceanview Drive - South end	20 minutes
South Bank Winchuck - Stateline Road	15 minutes
Del-Cur Supply	10 minutes
Lucky "L" Ranch	25 minutes
North Bank Winchuck Road	10 minutes
Lawrence Lane	15 minutes
Grover's Place	20 minutes
Ludlem House	35 minutes
Winchuck Campground	25 minutes
Donnelly Place	30 minutes



## Southern Curry



# CENTRAL CURRY AMBULANCE SERVICE AREAS

## RESPONSE TIMES

EMT's respond to 911 dispatch within 5 minutes, with addition of 5 minutes added to calls lengthened by traffic, weather, and road conditions.

10 minutes in City of Gold Beach	90%
20 minutes out of City	90%
35 minutes Rural	90%
4.5 hours Frontier Roaded Areas	90%
24 hours Frontier Roadless Areas	90%

Gold Beach North	
101 Frankport North Service Area	30 minutes
Ophir	25 minutes
Squaw Valley Road - Miller Creek	30 minutes
Nesika Beach	20 minutes
Otter Point - Hubbard Mound	15 minutes

Gold Beach North Bank Rogue River	
Squaw Valley Road Junction	20 minutes
Lobster Creek	30 minutes

Gold Beach Jerry's Flat - Agness Road	
Champion Mill Site	20 minutes
Lobster Creek Bridge	25 minutes
Quosatana Creek	30 minutes
Copper Canyon	45 minutes
Agness	55 minutes

Gold Beach South	
Hunter Creek	15 minutes
Cape Sebastian	20 minutes
Pistol River	25 minutes
Boardman State Park South Service Area	
Boundary	30 minutes
Carpenterville Area	30 minutes

Frontier Area East of Hwy 101	
To end of Drivable Forest Roads	6 hours
Roaded Areas Accessible from Coos, Douglas, or Josephine Counties	8 hours

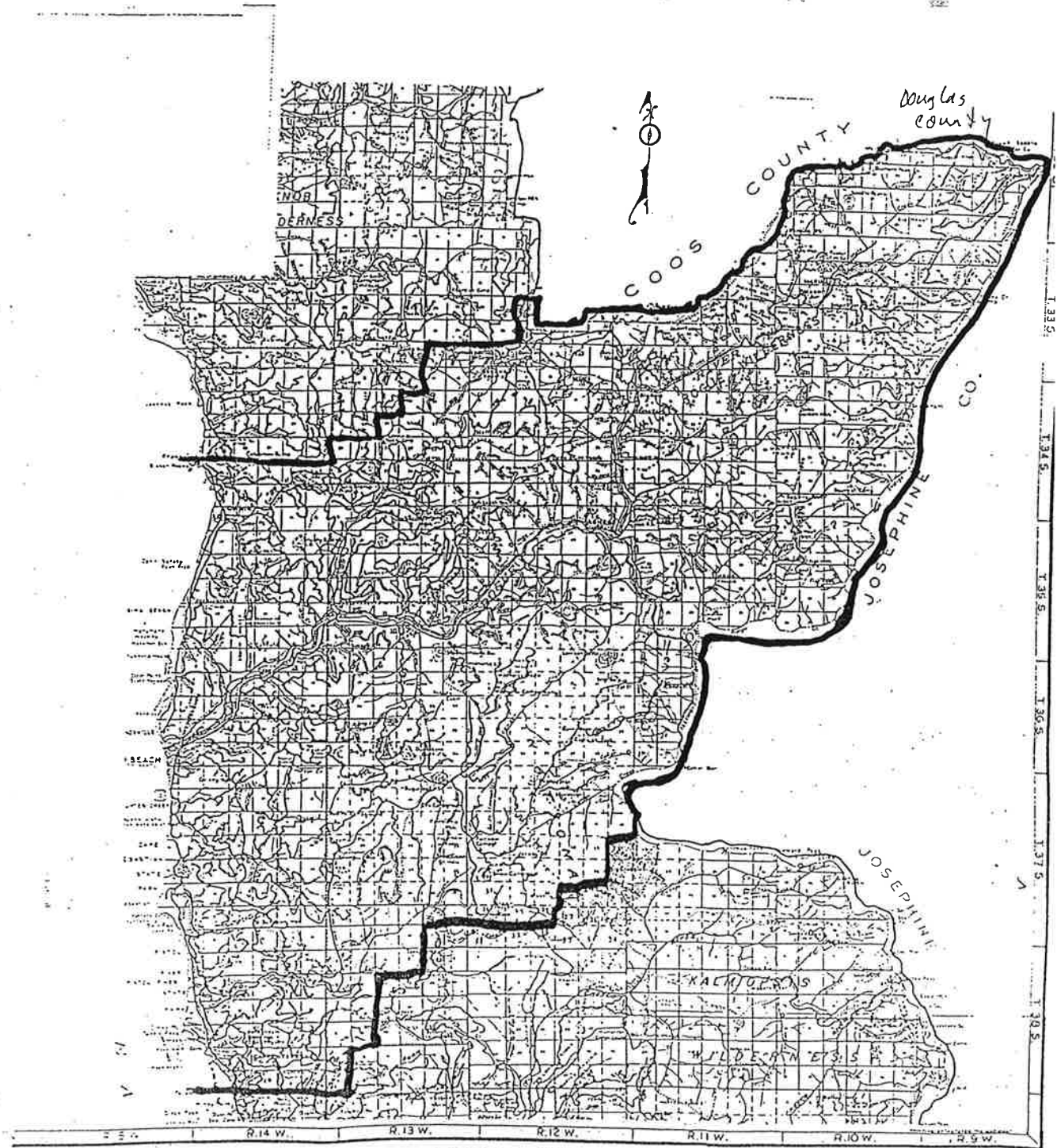
Roadless Areas	
by Helicopter (subject to weather, availability and permission to land by governing agency)	5 hours
by foot or horseback	24 hours

# AGNESS RESCUE SQUAD RESPONSE TIMES

EMT's respond to 911 Dispatch within 7 minutes, one EMT in 3 minutes, and one EMT in 5 minutes, with the addition of 5 minutes due to road, weather, and traffic conditions.

15 Minutes Within Agness Area	90%
45 Minutes North Top of Agness, Powers Pass	90%
45 Minutes East Agness, Josephine County Line, Bear Camp	90%
45 Minutes West Agness, Lake of The Woods, Lookout Junction	90%
3 Hours Upper River Area, Foster Bar to Paradise Bar	90%
4.5 Hours Frontier Roaded Areas	90%
24 Hours Frontier Roadless Areas	90%
South Agness to Lucas Lodge	14 Minutes
South Agness to Spnd Road and Residents	20 Minutes
South Agness to Gold Beach	50 Minutes
North Agness To Illahe Area, Big Bend, Foster Creek	8 Minutes
North Agness to Top of Agness, Powers Pass	45 Minutes
West Agness to End of Sundown Road	14 Minutes
West Agness to Lake of the Woods, Lookout Junction	45 Minutes
East Agness to Oak Flat	20 Minutes
East Agness to Josephine County Line, Bear Camp	45 Minutes
East Agness to Top of Snout Creek Road	50 Minutes
Upper Rogue River Area Foster Bar to Paradise Bar	3 Hours
Frontier Roaded Areas	
To End of Drivable Forest Roads	6 Hours
Roaded Areas Accesible From Coos, Douglas or Josephine Counties	8 Hours
Roadless Areas	
by Helicopter (subject to weather, availability and permission to land by governing agency)	5 Hours
by Foot or Horseback	24 Hours

Central Curry  
Habitat Service Area



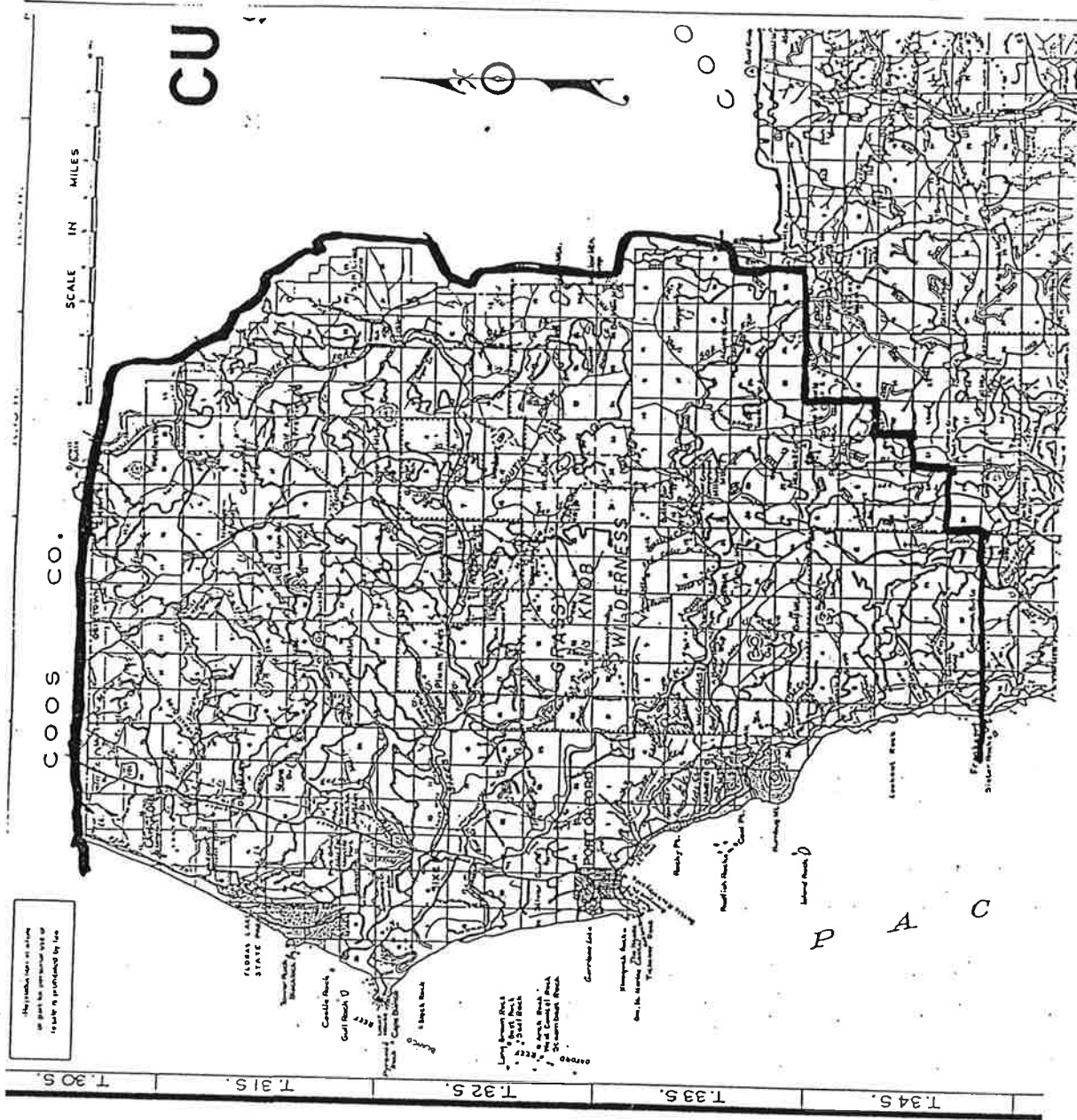
Appendix II

NORTH CURRY AMBULANCE SERVICE AREA  
RESPONSE TIMES

EMT's respond to 911 dispatch within 5 minutes, with addition of 5 minutes added to calls lengthened by traffic, weather and road construction.

8	minutes in City of Port Orford	90%
15	minutes out of City	90%
45	minutes rural	90%
4.5	hours Frontier roaded areas	90%
24	hours Frontier roadless areas	90%
Port Orford to Coos County line	25 minutes	
Port Orford to Langlois	20 minutes	
101 Langlois Mountain (average mph off 101 - 20-30 mph)		
John Guynup 6 1/2 miles up	15 minutes from 101	
McClouds (North on Langlois Mt.)	30 minutes from 101	
Kalina (South on Langlois Mt.)	30 minutes from 101	
Port Orford North		
Floras Creek Road	15 minutes	
North end of Floras Lake (West)	12 minutes	
South end of Floras Lake (West)	10 minutes	
(Average mph off 101 20-30 mph)		
Denmark	12 minutes	
Pacific High School	10 minutes	
Sixes Store	8 minutes	
Sixes to Plumtree (up Sixes Road)	15 minutes	
(Average 20-30 mph)		
Cape Blanco and 101	8 minutes	
101 to end of Cape Blanco Road	15 minutes	
Elk River Road and 101	6 minutes	
6 miles up Elk River from 101	18 minutes	
Port Orford South		
Hubbards Creek	8 minutes	
Humbug Mt.	10 minutes	
Brush Creek	15 minutes	
Muscle Creek		
(Traffic and Weather factor)	30 minutes	
Frontier Area East of Hwy 101		
To end of Drivable Forest Roads	6 hours	
Roaded Areas Accessible from		
Coos County	8 hours	
Roadless Areas		
by Helicopter (subject to weather,		
availability and permission to land		
by governing agency)	5 hours	
by foot or horseback	24 hours	

Northern Curry  
Ambulance Service Area



Appendix # 6  
CURRY COUNTY  
AMBULANCE SERVICE AREA  
MUTUAL AID AGREEMENT

WHEREAS the Parties hereto maintain and operate Emergency Medical Services for the purpose of necessary lifesaving services within their respective service areas; and

WHEREAS the parties recognize the possibility that numerous medical responses and/or disaster conditions in one Party's area could create insufficient resources to allow for effective operation of Emergency Medical Services in that area; and to accommodate those times when one Party is in need of emergency assistance; and

WHEREAS the parties recognize that one Party may be more advantageously placed to provide effective Emergency Medical Services in the other Party's service area due to distance, road, or weather conditions;

NOW THEREFORE, it is agreed as follows:

1. Both parties agree to furnish personnel and equipment to the other Party when requested by competent authority, provided the assisting Party has available adequate personnel and equipment to reasonably provide assistance,
2. The Parties agree to maintain compatible radio communication capabilities with each other.
3. It is mutually agreed and understood that this agreement shall not relieve either Party of the responsibility for Emergency Medical Services within its own district, nor does this agreement create any right in, or obligation to, third parties by either Party which would not exist in the absence of this agreement. It is the intent of this agreement to provide reasonable assistance only, and not primary responsibility.
4. It is agreed that this agreement for mutual aid shall constitute the sole consideration for the performance hereof, and that neither Party shall be obligated to reimburse the other for use of equipment or personnel. During the course of rendering aid, the personnel and equipment of each party shall be at risk of that Party. Each Party shall protect its personnel performing under this agreement by adequate worker's compensation insurance. Each Party shall obtain and maintain in full force and effect adequate public liability and property damage insurance to cover claims for injury to persons or damage to property arising from such Party's performance of this agreement, and all right and subrogation right against each other, and against the agents and employees of each other for liability and damages covered, unless to do so would void such insurance coverage.
5. This agreement shall be and remain in full force and effect from and after the date of execution set opposite the signature of each Party until terminated or modified. This agreement may be modified at any time by mutual consent of the Parties, and terminated



## **Appendix #7**

### **SECTION 2.01.010 TITLE**

This Division shall be known as the Curry County Ambulance Service Ordinance, and may be so cited and pled.

### **SECTION 2.01.020 AUTHORITY**

This Ordinance is enacted pursuant to ORS 682.035, 682.062, 682.063, 682.275 and ORS 203.035, and other applicable law.

### **SECTION 2.01.030 POLICY AND PURPOSE**

The Curry County Board of Commissioners finds:

- (1) That ORS 682.062 requires Curry County to develop and adopt a plan for the county relating to the need for a coordination of emergency ambulance services and to establish Ambulance Service Areas (ASAs) consistent with the plan to provide efficient and effective emergency ambulance services.
- (2) That this Ordinance, which establishes ASAs, methods for selecting an emergency ambulance provider for an ASA, and the Ambulance Service Area Advisory Committee, together with the document known as the Curry County Ambulance Service Area Plan (ASA Plan), attached hereto, and incorporated herein by this reference, make up the complete plan for emergency ambulance services for Curry County.
- (3) That the provisions of ORS 221.485 and 221.495, 478.260(3), and 682.025 through 682.065 requires Curry County to develop and adopt a plan for emergency ambulance services that recognizes the authority of cities and rural fire protection districts to operate and regulate emergency ambulance services within their own territories subject to the ASA Plan. That the provision of effective and efficient emergency ambulance services pursuant to the Curry County ASA Plan within cities and rural fire protection districts must be accomplished primarily on a cooperative basis. Curry County will employ formal sanctions and litigation to enforce the provisions of the Curry County ASA Plan when voluntary compliance cannot be obtained.
- (4) The board recognizes that in April of 2001, the Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section amended its rules to allow for the county designation of one or more non-emergency ambulance providers in each ASA, OAR 333-260-0070(3). In compliance with the rule, the board has and will designate



by either Party upon reasonable notice.

6. In the event of a Presidential Disaster Declaration, or the Conflagration Act being invoked, this agreement shall not preclude or bar providers from claim for, or collection of, any type of reimbursement, payment, or restitution.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed on the day set opposite the respective signature of each; said execution having been heretofore first authorized in accordance with law.

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Signature	Title	Date
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Signature	Title	Date
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only one emergency ambulance provider for each ASA. Each of these designated emergency ambulance providers are also authorized to provide non-emergency ambulance service. However, at this time the Board elects to not require county designation for additional non-emergency providers, acknowledging that any such providers must meet the licensing and regulatory requirements imposed under state law as implemented by the Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section.

## **SECTION 2.01.040     DEFINITIONS**

The words and phrases in this Ordinance shall have the meaning provided in ORS Chapter 682 and OAR Chapter 333, Divisions 250, 255, 260, and 265, unless specifically defined herein to have a different meaning.

- (1) "Administrator" means a person designated by order of the Board to administer this Ordinance and the duly authorized deputy or assistant of such person.
- (2) "Ambulance" or "Ambulance Vehicle" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury, or disability.
- (3) "Ambulance Service Area (ASA)" means a geographical area which is served by one ambulance service provider, and may include all or a portion of a county, or all or portions of two or more contiguous counties.
- (4) "Ambulance Service Area Advisory Committee (Committee)" means the committee that will advise the Board as it pertains to the ASA Plan.
- (5) "Board" means the Curry County Board of Commissioners for Curry County, Oregon.
- (6) "DHS-EMS" means Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section.
- (7) "Franchise" means a franchise to provide emergency ambulance service issued by the Board pursuant to this Ordinance.

- (8) "Persons" means and includes individuals, corporations, associations, firms, partnerships, joint stock companies, cities, rural fire protection districts, and special service districts formed and existing pursuant to the Oregon Revised Statutes.

#### **SECTION 2.01.050     EXEMPTIONS**

This Ordinance shall not apply to:

- (1) Vehicles owned or operated under the control of the United States Government, the State of Oregon, Curry County, and the cities of Port Orford, Gold Beach, and Brookings;
- (2) Vehicles and aircraft being used to render temporary assistance in the case of a major catastrophe or emergency with which the ambulance services of the surrounding locality are unable to cope, or when directed to be used to render temporary assistance by an official at the scene of an accident;
- (3) Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any public street, road or highway through the property or grounds is involved;
- (4) Vehicles operated by lumber industries solely for the transportation of lumber industry employees.
- (5) Private vehicles not used for hire;
- (6) Ambulances or vehicles transporting patients from outside the county to a health care facility within the county, or which are passing through without a destination in the county;
- (7) Any person who drives or who attends an ill, injured or disabled person transported in a vehicle mentioned in Sections 1-6 of this Section;
- (8) Any person who otherwise by license is authorized to attend patients.

#### **SECTION 2.01.055     PROHIBITED ACTIVITIES**

- (1) No applicant or franchisee, applicant's or franchisee's employee, or any other person doing business as defined herein shall:
  - (A) Make a false statement of a material fact, or omit disclosure of a material fact, in an application for a franchise, or during a duly authorized investigation by the

Administrator and/or his designee

(B) Monitor or intercept emergency medical services communications for profit or gain.

(C) Charge for services not performed or make duplicate charges for the same service.

(D) Perform services of an EMT or EMT trainee unless authorized by state law.

(2) Except as provided for in this ordinance, it shall be unlawful to provide emergency transport by any vehicle other than a BLS or ALS ambulance. This prohibition shall include stretcher cars, which are defined as motor vehicles for hire constructed and equipped or regularly provided for non-emergency transportation of persons in a supine or recumbent position for reasons related to health conditions.

#### **SECTION 2.01.060     ADMINISTRATION**

The administrator, under the supervision of the Board and with the assistance of the Committee, shall be responsible for the administration of this Ordinance. In order to carry out the duties imposed by this Ordinance, the administrator, or persons authorized by the administrator, are hereby authorized to enter on the premises of any person regulated by this Ordinance at reasonable times and in a reasonable manner to determine compliance with this Ordinance and regulations promulgated pursuant thereto. The administrator shall also have access to records pertaining to ambulance service operations of any person regulated by this Ordinance. These records shall be made available within five (5) working days to the administrator at the person's place of business, or copies made and provided as requested by the administrator.

#### **SECTION 2.01.070     AMBULANCE SERVICE AREAS**

For the efficient and effective provision of emergency ambulance services in accordance with the ASA Plan, the ASA shown on the map attached hereto as Appendix #1, and incorporated herein by this reference, are hereby adopted as the ASA for Curry County. The Board, after notice to the affected ASA provider and by the adoption of an order, may adjust the boundaries of an ASA from time to time as necessary to provide efficient and effective emergency ambulance services.

#### **SECTION 2.01.080     AMBULANCE SERVICE PROVIDERS REGULATED**

Effective July 1, 1994, no person shall provide emergency ambulance services in Curry County, Oregon, unless such person is franchised in accordance with the applicable provisions of this Ordinance.

#### **SECTION 2.01.090     APPLICATION FOR AMBULANCE SERVICE FRANCHISE**

- (1) Any person desiring to provide ambulance service within Curry County shall submit an application to be assigned an ASA. The application shall be submitted to the Administrator.
- (2) Applications for franchises shall be on forms provided by the Board. In addition to information required on the forms, the Board may require additional information it deems necessary to insure compliance with this Ordinance.
- (3) The applicant shall provide the following information:
  - (a) The name and address of the person or agency applying.
  - (b) The ASA the person desires to serve, the location(s) from which ambulance services will be provided, and the level of service to be provided.
  - (c) A statement as to whether or not the person will subcontract for any service to be provided. If some service will be provided by subcontract, a copy of that subcontract shall be provided.
  - (d) A list of vehicles to be used in providing emergency ambulance services including year, make and model, and verification that each vehicle is licensed as a basic and/or advance life support ambulance by DHS-EMS.
  - (e) A statement that all equipment and supplies in each ambulance conforms to DHS-EMS standards.
  - (f) A list of personnel to be used in providing emergency ambulance service and their current Emergency Medical Technician level and certificate number, or other appropriate certification.
  - (g) Proof of financial ability to operate, including an operating budget for public bodies or financial statement for private entities, references and/or statement of past ambulance service. Appropriate financial information, such as income, tax returns, or reports by governmental authorities shall also be submitted upon request. Public bodies must provide information regarding the sources and amounts of funding for emergency ambulance services.
  - (h) Proof of public liability insurance in the amount of not less than the limits of claims made under the Oregon Tort Claims Act shall be provided. The minimum coverage shall be \$500,000 per occurrence (combined single limit for bodily injury and property damage claims) or \$500,000 per occurrence for bodily injury and \$100,000 per occurrence for property damage.

- (i) A statement of experience in providing emergency ambulance service of a comparable quality and quantity to insure compliance with this Ordinance, regulations promulgated thereunder, any franchise issued, and the ASA Plan.
- (j) Proof of ability to comply with the terms and conditions of the ASA Plan and applicable county ordinances, in the form of a narrative summary.
- (k) A description of any prepaid ambulance service plan, including number of members, number of years of operation, funding and term.
- (l) If requested, information, in the form of run logs, medical records, medical director correspondence, audit reports, training records, policy and procedure manuals and equipment records and inventories, and any other records or materials that may be requested.
- (m) In the case of an application to transfer or take over an already assigned franchise:
  - (i) A detailed summary of how the proposed change will improve emergency ambulance response time, and the quality and level of services to the ASA. It shall include an assessment of how the proposed change will impact the existing first response system.
  - (ii) Evidence that the call volume in the ASA is sufficient to financially or otherwise justify the change in service.
  - (iii) If requested, information, in the form of run logs, medical records, medical director correspondence, audit reports, training records, policy and procedure manuals and equipment records and inventories, and any other records or materials that may be requested.
- (4) The Board may from time to time, by order, adopt fees to defray the actual reasonable costs incurred by Curry County in processing applications, and adopt annual franchise fees to defray the reasonable costs of Curry County in administering this Ordinance.
- (5) The applications shall be reviewed by the Committee, which shall recommend the assignment of the ASAs to the Board. The assignment of an ASA shall be made by an Order of the Board. The recommendation and order is to be based upon the proposal(s) which are the most functionally practical and likely to deliver the best quality of service.

#### **SECTION 2.01.110 REVIEW OF APPLICATION FOR FRANCHISE**

- (1) Applications shall be reviewed by the Committee, who shall make such investigation as it deems appropriate, and who may request assistance of other persons as necessary.
- (2) The administrator shall notify the holder of a franchise for providing emergency ambulance service to an ASA of any applications by another person to take over that franchise.
- (3) Unless the time is extended by the Board for good cause, the Committee shall make its recommendation to the Board to grant, deny, modify or attach appropriate conditions to the application. The Committee shall transmit its recommendation within sixty (60) days after the application and any required supplemental information has been received.

#### **SECTION 2.01.120 BOARD ACTION ON APPLICATION FOR FRANCHISE**

Upon receipt of the Committee's recommendation, the Board:

- (1) Shall publish notice of its intent to hold a public hearing on the application and recommendations at least ten (10) days, but not later than thirty (30) days following publication of notice.
- (2) May require additional investigation by the Committee if it finds that there is insufficient information on which to base its action.
- (3) Shall, upon the basis of the application, the Committee's recommendation, such other information as is permitted by this Ordinance, and such information as is presented to the Board at the public hearing make an order granting, denying or modifying the application or attaching conditions thereto.
- (4) Shall not make an order adverse to the applicant or to the holder of, or applicant for, another franchise effective less than 30 days after the date of such order and shall notify such persons in writing of the order. The Board may suspend operation of this subsection and enter an emergency order if it finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.
- (5) After the Board makes an order granting an emergency ambulance service franchise, with or without conditions, and the franchisee finds he/she is unable to provide a particular service, the Board may permit the franchisee to subcontract such service to another person if the Board finds that the quality and extent of the service would not be jeopardized. The Board may require the filing of such information as it deems necessary.

#### **SECTION 2.01.130 FRANCHISE TERMS AND RENEWALS**

- (1) Thereafter, unless the Board finds that a longer or shorter term is required in the public

interest, the term of an emergency ambulance service franchise shall be five (5) years, beginning on July 1 of a year and ending June 30 five (5) years later.

- (2) Unless grounds exist for refusal to renew a franchise under provisions for suspension or revocation as set forth in Section 2.01.160, or unless the franchise is to be given to a new person, franchises shall be renewable. Application for renewal shall be made on forms provided by the Board.
- (3) This subsection describes the procedures for processing a formal request for a franchise renewal. Not more than one hundred eighty (180) days and not less than one hundred twenty (120) days prior to the expiration of the franchise, a franchisee wanting to renew the franchise and any person desiring to take over the franchise shall submit an application to the administrator. Review of all applications for renewal or take over of a franchise shall be conducted in the same manner as for an application pursuant to Sections 2.01.090, 2.01.110 and 2.01.120 of this Ordinance.
- (4) This subsection describes the procedure for processing an informal request for a franchise renewal. This is an alternative method available (instead of subsection 3 above) for applying for a franchise renewal. A franchisee may apply on a written form provided by the county for a renewal by the end of the third year of an original five-year franchise. Following receipt of the application, the ASA Committee may recommend a franchise renewal. The Board has the discretion to renew the current franchise agreement for an additional five-year term without invoking the RFP process so long as the present franchisee is in compliance with the criteria described in this ordinance and the franchise agreement. Under this subsection, only one renewal may be allowed following each term of a franchise that is awarded under subsection 4 above.

#### **SECTION 2.01.140 EARLY DISCONTINUANCE OF SERVICE BY FRANCHISEE**

- (1) If a franchisee discontinues service before the expiration of his/her franchise, the Board shall set a time by which applications must be submitted for a new franchise in the ASA.
- (2) The administrator shall recommend to the committee appropriate temporary franchisee(s) to provide services within the ASA until a permanent replacement franchisee can be assigned.
- (3) The Committee shall develop an interim plan for coverage of the ASA, using existing franchisees and/or other available resources until the ASA can be reassigned.
- (4) The Board shall endeavor to select temporary franchisee(s), and shall issue a temporary certificate, valid for a stated period not to exceed six (6) months, entitling the selected temporary franchisee(s) to provide emergency ambulance service in all or part of the ASA.



ASA. The Board may renew a temporary certificate for one additional six (6) month period.

#### **SECTION 2.01.150 TRANSFER OF FRANCHISES**

A franchisee may transfer his/her franchise to another person only upon written notice to and approval by the Board. Review of an application for transfer of a franchise shall be conducted in the same manner as for an application pursuant to Sections 2.01.090, 2.01.110, and 2.01.120 of this Ordinance.

#### **SECTION 2.01.160 ENFORCEMENT OF FRANCHISE PROVISIONS**

- (1) Subject to the policies stated in Section 2.01.030, and in addition to the remedy provided in Section 2.01.170, and penalties provided elsewhere in this Ordinance, the administrator shall, upon reasonable cause, make an investigation to determine if there is sufficient reason and cause to suspend, modify, revoke or refuse to renew a franchise as provided in this Subsection.

If in the judgment of the Board, there is sufficient evidence to constitute a violation of applicable local, state or federal law, this Ordinance, ORS Chapter 682 or the Rules promulgated thereunder, the ASA Plan, or if the franchisee has materially misrepresented facts or information given in the application for the franchise, the Board shall notify the franchisee in writing, by certified mail, return receipt requested, or by personal service, as is provided by law for the service of a summons, of the violation and what steps he/she must take to cure the violation. The Board shall send a copy of the notice to the Committee.

Ten (10) days following the receipt of notice of violation, the Board may enter its order of revocation, modification, suspension or non-renewal, and may thereby revoke, modify, suspend, or not renew the franchise, unless prior thereto the franchisee shall file with the Board his/her request for a hearing on the Board's notice of violation. If said request is timely filed, or if the Board so moves on its own, revocation, modification, suspension, or non-renewal will be stayed until the Board can, at its earliest convenience, hold a public hearing thereon. Notice of said hearing shall be given to the franchisee by mail and to all others by publication in a newspaper of general circulation in the county or the ASA at least ten (10) days prior to such hearing. The burden of proof at the hearing held hereunder shall be upon the franchisee.

- (2) In lieu of the suspension or revocation of the franchise, the Board may order that the violation be corrected and make the suspension or revocation contingent upon compliance with the order within the period of time stated therein. Notice of the Board action shall be provided by mail to the franchisee. The notice shall specify the violation, the action necessary

to correct the violation, and the date by which the action must be taken. The franchisee shall notify the Board of the corrective action taken. If the franchisee fails to take corrective action within the time required, the Board shall notify the franchisee by certified mail, return receipt requested, or by personal service that the franchise is suspended or revoked upon service of the notice.

- (3) The Board may also execute a compliance agreement with the franchisee, stating the violation(s) and the corrective action necessary to correct the violation(s). Failure of the franchisee to make the agreed upon corrections will result in possible suspension or revocation according to subsection (2) above.
- (4) Should the franchisee fail to comply with the Board's order, then the Board may take any steps authorized by law to enforce its order.

#### **SECTION 2.01.170 PREVENTING INTERRUPTION OF SERVICE**

Whenever the Board finds that the failure of service or threatened failure of service would adversely impact the health, safety or welfare of the residents of this county, the Board shall, after reasonable notice, but not less than twenty-four (24) hours notice to the franchisee, hold a public hearing. Upon appropriate findings after the hearing, the Board shall have the right to authorize another franchisee or other person to provide services.

#### **SECTION 2.01.180 APPEALS, ABATEMENT AND PENALTIES**

- (1) All the decisions of the Board under this Ordinance shall be reviewable by the Circuit Court of the State of Oregon for the County of Curry, only by way of writ of review.
- (2) The provision of emergency ambulance service by any person in violation of this Ordinance, or regulations promulgated thereunder, is a nuisance and the Court may, in addition to other remedies provided by law or by this Ordinance, institute injunctive abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such emergency ambulance service.
- (3) Any person who violates any of the provisions of this Ordinance is guilty of a violation. Failure from day to day to comply with the terms of these provisions shall be a separate offense for each day. Failure to comply with any provision shall be a separate offense for each such provision. Violations are subject to Article Ten (10) of the Curry County Code.

#### **SECTION 2.01.190 DUTIES OF AMBULANCE SERVICE FRANCHISEE**

The Franchisee:

- (1) Shall conduct its operation in compliance with all applicable state and federal laws, rules

and regulations, the terms of this Ordinance and the Curry County ASA Plan;

- (2) Shall not fail or refuse to respond to an emergency call for service when an ambulance is available for service;
- (3) Shall not respond to a medical emergency located outside its assigned ASA except:
  - (a) When a request for specific emergency ambulance service is made by the person calling for the ambulance and the call does not dictate an emergency response;
  - (b) When the franchisee assigned to the ASA is unavailable to respond and the franchisee is requested by another franchisee or 9-1-1 dispatch to respond; or
  - (c) When the response is for supplemental assistance or mutual aid.
- (4) Shall not voluntarily discontinue service to his/her assigned ASA until he/she has:
  - (a) Given sixty (60) days written notice to the administrator, or
  - (b) Obtained written approval of the Board.
- (5) Subsection 4 of this Section shall not apply to:
  - (a) Change, restriction or termination of service when required by any public agency, public body or court having jurisdiction; or
  - (b) Transfer of franchises pursuant to Section 2.01.150 of this Ordinance.
- (6) Each franchisee shall send a representative to all ASA committee meetings. Such representative shall present a report to the committee concerning franchisee activities, ambulance runs, and any other information deemed appropriate, since the last ASA committee meeting.

#### **SECTION 2.01.200 AMBULANCE SERVICE AREA (ASA) ADVISORY COMMITTEE**

- (1) There is hereby created an Ambulance Service Area (ASA) Advisory Committee.
  - (a) The committee shall consist of nine members.
    - 1. One physician with emergency medical care experience.
    - 2. One EMT or Paramedic.
    - 3. One hospital administrator.
    - 4. One registered nurse with emergency medical care experience.
    - 5. One law enforcement officer.
    - 6. One representative of a fire department.
    - 7. One representative of a dispatch center.

8. Two members of the public who are not included in categories specified by subsections a1-7.

- (b) The administrator and other Curry County staff as the Board deems appropriate shall be ex-officio members of the Committee.
- (2) Members shall be appointed by and serve at the pleasure of the Board. The Board may appoint additional persons to the Committee to serve as ex-officio members or advisors. The Board may appoint or approve designation of alternates to serve in the absence of persons appointed to the Committee.
- (3) Except for the ASA administrator and other Curry County staff, appointments shall be for staggered terms on the initial Committee for a term not to exceed three (3) years. Subsequent appointments shall be for three (3) year terms. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the Board for the balance of the unexpired term. Persons may be appointed to successive terms.
- (4) The Committee shall elect a chairperson. The Committee shall meet at such times as it deems necessary or as called by the Administrator or the Chairperson. The Administrator, chairperson, or any two members of the Committee may call a special meeting.
- (5) The Committee shall elect a secretary. The secretary shall be responsible for taking detailed minutes of committee meetings, and for distributing the minutes to the administrator, and to the other members of the committee.
- (6) Five (5) members constitute a quorum for the transaction of business. A majority vote of the total members is required to pass motions.
- (7) In addition to other duties prescribed by this Ordinance the Committee shall:
  - (a) Review and make recommendations to the administrator regarding the selection criteria for determining a franchise to provide ambulance service.
  - (b) Regularly provide information to the Board from prehospital care consumers, providers and the medical community.
  - (c) Periodically review the ASA Plan and make recommendations to the Board including, but not limited to:
    - (i) Review the standards established in the Plan and make recommendations regarding improvement of or new standards as required by OAR 333-260-0050;

- (ii) Monitor the coordination between emergency medical service resources;
  - (iii) Review dispatch procedures and compliance; and
  - (iv) Review the effectiveness and efficiency of the ASA boundaries.
- (d) Implement the quality assurance program outlined in the ASA Plan to insure compliance with the ASA Plan.
- (e) Perform such other duties as directed by the Board.
- (8) Committee members shall comply with ORS Chapter 244 regarding conflict of interest.

#### **SECTION 2.01.210 REGULATIONS OF AMBULANCE SERVICE**

Upon its own motion or upon a recommendation of the Committee, the Board may adopt ordinances, resolutions or orders regulating emergency ambulance service or implementing this Ordinance. Such regulations shall not conflict with ORS 682 and rules promulgated pursuant thereto.

#### **SECTION 2.01.220 INITIAL RESPONDER**

Nothing in these provisions prohibits a 9-1-1 agency, responsible for the dispatching of emergency services, from dispatching an initial responder to the scene of a medical emergency in addition to dispatching an emergency ambulance service provider.

#### **SECTION 2.01.230 MISCELLANEOUS MATTERS**

1. Any judgment or declaration by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other portion of this Ordinance.
2. Upon recommendation of the Committee or upon its own motion, the Board may from time to time amend the provisions of this Ordinance. Amendments shall be made only after a public hearing before the Board with such advance notice of the hearing as deemed appropriate by the Board or as generally provided by ordinance, regulation or order of the Board.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment to )  
The Curry County Code and Ordinance )  
No. 04-13 regarding Ambulance )  
Service Area Plan for Curry County, )  
Oregon )

ORDINANCE NO. 14-11

State of Oregon }  
County of Curry } SS  
I hereby certify that the within is a  
true copy of the original record on  
file in my office and custody  
Dated 11/25/2014  
Renee Kolen, Curry County Clerk  
By [Signature]  
Deputy Ross, Becky

The Board of Curry County Commissioners ordains as follows:

SECTION I: TITLE

This ordinance shall be known as Ordinance No. 14-11, an ordinance amending Ordinance No. 04-13, as amended, and the Curry County Code.

SECTION II: AUTHORITY

This ordinance is enacted pursuant to ORS 203.035 and ORS 682.062.

SECTION III: FINDINGS

- A. Curry County had not updated its Ambulance Service Area Plan (the Plan) since 2004.
- B. The State of Oregon through the Oregon Health Authority has asked that Curry County develop and submit to the State a new updated Plan.
- C. The Curry County Ambulance Service Area Advisory Committee met on a number of occasions including January 15, 2014, February 19, 2014, and April 16, 2014 to work on updating the Plan. Recently it completed a draft of the Plan.
- D. The Plan that is attached hereto and incorporated by reference has been sent to a State of Oregon Professional Standards Representative of the EMS and Trauma Systems Program. That Representative has written to the County stating that the Plan meets the requirements in the rule.

SECTION IV REPEALER

Exhibit "B", the Ambulance Service Area Plan for Curry County, Oregon, as found in Ordinance No. 04-13 which is part of the Curry County Code, Ordinance No. 96-7, as amended, is repealed in its entirety.

SECTION V ADOPTION


The new Exhibit "B" entitled "Ambulance Service Area Plan Curry County, Oregon 2014", which is attached hereto and incorporated by reference, is adopted to replace the former Exhibit "B" in Ordinance No. 04-13, which is part of the Curry County Code, Ordinance 96-7, as amended.

SECTION VI      SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

ADOPTED this 5 day of November, 2014.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Susan Brown, Chair

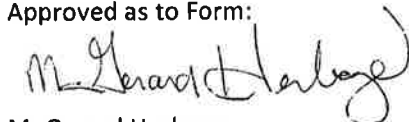
  
David Brock Smith, Vice Chair

  
David G. Itzen, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: Oct 1, 2014

Second Reading: Nov 5, 2014

Emergency Adoption: No

Effective Date: Feb 3, 2015

# **AMBULANCE SERVICE AREA PLAN CURRY COUNTY, OREGON**



**2014**



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Amendment to County Code, Article Two Division One, dated May 18, 2009	
Amendment to County Code, Article Two Division One, dated March 19, 2014	
Port Orford Community Ambulance Resolution, dated December 5, 2013	
ORS Chapter 244	

**I. CERTIFICATION BY GOVERNING BODY OF COUNTY AMBULANCE SERVICE PLAN**

In accordance with OAR 333-260-0020(3) and 333-260-0030(2), the Curry County Board of Commissioners hereby certifies that:

- a) Each subject or item contained in the Curry County Ambulance Service Plan was addressed and considered in the adoption of this plan;
- b) In our judgment, the ambulance service areas (ASA's) established in this plan provide for the efficient and effective provision of ambulance services; and
- c) To the extent they are applicable, the County has complied with ORS 682.062(2) (3) and 682.063 and existing local ordinances and rules.

Dated this 5<sup>th</sup> day of November, 2014.

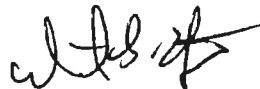
BOARD OF CURRY COUNTY COMMISSIONERS



Susan Brown, Chair



David Brock Smith, Vice Chair



David G. Itzen, Commissioner

## **II. OVERVIEW OF CURRY COUNTY**

Curry County is located in the southwest corner of the state and is bordered by Coos County to the north, Douglas and Josephine Counties to the east, Del Norte County, California to the south and the Pacific Ocean to the West. The county covers approximately 1648 square miles of largely sloping terrain indented with coastal and river valleys. The elevation of the county seat, Gold Beach, is 60 feet.

The county is characterized by an overall average January temperature of 47 degrees F and an average July temperature of 59 degrees F with an average annual precipitation of 82.67 inches.

The population of the county as of January 2012 was approximately 22,295. The Cities of Brookings, with a population of 6,370; Gold Beach 2,280; and Port Orford 1,135; are the county's only cities and are located on U.S. Highway 101 that runs north and south, adjacent to the Pacific Ocean, through the county. Most of the inhabitants reside in or around the three incorporated cities located in the county. Lumber, agriculture, commercial and sport fishing, recreation and tourism, provide the basis of the county's economy.

Curry County is divided into three separate ambulance service areas. The ambulance service providers may offer basic, intermediate and advanced life support, emergency medical care, and transportation. The three ambulance service providers that serve Curry County, their boundaries and other general information are described in this ASA Plan. A current set of maps are on file in the Curry County Office of Emergency Services. These maps depict current boundaries for ambulance service areas, fire districts, response times and the location of the PSAPS.

### **III. DEFINITIONS**

1. "Ambulance" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury, or disability.
2. "Ambulance Service" has the meaning given that term by ORS 682.027.
3. "Ambulance Service Area (ASA)" means a geographic area which is served by one ambulance service provider, and may include all or a portion of a county, or all or portions of two or more contiguous counties.
4. "Ambulance Service Plan" means a written document, which outlines a process for establishing a county emergency medical services system. A plan addresses the need for and coordination of ambulance services by establishing ambulance service areas for the entire county and by meeting the other requirements of these rules. Approval of a plan will not depend upon whether it maintains an existing system of providers or changes the system. For example, a plan may substitute franchising for an open market system.
5. "Ambulance Service Provider" means a licensed ambulance service that responds to 9-1-1 dispatched calls or provides pre-arranged non-emergency transfers or emergency or non-emergency inter-facility transfers.
6. "County Government or County Governing Body (County)" means a Board of County Commissioners or a County Court.
7. "Division" means the Public Health Division, Oregon Health Authority.
8. "Emergency Medical Service (EMS)" means those pre-hospital functions and services whose purpose is to prepare for and respond to medical emergencies, including rescue and ambulance services, patient care, communications and evaluation.
9. "Notification Time" means the length of time between the initial receipt of the request for emergency medical service by either a provider or a PSAP, and the notification of all 4 responding emergency medical service personnel.
10. "Provider" means any public, private or volunteer entity providing EMS.
11. "Response Time" means the length of time between the notification of each provider and the arrival of each provider's emergency medical service units at the incident scene.

#### **IV. BOUNDARIES**

Curry County consists of three ASAs. The three ASAs are described in the ASA narrative description below.

Maps depicting boundaries for the ASA's, PSAP location and 9-1-1 coverage, fire districts, and incorporated cities, are located in the Appendix of this plan. Larger and more detailed maps are on file in the Curry County Offices of Emergency Services.

##### **ASA Narrative Description**

The boundaries for each of the three (3) ambulance service areas are as follows:

##### **ASA #1 (Northern Curry County):**

Beginning at the Pacific Ocean and the Curry County-Coos County line; Thence easterly along the Curry County-Coos County line; Thence southeasterly and southerly along the Curry County-Coos County line to the southern edge of Sec. 21 T33S R12WWM; Thence westerly to the southwest corner of Sec. 21 T33S R12WWM; Thence southerly along the section lines to the southwest corner of Sec. 33 T33S R12WWM; Thence westerly along the section lines to the northwest corner of Sec. 2 T34S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 10 T34S R13WWM; Thence westerly along the section line to the southwest corner of Sec. 10 T34S R13WWM; Thence southerly along the section line to the southeast corner of Sec. 16 T34S R13WWM; Thence westerly along the section line to the southwest corner of Sec. 16 T34S R13WWM; Thence southerly along the section line to the southeast corner of Sec. 20 T34S R13WWM; Thence westerly along the section lines to the southwest corner of Sec. 19 T34S R13WWM; Thence south along the section line to the southwest corner of Sec. 30 T34S R13WWM; Thence westerly along the section lines to the Pacific Ocean.

##### **ASA #2 (Central Curry County):**

Beginning at the Pacific Ocean and the southerly section line of Sec. 30 T34S R14WWM; Thence easterly along the section lines to the southeast corner of Sec. 25 T34S R 14WWM; Thence north along the section line to the northeast corner of Sec. 25 T34S R 14WWM; Thence easterly along the section lines to southeast corner of Sec. 20 T34S R13WWM; Thence north along the section line to the northeast corner of Sec. 20 T34S R13WWM; Thence east along the section line to the southeast corner of Sec. 16 T34S R13WWM; Thence north along the section line to the northeast corner of Sec. 16 T34S R13WWM; Thence east along the section line to the southeast corner of Sec. 10 T34S R13WWM; Thence north along the section lines to the northwest corner of Sec. 2 T34S R13WWM; Thence east along the section lines to the southeast corner of Sec. 32 T33S R12WWM; Thence north along the section lines to the southwest corner of Sec. 21 T33S R12WWM; Thence east to the Curry County-Coos County line; Thence south and east along the Curry County-Coos County line to the junction of the Curry County-Coos County-Douglas County line; Thence along the Curry County- Douglas County line to the junction of the Curry County-Douglas County-Josephine County line;

Thence southwesterly along the Curry County-Josephine County line to the southeast corner of Sec. 12 T37S R12WWM; Thence south along the section line to the southeast corner of Sec. 13 T37S R12WWM;

Thence west along the section line to the southwest corner of Sec. 13 T37S R12WWM; Thence south along the section line to the southeast corner of Sec. 26 T37S R12WWM; Thence west along the section lines to the southwest corner of Sec. 27 T37S R12WWM; Thence south along the section line to the southeast corner of Sec. 33 T37S R12WWM; Thence west along the section lines to the northwest corner of Sec. 27 T37-1S R12WWM; Thence south along the section line to the southwest corner of Sec. 27 T37Y2S R12WWM; Thence westerly along the section lines to the northwest corner of Sec. 11 T38S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 15 T38S R13WWM; Thence westerly along the section lines to the southeast corner of Sec. 16 T38S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 33 T38S R13WWM; Thence westerly along the section line to the southwest corner of Sec. 32 T38S R13WWM; Thence southerly along the section lines to the southeast corner of Sec. 7 T39D R13WWM; Thence westerly along the section lines to the Pacific Ocean.

**ASA #3 (Southern Curry County):**

Beginning at the Pacific Ocean and the north section line of Sec. 16T39S R14WWM; Thence easterly along the section lines to the southeast corner of Sec. 7 T39S R13WWM; Thence northerly along the section lines to the southwest corner of Sec. 32 T38S R13WWM; Thence easterly along the section line to the southeast corner of Sec. 33 T38S R13WWM; Thence northerly along the section lines to the southeast corner of Sec. 16 T38S R13WWM; Thence easterly along the section lines to the southeast corner of Sec. 15 T38S R13WWM; Thence northerly along the section lines to the northwest corner of Sec. 11 T38S R13WWM; Thence easterly along the section lines to the southwest corner of Sec. 27 T37½S R12WWM; Thence northerly along the section line to the northwest corner of Sec. 27 T37½S R12WWM; Thence easterly along the section lines to the southeast corner of Sec. 33 T37S R12WWM; Thence northerly along the section lines to the southwest corner of Sec. 27 T37S R12WWM; Thence easterly along the section lines to the southeast corner of Sec. 26 T37S R12WWM; Thence northerly along the section lines to the southwest corner of Sec. 13 T37S R12WWM; Thence easterly along the section line to the southeast corner of Sec. 13 T37S R12WWM; Thence northerly along the section line to the northeast to the corner of Sec. 13 T37S R12WWM at the Curry County -Josephine County line; Thence southeasterly and southerly along the Curry County-Josephine County line to the Oregon-California border; Thence westerly along the Oregon--California border to the Pacific Ocean.

**ASA Maps and Fire District Boundaries (See Appendices Maps)**

These maps represent the ASA's as designated in the Ambulance Service Area plan.

**9-1-1 Map (See Appendix)**

**Incorporated Cities (See Appendix Maps)**

### **Alternatives to Reduce Response Times**

Heavily forested, mountainous terrain and severe winter weather conditions present difficult access and long response time to ground ambulances. In those situations, when an urgent response is indicated, the PSAP may elect to call the nearest appropriate rotary-wing air ambulance or Curry County Search and Rescue.

In addition, a tiered response system is used to provide the best available patient care while maximizing the available resources.

In some instances, for various reasons, an ambulance service provider from an adjoining county's ASA could respond quicker to an incident. This would be covered under a signed Mutual Aid Agreement.

### **V. SYSTEM ELEMENTS**

#### **9-1-1 Dispatched Calls**

All calls received by the local 9-1-1 center(s) shall be dispatched to the appropriate provider within a two-minute time period. The call for service shall be dispatched to the provider that is assigned the franchise for the area of the location of the emergency, unless other arrangements have been made due to extenuating circumstances.

#### **Pre-Arranged Non-Emergency Transfers and Interfacility Transfers**

Pre-arranged non-emergency transports will normally not be dispatched by 9-1-1. These calls should be handled by the EMS agency directly.

Emergency transfers, and inter-facility transfers of an emergency nature shall be handled by the 9-1-1 dispatch center as any other emergency call for service.

#### **Notification/Response Times (See Appendix)**

The Curry County ASA system response times shall be as depicted on the Curry County time zone map 90% of the time, barring inclement weather or other extraordinary conditions.

Notification Times for ambulances shall be within two (2) minutes 90% of the calls.

Provider Response Time shall be listed as follows for 90% of the calls: Urban - 6 min.; Suburban - 13 min.; Rural - 43 min.; and Frontier - 4 hours and 28 min.

System Response Time shall be listed as follows for 90% of the calls: Urban - 8 min.; Suburban - 15 min.; Rural - 45 min.; and Frontier - 4 hours and 30 min.

Monitoring of notification and response times shall be accomplished by the following:

1. Information received from the public, dispatch center, pre hospital care providers, hospitals, or county EMS administration.



2. Types of information received are written or verbal complaints, patient care report forms, radio transmission tapes, notification and response time incident cards, trauma registry forms, etc.

### **Level of Care**

An ambulance operating in Curry County and providing basic life support level care must consist of a qualified driver and one licensed EMT or above. The EMT must always be with the patient in the patient compartment of the ambulance.

An ambulance operating in Curry County and providing intermediate life support level care must consist of one licensed EMT and one licensed EMT Intermediate/AEMT. The EMT Intermediate/AEMT must always be with the patient in the patient compartment of the ambulance when intermediate level care is required or rendered.

An ambulance operating in Curry County and providing advanced life support level care must consist of at least a licensed EMT and a licensed Paramedic. The licensed Paramedic must always be with the patient in the patient compartment of the ambulance when ALS care is required or being rendered.

### **Personnel**

When operating an ambulance in Curry County, all personnel must meet the requirements of ORS 682.017 to 682.991 and OAR 333-250-0048. The practice of staffing an ambulance on a part-time basis with EMTs certified to a higher level of care than is possible at other times does not construe a requirement that the ambulance provide the same level of care on a regular basis.

### **Medical Supervision**

Each EMS agency utilizing EMTs shall be supervised by a physician licensed under ORS 677, actively registered and in good standing with the Board of Medical Examiners as a Medical Doctor (MD) or Doctor of Osteopathic Medicine (DO). The physician must also be approved by the Board of Medical Examiners as a medical director.

Each EMS agency or ambulance service may have its own medical director. The medical director shall:

1. comply with the requirements listed in OAR 847-035-0020 and OAR 847-035-0025;
2. hold at least one meeting a year with the EMTs affiliated with the respective ambulance services;
3. designate an EMT coordinator who shall conduct case reviews in the physician's absence and send summaries of the reviews and problems identified and proposed problem resolution to the physician; and
4. provide or authorize at least one case review meeting for all EMTs quarterly.

Sutter Coast Hospital in Crescent City, California and Bay Area Hospital in Coos Bay, Oregon shall be the Medical Resource Hospitals.

### **Patient Care Equipment**

Patient care equipment must meet or exceed the Oregon Health Authority (OHA), Emergency Medical Services and Trauma Systems Section (OHA-EMS) requirements as specified in ORS 682.017 to 682.991 and OAR 333-255-0070, 333-255-0071, and 333-255-0072. The ambulance service provider shall maintain a list of equipment for their ambulances, which shall be furnished to the Board upon their request.

### **Vehicles**

All ambulances must be a Type I, II, or III and be licensed by OHA-EMS. All ambulances must meet or exceed the requirements as set forth in ORS 682.017 to 682.991 and OAR 333-255-0060. An up-to-date list of each provider's ambulances shall be furnished to the Board upon their request.

### **Training**

Southwestern Oregon Community College located in Coos Bay, Gold Beach, and Brookings, Oregon is the primary institution of learning to provide EMT training. If Southwestern Oregon Community College does not offer a particular level of training, it may require an individual to obtain that level of training at another teaching institute, which would be further away.

Whenever possible, the ambulance service provider shall provide assistance (tuition, textbooks, exam fees, etc.) for prospective ambulance personnel taking initial Basic Life Support (BLS) training.

Each EMS provider in Curry County shall provide continuing medical education, which meets recertification standards as specified by OHA-EMS. EMT recertification and continuing medical education shall be obtained through in-house training programs and seminars that are sponsored by local EMS agencies or teaching institutions. When classes are not available within the county, it may require individuals to augment their continuing education by attending classes, workshops and conferences outside of the ASA and or county. When possible, the ambulance service provider shall provide assistance with registration, lodging, meals, fuel costs, etc. for their EMTs.

### **Quality Assurance**

In order to ensure the delivery of efficient and effective pre-hospital emergency medical care, an EMS Quality Assurance Program is hereby established.

### **Structure**

"Curry County Ambulance Service Area Advisory Committee (Committee)", shall be formed by ordinance and be composed of nine members:

1. One (1) physician with emergency care experience;
2. One (1) EMT or paramedic;
3. One (1) hospital administrator;
4. One (1) registered nurse with emergency medical care experience;
5. One (1) law enforcement officer;

6. One (1) representative of a fire department;
7. One (1) representative of a dispatch center;
8. Two (2) members of the public who are not included in categories specified by subsections 1-7.

Appointments shall be for staggered terms on the initial Committee for a term not to exceed three (3) years. Subsequent appointments shall be for three (3) year terms. The principal function of the Committee shall be to monitor the EMS system within Curry County.

#### **Process**

The Board, in order to ensure the delivery of the most efficient and effective pre-hospital emergency care possible with the available resources, has directed that the ASA Advisory Committee be established.

Quality assurance in Curry County shall be accomplished through frequent case review, peer review, and periodic review by the medical directors and/or ambulance governing bodies (see respective Provider Profiles for definitions of governing bodies). Complaints regarding violation of this ASA Plan, or questions involving pre-hospital care provided, shall be submitted in writing to the Board who shall forward it to the Administrator, who may call a meeting of the Committee. The Administrator, and/or the Committee shall then review the matter and make recommendations or changes on such complaints or questions to the Board.

The Board shall also resolve any problems involving system operations (changing protocols to address recurring problems, etc.). Ongoing input may be provided by consumers, providers or the medical community to any individual on the Board, the Administrator, or members of the Committee. This individual, in turn, will present the complaint, concern, idea or suggestion (in writing) to the full Board for consideration.

#### **Problem Resolution**

Problems involving protocol deviation by EMT's or dispatchers shall be referred to the respective medical director or dispatch supervisor. Problems involving a non-compliant provider shall be referred to the Board.

The Board may seek background data and recommendations from the Committee in such instances. However, any member of the Committee who may have a conflict of interest in the matter shall declare such conflict and follow the law as outlined in ORS Chapter 244.

#### **Sanctions for Non-Compliant Personnel or Providers**

See Section 2.01.160 and Article Ten of the County Code for information regarding sanctions for non-compliant personnel or providers.

## **Penalties**

See Section 2.01.180 and Article Ten of the County Code for information regarding penalties.

## **Nuisance**

In addition to the penalties provided in this plan, violations of any of the provisions of this plan and ordinance is declared to be a nuisance and may be regarded as such in all actions, suits, or proceedings.

## **VI. COORDINATION**

### **Authority for Ambulance Service Area Assignments:**

The Board has the authority to assign an ASA within Curry County in compliance with ORS 682.017 to 682.991. Applications by new providers and requests for assignment change or revocation will be considered for approval if they will improve efficient service delivery and benefit public health, safety and welfare. Cities have the authority to develop and apply ambulance licensing ordinances within their jurisdictional boundaries, and nothing in this plan is intended to obviate that authority.

Future updates to this plan and proposals for assignment changes will be the responsibility of the Board. The Board shall receive all requests for changes; present those requests to the Committee for their review and recommendations. Upon completing its review, the Committee shall present recommendations to the Board. In addition, the Board has the authority to review service provider's records and initiate an assignment change or service area revocation. For the purpose of this plan, the Board shall recognize the Committee as an advisory group.

The Curry County ASA Plan was prepared with a great deal of input from all county pre-hospital care providers. The Plan requires that the ambulance services providers maintain service records in order that the County can carry out its ASA Plan responsibilities.

### **Entity That Will Administer the ASA Plan**

The Curry County ASA Committee is hereby established with the adoption of this Plan. The Committee shall serve as the principal entity to administer and accept written proposals for amendments to this ASA Plan.

The Committee may be called upon at any time a concern is submitted, in writing, to the Board, or when deemed appropriate by the Administrator, the Chairperson, or two or more members of the Committee.

This Committee, as with any governmental body, will be subject to the Oregon Open Meeting Law (ORS Chapter 192), but may temper its activities, within legal limits, according to the sensitivity of the EMS matter involved. Appeals from the Board, in any case where the Board would otherwise have the final decision at the county level shall be directed to the appropriate state regulatory agency, or a Circuit Court, as appropriate.

The Committee shall submit a brief written report of its activities or recommendations periodically to the Board.

Existence of this Committee will:

1. prevent needless attention of state regulatory agencies to problems that can be resolved locally;
2. increase local awareness of potential problems that may exist; and
3. increase the awareness of ambulance medical directors regarding area concerns and activities.

#### **Complaint Review Process**

Complaints regarding violation of this ASA Plan, or questions involving pre-hospital care provided, shall be submitted in writing to the Board. The Board shall then forward the complaint to the Administrator, who may call a meeting of the Committee for its review and recommendations or changes on such complaints or questions. The Committee shall make recommendations to the Board to resolve any problems involving system operations (changing protocols to address recurring problems, etc.).

Ongoing input may be provided by consumers, providers or the medical community to any individual on the Committee, the Administrator, or members of the Board. This individual, in turn, will present the complaint, concern, idea or suggestion (in writing) to the full Board for consideration.

#### **Mutual Aid Agreements (See Appendix)**

Each ambulance service provider shall sign a mutual aid agreement with the other providers in the County and with other providers in adjoining counties to respond with needed personnel and equipment in accordance with the agreement.

All requests for mutual aid shall be made through the appropriate PSAP.

All mutual aid agreements will be reviewed annually and modified as needed by mutual consent of all parties.

#### **Disaster Response**

The Committee shall coordinate the EMS medical function of disaster planning with any formal disaster management plan developed by the Curry County Emergency Services Coordinator or other appropriate county authorities.

#### **County Resources Other Than Ambulances**

When resources other than ambulances are required for the provision of emergency medical services The Emergency Services Coordinator shall be responsible for coordinating all county EMS resources any time that the Mass Casualty Incident (MCI) Plan is implemented.

The Emergency Services Coordinator shall work directly with local agencies, departments and governments to coordinate necessary resources during any implementation of the MCI Plan. During a disaster, a request for additional resources shall be made through the appropriate PSAP to the County Emergency Management Office.

## **Out of County Resources**

When resources from outside Curry County are required for the provision of emergency medical services during a disaster, a request for those resources shall be made through the appropriate PSAP to the County Emergency Management Office.

The Curry County Emergency Services Coordinator shall be responsible for coordination of all out of county resources any time the MCI Plan is implemented.

## **Mass Casualty Incident (MCI) Management Plan**

The Mass Casualty Incident Management Plan is located in an annex to the Curry County Emergency Operations Plan titled "MCI."

The purpose of the MCI plan is to provide guidance to EMS response personnel in the coordination of response activities relating to mass casualty incidents in Curry County.

The plan is intended for use when any single incident or combination of incidents depletes the resources of any single provider or providers during the normal course of daily operations or at the request of the Emergency Services Coordinator.

The plan shall identify the responsibility of the provider concerning:

1. coordination;
2. communication;
3. move up;
4. triage; and
5. transportation.

The Committee will periodically review the medical component MCI plan and revise it to meet the county's need. Following the review and changes the Emergency Services Coordinator will be asked to append the changes to the medical component of the County Emergency Management Plan and the modified MCI plan will be promulgated.

### **Coordination:**

1. The highest ranking officer of the fire or police agency in whose jurisdiction the incident occurs shall be the incident-Commander.
2. The senior/highest certified EMT at the scene will have overall responsibility for patient care (triage officer); he/she shall work closely with the incident-commander.
3. The on-scene command frequency and staging area will be determined by the incident commander.
4. Dispatch center will advise responding units as to location of the staging area.

**EMS Responder Guidelines:**

The senior EMT on the first EMS unit to arrive at the scene shall become the triage officer and shall:

1. Assess nature and severity of the incident;
2. Advise the appropriate PSAP of the situation;
3. Request appropriate fire and police services, if not already at the scene;
4. Request initiation of EMS mutual aid if needed;
5. Alert area hospital(s) of the situation; and
6. Establish and organize the transportation of all injured or ill patients.

Additional EMS units arriving at the scene shall:

1. Check-in with Incident-Commander;
2. Effect needed rescue, if trained and equipped to do so;
3. Provide emergency medical care and transport patient(s) to the appropriate hospital(s).

**Response to Terrorism**

Response to a terrorism incident will share many of the elements of any other disaster response. The exception will be that the terrorism incident is a crime scene, and coordination of patient care with the law enforcement personnel in charge will be required. There is also a very high likelihood that there is a hazardous materials component to the response, so coordination with ranking fire/ hazmat officials may also be required. This coordination is especially critical to ensure the safety of EMS personnel and equipment.

**Personnel and Equipment Resources**

The following additional personnel and equipment resources are available to support the ambulance service provider. The current telephone numbers are:

**Additional Ambulances:****1. Rotary-wing air ambulances:**

- a. U.S. Coast Guard (Coos Bay, Oregon) - (541) 756-4141
- b. Mercy Flights (Medford, Oregon) - (541) 779-6552
- c. REACH (Corvallis and Coos Bay, Oregon) – (800) 705-1728

**2. Fixed-wing air ambulances:**

- a. Cal-Ore Life Flight (Crescent City, California; Brookings, Oregon) - (800) 705-1728
- b. Mercy Flights (Medford, Oregon) - (541) 779-6552

**3. Ground ambulances:**

- a. Bay Cities Ambulance Service (Coos Bay, Oregon) -(541) 269-1155 or (541) 347-3973

- b. Del Norte Ambulance Service (Crescent City, California) - (707) 464-9551

**Non-Transporting EMS Provider**

The ASA Committee may recommend best practices for certification, equipment, standards of care, clinical protocols and patient hand-off procedures for all non-transporting EMS providers. Individual agency Medical Directors and Administration will be responsible for implementing and supervising agency's adherence to these recommendations.

**Hazardous Materials:**

State Hazardous Materials Response Team, located in Coos Bay, Oregon (call OERS, below, to activate).

1. O.E.R.S. (provides notification and activation of state agencies, federal agencies, and some private agencies.), 1-800-452-0311
2. CHEMTREC, 1-800-424-9300

**Search and Rescue and Specialized Rescue:**

1. Curry County Sheriff's Office - 9-1-1 or (541) 247-3242
2. Oregon Civil Air Patrol - 1-800-452-0311
3. U.S. Coast Guard - since the Pacific Ocean falls under the jurisdiction of the U.S. Coast Guard, they will provide specialized aircraft and watercraft for rescue operations. These units shall respond from North Bend, Oregon, (541) 756-4141.

The majority of search and rescue within Curry County is provided by Curry County Search and Rescue, through the Sheriff's Office. It is on call and available on a 24-hour basis. In many instances, Search and Rescue will act as First Responders in remote areas that are inaccessible to conventional ambulance. Search and Rescue shall either transport to the nearest ambulance or at its discretion, use the services of U.S. Coast Guard or others, whichever is medically appropriate. Search and Rescue teams have direct radio contact with all local ambulances, hospitals, and the 9-1-1 Centers. In winter months, Search and Rescue will respond to remote areas covered with snow and not accessible by the usual ambulance service. When advanced life support is called for, Search and Rescue may transport the ambulance crews to the patient.

**Extrication:**

1. Brookings Fire and Rescue Department - 9-1-1
2. Gold Beach Fire Department - 9-1-1
3. Port Orford Fire Department - 9-1-1
4. Harbor Fire Department - 9-1-1
5. Langlois Fire Department - 9-1-1
6. Curry County Road Dept., heavy equipment - (541) 247-7097

**Towing of Vehicles weighing over 2 ½ tons:**

1. Ev's High Tech Auto & Towing & Chevron - (541) 247-7525



2. Carpenter Auto - (541) 469-6511
3. 10-10 Towing - (541) 469-1010
4. Norris Auto Body - (541) 247-6170
5. Mast Brothers- (541) 347-9908 or (541) 271-3019

#### **Emergency Communications and Systems Access**

##### **Telephone Access:**

There are two 9-1-1 Centers located in Curry County. The first center is located in the Curry County Sheriff's Office in Gold Beach, Oregon which serves the telephone prefixes of 247, 332 and 348. The second center is located in Brookings City Hall in Brookings, Oregon, which serves the telephone prefix of 469 and 412. These centers shall receive all emergency service requests in Curry County. Persons having access to telephone service will have access to the Curry County Communications Centers by dialing 9-1-1. Upon receipt of a request, all emergency service providers in Curry County, including fire and ambulance, are dispatched by one of the two Curry County 9-1-1 Centers.

##### **Dispatch Procedures:**

1. The appropriate personnel shall be notified by the dispatcher via radio-pagers within two (2) minutes of receipt of a life threatening call.
2. The dispatcher will obtain from the caller, and relay to the first responders the following:
  - a. Location of the incident;
  - b. Nature of the incident; and
  - c. Any specific instructions or information that may be pertinent to the incident.
3. EMS personnel shall inform the dispatch center by radio when any of the following occurs:
  - a. In-service;
  - b. En route to scene or destination and type or response;
  - c. Arrival on scene or destination;
  - d. Transporting patient(s) to hospital or medical facility, the number of patients, and name of facility; and
  - e. Arrival at receiving facility.
4. Ambulance personnel shall inform the receiving hospital by radio at the earliest possible time of the following:
  - a. Unit identification number;
  - b. Age and sex of each patient;
  - c. Condition and chief complaint of the each patient;
  - d. Vital signs of each patient;
  - e. Treatment rendered; and
  - f. Estimated time of arrival.

##### **Radio System:**

1. The PSAP shall:
  - a. Restrict access to authorized personnel only;

- b. Meet state fire marshal standards;
  - c. Maintain radio consoles capable of communication directly with all first response agencies dispatched by them via the following frequencies: primary 155.325 for ASA 1 and 2, 154.385 ASA 3; and secondary 155.340 (HEAR);
  - d. Maintain radio logs which contain all information required by the Federal Communications Commission and Oregon Revised Statutes;
  - e. Utilize plain English or 12-code; and
  - f. Be equipped with a back-up power source capable of maintaining all functions of the center.
2. The ambulance service provider shall equip and maintain 50 watt or greater, multi-channel radios in each ambulance that allows for the transmission and reception on primary 155.325 for ASA 1 and 2, 154.385 ASA 3; and secondary 155.340 (HEAR). Each ambulance crew shall have one five (5) watt, portable hand-held radio with a minimum of two (2) channel capability. All ambulances in County shall be equipped to communicate on the following frequencies primary 155.325 for ASA 1 and 2, 154.385 ASA 3; and secondary 155.340 (HEAR). In most instances, once an ambulance crew has been summoned by the dispatcher, there is further capability of radio communications between the ambulance and the dispatcher via mobile or hand-held radios. Requests for mutual aid, other resources or agencies, etc., generally must be arranged with the third-party assistance of the dispatch center (via radio).

Providers are dispatched by either of the two Curry County 9-1-1 Centers by radio pagers. Unless specifically determined by the nature of the call (i.e., non-emergency patient transfer, etc.) the highest level of ambulance staffing available at that time shall be dispatched. Other resources (police, fire) will be dispatched as deemed appropriate.

#### **Emergency Medical Services Dispatcher Training:**

- 1. Curry County EMS dispatchers must successfully complete an Emergency Medical Dispatch (EMD) training course as approved by the Oregon Emergency Management Division and the Department of Public Safety Standards and Training.
- 2. All EMS dispatchers are encouraged to attend any class, course or program, which will enhance their dispatching abilities and skills.

### **VII. PROVIDER SELECTION**

#### **Initial Assignment of Ambulance Service Provider**

Any person wishing to provide ambulance services within Curry County shall submit a letter of intent to bid within thirty (30) days of the announcement regarding an opening of an Ambulance Service Area (ASA). All bid proposals shall be submitted to the County EMS Administrator. The proposals shall be reviewed by the County ASA Request for Proposal (RFP) Evaluation Committee. This committee shall recommend the assignment of an ASA to the Board of Commissioners. Assignment of all ASA's shall be made by the Board of Commissioners. Assignment of an ASA shall be valid for five (5) year terms commencing on the first day of contract implementation and subject to provisions of suspension or revocation as set forth in this plan.

### **Reassignment of an ASA**

In the event that a reassignment of an ASA is necessary, the Committee shall make a written recommendation to the Board. The committee shall develop appropriate criteria, utilizing the selection process described in this plan to be presented to the Board for consideration and/or action by the Board.

### **Application Process for Applying for an ASA**

See County Ordinance Section 2.01.090 regarding application process for applying for an ASA

### **Notification of Vacating an ASA**

In the event that an ASA provider wishes to vacate its ASA, the provider shall provide at least sixty (60) days written notice to the Board. The ASA provider must provide notification in accordance with the provisions of the initial service agreement or contract.

### **Maintenance of Level of Service**

In the event that an ASA provider is unable to comply with the standards promulgated for the ASA by this Plan, the provider will notify the Board in writing of its inability to comply and identify which standards are involved. The Board will determine if other qualified providers are available for the ASA who can comply with the standards. If the Board determines no other qualified providers are available it will apply to the Oregon Health Authority, Emergency Medical Services and Trauma Systems Section under ORS 682.079 for a variance from the standards so that continuous ambulance service may be maintained, by the existing provider, in the ASA.

## **VIII. CURRY COUNTY ORDINANCES AND RULES**

The Curry County Board of Commissioners shall adopt a county emergency medical services ordinance. The ordinance shall include criteria for administering the Curry County Ambulance Service Area Plan; limiting ambulance services that may operate in the county; establishing an application process; ambulance franchise terms; enforcement; preventing interruption of service; appeals, abatement and penalties; duties of the franchisee; and establishing membership and duties of the advisory committee. (See Appendix)

### **Exceptions/Amendments to County Ambulance Ordinances/Rules**

Amendment to County Code, Article Two Division One, dated October 18, 2004  
Amendment to County Code, Article Two Division One, dated May 18, 2009  
Amendment to County Code, Article Two Division One, dated March 19, 2014  
Port Orford Community Ambulance Resolution, dated December 5, 2013

## **APPENDICES**

**ASA Maps & Fire District Boundaries (North, Central, South)**

**911 Map**

**Incorporated City Maps**

**Notification and Response Times**

**Copy of Mutual Aid Agreement (Example)**

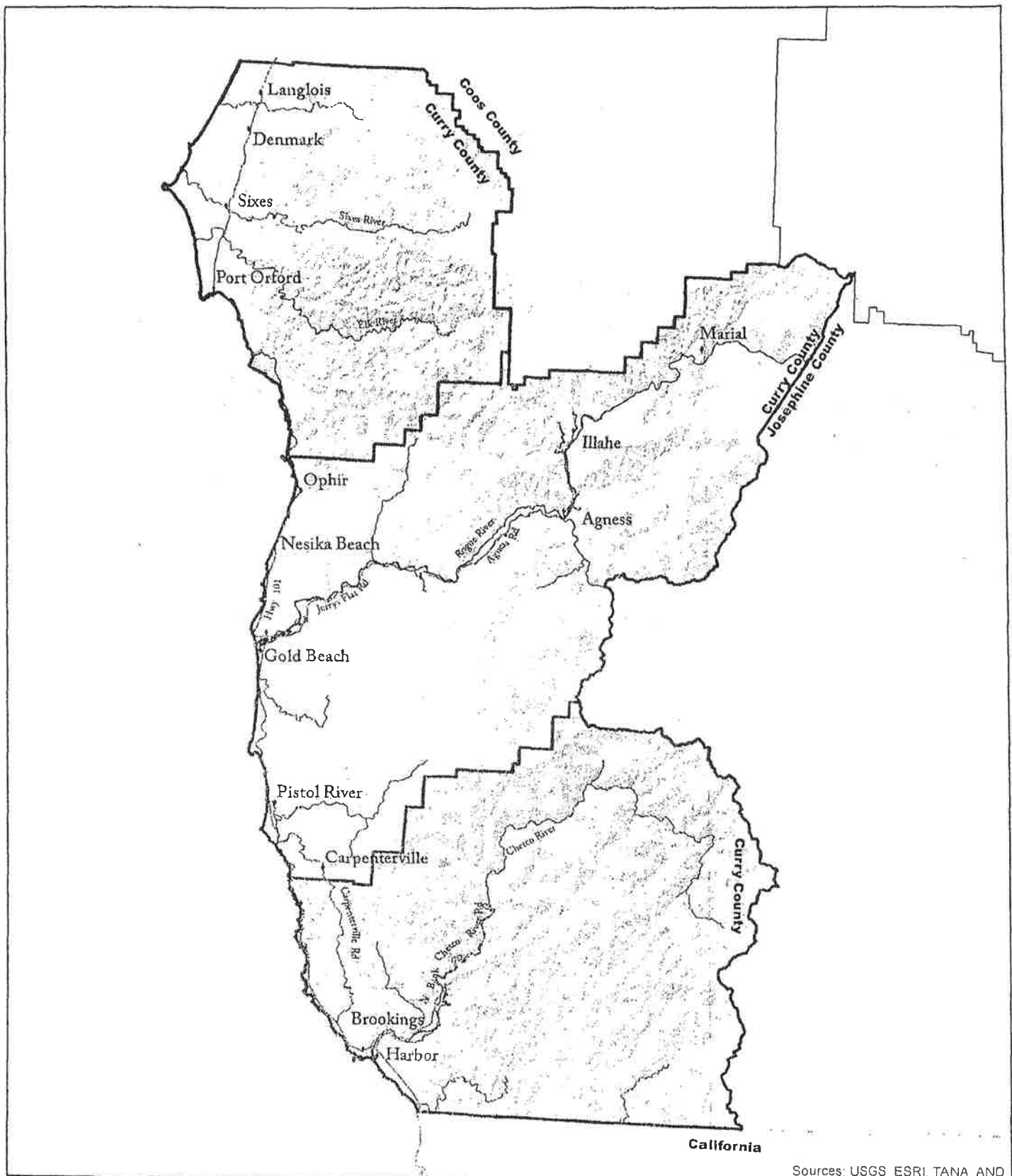
**Amendment to County Code, Article Two Division One, dated October 18, 2004 (Includes Exhibit "A" only)**

**Amendment to County Code, Article Two Division One, dated May 18, 2009**

**Amendment to County Code, Article Two Division One, dated March 19, 2014**

**Port Orford Community Ambulance Resolution, dated December 5, 2013**

**ORS Chapter 244**



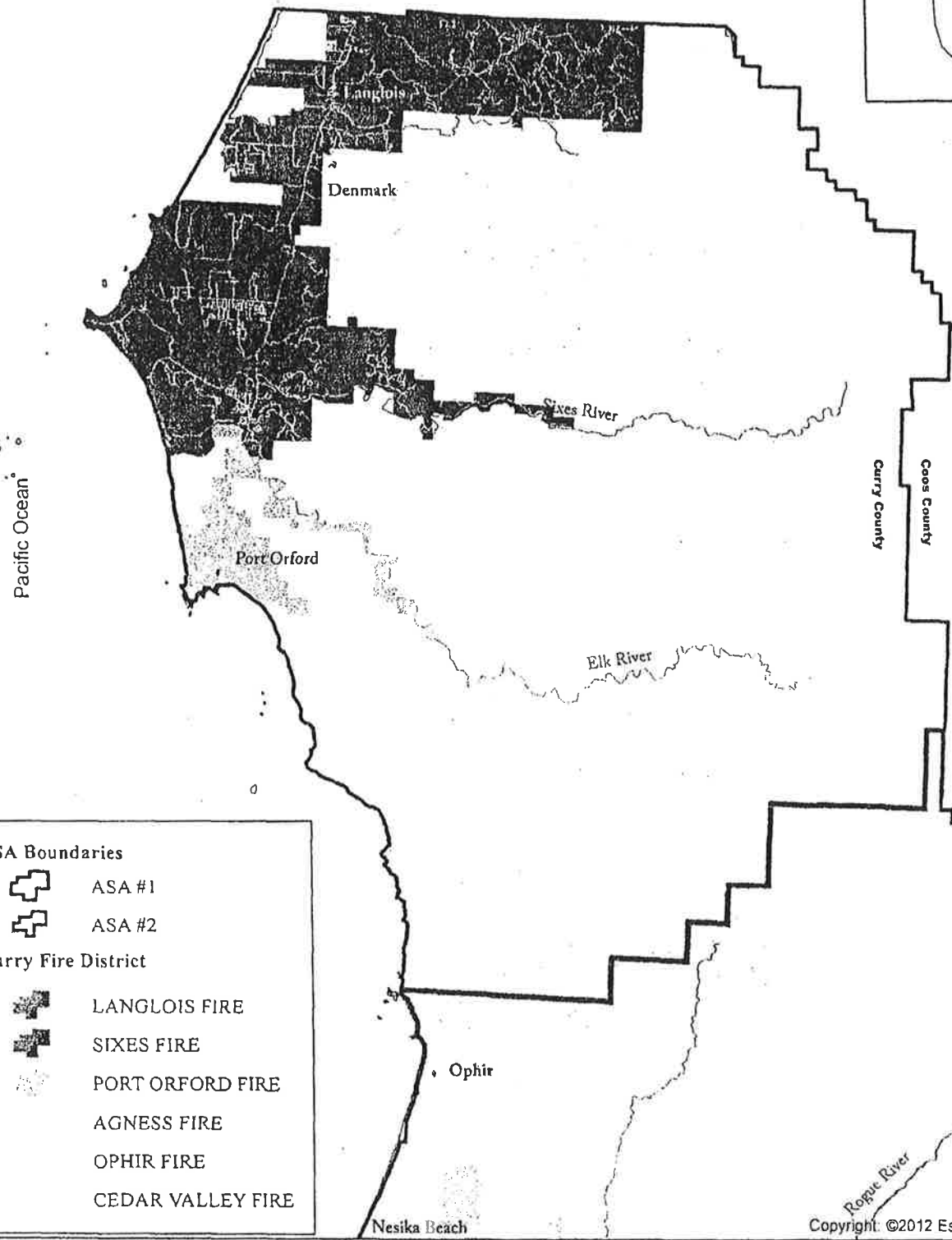
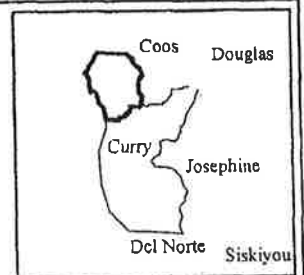
Sources: USGS, ESRI, TANA, AND

# Ambulance Service Area Plan Curry County, OR

ASA #1  
ASA #2  
ASA #3

0 5 10 Miles

This product is for informational purposes only and is not intended to be used for any other purpose. The user of this information should be aware of the privacy, data, and information, and should obtain the source of the information. USGS, ESRI, TANA, AND



**ASA Boundaries**

ASA #1  
 ASA #2

**Curry Fire District**

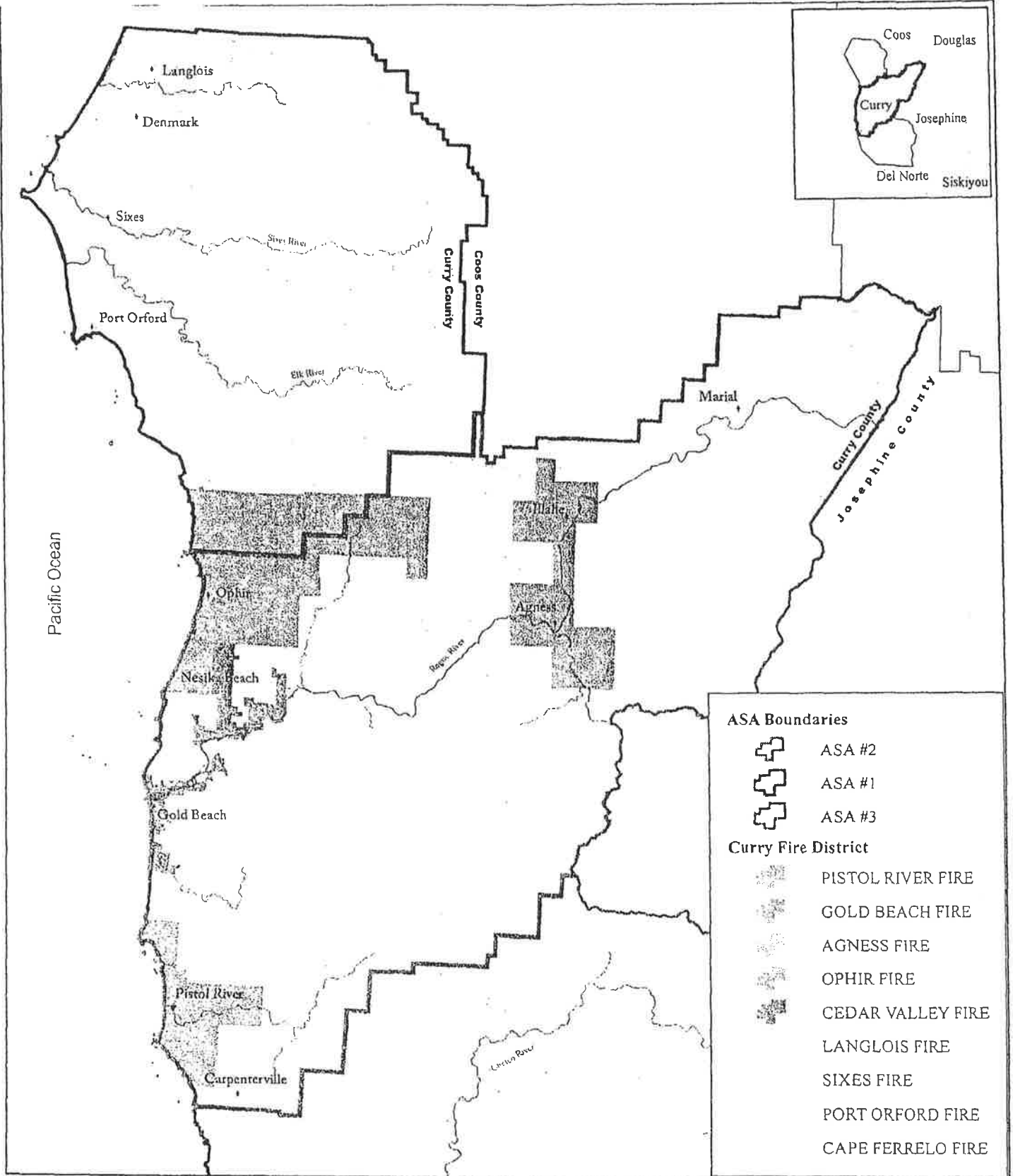
LANGLOIS FIRE  
 SIXES FIRE  
 PORT ORFORD FIRE  
 AGNESS FIRE  
 OPHIR FIRE  
 CEDAR VALLEY FIRE

**Ambulance Service Area (ASA) #1**  
Curry County, OR

Approximate Range  
Highway 101 Mile Post: 315 - 286

0 2.5 5 Miles

NAVTEQ Data, Provided by: Curry County GIS (7/8/14)      This product is for informational purposes only and has been prepared for use as a guide for legal, engineering, or mapping purposes. Users of this information should verify or consult the primary data and information sources to ascertain the suitability of the information.



Ambulance Service Area (ASA) #2  
Curry County, OR

Approximate Range  
Highway 101 Mile Post: 345 - 315

0 5 10 Miles

NAD83 UTM Zone 18N, Datum: NAD83, UTM Zone: 18N, UTM Datum: NAD83, UTM Zone: 18N

This product is for informational purposes only and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information used to determine the quality of the information.

# ASA Boundaries



ASA #3



ASA #2

## CurryFireDistricts



CAPE FERRELO RFPD



BROOKINGS FD



BROOKINGS RFPD



UPPER CHETCO RFPD



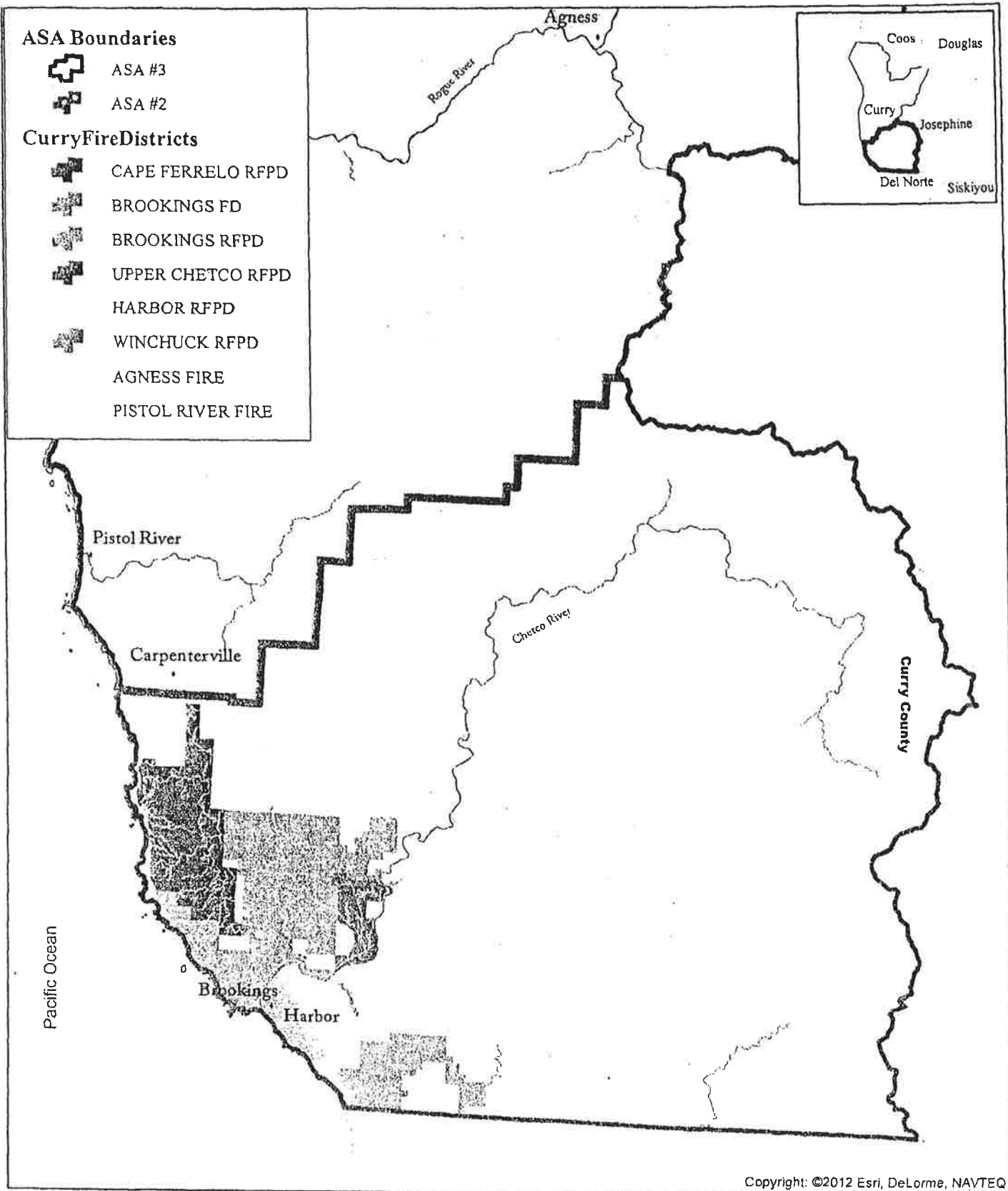
HARBOR RFPD



WINCHUCK RFPD

AGNESS FIRE

PISTOL RIVER FIRE



Copyright: ©2012 Esri, DeLorme, NAVTEQ

Ambulance Service Area (ASA) #3  
Curry County, OR

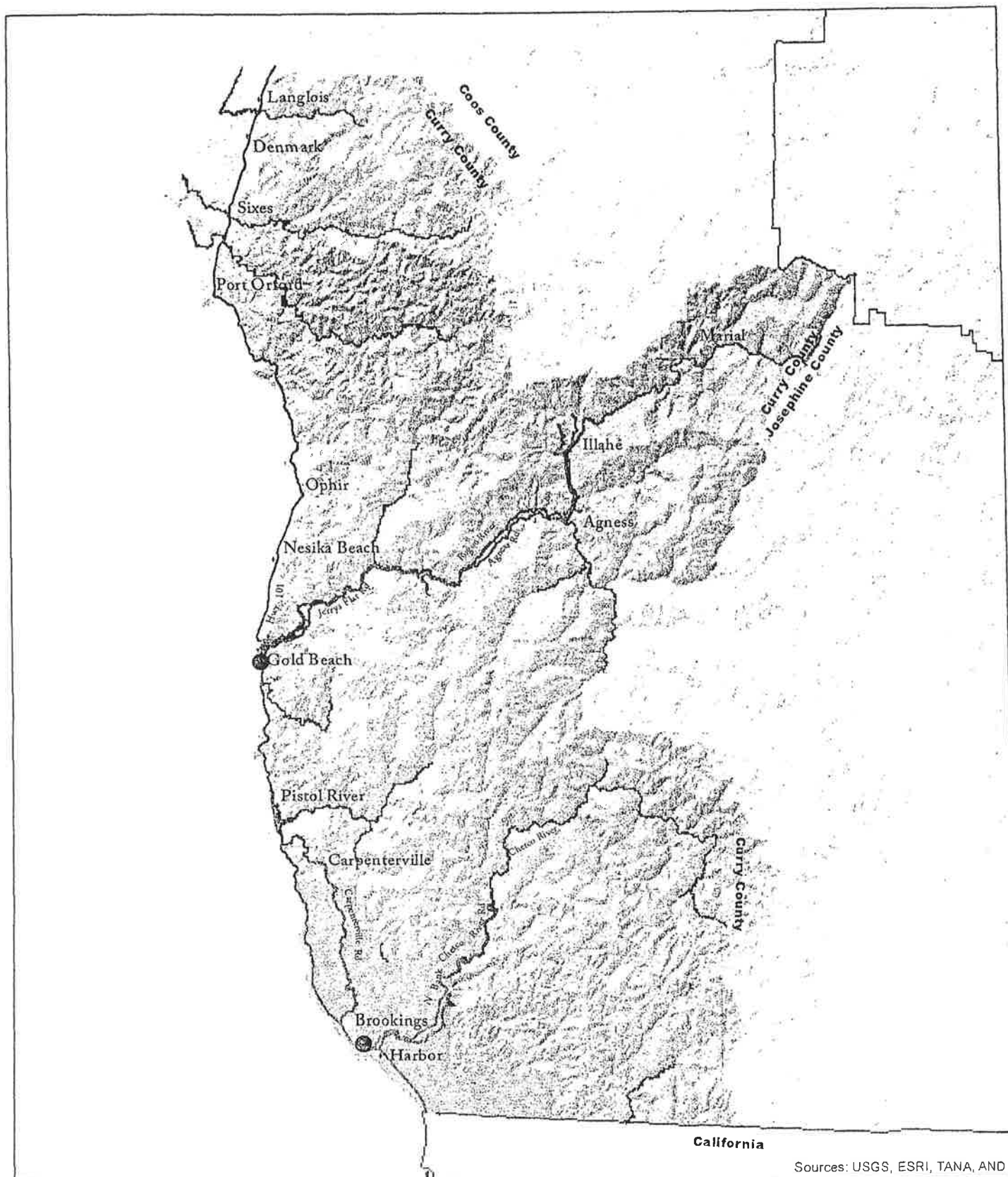
Approximate Range  
Highway 101 Mile Post: 363 - 345

0 2.5 5 Miles

N 1081 ORS/amb: Brookings-103: Curry County GIS: 2/6/11

This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the accuracy of the information.





Sources: USGS, ESRI, TANA, AND

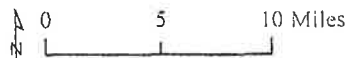
# Curry County, OR

● PSAP Locations



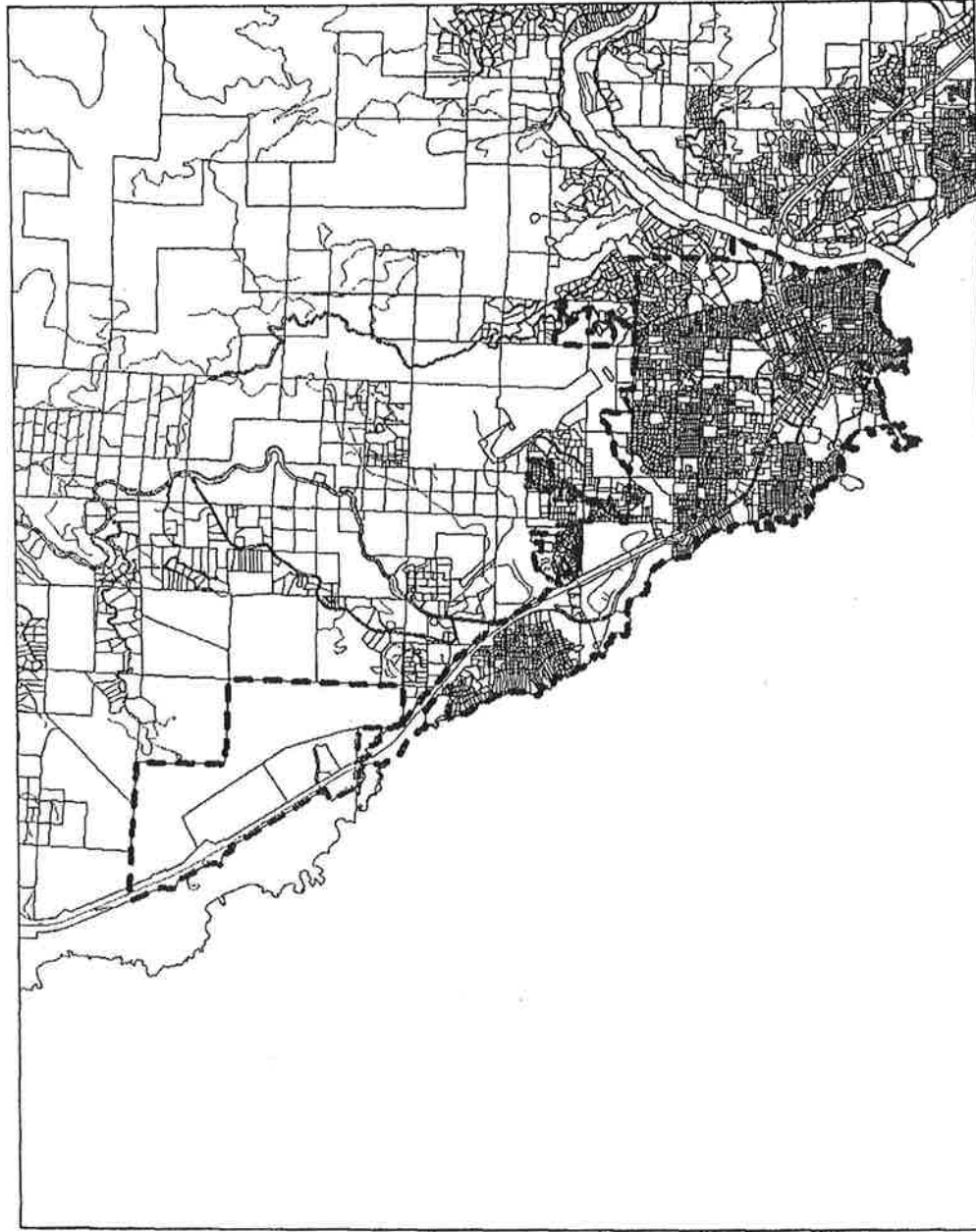
Brookings PSAP

Curry PSAP



This product is for informational purposes only and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should verify or control the primary data and information sources to ascertain the reliability of the information. 2015 USGS Data Release: USGS, p. 1, 2, 14

# Brookings City Limits



## Legend

- ROADS ORTHO CORRECTED
- PARCELS
- CITY LIMITS



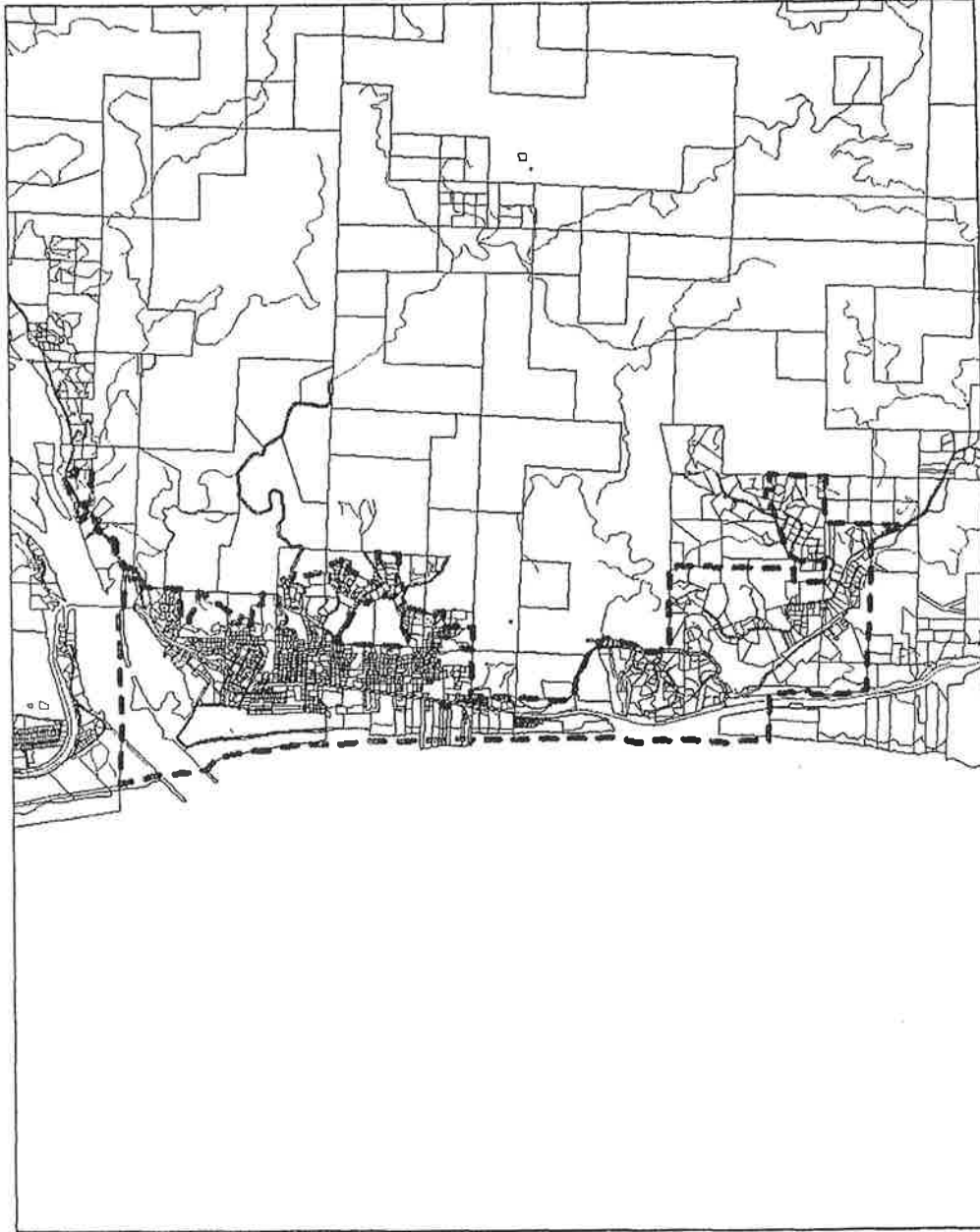
Scale: 1:61,392

0 6000 12000 18000 ft.

Map center: 42° 4' 35" N, 124° 18' 43" W

This map is a public resource of general information. Use this information at your own risk. Curry County makes no warranty of any kind, expressed or implied, including any warranty of merchantability, fitness for any particular purpose or any other matter.

# Gold Beach City



- Legend**
- ROADS ORTHO CORRECTED
  - PARCELS
  - CITY LIMITS



Map center: 42° 23' 51" N, 124° 24' 47" W

0 5500 11000 16500 ft.

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# Port Orford City

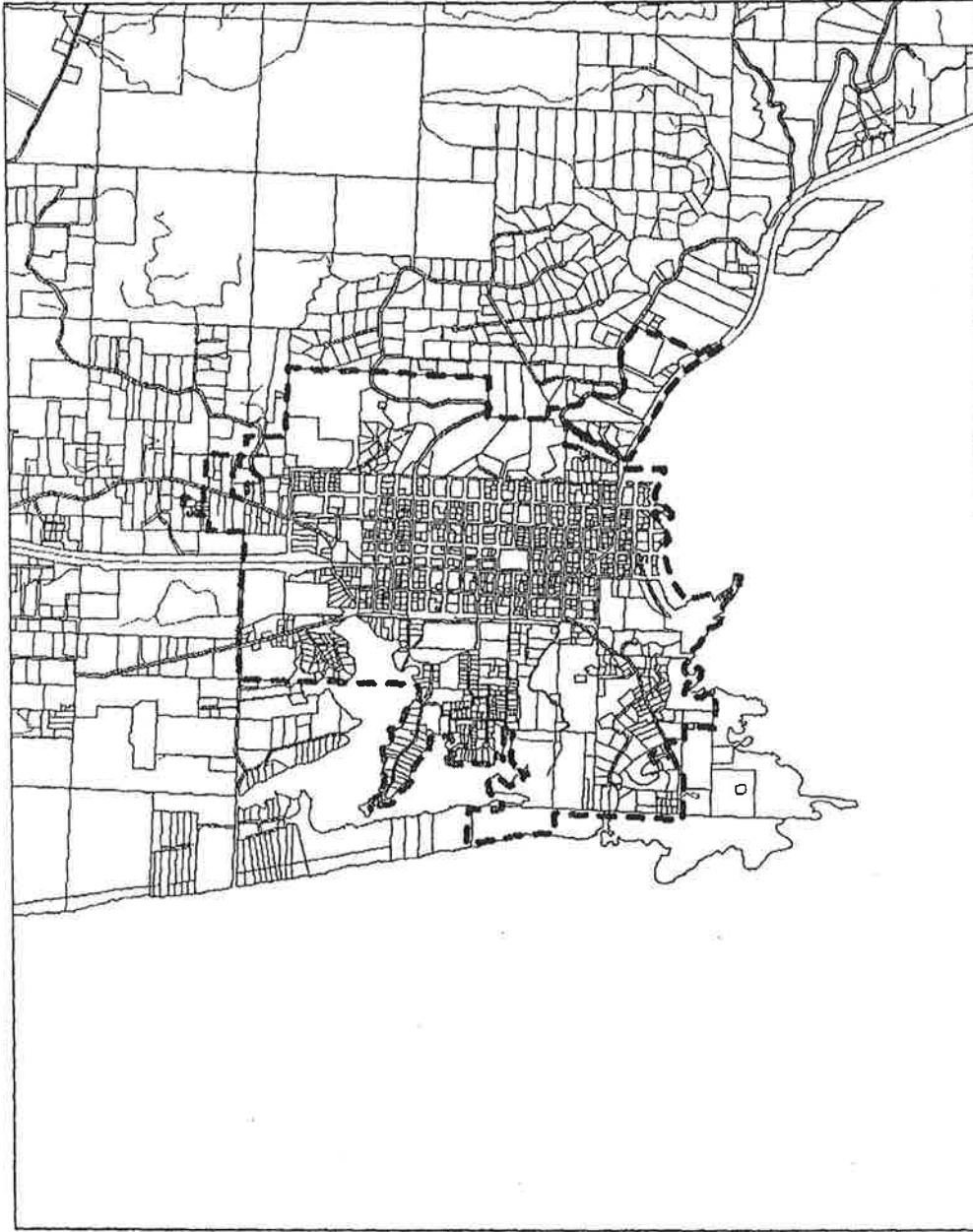


## Legend

- ROADS ORTHO CORRECTED
- PARCELS
- CITY LIMITS



Scale: 1:33,829



0 3250 6500 9750 ft.

Map center: 42° 44' 55" N, 124° 30' 1" W

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# **SOUTHERN CURRY COUNTY AMBUALNCE SERVICE AREA RESPONSE TIMES**

EMT's respond to 911 dispatch within 5 minutes, with an addition of 5 minutes added to call lengthened by traffic, weather, and road conditions.

8 minutes within city limits of Brookings	90%
15 minutes out of city limits of Brookings within the UGB	90%
45 minutes rural areas	90%
4.5 hours Frontier Roaded Areas	90%
24 hours Frontier Roadless Areas	90%

Inside city limits, on scene	8 minutes
Deer Park Road-North	8 minutes
Chetco River Bridge-South	8 minutes
East Harris Heights	8 minutes
Hampton Road	8 minutes
Brooke Lane	8 minutes
Meadow Lane	8 minutes
Marina Heights to the fork	8 minutes
North Bank Chetco Road-Worlton Place	8 minutes
West-the Pacific Ocean shoreline	8 minutes

North 101, on scene	22 minutes
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Whales Head RV Park	10 minutes
Martin Ranch Road	15 minutes
Thomas Creek Bridge	15 minutes
Burnt Hill Salmon Ranch	18 minutes
Pistol River Flat	22 minutes
Cape Ferrelo Road	8 minutes
Cape Ferrelo Road-Homestead Market	12 minutes
Cape Ferrelo Road-Carpenterville Road	15 minutes
DeMoss road	8 minutes
Duley Creek Road	12 minutes
Blandau's Ranch	20 minutes

East, on scene	4.5 hours
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North Bank Chetco River Road	
Thompson Road	10 minutes
Mountain View Road to end	15 minutes
Riverside Market	12 minutes
Gardner Ridge Road	15 minutes
Gardner Ridge Road to end	45 minutes
Loeb State Park	15 minutes
Second Bridge	20 minutes
Little Redwood	25 minutes
South Fork Bridge	30 minutes
Vulcan Lake Trail Head	3 hours
Windy Valley Trail Head	3 hours
South Bank Chetco River Road	
River Bend RV Park	10 minutes
Jacks Creek Bridge	12 minutes
Mt. Emily Road	15 minutes
Fallert's Ranch	20 minutes
South, on scene	35 minutes
Harbor Shopping Center	8 minutes
Southcoast Shopping Center	8 minutes
West/East Benham Lane	10 minutes
Pedrolli Drive	15 minutes
Port of Brookings Harbor	8 minutes
Oceanview Drive-North end	15 minutes
Oceanview Drive-South end	20 minutes
South Bank Winchuck-Stateline Road	15 minutes
Del-Cur Supply	10 minutes
Lucky "L" Ranch	25 minutes
North Bank Winchuck Road	10 minutes
Lawrence Lane	15 minutes
Grover's Place	20 minutes
Ludlem House	35 minutes
Winchuck Campground	25 minutes
Donnelly Place	30 minutes

# **CENTRAL CURRY AMBULANCE SERVICE AREAS RESPONSE TIMES**

EMT's respond to 911 dispatch within 7 minutes, with an addition of 5 minutes added to call lengthened by traffic, weather, and road conditions.

10 minutes in the city limits of Gold Beach	90%
20 minutes out of the city limits of Gold Beach	90%
35 minutes rural areas	90%
4.5 hours Frontier Roaded Areas	90%
24 hours Frontier Roadless Areas	90%
 Gold Beach North	
101 Frankport North Service Area	30 minutes
Ophir	25 minutes
Cedar Valley Road-Miller Creek	30 minutes
Nesika Beach	20 minutes
Otter Point-Hubbard Mound	15 minutes
 Gold Beach North Bank Rogue River	
Cedar Valley Road Junction	20 minutes
Lobster Creek	30 minutes
 Gold Beach-Jerry's Flat-Agness Road	
Champion Mill Site	20 minutes
Lobster Creek Bridge	25 minutes
Quosatana Creek	30 minutes
Copper Canyon	45 minutes
Agness	55 minutes
 Gold Beach South	
Hunter Creek	15 minutes
Cape Sebastian	20 minutes
Pistol River	25 minutes
Boardman State Park South Service Area Boundary	30 minutes
Carpenterville Area	30 minutes
 Frontier Area East of Hwy 101	
To end of drivable forest roads	6 hours
Roaded areas accessible from Coos, Douglas, or Josephine Counties	8 hours
 Roadless Areas	
By Helicopter (subject to weather availability and permission to land by governing agency)	5 hours
By foot or horseback	24 hours

# **AGNESS RESCUE SQUAD RESPONSE TIMES**

EMT's respond to 911 dispatch within 7 minutes, one EMT in 3 minutes, and one 5 minutes, with an addition of 5 minutes added to call lengthened by traffic, weather, and road conditions.

15 minutes within Agness Area	90%
45 minutes North Top of Agness, Powers Pass	90%
45 minutes East Agness, Josephine County Line, Bear Camp	90%
45 minutes West Agness, Lake of the Woods, Lookout Junction	90%
3 hours Upper River Area, Foster Bar to Paradise Bar	90%
4.5 hours Frontier Roadless Areas	90%
24 hours Frontier Roadless Areas	90%
South Agness to Lucas Lodge	14 minutes
South Agness to Spud Road and Residents	20 minutes
South Agness to Gold Beach	50 minutes
North Agness to Illahe Area, Big Bend, Foster Creek	8 minutes
North Agness to top of Agness, Powers Pass	45 minutes
West Agness to end of Sundown Road	14 minutes
West Agness to Lake of the Woods, Lookout Junction	45 minutes
East Agness to Oak Flat	20 minutes
East Agness to Josephine County Line, Bear Camp	45 minutes
Upper Rogue River Area Foster Bar to Paradise bar	3 hours
Frontier Roadless Areas	
To end of drivable forest roads	6 hours
Roadless Areas accessible from Coos, Douglas or Josephine Counties	8 hours
Roadless Areas	
By Helicopter (subject to weather availability and permission to land by governing agency)	5 hours
By foot or horseback	24 hours



# **NORTH CURRY COUNTY AMBULANCE SERVICE AREA RESPONSE TIMES**

EMT's respond to 911 dispatch within 5 minutes, with an addition of 5 minutes added to call lengthened by traffic, weather, and road conditions.

8 minutes within city limits of Port Orford	90%
15 minutes out of city limits of Port Orford	90%
45 minutes rural areas	90%
4.5 hours Frontier Roadless Areas	90%
24 hours Frontier Roadless Areas	90%
Port Orford to Coos County Line	25 minutes
Port Orford to Langlois	20 minutes
101 Langlois Mountain (average mph off 101: 20-30 mph)	
John Guynup 6 ½ miles up	15 minutes from 101
McClouds (North on Langlois Mountain)	30 minutes from 101
Kalina (South on Langlois Mountain)	30 minutes from 101
Port Orford North (Average mph off 101: 20-30 mph)	
Floras Creek Road	15 minutes
North End of Floras Lake (West)	12 minutes
South End of Floras Lake (West)	10 minutes
Denmark	12 minutes
Pacific High School	10 minutes
Sixes Store (Average 20-30 mph)	8 minutes
Sixes to Plumtree (up Sixes Road)	15 minutes
Cape Blanco and 101	8 minutes
101 to End of Cape Blanco Road	15 minutes
Elk River Road and 101	6 minutes
6 miles up Elk River from 101	18 minutes
Port Orford South	
Hubbards Creek	8 minutes
Humbug Mountain	10 minutes
Brush Creek	15 minutes
Muscle Creek (Traffic and Weather factor)	30 minutes
Frontier Area East of Hwy 101	
To end of drivable forest roads	6 hours
Roadless areas accessible from Coos County	8 hours
Roadless Areas	
By Helicopter (subject to weather, availability and permission to land by governing agency)	5 hours
By foot or horseback	24 hours

CURRY COUNTY  
AMBULANCE SERVICE AREA  
MUTUAL AID AGREEMENT

WHEREAS the Parties hereto maintain and operate Emergency Medical Services for the purpose of necessary lifesaving services within their respective service areas; and

WHEREAS the parties recognize the possibility that numerous medical responses and/or disaster conditions in one Party's area could create insufficient resources to allow for effective operation of Emergency Medical Services in that area; and to accommodate those times when one Party is in need of emergency assistance; and

WHEREAS the parties recognize that one Party may be more advantageously placed to provide effective Emergency Medical Services in the other Party's service area due to distance, road, or weather conditions;

NOW THEREFORE, it is agreed as follows:

1. Both parties agree to furnish personnel and equipment to the other Party when requested by competent authority, provided the assisting Party has available adequate personnel and equipment to reasonably provide assistance,
2. The Parties agree to maintain compatible radio communication capabilities with each other.
3. It is mutually agreed and understood that this agreement shall not relieve either Party of the responsibility for Emergency Medical Services within its own district, nor does this agreement create any right in, or obligation to, third parties by either Party which would not exist in the absence of this agreement. It is the intent of this agreement to provide reasonable assistance only, and not primary responsibility.
4. It is agreed that this agreement for mutual aid shall constitute the sole consideration for the performance hereof, and that neither Party shall be obligated to reimburse the other for use of equipment or personnel. During the course of rendering aid, the personnel and equipment of each party shall be at risk of that Party. Each Party shall protect its personnel performing under this agreement by adequate worker's compensation insurance. Each Party shall obtain and maintain in full force and effect adequate public liability and property damage insurance to cover claims for injury to persons or damage to property arising from such Party's performance of this agreement, and all right and subrogation right against each other, and against the agents and employees of each other for liability and damages covered, unless to do so would void such insurance coverage.
5. This agreement shall be and remain in full force and effect from and after the date of execution set opposite the signature of each Party until terminated or modified. This agreement may be modified at any time by mutual consent of the Parties, and terminated

by either Party upon reasonable notice.

6. In the event of a Presidential Disaster Declaration, or the Conflagration Act being invoked, this agreement shall not preclude or bar providers from claim for, or collection of, any type of reimbursement, payment, or restitution.

IN WITNESS WHEREOF, the Parties have caused this agreement to be executed on the day set opposite the respective signature of each; said execution having been heretofore first authorized in accordance with law.

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Signature	Title	Date
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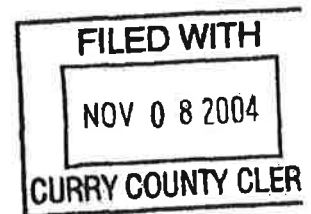
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Signature	Title	Date
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**COPY**

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment       )  
To the Curry County Code               )  
Regarding the Ambulance               )  
Service Areas and Plan                 )  
ORDINANCE NO. 04-13



The Board of Curry County Commissioners ordains as follows:

SECTION 1                TITLE

This ordinance shall be known as Ordinance 04-13, an ordinance amending the Curry County Code.

SECTION 2                AUTHORITY

This ordinance is enacted pursuant to ORS 203.035 and ORS 682.031.

SECTION 3                PURPOSE

The purpose of this ordinance is to amend Ordinance 96-7 (and all amendments thereto) which adopted the Curry County Code, a compilation of Curry County ordinances. The specific amendments update the County's ordinance regarding ambulance service areas and the ambulance plan.

SECTION 4                ADOPTION

Exhibits "A" and "B", attached hereto and incorporated by reference, are adopted as amendments to the Curry County Code, Ordinance 96-7 as amended.

SECTION 5                REPEALER

The former Article Two, Section One of the Curry County Code, Ordinance 96-7, as amended, is repealed in its entirety.

SECTION 6                SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or

invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

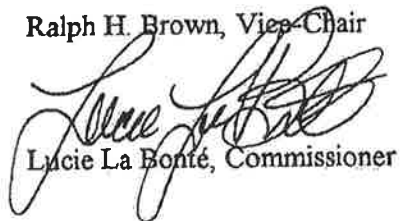
ADOPTED this 18<sup>th</sup> day of October, 2004.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Marilyn Schäfer, Chair

*Absent*

Ralph H. Brown, Vice-Chair

  
Lucie La Bonté, Commissioner

Attest:

  
Recording Secretary

Reviewed as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 10/4/04  
Second Reading: 10/18/04  
Emergency Adoption: No  
Effective Date: 1/16/05

#### **SECTION 2.01.010 TITLE**

This Division shall be known as the Curry County Ambulance Service Ordinance, and may be so cited and pled.

#### **SECTION 2.01.020 AUTHORITY**

This Ordinance is enacted pursuant to ORS 682.035, 682.062, 682.063, 682.275 and ORS 203.035, and other applicable law.

#### **SECTION 2.01.030 POLICY AND PURPOSE**

The Curry County Board of Commissioners finds:

- (1) That ORS 682.062 requires Curry County to develop and adopt a plan for the county relating to the need for a coordination of emergency ambulance services and to establish Ambulance Service Areas (ASAs) consistent with the plan to provide efficient and effective emergency ambulance services.
- (2) That this Ordinance, which establishes ASAs, methods for selecting an emergency ambulance provider for an ASA, and the Ambulance Service Area Advisory Committee, together with the document known as the Curry County Ambulance Service Area Plan (ASA Plan), attached hereto, and incorporated herein by this reference, make up the complete plan for emergency ambulance services for Curry County.
- (3) That the provisions of ORS 221.485 and 221.495, 478.260(3), and 682.025 through 682.065 requires Curry County to develop and adopt a plan for emergency ambulance services that recognizes the authority of cities and rural fire protection districts to operate and regulate emergency ambulance services within their own territories subject to the ASA Plan. That the provision of effective and efficient emergency ambulance services pursuant to the Curry County ASA Plan within cities and rural fire protection districts must be accomplished primarily on a cooperative basis. Curry County will employ formal sanctions and litigation to enforce the provisions of the Curry County ASA Plan when voluntary compliance cannot be obtained.
- (4) The board recognizes that in April of 2001, the Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section amended its rules to allow for the county designation of one or more non-emergency ambulance providers in each ASA, OAR 333-260-0070(3). In compliance with the rule, the board has and will designate

only one emergency ambulance provider for each ASA. Each of these designated emergency ambulance providers are also authorized to provide non-emergency ambulance service. However, at this time the Board elects to not require county designation for additional non-emergency providers, acknowledging that any such providers must meet the licensing and regulatory requirements imposed under state law as implemented by the Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section.

#### **SECTION 2.01.040     DEFINITIONS**

The words and phrases in this Ordinance shall have the meaning provided in ORS Chapter 682 and OAR Chapter 333, Divisions 250, 255, 260, and 265, unless specifically defined herein to have a different meaning.

- (1) "Administrator" means a person designated by order of the Board to administer this Ordinance and the duly authorized deputy or assistant of such person.
- (2) "Ambulance" or "Ambulance Vehicle" means any privately or publicly owned motor vehicle that is regularly provided or offered to be provided for the emergency transportation of persons suffering from illness, injury, or disability.
- (3) "Ambulance Service Area (ASA)" means a geographical area which is served by one ambulance service provider, and may include all or a portion of a county, or all or portions of two or more contiguous counties.
- (4) "Ambulance Service Area Advisory Committee (Committee)" means the committee that will advise the Board as it pertains to the ASA Plan.
- (5) "Board" means the Curry County Board of Commissioners for Curry County, Oregon.
- (6) "DHS-EMS" means Oregon State Department of Human Resources, Emergency Medical Services and Trauma Systems Section.
- (7) "Franchise" means a franchise to provide emergency ambulance service issued by the Board pursuant to this Ordinance.

- (8) "Persons" means and includes individuals, corporations, associations, firms, partnerships, joint stock companies, cities, rural fire protection districts, and special service districts formed and existing pursuant to the Oregon Revised Statutes.

#### **SECTION 2.01.050     EXEMPTIONS**

This Ordinance shall not apply to:

- (1) Vehicles owned or operated under the control of the United States Government, the State of Oregon, Curry County, and the cities of Port Orford, Gold Beach, and Brookings;
- (2) Vehicles and aircraft being used to render temporary assistance in the case of a major catastrophe or emergency with which the ambulance services of the surrounding locality are unable to cope, or when directed to be used to render temporary assistance by an official at the scene of an accident;
- (3) Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any public street, road or highway through the property or grounds is involved;
- (4) Vehicles operated by lumber industries solely for the transportation of lumber industry employees.
- (5) Private vehicles not used for hire;
- (6) Ambulances or vehicles transporting patients from outside the county to a health care facility within the county, or which are passing through without a destination in the county;
- (7) Any person who drives or who attends an ill, injured or disabled person transported in a vehicle mentioned in Sections 1-6 of this Section;
- (8) Any person who otherwise by license is authorized to attend patients.

#### **SECTION 2.01.055     PROHIBITED ACTIVITIES**

- (1) No applicant or franchisee, applicant's or franchisee's employee, or any other person doing business as defined herein shall:
  - (A) Make a false statement of a material fact, or omit disclosure of a material fact, in an application for a franchise, or during a duly authorized investigation by the



Administrator and/or his designee

(B) Monitor or intercept emergency medical services communications for profit or gain.

(C) Charge for services not performed or make duplicate charges for the same service.

(D) Perform services of an EMT or EMT trainee unless authorized by state law.

(2) Except as provided for in this ordinance, it shall be unlawful to provide emergency transport by any vehicle other than a BLS or ALS ambulance. This prohibition shall include stretcher cars, which are defined as motor vehicles for hire constructed and equipped or regularly provided for non-emergency transportation of persons in a supine or recumbent position for reasons related to health conditions.

#### **SECTION 2.01.060     ADMINISTRATION**

The administrator, under the supervision of the Board and with the assistance of the Committee, shall be responsible for the administration of this Ordinance. In order to carry out the duties imposed by this Ordinance, the administrator, or persons authorized by the administrator, are hereby authorized to enter on the premises of any person regulated by this Ordinance at reasonable times and in a reasonable manner to determine compliance with this Ordinance and regulations promulgated pursuant thereto. The administrator shall also have access to records pertaining to ambulance service operations of any person regulated by this Ordinance. These records shall be made available within five (5) working days to the administrator at the person's place of business, or copies made and provided as requested by the administrator.

#### **SECTION 2.01.070     AMBULANCE SERVICE AREAS**

For the efficient and effective provision of emergency ambulance services in accordance with the ASA Plan, the ASA shown on the map attached hereto as Appendix #1, and incorporated herein by this reference, are hereby adopted as the ASA for Curry County. The Board, after notice to the affected ASA provider and by the adoption of an order, may adjust the boundaries of an ASA from time to time as necessary to provide efficient and effective emergency ambulance services.

#### **SECTION 2.01.080     AMBULANCE SERVICE PROVIDERS REGULATED**

Effective July 1, 1994, no person shall provide emergency ambulance services in Curry County, Oregon, unless such person is franchised in accordance with the applicable provisions of this Ordinance.

#### **SECTION 2.01.090     APPLICATION FOR AMBULANCE SERVICE FRANCHISE**

- (1) Any person desiring to provide ambulance service within Curry County shall submit an application to be assigned an ASA. The application shall be submitted to the Administrator.
- (2) Applications for franchises shall be on forms provided by the Board. In addition to information required on the forms, the Board may require additional information it deems necessary to insure compliance with this Ordinance.
- (3) The applicant shall provide the following information:
  - (a) The name and address of the person or agency applying.
  - (b) The ASA the person desires to serve, the location(s) from which ambulance services will be provided, and the level of service to be provided.
  - (c) A statement as to whether or not the person will subcontract for any service to be provided. If some service will be provided by subcontract, a copy of that subcontract shall be provided.
  - (d) A list of vehicles to be used in providing emergency ambulance services including year, make and model, and verification that each vehicle is licensed as a basic and/or advance life support ambulance by DHS-EMS.
  - (e) A statement that all equipment and supplies in each ambulance conforms to DHS-EMS standards.
  - (f) A list of personnel to be used in providing emergency ambulance service and their current Emergency Medical Technician level and certificate number, or other appropriate certification.
  - (g) Proof of financial ability to operate, including an operating budget for public bodies or financial statement for private entities, references and/or statement of past ambulance service. Appropriate financial information, such as income, tax returns, or reports by governmental authorities shall also be submitted upon request. Public bodies must provide information regarding the sources and amounts of funding for emergency ambulance services.
  - (h) Proof of public liability insurance in the amount of not less than the limits of claims made under the Oregon Tort Claims Act shall be provided. The minimum coverage shall be \$500,000 per occurrence (combined single limit for bodily injury and property damage claims) or \$500,000 per occurrence for bodily injury and \$100,000 per occurrence for property damage.

- (i) A statement of experience in providing emergency ambulance service of a comparable quality and quantity to insure compliance with this Ordinance, regulations promulgated thereunder, any franchise issued, and the ASA Plan.
- (j) Proof of ability to comply with the terms and conditions of the ASA Plan and applicable county ordinances, in the form of a narrative summary.
- (k) A description of any prepaid ambulance service plan, including number of members, number of years of operation, funding and term.
- (l) If requested, information, in the form of run logs, medical records, medical director correspondence, audit reports, training records, policy and procedure manuals and equipment records and inventories, and any other records or materials that may be requested.
- (m) In the case of an application to transfer or take over an already assigned franchise:
  - (i) A detailed summary of how the proposed change will improve emergency ambulance response time, and the quality and level of services to the ASA. It shall include an assessment of how the proposed change will impact the existing first response system.
  - (ii) Evidence that the call volume in the ASA is sufficient to financially or otherwise justify the change in service.
  - (iii) If requested, information, in the form of run logs, medical records, medical director correspondence, audit reports, training records, policy and procedure manuals and equipment records and inventories, and any other records or materials that may be requested.
- (4) The Board may from time to time, by order, adopt fees to defray the actual reasonable costs incurred by Curry County in processing applications, and adopt annual franchise fees to defray the reasonable costs of Curry County in administering this Ordinance.
- (5) The applications shall be reviewed by the Committee, which shall recommend the assignment of the ASAs to the Board. The assignment of an ASA shall be made by an Order of the Board. The recommendation and order is to be based upon the proposal(s) which are the most functionally practical and likely to deliver the best quality of service.

#### **SECTION 2.01.110 REVIEW OF APPLICATION FOR FRANCHISE**

- (1) Applications shall be reviewed by the Committee, who shall make such investigation as it deems appropriate, and who may request assistance of other persons as necessary.
- (2) The administrator shall notify the holder of a franchise for providing emergency ambulance service to an ASA of any applications by another person to take over that franchise.
- (3) Unless the time is extended by the Board for good cause, the Committee shall make its recommendation to the Board to grant, deny, modify or attach appropriate conditions to the application. The Committee shall transmit its recommendation within sixty (60) days after the application and any required supplemental information has been received.

#### **SECTION 2.01.120 BOARD ACTION ON APPLICATION FOR FRANCHISE**

Upon receipt of the Committee's recommendation, the Board:

- (1) Shall publish notice of its intent to hold a public hearing on the application and recommendations at least ten (10) days, but not later than thirty (30) days following publication of notice.
- (2) May require additional investigation by the Committee if it finds that there is insufficient information on which to base its action.
- (3) Shall, upon the basis of the application, the Committee's recommendation, such other information as is permitted by this Ordinance, and such information as is presented to the Board at the public hearing make an order granting, denying or modifying the application or attaching conditions thereto.
- (4) Shall not make an order adverse to the applicant or to the holder of, or applicant for, another franchise effective less than 30 days after the date of such order and shall notify such persons in writing of the order. The Board may suspend operation of this subsection and enter an emergency order if it finds that there is an immediate and serious danger to the public or that a health hazard or public nuisance would be created by a delay.
- (5) After the Board makes an order granting an emergency ambulance service franchise, with or without conditions, and the franchisee finds he/she is unable to provide a particular service, the Board may permit the franchisee to subcontract such service to another person if the Board finds that the quality and extent of the service would not be jeopardized. The Board may require the filing of such information as it deems necessary.

#### **SECTION 2.01.130 FRANCHISE TERMS AND RENEWALS**

- (1) Thereafter, unless the Board finds that a longer or shorter term is required in the public

interest, the term of an emergency ambulance service franchise shall be five (5) years, beginning on July 1 of a year and ending June 30 five (5) years later.

- (2) Unless grounds exist for refusal to renew a franchise under provisions for suspension or revocation as set forth in Section 2.01.160, or unless the franchise is to be given to a new person, franchises shall be renewable. Application for renewal shall be made on forms provided by the Board.
- (3) This subsection describes the procedures for processing a formal request for a franchise renewal. Not more than one hundred eighty (180) days and not less than one hundred twenty (120) days prior to the expiration of the franchise, a franchisee wanting to renew the franchise and any person desiring to take over the franchise shall submit an application to the administrator. Review of all applications for renewal or take over of a franchise shall be conducted in the same manner as for an application pursuant to Sections 2.01.090, 2.01.110 and 2.01.120 of this Ordinance.
- (4) This subsection describes the procedure for processing an informal request for a franchise renewal. This is an alternative method available (instead of subsection 3 above) for applying for a franchise renewal. A franchisee may apply on a written form provided by the county for a renewal by the end of the third year of an original five-year franchise. Following receipt of the application, the ASA Committee may recommend a franchise renewal. The Board has the discretion to renew the current franchise agreement for an additional five-year term without invoking the RFP process so long as the present franchisee is in compliance with the criteria described in this ordinance and the franchise agreement. Under this subsection, only one renewal may be allowed following each term of a franchise that is awarded under subsection 4 above.

#### **SECTION 2.01.140 EARLY DISCONTINUANCE OF SERVICE BY FRANCHISEE**

- (1) If a franchisee discontinues service before the expiration of his/her franchise, the Board shall set a time by which applications must be submitted for a new franchise in the ASA.
- (2) The administrator shall recommend to the committee appropriate temporary franchisee(s) to provide services within the ASA until a permanent replacement franchisee can be assigned.
- (3) The Committee shall develop an interim plan for coverage of the ASA, using existing franchisees and/or other available resources until the ASA can be reassigned.
- (4) The Board shall endeavor to select temporary franchisee(s), and shall issue a temporary certificate, valid for a stated period not to exceed six (6) months, entitling the selected temporary franchisee(s) to provide emergency ambulance service in all or part of the ASA.

ASA. The Board may renew a temporary certificate for one additional six (6) month period.

#### **SECTION 2.01.150 TRANSFER OF FRANCHISES**

A franchisee may transfer his/her franchise to another person only upon written notice to and approval by the Board. Review of an application for transfer of a franchise shall be conducted in the same manner as for an application pursuant to Sections 2.01.090, 2.01.110, and 2.01.120 of this Ordinance.

#### **SECTION 2.01.160 ENFORCEMENT OF FRANCHISE PROVISIONS**

- (1) Subject to the policies stated in Section 2.01.030, and in addition to the remedy provided in Section 2.01.170, and penalties provided elsewhere in this Ordinance, the administrator shall, upon reasonable cause, make an investigation to determine if there is sufficient reason and cause to suspend, modify, revoke or refuse to renew a franchise as provided in this Subsection.

If in the judgment of the Board, there is sufficient evidence to constitute a violation of applicable local, state or federal law, this Ordinance, ORS Chapter 682 or the Rules promulgated thereunder, the ASA Plan, or if the franchisee has materially misrepresented facts or information given in the application for the franchise, the Board shall notify the franchisee in writing, by certified mail, return receipt requested, or by personal service, as is provided by law for the service of a summons, of the violation and what steps he/she must take to cure the violation. The Board shall send a copy of the notice to the Committee.

Ten (10) days following the receipt of notice of violation, the Board may enter its order of revocation, modification, suspension or non-renewal, and may thereby revoke, modify, suspend, or not renew the franchise, unless prior thereto the franchisee shall file with the Board his/her request for a hearing on the Board's notice of violation. If said request is timely filed, or if the Board so moves on its own, revocation, modification, suspension, or non-renewal will be stayed until the Board can, at its earliest convenience, hold a public hearing thereon. Notice of said hearing shall be given to the franchisee by mail and to all others by publication in a newspaper of general circulation in the county or the ASA at least ten (10) days prior to such hearing. The burden of proof at the hearing held hereunder shall be upon the franchisee.

- (2) In lieu of the suspension or revocation of the franchise, the Board may order that the violation be corrected and make the suspension or revocation contingent upon compliance with the order within the period of time stated therein. Notice of the Board action shall be provided by mail to the franchisee. The notice shall specify the violation, the action necessary

to correct the violation, and the date by which the action must be taken. The franchisee shall notify the Board of the corrective action taken. If the franchisee fails to take corrective action within the time required, the Board shall notify the franchisee by certified mail, return receipt requested, or by personal service that the franchise is suspended or revoked upon service of the notice.

- (3) The Board may also execute a compliance agreement with the franchisee, stating the violation(s) and the corrective action necessary to correct the violation(s). Failure of the franchisee to make the agreed upon corrections will result in possible suspension or revocation according to subsection (2) above.
- (4) Should the franchisee fail to comply with the Board's order, then the Board may take any steps authorized by law to enforce its order.

#### **SECTION 2.01.170 PREVENTING INTERRUPTION OF SERVICE**

Whenever the Board finds that the failure of service or threatened failure of service would adversely impact the health, safety or welfare of the residents of this county, the Board shall, after reasonable notice, but not less than twenty-four (24) hours notice to the franchisee, hold a public hearing. Upon appropriate findings after the hearing, the Board shall have the right to authorize another franchisee or other person to provide services.

#### **SECTION 2.01.180 APPEALS, ABATEMENT AND PENALTIES**

- (1) All the decisions of the Board under this Ordinance shall be reviewable by the Circuit Court of the State of Oregon for the County of Curry, only by way of writ of review.
- (2) The provision of emergency ambulance service by any person in violation of this Ordinance, or regulations promulgated thereunder, is a nuisance and the Court may, in addition to other remedies provided by law or by this Ordinance, institute injunctive abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such emergency ambulance service.
- (3) Any person who violates any of the provisions of this Ordinance is guilty of a violation. Failure from day to day to comply with the terms of these provisions shall be a separate offense for each day. Failure to comply with any provision shall be a separate offense for each such provision. Violations are subject to Article Ten (10) of the Curry County Code.

#### **SECTION 2.01.190 DUTIES OF AMBULANCE SERVICE FRANCHISEE**

The Franchisee:

- (1) Shall conduct its operation in compliance with all applicable state and federal laws, rules



and regulations, the terms of this Ordinance and the Curry County ASA Plan;

- (2) Shall not fail or refuse to respond to an emergency call for service when an ambulance is available for service;
- (3) Shall not respond to a medical emergency located outside its assigned ASA except:
  - (a) When a request for specific emergency ambulance service is made by the person calling for the ambulance and the call does not dictate an emergency response;
  - (b) When the franchisee assigned to the ASA is unavailable to respond and the franchisee is requested by another franchisee or 9-1-1 dispatch to respond; or
  - (c) When the response is for supplemental assistance or mutual aid.
- (4) Shall not voluntarily discontinue service to his/her assigned ASA until he/she has:
  - (a) Given sixty (60) days written notice to the administrator, or
  - (b) Obtained written approval of the Board.
- (5) Subsection 4 of this Section shall not apply to:
  - (a) Change, restriction or termination of service when required by any public agency, public body or court having jurisdiction; or
  - (b) Transfer of franchises pursuant to Section 2.01.150 of this Ordinance.
- (6) Each franchisee shall send a representative to all ASA committee meetings. Such representative shall present a report to the committee concerning franchisee activities, ambulance runs, and any other information deemed appropriate, since the last ASA committee meeting.

#### **SECTION 2.01.200 AMBULANCE SERVICE AREA (ASA) ADVISORY COMMITTEE**

- (1) There is hereby created an Ambulance Service Area (ASA) Advisory Committee.
  - (a) The committee shall consist of nine members.
    - 1. One physician with emergency medical care experience.
    - 2. One EMT or Paramedic.
    - 3. One hospital administrator.
    - 4. One registered nurse with emergency medical care experience.
    - 5. One law enforcement officer.
    - 6. One representative of a fire department.
    - 7. One representative of a dispatch center.



8. Two members of the public who are not included in categories specified by subsections a1-7.

- (b) The administrator and other Curry County staff as the Board deems appropriate shall be ex-officio members of the Committee.
- (2) Members shall be appointed by and serve at the pleasure of the Board. The Board may appoint additional persons to the Committee to serve as ex-officio members or advisors. The Board may appoint or approve designation of alternates to serve in the absence of persons appointed to the Committee.
- (3) Except for the ASA administrator and other Curry County staff, appointments shall be for staggered terms on the initial Committee for a term not to exceed three (3) years. Subsequent appointments shall be for three (3) year terms. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the Board for the balance of the unexpired term. Persons may be appointed to successive terms.
- (4) The Committee shall elect a chairperson. The Committee shall meet at such times as it deems necessary or as called by the Administrator or the Chairperson. The Administrator, chairperson, or any two members of the Committee may call a special meeting.
- (5) The Committee shall elect a secretary. The secretary shall be responsible for taking detailed minutes of committee meetings, and for distributing the minutes to the administrator, and to the other members of the committee.
- (6) Five (5) members constitute a quorum for the transaction of business. A majority vote of the total members is required to pass motions.
- (7) In addition to other duties prescribed by this Ordinance the Committee shall:
  - (a) Review and make recommendations to the administrator regarding the selection criteria for determining a franchise to provide ambulance service.
  - (b) Regularly provide information to the Board from prehospital care consumers, providers and the medical community.
  - (c) Periodically review the ASA Plan and make recommendations to the Board including, but not limited to:
    - (i) Review the standards established in the Plan and make recommendations regarding improvement of or new standards as required by OAR 333-260-0050;

- (ii) Monitor the coordination between emergency medical service resources;
  - (iii) Review dispatch procedures and compliance; and
  - (iv) Review the effectiveness and efficiency of the ASA boundaries.
- (d) Implement the quality assurance program outlined in the ASA Plan to insure compliance with the ASA Plan.
- (e) Perform such other duties as directed by the Board.
- (8) Committee members shall comply with ORS Chapter 244 regarding conflict of interest.

#### **SECTION 2.01.210 REGULATIONS OF AMBULANCE SERVICE**

Upon its own motion or upon a recommendation of the Committee, the Board may adopt ordinances, resolutions or orders regulating emergency ambulance service or implementing this Ordinance. Such regulations shall not conflict with ORS 682 and rules promulgated pursuant thereto.

#### **SECTION 2.01.220 INITIAL RESPONDER**

Nothing in these provisions prohibits a 9-1-1 agency, responsible for the dispatching of emergency services, from dispatching an initial responder to the scene of a medical emergency in addition to dispatching an emergency ambulance service provider.

#### **SECTION 2.01.230 MISCELLANEOUS MATTERS**

1. Any judgment or declaration by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other portion of this Ordinance.
2. Upon recommendation of the Committee or upon its own motion, the Board may from time to time amend the provisions of this Ordinance. Amendments shall be made only after a public hearing before the Board with such advance notice of the hearing as deemed appropriate by the Board or as generally provided by ordinance, regulation or order of the Board.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Amendment )  
to the Curry County Code )  
Regarding Article Two Division )  
One-the Curry County Ambulance )  
Service Ordinance )

ORDINANCE NO. 09-02

The Board of Curry County Commissioners ordains as follows:

**SECTION I     TITLE**

This ordinance shall be known as Ordinance 09-02, an ordinance amending the Curry County Code.

**SECTION II     AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035 and ORS 682.031.

**SECTION III     FINDINGS**

- A. On October 29, 2008, the Curry County ASA Committee recommended that Curry County grant to Cal-Ore Life Flight and to Port Orford Ambulance Association, Inc. a five year extension to their franchises which expire on June 30, 2012.
- B. A principal reason for the recommendation by the ASA Committee to extend the franchises is to allow the ambulance providers a better opportunity to secure loans.

- C. Under Section 2.01.130 of County Ordinance 04-13, only one extension for informally processing a franchise renewal is allowed, and that has already been granted to Cal-Ore Life Flight and to Port Orford Ambulance Association, Inc. The Board of Curry County Commissioners is amenable to allowing an application under the informal process for an additional franchise extension of five years, which will require an amendment to the Curry County Ambulance Service Ordinance.

#### **SECTION IV REPEALER**

The current subsection 2.01.130(4) as found in Ordinance No. 04-13 and the Curry County Code (Ordinance 96-7, as amended) is repealed.

#### **SECTION V ADOPTION**

Attachment "A", the new Section 2.01.130(4) is adopted as an amendment to Ordinance 04-13 and the Curry County Code (Ordinance 96-7, as amended).

This amendment shall be incorporated by reference into the Curry County Ambulance Service Plan which in turn contains a copy of the Curry County Ambulance Service Ordinance.

#### **SECTION VI SEVERANCE CLAUSE**

If any section, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of the Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.


DATED this 18<sup>th</sup> day of May, 2009.

BOARD OF CURRY COUNTY COMMISSIONERS

*Bill Waddle*

Bill Waddle, Chair

  
George Rhodes, Vice Chair

  
Georgia Yee Nowlin, Commissioner

**Attest:**

  
Recording Secretary

**Approved as to Form:**

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: May 4, 2009  
Second Reading: May 18, 2009  
Emergency Adoption: NO  
Effective Date: August 16, 2009

## **ATTACHMENT "A"**

### **SECTION 2.01.130(4)**

**This subsection describes the procedure for processing an informal request for a franchise renewal. This is an alternative method (Instead of subsection 3 above) for applying for a franchise renewal. A franchisee may apply on a written form provided by the County for a renewal after the end of the second year and before the end of the fourth year of a five-year franchise. Following receipt of the application, the ASA Committee may recommend a franchise renewal. The Board has the discretion to renew the current franchise agreement for an additional five-year term without invoking the RFP process so long as the present franchisee is in compliance with the criteria described in this ordinance and the franchise agreement. Under this subsection, only two renewals (one five year term at a time) may be allowed following each term of a franchise that is awarded under subsection 4 above.**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment       )  
To the Curry County Code               )  
Regarding Article Two Division       )     ORDINANCE NO. 14-02  
One- The Curry County Ambulance     )  
Service Ordinance                       )

The Board of Curry County Commissioners ordains as follows:

Section 1     TITLE

This ordinance shall be known as Ordinance 14-02, an ordinance amending the Curry County Code.

Section 2     AUTHORITY

This ordinance is enacted pursuant to ORS 203.035 and ORS 682.031.

Section 3     FINDINGS

- A. Both CAL-ORE Life Flight (CAL-ORE) and the Port Orford Community Ambulance (POCA) have requested to Liaison Commissioner Susan Brown that the Board of Curry County Commissioners modify the Curry County Ambulance Service Ordinance to allow each entity another five year extension to their respective franchises, and to allow them exclusive rights to non-emergent ambulance transports as part of the ASA franchise.
- B. On January 15, 2014, the Ambulance Service Area Advisory Committee heard the above-referenced suggestions, and moved to recommend to the Board of Curry County Commissioners that it amend the Curry County Ambulance Service Ordinance to implement the suggestions.

**Section 4     ADOPTION**

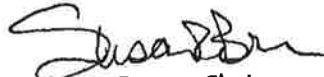
Attachment "A" is adopted as an amendment to Ordinance 04-13 as amended, and becomes part of the Curry County Code (Ordinance 96-7, as amended.)

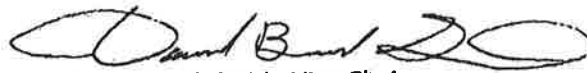
**Section 5     SEVERANCE CLAUSE**

If any section, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

DATED this 19 day of March, 2014.

**BOARD OF CURRY COUNTY COMMISSIONERS**

  
Susan Brown, Chair

  
David Brock Smith, Vice Chair

  
David G. Itzen, Commissioner

Attest:

  
Recording Secretary



Approved as to Form:

M. Gerard Herbage

M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 3/5/14  
Second Reading: 3/19/14  
Emergency Adoption: NO  
Effective Date: 6/17/14

## ATTACHMENT "A"

Section 2.01.030(4) is amended to read:

Each of these designated emergency ambulance providers are also the only authorized non-emergency ambulance service providers.

Section 2.01.080 is amended to read:

Effective July 1, 1994, no person shall provide emergency ambulance service in Curry County, Oregon unless such person is franchised in accordance with the applicable provisions of this ordinance. Effective June 17, 2014, this section is also applicable to all non-emergency ambulance service providers.

Section 2.01.130 is amended to read:

This subsection describes the procedure for processing an informal request for a franchise renewal. This is an alternative method available (instead of subsection 3 above) for applying for a franchise renewal. A franchise may apply on a written form provided by the county for a renewal by the end of the third year of an original five-year franchise. Following receipt of the application, the ASA Committee may recommend a franchise renewal. The Board has the discretion to renew the current franchise agreement for an additional five-year term without invoking the RFP process so long as the present franchise is in compliance with the criteria described in this ordinance and the franchise agreement under this section, three consecutive renewals may be allowed following each term of a franchise that is awarded under subsection 4 above.

Section 2.01.180(2) is amended to read:

The provision of emergency or non-emergency ambulance services by any person in violation of this ordinance, or regulation promulgated thereunder, is a nuisance and the Court may, in addition to other remedies provided by law or by this ordinance, institute injunctive abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such ambulance service.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of a Resolution     )  
Approving a Proposed Exception   )  
from OAR 333-255-0071(1)(b)     )  
and 333-255-0072(1)(b) for Port   )  
Orford Community Ambulance     )

**RESOLUTION**

WHEREAS, pursuant to OAR 333-255-0079, Port Orford Community Ambulance, an ambulance licensee in the State of Oregon, and the County of Curry, requested an exception to Oregon Administrative Rules 333-255-0071(1)(b) and 333-255-0072(1)(b); and

WHEREAS, pursuant to Oregon Administrative Rule 333-255-0079(2)(a), the ambulance licensee has presented its request for an exception to the county governing body, the Board of Curry County Commissioners; and

WHEREAS, the ambulance licensee believes that compliance with Oregon Administrative Rule 333-255-0071(1)(b) and 333-255-0072(1)(b) is inappropriate because of special circumstances which would render compliance unreasonable, burdensome, or impractical due to special conditions or causes, or because compliance would result in substantial curtailment of necessary ambulance service and the Board of Curry County Commissioners so concurs;

WHEREAS, the County had previously passed a resolution on August 17, 2011, granting a variance to the Port Orford Community Ambulance which is due to expire December, 2013.

**NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS  
RESOLVES AS FOLLOWS:**

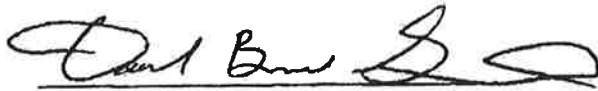
- 1) That the Curry County Board of Commissioners approves this request for the proposed exception pursuant to OAR 333-255-0079 from Oregon Administrative

Rules 333-255-0071(1)(b) and 333-255-0072(1)(b) for Port Orford Community Ambulance.

- 2) That the Curry County Board of Commissioners encourages the State of Oregon to approve the request for the proposed exception.

DATED this 5<sup>th</sup> day of December, 2013.

BOARD OF CURRY COUNTY COMMISSIONERS



David Brock Smith, Chair

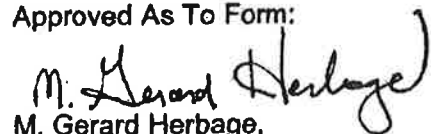


Susan Brown, Vice-Chair



David G. Itzen, Commissioner

Approved As To Form:



M. Gerard Herbage,  
Curry County Legal Counsel

## Chapter 244 — Government Ethics

### 2013 EDITION GOVERNMENT ETHICS

#### PUBLIC OFFICERS AND EMPLOYEES

##### GENERAL PROVISIONS

- 244.010 Policy
- 244.020 Definitions
- 244.025 Gift limit
- 244.040 Prohibited use of official position or office; exceptions; other prohibited actions
- 244.042 Honoraria
- 244.045 Regulation of subsequent employment of public officials; lobbying by former members of Legislative Assembly
- 244.047 Financial interest in public contract

##### REPORTING

- 244.050 Persons required to file statement of economic interest; filing deadline
- 244.055 Additional reporting requirements for State Treasury; review; confidentiality
- 244.060 Form of statement of economic interest; contents
- 244.070 Additional statement of economic interest
- 244.090 Report on association with compensated lobbyist
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#### GENERAL PROVISIONS

**244.010 Policy.** (1) The Legislative Assembly declares that service as a public official is a public trust and that, as one safeguard for that trust, the people require all public officials to comply with the applicable provisions of this chapter.

(2) The Legislative Assembly recognizes and values the work of all public officials, whether elected or appointed.

(3) The Legislative Assembly recognizes that many public officials are volunteers and serve without compensation.

(4) The Legislative Assembly recognizes that it is the policy of the state to have serving on many state and local boards and commissions state and local officials who may have potentially conflicting public responsibilities by virtue of their positions as public officials and also as members of the boards and commissions, and declares it to be the policy of the state that the holding of such offices does not constitute the holding of incompatible offices unless expressly stated in the enabling legislation.

(5) The Legislative Assembly recognizes that public officials should put loyalty to the highest ethical standards above loyalty to government, persons, political party or private enterprise.

(6) The Legislative Assembly recognizes that public officials should not make private promises that are binding upon the duties of a public official, because a public official has no private word that can be binding on public duty.

(7) The Legislative Assembly recognizes that public officials should expose corruption wherever discovered.

(8) The Legislative Assembly recognizes that public officials should uphold the principles described in this section, ever conscious of the public's trust. [1974 c.72 §§1,1a; 1987 c.566 §7; 2005 c.22 §185; 2007 c.865 §28; 2009 c.68 §1]

**244.020 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Actual conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

(3) "Business with which the person is associated" means:

(a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;

(b) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(c) Any publicly held corporation of which the person or the person's relative is a director or officer; or

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

(4) "Candidate" means an individual for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is printed on a ballot or is expected to be or has been presented, with the individual's consent, for nomination or election to public office.

(5) "Development commission" means any entity that has the authority to purchase, develop, improve or lease land or the authority to operate or direct the use of land. This authority must be more than ministerial.

(6)(a) "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

(b) "Gift" does not mean:

(A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official or candidate.

(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

(D) Informational or program material, publications or subscriptions related to the recipient's performance of official duties.

(E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(G) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

(i) On an officially sanctioned trade-promotion or fact-finding mission; or

(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

(I) Food or beverage consumed by a public official acting in an official capacity:

(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official or candidate at a continuing education event that the public official or candidate may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official or candidate at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or candidate or a relative or member of the household of the public official or candidate that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

(O) Anything of economic value offered to or solicited or received by a public official or candidate, or a relative or member of the household of the public official or candidate:

(i) As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value; and

(ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.

(P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.

(7) "Honorarium" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event.

(8) "Income" means income of any nature derived from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, honorarium, return of capital, forgiveness of indebtedness, or anything of economic value.

(9) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in:

(a) Any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official; or

(b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.

(10) "Member of the household" means any person who resides with the public official or candidate.

(11) "Planning commission" means a county planning commission created under ORS chapter 215 or a city planning commission created under ORS chapter 227.

(12) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

(13) "Public office" has the meaning given that term in ORS 260.005.

(14) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person is compensated for the services.

(15) "Relative" means:

(a) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;

(b) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the public official or candidate;

(c) Any individual for whom the public official or candidate has a legal support obligation;

(d) Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment; or

(e) Any individual from whom the candidate receives benefits arising from that individual's employment.

(16) "Statement of economic interest" means a statement as described by ORS 244.060 or 244.070.



(17) "Zoning commission" means an entity to which is delegated at least some of the discretionary authority of a planning commission or governing body relating to zoning and land use matters. [1974 c.72 §2; 1975 c.543 §1; 1977 c.588 §2; 1979 c.666 §5; 1987 c.566 §8; 1989 c.340 §2; 1991 c.73 §1; 1991 c.770 §5; 1993 c.743 §8; 1995 c.79 §85; 1997 c.249 §75; 2001 c.200 §1; 2003 c.14 §115; 2005 c.574 §1; 2007 c.865 §8; 2007 c.877 §16a; 2009 c.68 §2; 2009 c.689 §§1,2; 2013 c.42 §1]

**244.025 Gift limit.** (1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

(2) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

(4) This section does not apply to public officials subject to the *Oregon Code of Judicial Conduct*. [2007 c.877 §18; 2009 c.68 §3]

**244.030** [1974 c.72 §24; repealed by 2007 c.865 §41]

**244.040 Prohibited use of official position or office; exceptions; other prohibited actions.** (1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

(2) Subsection (1) of this section does not apply to:

(a) Any part of an official compensation package as determined by the public body that the public official serves.

(b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.

(c) Reimbursement of expenses.

(d) An unsolicited award for professional achievement.

(e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

(4) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

(5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

(6) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

(7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120. [1974 c.72 §3; 1975 c.543 §2; 1987 c.566 §9; 1989 c.340 §3; 1991 c.146 §1; 1991 c.770 §6; 1991 c.911 §4; 1993 c.743 §9; 2007 c.877 §17; 2009 c.68 §4]

**244.042 Honoraria.** (1) Except as provided in subsection (3) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.

(2) Except as provided in subsection (3) of this section, a candidate may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.

(3) This section does not prohibit:

(a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

(b) The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official or candidate. [2007 c.877 §24; 2009 c.68 §21]

**244.045 Regulation of subsequent employment of public officials; lobbying by former members of Legislative Assembly.** (1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

(a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b) Within two years after the public official ceases to hold the position:

(A) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(B) Influence or try to influence the actions of the agency; or

(C) Disclose any confidential information gained as a public official.

(2) A person who has been a Deputy Attorney General or an assistant attorney general shall not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

(3) A person who has been the State Treasurer or the Deputy State Treasurer shall not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least \$25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(4) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

(5)(a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule shall not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land.

(6) A person who has been a member of the Legislative Assembly may not receive money or any other consideration for lobbying as defined in ORS 171.725 performed during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly that begins after the date the person ceases to be a member of the Legislative Assembly. [1987 c.360 §1; 1993 c.743 §10; 1995 c.79 §86; 1997 c.750 §1; 2007 c.877 §15; 2011 c.68 §3]

**244.047 Financial interest in public contract.** (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 174.109.

(b) "Public contract" has the meaning given that term in ORS 279A.010.

(2) Except as provided in subsection (4) of this section, a person who ceases to hold a position as a public official may not have a direct beneficial financial interest in a public contract described in subsection (3) of this section for two years after the date the contract was authorized.

(3) Subsection (2) of this section applies to a public contract that was authorized by:

(a) The person acting in the capacity of a public official; or

(b) A board, commission, council, bureau, committee or other governing body of a public body of which the person was a member when the contract was authorized.

(4) Subsection (2) of this section does not apply to a person who was a member of a board, commission, council, bureau, committee or other governing body of a public body when the contract was authorized, but who did not participate in the authorization of the contract. [2007 c.877 §23a; 2009 c.689 §4a]

## REPORTING

**244.050 Persons required to file statement of economic interest; filing deadline.** (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

- (H) State Forester.
- (I) State Geologist.
- (J) Director of Human Services.
- (K) Director of the Department of Consumer and Business Services.
- (L) Director of the Department of State Lands.
- (M) State Librarian.
- (N) Administrator of Oregon Liquor Control Commission.
- (O) Superintendent of State Police.
- (P) Director of the Public Employees Retirement System.
- (Q) Director of Department of Revenue.
- (R) Director of Transportation.
- (S) Public Utility Commissioner.
- (T) Director of Veterans' Affairs.
- (U) Executive director of Oregon Government Ethics Commission.
- (V) Director of the State Department of Energy.
- (W) Director and each assistant director of the Oregon State Lottery.
- (X) Director of the Department of Corrections.
- (Y) Director of the Oregon Department of Aviation.
- (Z) Executive director of the Oregon Criminal Justice Commission.
- (AA) Director of the Oregon Business Development Department.
- (BB) Director of the Office of Emergency Management.
- (CC) Director of the Employment Department.
- (DD) Chief of staff for the Governor.
- (EE) Administrator of the Office for Oregon Health Policy and Research.
- (FF) Director of the Housing and Community Services Department.
- (GG) State Court Administrator.
- (HH) Director of the Department of Land Conservation and Development.
- (II) Board chairperson of the Land Use Board of Appeals.
- (JJ) State Marine Director.
- (KK) Executive director of the Oregon Racing Commission.
- (LL) State Parks and Recreation Director.
- (MM) Public defense services executive director.
- (NN) Chairperson of the Public Employees' Benefit Board.
- (OO) Director of the Department of Public Safety Standards and Training.
- (PP) Executive director of the Higher Education Coordinating Commission.
- (QQ) Executive director of the Oregon Watershed Enhancement Board.
- (RR) Director of the Oregon Youth Authority.
- (SS) Director of the Oregon Health Authority.
- (TT) Deputy Superintendent of Public Instruction.
- (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- (i) Every elected city or county official.
- (j) Every member of a city or county planning, zoning or development commission.
- (k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.
- (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- (m) Every member of a governing body of a metropolitan service district and the executive officer thereof.
- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
- (p) Every member of the following state boards and commissions:
  - (A) Board of Geologic and Mineral Industries.

- (B) Oregon Business Development Commission.
- (C) State Board of Education.
- (D) Environmental Quality Commission.
- (E) Fish and Wildlife Commission of the State of Oregon.
- (F) State Board of Forestry.
- (G) Oregon Government Ethics Commission.
- (H) Oregon Health Policy Board.
- (I) State Board of Higher Education.
- (J) Oregon Investment Council.
- (K) Land Conservation and Development Commission.
- (L) Oregon Liquor Control Commission.
- (M) Oregon Short Term Fund Board.
- (N) State Marine Board.
- (O) Mass transit district boards.
- (P) Energy Facility Siting Council.
- (Q) Board of Commissioners of the Port of Portland.
- (R) Employment Relations Board.
- (S) Public Employees Retirement Board.
- (T) Oregon Racing Commission.
- (U) Oregon Transportation Commission.
- (V) Water Resources Commission.
- (W) Workers' Compensation Board.
- (X) Oregon Facilities Authority.
- (Y) Oregon State Lottery Commission.
- (Z) Pacific Northwest Electric Power and Conservation Planning Council.
- (AA) Columbia River Gorge Commission.
- (BB) Oregon Health and Science University Board of Directors.
- (CC) Capitol Planning Commission.
- (DD) Higher Education Coordinating Commission.
- (EE) Oregon Growth Board.
- (FF) Early Learning Council.
- (q) The following officers of the State Treasurer:
  - (A) Deputy State Treasurer.
  - (B) Chief of staff for the office of the State Treasurer.
  - (C) Director of the Investment Division.

(r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.

(s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(t) Every member of a governing board of a public university with a governing board listed in ORS 352.054.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Within 30 days after the filing deadline for the general election, each candidate described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for public office described in subsection (1) of this section at the preceding primary election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350. [1974 c.72 §54,4a; 1975 c.543 §3; 1977 c.588 §3; 1977 c.751 §16; 1979 c.374 §5; 1979 c.666 §6; 1979 c.697 §1; 1979 c.736 §1; 1979 c.829 §9b; 1987 c.373 §26; 1987 c.414 §148; 1987 c.566 §10; 1991 c.73 §2; 1991 c.160 §1; 1991 c.163 §1; 1991 c.470 §13; 1991 c.614 §2; 1993 c.500 §10; 1993 c.743 §11; 1995 c.79 §87; 1995 c.712 §94; 1997 c.652 §16; 1997 c.833 §22; 1999 c.59 §62; 1999 c.291 §28; 2001 c.104 §77; 2003 c.214 §1; 2003 c.784 §13; 2005 c.157 §6; 2005 c.217 §23; 2005 c.777 §14; 2007 c.813 §2; 2007 c.865 §17; 2007 c.877 §13; 2009 c.68 §5; 2009 c.595 §192; 2009 c.896 §10; 2011 c.68 §4; 2011 c.637 §§81,81a; 2011 c.731 §9; 2012 c.90 §§9,9a,29; 2013 c.296 §§15,16; 2013 c.732 §6; 2013 c.747 §§31,32; 2013 c.768 §118]

**Note:** The amendments to 244.050 by sections 31 and 32, chapter 747, Oregon Laws 2013, and section 118, chapter 768, Oregon Laws 2013, become operative July 1, 2014. See section 204, chapter 747, Oregon Laws 2013, and section 171, chapter 768, Oregon Laws 2013. The text that is operative until July 1, 2014, including amendments by sections 9, 9a and 29, chapter 90, Oregon Laws 2012, sections 15 and 16, chapter 296, Oregon Laws 2013, and section 6, chapter 732, Oregon Laws 2013, is set forth for the user's convenience.

**244.050.** (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

(K) Director of the Department of Consumer and Business Services.

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

(U) Executive director of Oregon Government Ethics Commission.

(V) Director of the State Department of Energy.

- (W) Director and each assistant director of the Oregon State Lottery.
- (X) Director of the Department of Corrections.
- (Y) Director of the Oregon Department of Aviation.
- (Z) Executive director of the Oregon Criminal Justice Commission.
- (AA) Director of the Oregon Business Development Department.
- (BB) Director of the Office of Emergency Management.
- (CC) Director of the Employment Department.
- (DD) Chief of staff for the Governor.
- (EE) Administrator of the Office for Oregon Health Policy and Research.
- (FF) Director of the Housing and Community Services Department.
- (GG) State Court Administrator.
- (HH) Director of the Department of Land Conservation and Development.
- (II) Board chairperson of the Land Use Board of Appeals.
- (JJ) State Marine Director.
- (KK) Executive director of the Oregon Racing Commission.
- (LL) State Parks and Recreation Director.
- (MM) Public defense services executive director.
- (NN) Chairperson of the Public Employees' Benefit Board.
- (OO) Director of the Department of Public Safety Standards and Training.
- (PP) Chairperson of the Oregon Student Access Commission.
- (QQ) Executive director of the Oregon Watershed Enhancement Board.
- (RR) Director of the Oregon Youth Authority.
- (SS) Director of the Oregon Health Authority.
- (TT) Deputy Superintendent of Public Instruction.
- (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- (i) Every elected city or county official.
- (j) Every member of a city or county planning, zoning or development commission.
- (k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.
- (L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- (m) Every member of a governing body of a metropolitan service district and the executive officer thereof.
- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
- (p) Every member of the following state boards and commissions:
  - (A) Board of Geologic and Mineral Industries.
  - (B) Oregon Business Development Commission.
  - (C) State Board of Education.
  - (D) Environmental Quality Commission.
  - (E) Fish and Wildlife Commission of the State of Oregon.
  - (F) State Board of Forestry.
  - (G) Oregon Government Ethics Commission.
  - (H) Oregon Health Policy Board.
  - (I) State Board of Higher Education.
  - (J) Oregon Investment Council.
  - (K) Land Conservation and Development Commission.
  - (L) Oregon Liquor Control Commission.
  - (M) Oregon Short Term Fund Board.
  - (N) State Marine Board.
  - (O) Mass transit district boards.
  - (P) Energy Facility Siting Council.

- (Q) Board of Commissioners of the Port of Portland.
- (R) Employment Relations Board.
- (S) Public Employees Retirement Board.
- (T) Oregon Racing Commission.
- (U) Oregon Transportation Commission.
- (V) Water Resources Commission.
- (W) Workers' Compensation Board.
- (X) Oregon Facilities Authority.
- (Y) Oregon State Lottery Commission.
- (Z) Pacific Northwest Electric Power and Conservation Planning Council.
- (AA) Columbia River Gorge Commission.
- (BB) Oregon Health and Science University Board of Directors.
- (CC) Capitol Planning Commission.
- (DD) Higher Education Coordinating Commission.
- (EE) Oregon Growth Board.

(q) The following officers of the State Treasurer:

- (A) Deputy State Treasurer.
- (B) Chief of staff for the office of the State Treasurer.
- (C) Director of the Investment Division.

(r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.

(s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Within 30 days after the filing deadline for the general election, each candidate described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for public office described in subsection (1) of this section at the preceding primary election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

**244.055 Additional reporting requirements for State Treasury; review; confidentiality.** (1) In addition to the statement required by ORS 244.050, the State Treasurer and any person listed under ORS 244.050 (1)(q) and this subsection shall file quarterly at a time fixed by the State Treasurer a trading statement listing all stocks, bonds and other types of securities purchased or sold during the preceding quarter:

(a) Directors of the Cash Management Division and the Debt Management Division.

(b) Equities, fixed income, short term fund, real estate, equities real estate and commercial and mortgage real estate investment officers and assistant investment officers.

(c) Fixed income and short term fund investment analysts.

(2) The statement required by subsection (1) of this section shall be filed for review with the State Treasurer, the Attorney General and the Division of Audits of the office of the Secretary of State. The content of the statement is confidential.

(3) If the State Treasurer or the Deputy State Treasurer determines that a conflict of interest exists for an officer or employee, the State Treasurer shall subject the person to appropriate discipline, including dismissal or termination of the contract, or both,



pursuant to rule. If the State Treasurer has cause to believe that a violation of this chapter has occurred, the State Treasurer shall file a complaint with the Oregon Government Ethics Commission under ORS 244.260.

(4) If the State Treasurer fails to act on an apparent conflict of interest under subsection (3) of this section or if the statement of the State Treasurer or the Deputy State Treasurer appears to contain a conflict of interest, the Director of the Division of Audits shall report the failure or apparent conflict to the Attorney General, who may file a complaint with the commission. [1993 c.743 §26; 2007 c.865 §29; 2011 c.68 §5]

**244.060 Form of statement of economic interest; contents.** The statement of economic interest filed under ORS 244.050 shall be on a form prescribed by the Oregon Government Ethics Commission. The public official or candidate filing the statement shall supply the information required by this section and ORS 244.090, as follows:

(1) The names of all positions as officer of a business and business directorships held by the public official or candidate or a member of the household of the public official or candidate during the preceding calendar year, and the principal address and a brief description of each business.

(2) All names under which the public official or candidate and members of the household of the public official or candidate do business and the principal address and a brief description of each business.

(3) The names, principal addresses and brief descriptions of the sources of income received during the preceding calendar year by the public official or candidate or a member of the household of the public official or candidate that produce 10 percent or more of the total annual household income.

(4)(a) A list of all real property in which the public official or candidate or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell real property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(b) This subsection does not require the listing of the principal residence of the public official or candidate.

(5) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a convention, mission, trip or other meeting described in ORS 244.020 (6)(b)(F), including the name and address of the organization, unit of government, tribe or corporation paying the expenses, the nature of the event and the date and amount of the expense.

(6) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a mission, negotiations or economic development activities described in ORS 244.020 (6)(b)(H), including the name and address of the person paying the expenses, the nature of the event and the date and amount of the expenditure.

(7) All honoraria and other items allowed under ORS 244.042 with a value exceeding \$15 that are received by the public official, candidate or member of the household of the public official or candidate during the preceding calendar year, the provider of each honorarium or item and the date and time of the event for which the honorarium or item was received.

(8) The name, principal address and brief description of each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate, or a member of the household of the public official or candidate, during the preceding calendar year, if the source of that income is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority. [1974 c.72 §5; 1975 c.543 §4; 1987 c.566 §11; 1991 c.770 §7; 1993 c.743 §12; 2003 c.14 §116; 2007 c.877 §19; 2009 c.68 §6]

**244.070 Additional statement of economic interest.** A public official or candidate shall report the following additional economic interest for the preceding calendar year only if the source of that interest is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority:

(1) Each person to whom the public official or candidate or a member of the household of the public official or candidate owes or has owed money in excess of \$1,000, the interest rate on money owed and the date of the loan, except for debts owed to any federal or state regulated financial institution or retail contracts.

(2) The name, principal address and brief description of the nature of each business in which the public official or candidate or a member of the household of the public official or candidate has or has had a personal, beneficial interest or investment, including stocks or other securities, in excess of \$1,000, except for individual items involved in a mutual fund or a blind trust, or a time or demand deposit in a financial institution, shares in a credit union, or the cash surrender value of life insurance.

(3) Each person for whom the public official or candidate has performed services for a fee in excess of \$1,000, except for any disclosure otherwise prohibited by law or by a professional code of ethics. [1974 c.72 §6; 1975 c.543 §5; 1987 c.566 §12; 2007 c.877 §20; 2009 c.68 §7]

**244.080** [Subsection (1) enacted as 1974 c.72 §8; subsection (2) enacted as 1975 c.543 §7(1); 1977 c.588 §4; 1987 c.566 §13; repealed by 2007 c.865 §41]

**244.090 Report on association with compensated lobbyist.** (1) Each public official or candidate required to file a statement of economic interest under this chapter shall include on the statement the name of any compensated lobbyist who, during the preceding calendar year, was associated with a business with which the public official or candidate or a member of the household of the public official or candidate was also associated.

(2) Subsection (1) of this section does not apply if the only relationship between the public official or candidate and the lobbyist is that the public official or candidate and lobbyist hold stock in the same publicly traded corporation.

(3) As used in this section, "lobbyist" has the meaning given that term in ORS 171.725. [1974 c.72 §7; 1975 c.543 §6; 1987 c.566 §14; 2007 c.865 §32]

**244.100 Statements of expenses or honoraria provided to public official.** (1) Any organization, unit of government, tribe or corporation that provides a public official with expenses with an aggregate value exceeding \$50 for an event described in ORS 244.020 (6)(b)(F) shall notify the public official in writing of the amount of the expense. The organization, unit, tribe or corporation shall provide the notice to the public official within 10 days after the date the expenses are incurred.

(2) Any person that provides a public official or candidate, or a member of the household of the public official or candidate, with an honorarium or other item allowed under ORS 244.042 with a value exceeding \$15 shall notify the public official or candidate in writing of the value of the honorarium or other item. The person shall provide the notice to the public official or candidate within 10 days after the date of the event for which the honorarium or other item was received. [1975 c.543 §11; 1991 c.677 §1; 2007 c.865 §6; 2007 c.877 §21a; 2009 c.68 §8]

**244.105** [2007 c.877 §23; 2009 c.68 §9; renumbered 244.218 in 2009]

**244.110 Statements subject to penalty for false swearing.** (1) Each statement of economic interest required to be filed under ORS 244.050, 244.060, 244.070 or 244.090, or by rule under ORS 244.290, and each trading statement required to be filed under ORS 244.055 shall be signed and certified as true by the person required to file it and shall contain a written declaration that the statement is made under the penalties of false swearing.

(2) A person may not sign and certify a statement under subsection (1) of this section if the person knows that the statement contains information that is false.

(3) Violation of subsection (2) of this section is punishable as false swearing under ORS 162.075. [1974 c.72 §22; 1977 c.588 §5; 2007 c.865 §7; 2009 c.68 §10]

**244.115 Filing required for member of Congress or candidate; filing date.** (1) Each member of Congress from this state and each candidate for nomination or election to the office of United States Representative in Congress or United States Senator from this state shall file with the Oregon Government Ethics Commission a copy of the federal ethics filing required under federal law or by congressional rule.

(2) The member or candidate shall file the information required under subsection (1) of this section not later than 30 days after the filing date required under federal law or congressional rule. If the filing is not made in a timely manner, the commission shall obtain copies of the filing and indicate on the filing that the filing was not made with the commission by the member or candidate.

(3) All filings made under this section are public records available for public inspection. [1991 c.160 §7; 2007 c.865 §33]

## CONFLICTS OF INTEREST

**244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards.** (1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so. [1974 c.72 §10; 1975 c.543 §7; 1987 c.566 §15; 1993 c.743 §15]

**244.130 Recording of notice of conflict; effect of failure to disclose conflict.** (1) When a public official gives notice of an actual or potential conflict of interest, the public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of time.

(2) A decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest. [1974 c.72 §11; 1975 c.543 §8; 1993 c.743 §16; 2007 c.865 §9]

**244.135 Method of handling conflicts by planning commission members.** (1) A member of a city or county planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest:

(a) The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member;

(b) Any business in which the member is then serving or has served within the previous two years; or

(c) Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

(2) Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken. [Formerly 215.035 and 227.035]

## APPLICATION OF CHAPTER

**244.160 Filing of statement of economic interest by public official of political subdivision other than city or county.** (1) Any political subdivision in this state, other than a city or county, by resolution may require any public official of the subdivision to file a verified statement of economic interest with the Oregon Government Ethics Commission.

(2) The political subdivision shall file a copy of the resolution with the commission. [1974 c.72 §9; 2007 c.865 §34]

**244.162 Information provided to persons required to file statement of economic interest.** (1) A person designated by a public body as defined in ORS 174.109 shall provide information explaining the requirements of ORS 244.050, 244.060, 244.070 and 244.090 to each newly elected or appointed public official serving the public body who is required to file a verified statement of economic interest under ORS 244.050. The information must be received by the public official either at the first meeting attended by the public official or before the public official takes the oath of office, whichever occurs first.

(2) At the time of fulfilling duties under subsection (1) of this section, the person designated by the public body shall provide to each newly elected or appointed public official serving the public body a copy of the statements and explanation provided to the public body under subsection (3) of this section.

(3) The Oregon Government Ethics Commission shall provide copies of the statements described in ORS 244.060, 244.070 and 244.090 and an explanation of the requirements of the law relating to the statements to each public body that is served by a public official who is required to file a statement described in ORS 244.060, 244.070 or 244.090.

(4) A newly elected or appointed public official serving a public body who is not informed of the filing requirements under ORS 244.050, 244.060, 244.070 and 244.090 and provided with a copy of the statements and explanation as required under this section before attending the first meeting or taking the oath of office may resign that office within 90 days thereafter or before the next date specified in ORS 244.050 for the filing of a statement, whichever is later, without filing a verified statement of economic interest and without incurring a sanction or penalty that might otherwise be imposed for not filing. [Formerly 244.195]

**244.165 Rules or policies of state agency or association of public bodies; commission approval; effect.** (1) For the purpose of protecting against violations of the provisions of this chapter, a state agency, as defined in ORS 183.750, or a statewide association of public bodies, as defined in ORS 174.109, may adopt rules or policies interpreting the provisions of this chapter. The rules or policies must be consistent with the provisions of this chapter. A state agency or a statewide association of public bodies may submit rules or policies adopted under this subsection to the Oregon Government Ethics Commission for review.

(2) Upon receiving rules or policies submitted under subsection (1) of this section, the commission shall review the rules and policies to determine whether the rules and policies are consistent with the provisions of this chapter. The commission, by a vote of a majority of the members of the commission, shall approve or reject the rules or policies. The commission shall notify the state agency or statewide association of public bodies in writing of the commission's approval or rejection. A written notice of rejection shall explain the reasons for the rejection.

(3) Unless the applicable rule or policy is amended or repealed by the state agency or the statewide association of public bodies, the commission may not impose a penalty under ORS 244.350 or 244.360 on a public official for any good faith action the official takes in compliance with a rule or policy that was adopted by the state agency that the official serves, or by a statewide association of which the public body that the official serves is a member, and approved by the commission under subsection (2) of this section. [2007 c.865 §5; 2007 c.877 §39b]

**244.170** [1975 c.216 §1a; repealed by 2003 c.14 §117]

## NEPOTISM

**244.175 Definitions for ORS 244.177 and 244.179.** As used in ORS 244.177 and 244.179:

(1) "Governing body" has the meaning given that term in ORS 192.610.

(2) "Public body" has the meaning given that term in ORS 174.109. [2007 c.865 §26b; 2009 c.689 §3; 2013 c.42 §2]

**244.177 Employment of relative or member of household; exceptions.** (1) Except as provided in subsections (2) to (4) of this section:

(a) A public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

(b) A public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the discharge, firing or demotion of a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control. As used in this paragraph, "participate" does not include serving as a reference, providing a recommendation or performing other ministerial acts that are part of the normal job functions of the public official.

(2) A member of the Legislative Assembly may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position as an unpaid volunteer with the public body that the public official serves or over which the public official exercises jurisdiction or control.

(b) Paragraph (a) of this subsection does not apply to the appointment, employment, promotion, discharge, firing or demotion of a relative or member of the household to a position as an unpaid member of a governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) This section does not prohibit a public body from appointing, employing, promoting, discharging, firing or demoting a person who is a relative or member of the household of a public official serving the public body. [2007 c.865 §26c]

**244.179 Supervision of relative or member of household; exceptions.** (1) Notwithstanding ORS 659A.309 and except as provided in subsections (2) to (4) of this section, a public official acting in an official capacity may not directly supervise a person who is a relative or member of the household.

(2) A member of the Legislative Assembly may directly supervise a person who:

(a) Is a relative or member of the household; and

(b) Serves as a public official in a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official acting in an official capacity may directly supervise a person who is a relative or member of the household if the person serves as an unpaid volunteer.

(b) Paragraph (a) of this subsection does not apply to service by a person in a position as an unpaid member of a governing body that a public official of whom the person is a relative or member of the household serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household serving as an unpaid volunteer described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) A public body may adopt policies specifying when a public official acting in an official capacity may directly supervise a person who is a relative or member of the household. [2007 c.865 §26d]

**244.180** [1975 c.216 §2; 1987 c.566 §16; 2005 c.22 §186; repealed by 2007 c.865 §41]

**244.190** [1975 c.216 §3; 1987 c.566 §17; 2005 c.22 §187; repealed by 2007 c.865 §41]

**244.195** [1979 c.332 §2; 2007 c.865 §10; renumbered 244.162 in 2007]

**244.200** [1975 c.216 §5; repealed by 1983 c.350 §62 (244.201 enacted in lieu of 244.200 and 244.210)]

**244.201** [1983 c.350 §63 (enacted in lieu of 244.200 and 244.210); 1995 c.712 §95; repealed by 2007 c.865 §41]

## LEGAL EXPENSE TRUST FUND

**244.205 Legal expense trust fund; establishment; eligible legal expenses.** (1) Subject to the authorization of the Oregon Government Ethics Commission as described in ORS 244.209, a public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

(2) Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. The legal expenses must be incurred in connection with:

- (a) The issuance of a court's stalking protective order under ORS 30.866 or 163.738;
- (b) The issuance of a citation under ORS 163.735;
- (c) A criminal prosecution under ORS 163.732;
- (d) A civil action under ORS 30.866; or
- (e) Defending the public official in a proceeding or investigation brought or maintained by a public body as defined in ORS 174.109.

(3) Except as provided in subsection (2) of this section, a public official may not use proceeds from the trust fund for any personal use.

(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

(5) The provisions of ORS chapter 130 do not apply to a trust fund established under ORS 244.205 to 244.221. [2007 c.877 §29; 2009 c.505 §1]

**244.207 Use of fund proceeds.** (1) The proceeds of a legal expense trust fund may be used to:

- (a) Defray legal expenses described in ORS 244.205;
- (b) Defray costs reasonably incurred in administering the trust fund, including but not limited to costs incident to the solicitation of funds; and

(c) Discharge any tax liabilities incurred as a result of the creation, operation or administration of the trust fund.

(2) The proceeds of a trust fund may also be used to defray or discharge expenses, costs or liabilities incurred before the fund was established if the expenses, costs or liabilities are related to the legal proceeding for which the fund was established. [2007 c.877 §30]

**244.209 Application to establish fund; commission review and authorization.** (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

- (a) A copy of an executed trust agreement described in subsection (2) of this section;
- (b) A sworn affidavit described in subsection (3) of this section signed by the public official; and
- (c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

- (a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and
- (b) A designation of a trustee under ORS 244.211.

(3) The affidavit of the public official must state:

- (a) The nature of the legal proceeding that requires establishment of the trust fund;
- (b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and
- (c) That the public official is responsible for the proper administration of the trust fund.

(4) The affidavit of the trustee must state that the trustee:

- (a) Has read and understands ORS 244.205 to 244.221; and
- (b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221. [2007 c.877 §31; 2009 c.505 §3]

**244.210** [1975 c.216 §4; repealed by 1983 c.350 §62 (244.201 enacted in lieu of 244.200 and 244.210)]

**244.211 Duties of trustee.** (1) The trustee of a legal expense trust fund is responsible for:

- (a) The receipt and deposit of contributions to the trust fund;
- (b) The authorization of expenditures and disbursements from the trust fund;
- (c) The filing of quarterly statements required under ORS 244.217; and
- (d) The performance of other tasks incident to the administration of the trust fund.

(2) The public official who establishes the trust fund may either serve as the public official's own trustee or may appoint and certify to the Oregon Government Ethics Commission the name and address of a trustee. Any default or violation by the trustee shall be conclusively considered a default or violation by the public official. [2007 c.877 §32; 2009 c.505 §2]

**244.213 Contributions to fund.** (1) Except as provided in subsection (3) of this section, any person may contribute to a legal expense trust fund established under ORS 244.205 to 244.221.

(2) A person may make contributions of moneys to a legal expense trust fund in unlimited amounts. Pro bono legal assistance and other in-kind assistance may also be provided without limit and is considered a contribution subject to the reporting requirements of ORS 244.217.

(3) A political committee as defined in ORS 260.005 that is a principal campaign committee may not contribute to a legal expense trust fund. [2007 c.877 §33]

**244.215 Fund account.** (1) A trustee of a legal expense trust fund shall establish a single exclusive account in a financial institution, as defined in ORS 706.008. The financial institution must be located in this state and must ordinarily conduct business with the general public in this state.

(2) The trustee shall maintain the account in the name of the trust fund.

(3) All expenditures made by the trustee shall be drawn from the account and:

- (a) Issued on a check signed by the trustee; or
- (b) Paid using a debit card or other form of electronic transaction.

(4) A contribution received by a trustee shall be deposited into the account not later than seven calendar days after the date the contribution is received. This subsection does not apply to in-kind contributions received.

(5) This section does not prohibit the transfer of any amount deposited in the account into a certificate of deposit, stock fund or other investment instrument.

(6) The account may not include any public or private moneys or any moneys of any other person, other than contributions received by the trustee.

(7) A trustee shall retain a copy of each financial institution account statement from the account described in this section for not less than two years after the date the statement is issued by the financial institution. [2007 c.877 §34]

**244.217 Statement of contributions received and expenditures made.** (1) The trustee of a legal expense trust fund shall, according to the schedule described in subsection (3) of this section, file with the Oregon Government Ethics Commission a statement for the applicable reporting period showing contributions received by the trustee and expenditures made from the trust fund account established under ORS 244.215.

(2) Each statement shall list:

- (a) The name and address of each person who contributed an aggregate amount of more than \$75, and the total amount contributed by that person;

(b) The total amount of contributions not listed under paragraph (a) of this subsection as a single item, but shall specify how those contributions were obtained;

(c) The amount and purpose of each expenditure and the name and address of each payee; and

(d) The name and address of any person contributing pro bono legal assistance and the fair market value of the assistance provided by the person.

(3) Statements required to be filed with the commission under this section shall be filed according to the schedule described in ORS 244.218.

(4) If no contributions are received and no expenditures made during the reporting period, the trustee shall file a statement indicating that no contributions were deposited and no expenditures were made.

(5) The trustee may amend a statement filed under this section without penalty if the amendment is filed with the commission not later than 30 days after the deadline for filing the statement. [2007 c.877 §35]

**244.218 Quarterly filing of statements.** Statements required to be filed with the Oregon Government Ethics Commission under ORS 244.217 shall be filed in each calendar year:

(1) Not later than April 15, for the accounting period beginning January 1 and ending March 31;

(2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

(3) Not later than October 15, for the accounting period beginning July 1 and ending September 30; and

(4) Not later than January 15 of the following calendar year, for the accounting period beginning October 1 and ending December 31. [Formerly 244.105]

**Note:** 244.218 was added to and made a part of ORS chapter 244 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**244.219 Termination of fund.** (1) A legal expense trust fund established under ORS 244.205 to 244.221 may be terminated by:

(a) The public official who established the trust fund;

(b) Subject to subsection (2) of this section, the terms of the trust agreement; or

(c) The Oregon Government Ethics Commission following a determination by the commission that a violation of any provision of this chapter has occurred in connection with the trust fund.

(2) A trust agreement may provide that a legal expense trust fund is terminated not later than six months following the completion of the legal proceeding for which the fund was established. Upon application of the public official who established the trust fund, the commission may extend the existence of the trust fund to a specified date if the commission determines that the public official has incurred legal expenses that exceed the balance remaining in the fund. If the commission extends the existence of the trust fund, the trust fund terminates on the date the extension expires.

(3) Following termination of a legal expense trust fund, the trustee may not accept contributions to or make expenditures from the fund.

(4) Not later than 30 days after a trust fund is terminated, the trustee of the fund shall file with the commission a final report listing the totals of all contributions made to the fund and all expenditures made from the fund. [2007 c.877 §36]

**244.221 Disposition of moneys in terminated fund; distribution of award of attorney fees, costs or money judgment.** (1) Not later than 30 days after a legal expense trust fund is terminated, the trustee of the fund shall return any moneys remaining in the fund to contributors to the fund on a pro rata basis.

(2) If the legal proceeding for which the trust fund was established results in an award of attorney fees, costs or any other money judgment award to or in favor of the public official, amounts awarded shall be distributed in the following order:

(a) To pay outstanding legal expenses;

(b) To contributors to the trust fund on a pro rata basis; and

(c) To the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. [2007 c.877 §37]



## COMMISSION

**244.250 Oregon Government Ethics Commission; appointment; term; quorum; compensation; legal counsel.** (1) The Oregon Government Ethics Commission is established, consisting of seven members. The appointment of a member of the commission is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Members shall be appointed in the following manner:

(a) The Governor shall appoint four members from among persons recommended, one each by the leadership of the Democratic and Republican parties in each house of the Legislative Assembly. If a person recommended by the leadership of the Democratic or Republican party is not approved by the Governor, the leadership shall recommend another person.

(b) The Governor shall appoint three members without leadership recommendation. No more than two members appointed under this paragraph may be members of the same major political party.

(2) A person who holds any public office listed in ORS 244.050 (1) except as a member of the commission may not be appointed to the commission. No more than four members may be members of the same political party.

(3) The term of office of a member is four years. A member is not eligible to be appointed to more than one full term but may serve out an unexpired term. Vacancies shall be filled by the appointing authority for the unexpired term.

(4) The commission shall elect a chairperson and vice chairperson for such terms and duties as the commission may require.

(5) A quorum consists of four members but a final decision may not be made without an affirmative vote of a majority of the members appointed to the commission.

(6) Members shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) The commission may retain or appoint qualified legal counsel who must be a member of the Oregon State Bar and who is responsible to the commission. The appointment of legal counsel under this subsection may be made only when the commission finds it is inappropriate and contrary to the public interest for the office of the Attorney General to represent concurrently more than one public official or agency in any matter before the commission because the representation:

(a) Would create or tend to create a conflict of interest; and

(b) Is not subject to ORS 180.230 or 180.235.

(8) The Attorney General may not represent before the commission any state public official who is the subject of any complaint or action of the commission at the commission's own instigation. [1974 c.72 §12; 1977 c.588 §6; 1987 c.566 §18; 1991 c.770 §3; 1993 c.743 §17; 2007 c.865 §1]

**244.255 Commission funding; rules.** (1) The Oregon Government Ethics Commission shall estimate in advance the expenses that it will incur during a biennium in carrying out the provisions of ORS 171.725 to 171.785 and 171.992 and this chapter. The commission shall also determine what percentage of the expenses should be borne by the following two groups of public bodies:

(a) Public bodies in state government; and

(b) Local governments, local service districts and special government bodies that are subject to the Municipal Audit Law.

(2) The commission shall charge each public body for the public body's share of the expenses described in subsection (1) of this section for the biennium. The amount to be charged each public body shall be determined as follows:

(a) The commission shall determine the rate to be charged public bodies in state government. The same rate shall be applied to each public body described in this paragraph. To determine the amount of the charge for each public body, the commission shall multiply the rate determined under this paragraph by the number of public officials serving the public body.

(b) The commission shall set the charge for local governments, local service districts and special government bodies that are subject to the Municipal Audit Law so that each local government, local service district or special government body described in this paragraph pays an amount of the total expenses for the group that bears the same proportion to the total expenses that the amount charged to the local government, local service district or special government body for the municipal audit fee under ORS 297.485 bears to the total amount assessed for the municipal audit fee.

(3) Each public body shall pay to the credit of the commission the charge described in this section as an administrative expense from funds or appropriations available to the public body in the same manner as other claims against the public body are paid.

(4) All moneys received by the commission under this section shall be credited to the Oregon Government Ethics Commission Account established under ORS 244.345.

(5) The commission shall adopt rules specifying the methods for calculating and collecting the rates and charges described in this section.

(6) As used in this section:

- (a) "Local government" and "local service district" have the meanings given those terms in ORS 174.116.
- (b) "Public body" has the meaning given that term in ORS 174.109.
- (c) "Public official," notwithstanding ORS 244.020 (14), means any person who, on the date the commission charges the public body under this section, is serving the public body as an officer or employee.
- (d) "Special government body" has the meaning given that term in ORS 174.117.
- (e) "State government" has the meaning given that term in ORS 174.111. [2007 c.877 §2; 2009 c.68 §11]

**244.260 Complaint and adjudicatory process; confidentiality; Preliminary Review Phase; Investigatory Phase; possible actions by order; report of findings; contested case procedure; limitation on commission action.** (1)(a) Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of this chapter or of any rule adopted by the commission under this chapter. The complaint shall state the person's reason for believing that a violation occurred and include any evidence relating to the alleged violation.

(b) If at any time the commission has reason to believe that there has been a violation of a provision of this chapter or of a rule adopted by the commission under this chapter, the commission may proceed under this section on its own motion as if the commission had received a complaint.

(2)(a) Not later than two business days after receiving a complaint under this section, the commission shall notify the person who is the subject of the complaint.

(b) Before approving a motion to proceed under this section without a complaint, the commission shall provide notice to the person believed to have committed the violation of the time and place of the meeting at which the motion will be discussed. If the commission decides to proceed on its own motion, the commission shall give notice to the person not later than two business days after the motion is approved.

(c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of this subsection by mail and by telephone if the person can be reached by telephone. The notice must describe the nature of the alleged violation. The mailed notice must include copies of all materials submitted with a complaint. If the commission will consider a motion to proceed without a complaint, the notice must provide copies of all materials that the commission will consider at the hearing on the motion.

(d) Information that the commission considers before approving a motion to proceed on its own motion under this section and any correspondence regarding the motion or potential violation is confidential. Commission members and staff may not make any public comment or publicly disclose any materials relating to the motion pending the commission's approval to proceed. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(3) After receiving a complaint or deciding to proceed on its own motion, the commission shall undertake action in the Preliminary Review Phase to determine whether there is cause to undertake an investigation. If the person who is the subject of the action is a member of the Legislative Assembly, the commission shall determine whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(4)(a) The Preliminary Review Phase begins on the date the complaint is filed or the date the commission decides to proceed on its own motion and ends on the date the commission determines there is cause to undertake an investigation, dismisses the complaint or rescinds its own motion. The Preliminary Review Phase may not exceed 135 days unless:

(A) A delay is stipulated to by both the person who is the subject of action under this section and the commission with the commission reserving a portion of the delay period to complete its actions; or

(B) A complaint is filed under this section with respect to a person who is a candidate for elective public office, the complaint is filed within 61 days before the date of an election at which the person is a candidate for nomination or election and a delay is requested in writing by the candidate. If the candidate makes a request under this subparagraph, the Preliminary Review Phase must be completed not later than 135 days after the date of the first meeting of the commission that is held after the date of the election.

(b) During the Preliminary Review Phase, the commission may seek, solicit or otherwise obtain any books, papers, records, memoranda or other additional information, administer oaths and take depositions necessary to determine whether there is cause to undertake an investigation or whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(c) The Preliminary Review Phase is confidential. Commission members and staff may acknowledge receipt of a complaint but may not make any public comment or publicly disclose any materials relating to a case during the Preliminary Review Phase. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person

aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(d) At the conclusion of the Preliminary Review Phase, the commission shall conduct its deliberations in executive session. All case related materials and proceedings shall be open to the public after the commission makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion. Prior to the end of the Preliminary Review Phase, the executive director of the commission shall prepare a statement of the facts determined during the phase, including appropriate legal citations and relevant authorities. Before presentation to the commission, the executive director's statement shall be reviewed by legal counsel to the commission.

(e) The time limit imposed in this subsection and the commission's inquiry are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its inquiry.

(5)(a) If the commission determines that there is not cause to undertake an investigation or that the alleged violation of this chapter involves conduct protected by section 9, Article IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its motion and formally enter the dismissal or rescission in its records. The commission shall notify the person who is the subject of action under this section of the dismissal or rescission. After dismissal or rescission, the commission may not take further action involving the person unless a new and different complaint is filed or action on the commission's own motion is undertaken based on different conduct.

(b) If the commission makes a finding of cause to undertake an investigation, the commission shall undertake action in the Investigatory Phase. The commission shall notify the person who is the subject of the investigation, identify the issues to be examined and confine the investigation to those issues. If the commission finds reason to expand the investigation, the commission shall move to do so, record in its minutes the issues to be examined before expanding the scope of its investigation and formally notify the complainant, if any, and the person who is the subject of the investigation of the expansion and the scope of the investigation.

(6)(a) The Investigatory Phase begins on the date the commission makes a finding of cause to undertake an investigation and ends on the date the commission dismisses the complaint, rescinds its own motion, issues a settlement order, moves to commence a contested case proceeding or takes other action justified by the findings. The Investigatory Phase may not exceed 180 days unless a delay is stipulated to by both the person who is the subject of action under this section and the commission with the commission reserving a portion of the delay period to complete its actions.

(b) During the Investigatory Phase, the commission may seek any additional information, administer oaths, take depositions and issue subpoenas to compel attendance of witnesses and the production of books, papers, records, memoranda or other information necessary to complete the investigation. If any person fails to comply with any subpoena issued under this paragraph or refuses to testify on any matters on which the person may be lawfully interrogated, the commission shall follow the procedure described in ORS 183.440 to compel compliance.

(c) The time limit imposed in this subsection and the commission's investigation are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its investigation.

(d) At the end of the Investigatory Phase, the commission shall take action by order. The action may include:

(A) Dismissal, with or without comment;

(B) Continuation of the investigation for a period not to exceed 30 days for the purpose of additional fact-finding;

(C) Moving to a contested case proceeding;

(D) Entering into a negotiated settlement; or

(E) Taking other appropriate action if justified by the findings.

(e) The commission may move to a contested case proceeding if the commission determines that the information presented to the commission is sufficient to make a preliminary finding of a violation of any provision of this chapter or of any rule adopted by the commission under this chapter.

(7) A person conducting any inquiry or investigation under this section shall:

(a) Conduct the inquiry or investigation in an impartial and objective manner; and

(b) Provide to the commission all favorable and unfavorable information the person collects.

(8) The commission shall report the findings of any inquiry or investigation in an impartial manner. The commission shall report both favorable and unfavorable findings and shall make the findings available to:

- (a) The person who is the subject of the inquiry or investigation;
- (b) The appointing authority, if any;
- (c) The Attorney General, if the findings relate to a state public official;
- (d) The appropriate district attorney, if the findings relate to a local public official; and
- (e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge.

(9) Hearings conducted under this chapter must be held before an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. The procedure shall be that for a contested case under ORS chapter 183.

(10) The Oregon Government Ethics Commission may not inquire into or investigate any conduct that occurred more than four years before a complaint is filed or a motion is approved under subsection (1) of this section.

(11) This section does not prevent the commission and the person alleged to have violated any provision of this chapter or any rule adopted by the commission under this chapter from stipulating to a finding of fact concerning the violation and consenting to an appropriate penalty. The commission shall enter an order based on the stipulation and consent.

(12) At any time during proceedings conducted under this section, the commission may enter into a negotiated settlement with the person who is the subject of action under this section.

(13) As used in this section:

(a) "Cause" means that there is a substantial, objective basis for believing that an offense or violation may have been committed and the person who is the subject of an inquiry may have committed the offense or violation.

(b) "Pending" means that a prosecuting attorney is either actively investigating the factual basis of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of negotiating a plea. [1974 c.72 §13; 1989 c.807 §1; 1991 c.272 §1; 1991 c.770 §1a; 1993 c.743 §18; 1999 c.849 §551,52; 1999 c.850 §1; 2003 c.75 §30; 2007 c.865 §23; 2009 c.163 §2]

**244.270 Findings as grounds for removal; notice to public bodies.** (1) If the Oregon Government Ethics Commission finds that an appointed public official has violated any provision of this chapter or any rule adopted under this chapter, the finding is prima facie evidence of unfitness where removal is authorized for cause either by law or pursuant to section 6, Article VII (Amended) of the Oregon Constitution.

(2) If the commission finds that a public official has violated any provision of this chapter or any rule adopted under this chapter, the commission shall notify the public body, as defined in ORS 174.109, that the public official serves. The notice shall describe the violation and any action taken by the commission. The commission shall provide the notice not later than 10 business days after the date the commission takes final action against the public official. [1974 c.72 §14; 1977 c.588 §7; 2007 c.865 §11]

**244.280 Commission advisory opinions; effect of reliance on opinion.** (1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

(2) Not later than 60 days after the date the commission receives the written request for a commission advisory opinion, the commission shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The commission may ask the person requesting the advisory opinion to supply additional information the commission considers necessary to render the opinion. The commission, by vote of a majority of the members of the commission, may extend the 60-day deadline by one period not to exceed 60 days.

(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission may not impose a penalty under ORS 244.350 or 244.360 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission may impose a penalty under ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission determines that the person omitted or misstated material facts in making the request. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

**244.282 Executive director and staff advisory opinions; effect of reliance on opinion.** (1) Upon the written request of any person, the executive director of the Oregon Government Ethics Commission may issue and publish written staff advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance.

(2) Not later than 30 days after the date the executive director receives the written request for a staff advisory opinion, the executive director shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The executive director may ask the person requesting the advisory opinion to supply additional information the executive director considers necessary to render the opinion. The executive director may extend the 30-day deadline by one period not to exceed 30 days. The executive director shall clearly designate an opinion issued under this section as a staff advisory opinion.

(3)(a) Except as provided in paragraph (b) of this subsection, unless the staff advisory opinion is revised or revoked, the commission may only issue a written letter of reprimand, explanation or education for any good faith action a person takes in reliance on a staff advisory opinion issued under this section.

(b) The commission may impose, for an action that is subject to a penalty and that is taken in reliance on a staff advisory opinion issued under this section, a penalty under ORS 244.350 or 244.360 on the person who requested the opinion if the commission determines that the person omitted or misstated material facts in making the request.

(4) At each regular meeting of the commission, the executive director shall report to the commission on all staff advisory opinions issued since the last regular meeting of the commission. The commission on its own motion may issue a commission advisory opinion under ORS 244.280 on the same facts or circumstances that form the basis for any staff advisory opinion. [2007 c.865 §14; 2007 c.877 §39c; 2009 c.68 §12]

**244.284 Staff advice; effect of reliance on advice.** (1) Upon the written or oral request of any person, the executive director or other staff of the Oregon Government Ethics Commission may issue written or oral staff advice on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. Any written advice not designated as a staff advisory opinion under ORS 244.282 is considered staff advice issued under this section.

(2) Before imposing any penalty under ORS 244.350 or 244.360, the commission may consider whether the action that may be subject to penalty was taken in reliance on staff advice issued under this section. [2007 c.865 §15; 2007 c.877 §39d]

**244.290 General duties of commission; rules.** (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

(e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

(f) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020;

(g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

(h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of "potential conflict of interest" under ORS 244.020;

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

(d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.

(4) Not less frequently than once each calendar year, the commission shall:

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates or that are addressed by the commission or by commission staff on a recurring basis; and

(b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.217 may be filed, without a fee, with the commission in an electronic format. The commission shall accept statements filed under ORS 244.050 and 244.217 in a format that is not electronic.

(6) The commission shall make statements filed under ORS 244.050 and 244.217, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet. [1974 c.72 §17; 1987 c.566 §20; 1993 c.743 §23; 2007 c.865 §3; 2007 c.877 §9c; 2009 c.68 §13]

**Note:** The amendments to 244.290 by section 9d, chapter 877, Oregon Laws 2007, become operative January 1, 2016. See section 9e, chapter 877, Oregon Laws 2007, as amended by section 25, chapter 68, Oregon Laws 2009, section 79, chapter 630, Oregon Laws 2011, and section 5, chapter 722, Oregon Laws 2013. The text that is operative on and after January 1, 2016, including amendments by section 14, chapter 68, Oregon Laws 2009, is set forth for the user's convenience.

**244.290.** (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

- (e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;
  - (f) Describe the application of provisions exempting items from the definition of "gift" in ORS 244.020;
  - (g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and
  - (h) Set criteria for determining the amount of civil penalties that the commission may impose.
- (3) The commission may adopt rules that:
- (a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of "potential conflict of interest" under ORS 244.020;
  - (b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate;
  - (c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or
  - (d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.
- (4) Not less frequently than once each calendar year, the commission shall:
- (a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates or that are addressed by the commission or by commission staff on a recurring basis; and
  - (b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.
- (5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.217 must be filed, without a fee, with the commission in an electronic format.
- (6) The commission shall make statements filed under ORS 244.050 and 244.217 available in a searchable format for review by the public using the Internet.

**244.300 Status of records.** (1) Records of the Oregon Government Ethics Commission are public records of this state.  
 (2) All information submitted to the commission in any statement required under this chapter is a public record. [1974 c.72 §18; 1977 c.588 §9; 2007 c.865 §35]

**244.310 Executive director.** (1) The Oregon Government Ethics Commission shall appoint an executive director to serve at the pleasure of the commission.  
 (2) The executive director is responsible for the administrative operations of the commission and shall perform such other duties as may be designated or assigned to the executive director from time to time by the commission.  
 (3) The commission may not delegate the power to adopt rules or issue commission advisory opinions to the executive director. The executive director may issue staff advisory opinions as provided in ORS 244.282. [1974 c.72 §16; 2007 c.865 §16]

**244.320 Manual on government ethics; effect of reliance on manual; revision.** (1) The Oregon Government Ethics Commission shall prepare and publish a manual on government ethics that explains in terms understandable to legislative and public officials and the public the requirements of this chapter and the commission's interpretation of those requirements whether stated by rule or in an opinion. The manual shall set forth recommended uniform reporting methods for use by persons filing statements under this chapter. The manual, and any updates to the manual made under subsection (3) of this section, must be approved by a vote of a majority of the members of the commission.

(2) In preparing the manual, the commission shall consider the format of the manual prepared by the Attorney General to guide public officials and the public in the requirements of ORS chapter 192.

(3) The commission shall update the manual as often as the commission believes necessary but no less frequently than once every four years.

(4) The commission shall make copies of the manual available in an electronic format on the Internet.

(5) The commission may not impose a penalty under ORS 244.350 or 244.360 on a public official or candidate for any good faith action the public official or candidate takes in reliance on the manual, or any update to the manual, approved by the commission under this section. [1991 c.522 §2; 2007 c.865 §36; 2009 c.68 §15]

**244.330 Distribution of manual on government ethics.** The Oregon Government Ethics Commission shall distribute, insofar as is practicable, copies of its ethics manual to every public official. The commission shall seek the assistance of professional associations that represent public officials in its efforts to comply with this section. [1993 c.714 §4]

**Note:** 244.330 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 244 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**244.340 Continuing education program.** The Oregon Government Ethics Commission shall prepare and present a program of continuing education for public officials. The commission may use its own staff or may contract for the preparation or presentation of the program of continuing education. [1993 c.714 §5; 2007 c.865 §37]

**244.345 Oregon Government Ethics Commission Account.** The Oregon Government Ethics Commission Account is established separate and distinct from the General Fund. All moneys received by the Oregon Government Ethics Commission, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the commission to carry out the duties, functions and powers of the commission. [2001 c.716 §11; 2007 c.865 §40a]

#### ENFORCEMENT

**244.350 Civil penalties; letter of reprimand or explanation.** (1) The Oregon Government Ethics Commission may impose civil penalties not to exceed:

(a) Except as provided in paragraph (b) of this subsection, \$5,000 for violation of any provision of this chapter or any resolution adopted under ORS 244.160.

(b) \$25,000 for violation of ORS 244.045.

(2)(a) Except as provided in paragraph (b) of this subsection, the commission may impose civil penalties not to exceed \$1,000 for violation of any provision of ORS 192.660.

(b) A civil penalty may not be imposed under this subsection if the violation occurred as a result of the governing body of the public body acting upon the advice of the public body's counsel.

(3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708. A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that may be imposed under subsection (1) of this section.

(4)(a) The commission may impose civil penalties on a person who fails to file the statement required under ORS 244.050 or 244.217. In enforcing this subsection, the commission is not required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or 244.217 has occurred.

(b) Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 244.050 or 244.217.

(c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

(5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education. [1974 c.72 §19; 1977 c.588 §10; 1987 c.360 §3; 1993 c.743 §29; 1993 c.747 §2; 1997 c.750 §2; 2005 c.179 §3; 2007 c.865 §18; 2007 c.877 §11a; 2009 c.68 §16; 2009 c.689 §4]

**244.355 Failure to file trading statement.** A person who intentionally fails to file a complete and accurate statement under ORS 244.055 commits a Class C felony. [2007 c.865 §31]

**244.360 Additional civil penalty equal to twice amount of financial benefit.** In addition to civil penalties imposed under ORS 244.350, if a public official has financially benefited the public official or any other person by violating any provision of this chapter, the Oregon Government Ethics Commission may impose upon the public official a civil penalty in an amount equal to twice the amount the public official or other person realized as a result of the violation. [1974 c.72 §20; 1987 c.566 §21; 2007 c.865 §19; 2007 c.877 §12a]



**244.370 Civil penalty procedure; disposition of penalties.** (1) Any civil penalty under ORS 244.350 or 244.360 shall be imposed in the manner prescribed by ORS 183.745.

(2) All penalties recovered under ORS 244.350 and 244.360 shall be paid into the State Treasury and credited to the General Fund. [1974 c.72 §21; 1977 c.588 §11; 1989 c.706 §10; 1991 c.734 §13; 2007 c.865 §25; 2013 c.43 §1]

**244.380** [1974 c.72 §23; 1975 c.543 §12; 1977 c.588 §12; 1987 c.566 §22; 1995 c.607 §69; 2007 c.865 §20; repealed by 2009 c.689 §7]

**244.390 Status of penalties and sanctions; consideration of other penalties imposed.** (1) A penalty or sanction imposed by the Oregon Government Ethics Commission under this chapter is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law.

(2) Before making a finding that there is cause to undertake an investigation under ORS 244.260 and before imposing a civil penalty under ORS 244.350 or 244.360, the commission shall consider the public interest and any other penalty or sanction that has been or may be imposed on the public official as a result of the same conduct that is the subject of action by the commission under ORS 244.260.

(3) Nothing in this chapter is intended to affect:

(a) Any statute requiring disclosure of economic interest by any public official or candidate.

(b) Any statute prohibiting or authorizing specific conduct on the part of any public official or candidate. [1974 c.72 §25; 2007 c.865 §2; 2007 c.877 §39a; 2009 c.68 §23]

**244.400 Attorney fees for person prevailing in contested case.** (1) A person who prevails following a contested case hearing under this chapter or ORS 171.778 shall be awarded reasonable attorney fees at the conclusion of the contested case or on appeal.

(2) Upon prevailing following a contested case hearing or lawsuit, the person may petition the Marion County Circuit Court for the purpose of determining the award of reasonable attorney fees. The Oregon Government Ethics Commission shall be named as a respondent in the petition. The petitioner and respondent shall follow the procedure provided in ORCP 68 for the determination of reasonable attorney fees. The court shall give precedence on its docket to petitions filed under this subsection as the circumstances may require.

(3) An appellate court shall award reasonable attorney fees to the person if the person prevails on appeal from any decision of the commission.

(4) Attorney fees to be awarded under this section shall be only those fees incurred by the person from the time the commission notifies the person that it has entered an order to move to a contested case proceeding.

(5) Any attorney fees awarded to the person pursuant to this section shall be paid by the commission from moneys appropriated or allocated to the commission from the General Fund. [1991 c.770 §9; 1993 c.743 §30; 2007 c.865 §26]

## ARTICLE TWO

### DIVISION TWO

### REGULATION OF BASIC SERVICE TIER RATES AND RELATED EQUIPMENT, INSTALLATION AND SERVICE CHARGES OF ANY CABLE SYSTEM OPERATING IN CURRY COUNTY

#### SECTION 2.02.010

#### POLICY AND PURPOSE

The Board finds that:

- 1) On October 5, 1992, Congress enacted the Cable Television Consumer Protection and Competition Act of 1992, which, among other things, provided that the basic service tier rates, and the charges for related equipment, installation and services, of a cable television system (hereinafter, "Basic Service Rates and Charges") shall be subject to regulation by a franchising authority in accordance with regulation prescribed by the Federal Communication Commission (hereinafter the "FCC"); and
- 2) On April 1, 1993, the FCC prescribed such regulations in the Report and Order, In the Matter of Implementation of Sections of Cable Television Consumer Protection and Competition Act of 1992; Rate Regulation, MM Docket 92-266, FCC 93-177 (released May 3, 1993) (hereinafter the "FCC Rate Regulations"); and
- 3) The County of Curry (hereinafter, the "County") is a franchising authority with legal authority to adopt, and the personnel to administer, regulations with respect to the Basic Service Rates and Charges of any cable television system operating in the County, including, without limitation, the system currently being operated by Falcon Cable TV (hereinafter, the "Company") pursuant to the Curry County Cable Communications Franchise Award Ordinance (hereinafter, the "Franchise"); and
- 4) The County desires to regulate the Basic Service Rates and Charges of the Company and any other cable television system operating in the County and shall do so in accordance with the FCC Rate Regulations, notwithstanding any different or inconsistent provisions in the Franchise.

#### SECTION 2.02.020

#### RATE REGULATIONS

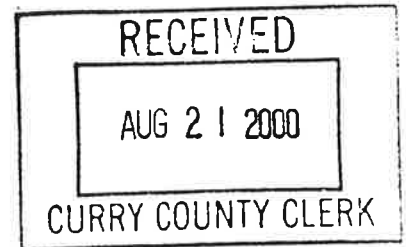
- 1) The County will follow the FCC Rate regulations in its regulation of the Basic Service Rates and Charges of the Company and any other cable television system

operating in the County, notwithstanding any different or inconsistent provisions in the Franchise; and

2) In connection with such regulation, the County will ensure a reasonable opportunity for consideration of the views of interested parties; and

3) The Board of Commissioners, or their designee, is authorized to execute on behalf of the County and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the County to regulate Basic Service Rates and Charges.

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON



9

In the Matter of An Amendment to the )  
Curry County Code Regarding Cable )  
Franchising )

ORDINANCE NO. 00-05

The Board of Curry County Commissioners ordains as follows:

SECTION 1: TITLE

This Ordinance shall be known as Ordinance 00-05, and ordinance amending the Curry County Code.

SECTION 2: FINDINGS

Article Two, Division Three of the Curry County Code needs to be updated, and to be drafted to avoid conflicts with the Ordinance Granting Falcon Cable TV d.b.a. Charter Communications a Franchise. This Ordinance is being adopted to accomplish those goals.

SECTION 3: REPEALER

The current Article Two Division Three of the Curry County Code entitled "The Granting of Cable Franchises and the Construction, Operation, Regulation and Control of Cable Systems" is repealed in its entirety.

SECTION 4: ADOPTION

Exhibit "A", attached hereto and incorporated by reference, is adopted as the new Article Two Division Three of the Curry County Code.

SECTION 5: SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

SECTION: EMERGENCY CLAUSE

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be in full force and effect on August 22, 2000.

ADOPTED this 21<sup>st</sup> day of August, 2000.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Cheryl Thorp, Chair

  
Bill Roberts, Vice Chair

  
Lloyd Olds, Commissioner

ATTEST:

  
Recording Secretary

First Reading: 7-17-00

Second Reading: 8-7-00

Emergency Adoption: 8-21-00

Effective Date: 8-22-00

## ARTICLE TWO

### DIVISION THREE    THE GRANTING OF CABLE FRANCHISES, AND THE CONSTRUCTION, OPERATION, REGULATION AND CONTROL OF CABLE SYSTEMS

#### SECTION 2.03.010    RESERVED

#### SECTION 2.03.020    PURPOSE AND INTENT

The Curry County Board of Commissioners has determined that it is in the public interest and necessary for the promotion of the safety, convenience, comfort, prosperity and general welfare of the residents of the County to regulate Cable Systems within the unincorporated areas of Curry County.

#### SECTION 2.03.030    DEFINITIONS

For the purpose of this division, the following terms shall have the meanings given herein. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and words in the singular shall include the plural. The word "shall" is always mandatory and not merely directory.

- (1)    "Board" The Board of Curry County Commissioners.
- (2)    "Cable System" means a system of plant, facilities, equipment, and closed signal transmission paths, including, without limitation, antennas, cables, amplifiers, towers, microwave links, studios, real and personal property, and any and all other conductors, home terminals, converters, remote control units, and all associated equipment or facilities designed and constructed for the purposes of distributing Cable Services to Subscribers and of producing, receiving, amplifying, storing, processing or distributing audio, video, voice, digital, analog or other forms of electronic or optical signals, whether owned, rented, leased, leased-purchased or otherwise controlled by or within the responsibility of a Franchisee.
- (3)    "County" Curry County, a political subdivision of the State of Oregon.
- (4)    "Franchise" The privilege conferred upon a person, firm or organization by the County to operate a Cable System under the terms and provisions of this division.

(5) "Franchisee" The person, firm or organization to which a franchise is granted to operate a Cable System pursuant to the authority of this division.

(6) "High Quality" or "High Standard of Quality" means with reference to the Cable System performance, operation, and technical standards, that quality provided by well-maintained Cable Systems according to generally accepted practices and standards in the cable television industry.

(7) "PEG Access" means the availability for use by various agencies, institutions, organizations, groups and individuals in the community including the Grantor and its designees, of the Cable System to acquire, create, and distribute non-commercial Programming under the Grantee's editorial control.

(8) "Subscriber" means any Person who is lawfully receiving, for any purpose or reason, any Cable Service or services provided by Franchisee by means of or in connection with the Cable System, whether or not a fee is paid for such service.

#### SECTION 2.03.040 AUTHORITY

To the extent of the law, the Board recognizes, declares and establishes the authority to regulate the development and operation of Cable Systems for the unincorporated area of the County and to exercise all powers necessary for that purpose, including, but not limited to, the following:

(1) To grant by ordinance, nonexclusive franchises for the development and operation of a Cable System or Cable Systems.

(2) To contract, jointly agree or otherwise provide with other local or regional governments, counties or special districts for the development, operation, and/or regulation of a Cable System, or franchises thereof, notwithstanding the fact that the Cable System extends beyond the jurisdiction of the County.

(3) To purchase, hire, construct, own, maintain or operate or lease a Cable System and to acquire property necessary for any such purpose.

(4) To regulate all facets of a Cable System, including but not limited to:

(a) Customer service and consumer protection, including but not limited to the resolution of consumer complaints.

(b) Disputes among County franchisees and consumers.

- (c) Fair employment practices.
- (d) The development, management and control of Public Education and Government (PEG) Access channel capacity, equipment, facilities, and services.
- (e) Rates and charges for Cable Services to the extent permitted by law, and the review of Franchisee financial and other records as the County deems necessary for effective regulation.
- (f) Construction timetables and standards.
- (g) Modernization of technical aspects of the Cable System.
- (h) Ensuring adherence to federal and state regulations.
- (i) Franchise transfer and transfer of control of ownership.
- (j) Franchise renewal and/or Franchise revocation.
- (k) Enforcement of buy-back, lease-back, or option-to-purchase provisions.
- (l) Receivership and foreclosure procedures.
- (m) Compliance with County standards for use of public and/or private rights-of-way.

#### SECTION 2.03.050 FRANCHISE REQUIREMENTS

(1) The County may grant one or more Franchises to construct, install, maintain or operate a Cable System within the unincorporated area of the County to a person which the County deems qualified to operate such system pursuant to the terms and conditions of this ordinance. A Cable System may not be operated in the County unless a Franchise has first been obtained pursuant to the provisions of this division and unless such Franchise is in full force and effect. No provision of this division shall be deemed or construed to require the County to grant additional Franchises.

(2) A Franchise granted to provide service within the County shall authorize and permit the Franchisee to solicit, sell, distribute and make a charge to subscribers within the unincorporated area of the County for connection to the Cable System of the Franchisee.



(3) Prior to entering into any Franchise agreement, the Board will follow an open and fair process that provides for public input to determine the area to be served, minimum standards for service, and public benefits to be provided by the applicants for a Franchise or operator of the system. In addition to whatever terms the Board finds to be in the public interest, any Franchise agreement shall, at a minimum, provide the following:

(a) Any Franchise agreement entered into shall be nonexclusive.

(b) Any Franchise agreement shall be nontransferable, except that a change of control or ownership may occur following written request by the Franchisee, the provision by the Franchisee of all information required by the Board for considering the request, and consent of the Board, in accordance with applicable federal law. In addition, within thirty (30) days of notification and evidence by the County that the County has incurred costs, including personnel, contract labor and other actual costs, in the process of preparing for any transfer of Franchise, the Franchisee shall reimburse the County the actual cost of such preparations incurred by the County.

(c) Any Franchise agreement shall be revocable for cause.

(4) The County may impose a penalty of \$1,000.00 per day upon any entity which operates a Cable System within the unincorporated area of Curry County without first obtaining a Franchise pursuant to the provisions of this division.

#### SECTION 2.03.060 APPLICATIONS

An application for a new Cable System Franchise or a renewal of an existing Franchise shall be submitted to the County in a form specified by and acceptable to the County, and in accordance with procedures and schedules established by the County. The County may request such facts and information as it deems appropriate.

#### SECTION 2.03.070 QUALIFICATIONS

The County may issue a Franchise only after at least one public hearing which allows for consideration of the applicant's financial, legal, technical and character qualifications, specifically including but not limited to the following factors:

(1) The ability of the applicant to provide service to the Franchise area.

(2) The amount of time it will take the applicant to complete construction of the proposed Cable System and activate the service in the Franchise area.

- (3) The quality and technical reliability of the proposed Cable System, based upon the applicant's plan of construction and method of distribution of signals, and the applicant's technical qualifications to construct and operate and maintain such system.
- (4) The experience of the applicant in the creation, maintenance and operation of a Cable System.
- (5) The capacity of the public rights-of-way and available utility pole and conduit space to accommodate the proposed Cable System(s); and the evidence and practicability of the applicant's commitment to eliminating or reasonably minimizing any disruption of public rights-of-way, or of existing cable, telephone or other facilities, in the construction, maintenance and operation of the applicant's proposed Cable System.
- (6) The financial capability, and evidence of the financial commitment of the applicant, including any proposed financial guarantees, specifically to ensure that the proposed Cable System will be fully constructed and activated, and maintained and operated at a High Level of Quality for the duration of the Franchise term.
- (7) The overall reasonableness of the applicant's financial and operating plans, as evidenced in ten (10) year proforma financial projections provided by the applicant.
- (8) The adequacy of the applicant's proposed commitment to PEG Access and other public benefits.
- (9) Any other information the County deems appropriate to consider prior to granting a Franchise.

#### SECTION 2.03.080 MISCELLANEOUS PROVISIONS

- (1) The term of the Franchise shall not exceed 15 years. However, the County may renew or grant brief temporary extensions for specific purposes if such Franchise extensions are deemed by the County to be in the public interest.
- (2) The Franchisee, in consideration of the privilege granted under the Franchise for the operation of a Cable System within the public ways of the County and the expenses of regulation of the Franchise incurred by the County, shall pay the County a Franchise fee. The Franchise fee shall be based on a percentage of Gross Revenues, and shall be in an amount up to and including the maximum amount permitted under Federal law.

SECTION 2.03.090 COUNTY OMBUDSMAN COMMITTEE

(1) The Board may, at its sole discretion, establish a committee consisting of a liaison and at least three citizens to serve as an Ombudsman Committee. The citizen members shall be subject to Board confirmation. The duties of the Ombudsman Committee shall be as follows:

(a) To receive and monitor written citizen complaints regarding the operation of the cable Franchise.

(b) To serve as a liaison between cable customers, the community and the cable Franchisee. The role of the committee shall be to gather information, and attempt where appropriate to resolve written complaints. It shall have no power to levy administrative penalties or sanctions, but may at its discretion recommend additional procedures to the Board for incorporation in the Franchise of future Franchises and shall report all violations of the Franchise agreement to the Board for action.

(c) To serve as an information resource for the community regarding the operation of the cable Franchise.

(2) The Ombudsman Committee shall meet from time to time as may be necessary to fulfill their functions. It shall provide notice of its meetings as required by state statute. Because the powers of the committee are limited and it will not hold public hearings, it is the intent of the Board to provide for a flexible meeting format in order that the committee can receive comments and act independently with the cable Franchisee and its customers. The committee may delegate to its individual members the ability to gather information or fulfill specific tasks, including the investigation of a specific complaint. ( A copy of each complaint shall be directed to the Franchisee upon receipt.) A quorum of the committee, consisting of at least two (2) of its citizen members, shall be required at an official public meeting in order to make a recommendation to the Board regarding additional oversight procedures or to forward a complaint to the Board that the Franchise has been violated.

(3) It shall be the duty of the committee to request, where appropriate, follow up reports regarding the resolution of specific complaints. The Cable System Franchisee shall not be required to produce proprietary financial information which would not otherwise be available under the terms of the Franchise nor shall it be required to release private information. The Franchisee shall be required to cooperate with reasonable requests of the Ombudsman Committee by providing information during normal working hours and to permit inspection of its records relating to an incident or complaint during normal working hours.

(4) The County reserves the right to lawfully modify the scope of duties and responsibilities of the committee by either expansion, contraction and/or revision thereof, as the Board may deem appropriate.

SECTION 2.03.100 REMEDIES NOT EXCLUSIVE; WAIVER

All remedies under this division are cumulative, and recovery or enforcement of one is not a bar to the recovery or enforcement of any other remedy. Failure to enforce any provision of the division shall not be construed as a waiver or a breach of any other term, condition or obligation of this division.

## ARTICLE TWO

### DIVISION THREE      THE GRANTING OF CABLE FRANCHISES, AND THE CONSTRUCTION, OPERATION, REGULATION AND CONTROL OF CABLE SYSTEMS

#### SECTION 2.03.010      RESERVED

#### SECTION 2.03.020      PURPOSE AND INTENT

The Curry County Board of Commissioners has determined that it is in the public interest and necessary for the promotion of the safety, convenience, comfort, prosperity and general welfare of the residents of the County to regulate Cable Systems within the unincorporated areas of Curry County.

#### SECTION 2.03.030      DEFINITIONS

For the purpose of this division, the following terms shall have the meanings given herein. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and words in the singular shall include the plural. The word "shall" is always mandatory and not merely directory.

Whatever terms are used in this division which are not defined herein, they shall be construed according to their ordinary meaning; with the exception of terms having definitions in the federal Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 (the Cable Act), which terms shall be construed according to their meaning in the Cable Act.

(1) "Access" means the availability for use by various agencies, institutions, organizations, groups and individuals in the community, including the County and its designees, of the Cable System to acquire, create, and distribute programming not under the Franchisee's editorial control, including, but not limited to:

(a) "Public Access" means Access where organizations, groups or individual members of the general public, on a nondiscriminatory basis, are the primary or designated programmers or users having editorial control over their programming;

(b) "Educational Access" means Access where schools are the primary or designated programmers or users having editorial control over their programming;

(c) "Government Access" means Access where governmental institutions or their designees are the primary or designated programmers or users having editorial control over their programming; and

(d) "PEG Access" means Public Access, Educational Access, and Governmental Access, collectively.

(2) "Access Channel" means any Channel, or portion thereof, designated for Access purposes or otherwise made available to facilitate or transmit Access programming.

(3) "Affiliated Entity" means any enterprise having ownership or control in common with the Franchisee, in whole or in part, including, without limitation, Franchisee's parent corporation(s) and any subsidiaries or affiliates of such parent corporation(s).

(4) "Basic Cable Service" means that tier of Cable Services which all Subscribers must receive as a condition of access to all other video service, and which includes but is not limited to a) the retransmission of local broadcast station signals, and b) public, educational and government access channels.

(5) "Board" The Board of Curry County Commissioners.

(6) "Cable Act" means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, U.S. Public Laws nos. 98-549 and 102-385 respectively.

(7) "Cable Services" means all television programs or other patterns of signals provided in any combination on the Cable System to Subscribers, whether in

video, voice or data formats, and the provision of all equipment and service required for the reception of such signals.

(8) "Cable System" means a system of plant, facilities, equipment, and closed signal transmission paths, including, without limitation, antennas, cables, amplifiers, towers, microwave links, studios, real and personal property, and any and all other conductors, home terminals, converters, remote control units, and all associated equipment or facilities designed and constructed for the purposes of distributing Cable Services to Subscribers and of producing, receiving, amplifying, storing, processing or distributing audio, video, voice, digital, analog or other forms of electronic or optical signals, whether owned, rented, leased, leased-purchased or otherwise controlled by or within the responsibility of a Franchisee.

(9) "County" Curry County, a political subdivision of the State of Oregon.

(10) "Franchise" The privilege conferred upon a person, firm or organization by the County to operate a Cable System under the terms and provisions of this division.

(11) "Franchisee" The person, firm or organization to which a franchise is granted to operate a Cable System pursuant to the authority of this division.

(12) "Gross Revenues" means any and all compensation in whatever form, from any source, directly or indirectly earned by the Franchisee or any Affiliate of the Franchisee or any other person who would constitute a cable operator of the Cable System under the Cable Act, derived from the operation of the Cable System insofar as such operation in any manner requires use of the public streets and rights of way in the franchise area.

(a) Amounts identified by the Franchisee as franchise, copyright, or other license fees, shall not be excluded from Gross Revenues. Gross Revenues shall include but not be limited to Basic Cable Service, cable programming services, and pay and premium service revenues, revenues from installation and equipment rental and sale, an appropriate pro rata percentage of local and regional advertising revenues, and any leased access revenues.

(b) Gross Revenues shall not include any taxes on services furnished by the Franchisee, which taxes are imposed directly on a Subscriber or user by a City, County, State or other governmental unit, and collected by the Franchisee for such entity. Gross Revenues shall not include amounts which cannot be collected by the County and are identified as bad debt; provided that if amounts previously representing bad debt are collected, then these amounts shall be included in Gross Revenues for the period in which they are collected.

(c) Gross Revenues shall include amounts earned during any period regardless of whether: (1) the amounts are paid in cash, in trade or by means of some other benefit to the Franchisee or any Affiliated Entity; (2) the goods or services with which the revenue is associated are provided at cost or the revenue amount can be matched against an equivalent expenditure; (3) the amounts are recorded by the Franchisee or an Affiliated Entity. Gross Revenues shall not be net of (1) any operating expense; (2) any accrual, including, without limitation any accrual for commissions; or (3) any other expenditure, regardless of whether such expense, accrual or expenditure reflects a cash payment; (4) the amounts are characterized, separately identified or accounted as being goods, services or fees to be paid to government agencies.

(d) Gross Revenues shall not be double counted. Revenues of both a Franchisee and an Affiliated Entity that represent a transfer of funds between the Franchisee and the Affiliated Entity, and that would otherwise constitute Gross Revenues of both the Franchisee and the Affiliated Entity, shall be counted only once for purposes of determining Gross Revenues.

(13) "High Quality" or "High Standard of Quality" means with reference to the Cable System performance, operation, and technical standards, that quality provided by well-maintained Cable Systems according to generally accepted practices and standards in the cable television industry.

(14) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.

(15) "Subscriber" means any Person who is lawfully receiving, for any purpose or reason, any Cable Service or services provided by Franchisee by means of or in connection with the Cable System, whether or not a fee is paid for such service.



SECTION 2.03.040

AUTHORITY

To the extent of the law, the Board recognizes, declares and establishes the authority to regulate the development and operation of Cable Systems for the unincorporated area of the County and to exercise all powers necessary for that purpose, including, but not limited to, the following:

(1) To grant by ordinance, nonexclusive franchises for the development and operation of a Cable System or Cable Systems.

(2) To contract, jointly agree or otherwise provide with other local or regional governments, counties or special districts for the development, operation, and/or regulation of a Cable System, or franchises thereof, notwithstanding the fact that the Cable System extends beyond the jurisdiction of the County.

(3) To purchase, hire, construct, own, maintain or operate or lease a Cable System and to acquire property necessary for any such purpose.

(4) To regulate all facets of a Cable System, including but not limited to:

(a) Customer service and consumer protection, including but not limited to the resolution of consumer complaints.

(b) Disputes among County franchisees and consumers.

(c) Fair employment practices.

(d) The development, management and control of PEG Access channel capacity, equipment, facilities, and services.

(e) Rates and charges for Cable Services, and the review of Franchisee financial and other records as the County deems necessary for effective regulation.

(f) Construction timetables and standards.

(g) Modernization of technical aspects of the Cable System.

(h) Ensuring adherence to federal and state regulations.

- (i) Franchise transfer and transfer of control of ownership.
- (j) Franchise renewal and/or Franchise revocation.
- (k) Enforcement of buy-back, lease-back, or option-to-purchase provisions.
- (l) Receivership and foreclosure procedures.
- (m) Compliance with County standards for use of public and/or private rights-of-way.

#### SECTION 2.03.050      FRANCHISE REQUIREMENTS

(1) The County may grant one or more Franchises to construct, install, maintain or operate a Cable System within the unincorporated area of the County to a person which the County deems qualified to operate such system pursuant to the terms and conditions of this ordinance. A Cable System may not be operated in the County unless a Franchise has first been obtained pursuant to the provisions of this division and unless such Franchise is in full force and effect. No provision of this division shall be deemed or construed to require the County to grant additional Franchises.

(2) A Franchise granted to provide service within the County shall authorize and permit the Franchisee to solicit, sell, distribute and make a charge to subscribers within the unincorporated area of the County for connection to the Cable System of the Franchisee.

(3) Prior to entering into any Franchise agreement, the Board will follow an open and fair process that provides for public input to determine the area to be served, minimum standards for service, and public benefits to be provided by the applicants for a Franchise or operator of the system. In addition to whatever terms the Board finds to be in the public interest, any Franchise agreement shall, at a minimum, provide the following:

- (a) Any Franchise agreement entered into shall be nonexclusive.

(b) Any Franchise agreement shall be nontransferable, except that a change of control or ownership may occur following written request by the Franchisee, the provision by the Franchisee of all information required by the Board for considering the request, and consent of the Board, in accordance with applicable federal law. In addition, within thirty (30) days of notification and evidence by the County that the County has incurred costs, including personnel, contract labor and other actual costs, in the process of preparing for any transfer of Franchise, the Franchisee shall reimburse the County the actual cost of such preparations incurred by the County.

(c) Any Franchise agreement shall be revocable for cause.

(4) The County may impose a penalty of \$500.00 per day upon any entity which operates a Cable System within the unincorporated area of Curry County without first obtaining a Franchise pursuant to the provisions of this division.

#### SECTION 2.03.060      APPLICATIONS

An application for a new Cable System Franchise or a renewal of an existing Franchise shall be submitted to the County in a form specified by and acceptable to the County, and in accordance with procedures and schedules established by the County. The County may request such facts and information as it deems appropriate.

#### SECTION 2.03.070      QUALIFICATIONS

The County may issue a Franchise only after at least one public hearing which allows for consideration of the applicant's financial, legal, technical and character qualifications, specifically including but not limited to the following factors:

- (1) The ability of the applicant to provide service to the Franchise area.
- (2) The amount of time it will take the applicant to complete construction of the proposed Cable System and activate the service in the Franchise area.
- (3) The quality and technical reliability of the proposed Cable System, based upon the applicant's plan of construction and method of distribution of signals,

and the applicant's technical qualifications to construct and operate and maintain such system.

(4) The experience of the applicant in the creation, maintenance and operation of a Cable System.

(5) The capacity of the public rights-of-way and available utility pole and conduit space to accommodate the proposed Cable System(s); and the evidence and practicability of the applicant's commitment to eliminating or reasonably minimizing any disruption of public rights-of-way, or of existing cable, telephone or other facilities, in the construction, maintenance and operation of the applicant's proposed Cable System.

(6) The financial capability, and evidence of the financial commitment of the applicant, including any proposed financial guarantees, specifically to ensure that the proposed Cable System will be fully constructed and activated, and maintained and operated at a High Level of Quality for the duration of the Franchise term.

(7) The overall reasonableness of the applicant's financial and operating plans, as evidenced in ten (10) year proforma financial projections provided by the applicant.

(8) The adequacy of the applicant's proposed commitment to PEG Access and other public benefits.

(9) Any other information the County deems appropriate to consider prior to granting a Franchise.

#### SECTION 2.03.080 MISCELLANEOUS PROVISIONS

(1) The term of the Franchise shall not exceed 15 years. However, the County may renew or grant brief temporary extensions for specific purposes if such Franchise extensions are deemed by the County to be in the public interest.

(2) The Franchisee, in consideration of the privilege granted under the Franchise for the operation of a Cable System within the public ways of the County and the expenses of regulation of the Franchise incurred by the County,

shall pay the County a Franchise fee. The Franchise fee shall be based on a percentage of Gross Revenues, and shall be in an amount up to and including the maximum amount permitted under Federal law.

SECTION 2.03.090      COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The Franchisee shall comply with all applicable laws, rules and regulations of the United States of America, the State of Oregon, and the County, including all agencies and subdivisions thereof. The Franchisee shall be subject to the lawful exercise of the police power of the County and to such reasonable regulations as the County may from time to time hereafter by resolution or Ordinance provide.

SECTION 2.03.100      FINANCIAL AND INSURANCE PROVISIONS

(1)    Safety of Operations

The Franchisee shall at all times conduct its operations, including installation, construction or maintenance of its facilities, in a reasonably safe and workmanlike manner.

(2)    County Held Harmless

The Franchisee shall indemnify and hold the County harmless from any demand or claim against the County on account of or in connection with any activity of the Company in the construction, operation or maintenance of its Cable System.

(3)    Insurance

The Franchisee shall maintain a comprehensive liability insurance policy which shall contain the following provisions at a minimum:

(a)    Combined bodily injury and property damage policy limits of \$3,000,000.00 for each person and \$3,000,000.00 for each occurrence.

(b)    Policy limits of \$3,000,000.00 for other types of liability.

(c) Worker's compensation coverage in accordance with the laws of the State of Oregon.

(d) A designation of the County as an additional insured for liability arising from or in connection with the Franchise as described above.

(4) Surety Bond

The Franchisee shall, at its expense, obtain, file with the County and, unless otherwise authorized by the Board, thereafter maintain during the full term of its Franchise, or any renewal thereof, a surety bond or other adequate surety agreement running to the County in the amount of Fifty Thousand Dollars (\$50,000), in such form and issued by such person as shall have been reasonably approved by the Board. The bond shall be conditioned that the Franchisee shall fully observe and perform each term and condition of its Franchise. Proof of the posting of such bond shall be furnished to the County prior to the effective date of the Franchise. The bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond shall not be canceled by the surety nor the intention not to renew be stated by the surety until thirty (30) days after receipt by the County, by registered mail, of a written notice of such intent to cancel or not to renew."

(5) Certificate of Insurance

A certificate evidencing the insurance as described in this division shall be delivered to the County prior to the effective date of the Franchise awarded. The Franchisee shall notify the County within thirty (30) days of any change in insurance coverage.

SECTION 2.03.110      SYSTEM SERVICE AND STANDARDS

For the term of this Franchise, the Franchisee shall construct, operate and maintain its Cable System as follows:

(1) Quality of Television, FM Radio and Other Service

The Franchisee shall provide its subscribers within the unincorporated area of the County with high quality reception of all television, radio, and all other video, voice or data signals transmitted on the Cable System.

(2) Technical and Safety Standards and System Testing

(a) Franchisee shall comply with FCC Rules and Regulations, Part 76, Subpart K (Technical Standards), now in effect or as may be amended from time to time.

(b) Franchisee shall at all times employ the standard of care attendant to the risks involved in the conduct of its business and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public or to employees of the Franchisee.

(c) Franchisee shall install and maintain its Cable System in accordance with the requirements of the National Electrical Safety Code, and in such manner that the Cable System shall not interfere with any installations of the County or any public utility or telecommunications utility, or any Franchisee, licensee or permittee of the County.

(d) Franchisee shall operate in a manner so as to prevent injury to the wires, pipes, structures, and property belonging to the County or any Person within the County.

(e) Franchisee, at its own expense, shall repair, renew, change, and improve its Cable System from time to time as may be necessary to accomplish these purposes.

(f) Franchisee shall perform the following tests on its Cable System:

(i) All tests required by the FCC;

(ii) All other tests specified in a Franchise; and

(iii) All other tests required by the County to determine compliance with technical standards adopted by the FCC at any time during the term of the Franchise.

(g) At a minimum, the Franchisee's tests shall include:

(i) Proof of performance for starting up any new construction;

(ii) Semi-annual compliance and proof of performance tests in conformance with FCC requirements and generally accepted industry guidelines;

(iii) Tests in response to Subscriber complaints;

(iv) Periodic monitoring tests, at intervals not to exceed 6 months, of Subscriber (field) test points, headend (satellite receiver) systems, and condition of standby power supplies; and

(v) Cumulative Leakage Index tests in accordance with FCC requirements.

(h) Franchisee shall maintain written Records of all results of its Cable System tests, performed by or for the Franchisee. Such test results shall be available for inspection by the County upon request.

(i) Franchisee shall perform Cable System proof-of -performance tests twice each calendar year, at intervals of no greater than every seven months, in full compliance with FCC rules and regulations. The County shall be given the opportunity to review and approve test sites in advance. The tests may be witnessed by representatives of the County, and Franchisee shall inform the County of the time and place of each test no less than three weeks prior to the test. Written test reports shall be submitted to the County. The County may conduct independent tests of the system for which the Franchisee shall give its fullest cooperation. If ten percent (10%) or more of the locations tested fail to meet the performance standards, the Franchisee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated at the locations which failed, and at least five (5) additional randomly chosen locations. If a second test results in failure of ten percent (10%) or more, the failure shall



constitute a violation of this Franchise, and the County may apply such Penalties as it deems appropriate.

(j) The following shall be provided on the Cable System by the Franchisee:

(i) 100% emergency standby power. Franchisee shall provide standby power generating capacity at the Cable System control center and at all hubs. Franchisee shall maintain standby power system supplies, rated at least at two (2) hours duration, throughout the trunk and distribution networks. In addition, throughout the term of the Franchise, Franchisee shall have a plan in place, along with all resources necessary for implementing such plan, for dealing with outages of more than two (2) hours. This outage plan and evidence of requisite implementation resources shall be presented to the County for approval prior to the effective date of any Franchise.

(ii) Emergency override. Upon request by the County Board, or as otherwise required by FCC regulations, the Franchisee shall implement a system for providing restricted audio and video override of all audio and video Channels during emergencies, with override to be placed under the County's control.

(iii) Headend performance. Franchisee shall adopt and maintain performance standards for all headend systems, including off-air station reception, satellite signals, insertion signals, and equipment for reception and routing of interconnected signals from other providers, including Access providers. All system performance testing shall also include all headend systems. Such tests shall include the cascade effects of headend receivers, processors, satellite receivers, and any other devices in the signal path.

(iv) Review of trunk distance/amplifiers in cascade. The Franchisee shall submit a construction schedule to the County prior to undertaking any construction. As a part of any such schedule, the Franchisee shall include information regarding the design of the construction, including amplifier cascade design and how such design may be reasonably expected to result in a system meeting FCC technical standards, and the requirements of this division, the Franchisee, and any other applicable County requirements for the County's technical review and comment.

## SECTION 2.03.120

## COMPANY RULES

The Franchisee shall have the authority to promulgate such reasonable rules and regulations governing the conduct of its business as shall be necessary to enable the Franchisee to exercise its rights and perform its obligations under this Franchise, and to assure uninterrupted services to its customers.

## SECTION 2.03.130

## USE OF ROADS, RIGHTS OF WAY, PRIVATE PROPERTY

### (1) When Permission Is Required

The Franchisee shall utilize existing poles, conduits and other facilities, but may construct or install new, different, or additional poles, conduits, or other facilities whether on the public right of way or on private property with the written approval of the appropriate governmental authority, and/or of the property owner, whichever is applicable. County's approval shall not be unreasonably withheld.

### (2) Installation, Location, and Maintenance Requirements

All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and appearance and reasonable convenience of property owners who adjoin on any public way and at all times shall be kept and maintained in a safe condition and in good order and repair. The Franchisee shall at all times employ reasonable care and shall use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

### (3) Restoration

In case of any disturbance of any structure, pavement, sidewalk, driveway or other surfacing by the Franchisee, the Franchisee shall, at its own cost and expense, replace or restore all paving, sidewalk, driveway or surface of any road or alley disturbed, in as reasonably good a condition as before the disturbance. If the Franchisee fails to make such restoration within a reasonable time not to exceed five (5) working days, the County after written notice to the Franchisee, shall cause the repairs to be made at the expense of the Franchisee.

(4) Relocation

If at any time during the Franchise period the County shall lawfully elect to alter, or change the grade of any road, or other public way, the Franchisee upon reasonable notice by the County shall remove and relocate its poles, wires, cables, underground conduits, manholes and other Cable System facilities at its own expense.

(5) Tree Trimming

The Franchisee shall have the authority to trim trees on County property at its own expense as may be necessary to protect its wires and facilities, subject to the direction of the County Roadmaster.

SECTION 2.03.140      DISCRIMINATION PRACTICE PROHIBITED

The Franchisee shall make its Cable Services available to all residents of the County within its service area without discrimination and shall not give any preference or advantage not available to all persons similarly situated.

SECTION 2.03.150      NONDISCRIMINATION IN EMPLOYMENT

The Franchisee shall neither refuse to hire nor discharge from employment nor discriminate against any person in compensation, terms, conditions, or privileges of employment because of age, sex, race, color, creed, or national origin. The Franchisee shall take affirmative action to insure that employees are treated without regard to their age, sex, race, color, creed or national origin. This condition includes, but is not limited to, the following: recruitment advertising, employment interviews, employment, rates of pay, upgrading, transfer, demotion, lay-off, and termination.

SECTION 2.03.160      TRANSFER OF FRANCHISE

(1) County Permission Required

The Franchisee shall not sell, assign, lease, dispose of or transfer in any manner whatsoever any interest in its Franchise, or transfer or permit transfer of control of the Franchisee (a change in beneficial ownership of ten percent (10%) of stock

or other interest in the Franchisee shall be presumed to be a change in control of the Franchisee), without prior written approval of the Board, which approval shall not be withheld unreasonably. The Franchisee shall notify the County in writing one hundred and twenty (120) days prior to any proposed sale, transfer, lease, assignment, mortgage, or pledge of its Franchise, providing with such notification a summary explanation of the nature, purpose and terms of the transaction. If the County so requests, the Franchisee shall also, within thirty (30) days of request by the County provide the County with a copy of any deeds, leases, mortgages, agreements or other written instruments evidencing such transaction, certified as correct by the Franchisee.

(2) Notification and County Inquiry into Qualifications

Franchisee shall promptly notify the County of any proposed transfer or acquisition by another party resulting in a change of control of the Franchisee or any parent companies of the Franchisee. Such change in control shall make a Franchise subject to revocation unless and until the County shall have consented thereto by ordinance.

In determining whether the County will consent to any transfer or change in control, the County may inquire into the technical, legal, and financial qualifications of the prospective party. Franchisee shall assist the County in any such inquiry. The County may condition any transfer upon such conditions it deems appropriate. No transfer for which the County's consent by ordinance is required may occur until the successor, assignee or lessee has complied with the requirements of Section 2.03.100 of this division, including , but not limited to, providing certificates of insurance, unless the County Board waives such compliance by ordinance.

The County shall make a final decision upon a proposed change in control within 120 days of receiving a written request for approval of a change in control containing or accompanied by such information as is required in accordance with FCC regulations and by the County. If the County fails to render a final decision on the request within 120 days, then the proposed change shall be deemed to be consented to by the County. At any time during the 120 day period, the County may request in writing that the Franchisee provide or cause to provide any information reasonably necessary to rendering a final decision on the request.

The County and the Franchisee may, at any time, agree to extend the 120 day period.

Nothing contained in this section shall be deemed to prohibit the mortgage, pledge or assignment of tangible assets of Franchisee's Cable System, including but not limited to accounts receivable, inventory or monetary assets, for the purpose of financing the acquisition of equipment or for the acquisition, construction and operation of the Cable System of Franchisee or any Affiliated Entity, without the County's consent, but any such mortgage, pledge or assignment shall be subject to the County's other rights contained in a Franchise. Franchisee may also sell tangible assets of the Cable System in the ordinary conduct of its business without the consent of the County.

#### SECTION 2.03.170      COUNTY RIGHTS IN FRANCHISE

##### (1)    Use of the Cable System by the County for Emergency Purposes

The County shall have the right to use the Franchisee's Cable System without charge for Sheriff's Department, fire-alarm or other emergency system purposes, provided that the County shall obtain any equipment necessary to connect such system to the Franchisee's Cable System.

##### (2)    County Supervision and Inspection

The County shall have the right to supervise all construction or installation of the Franchisee's Cable System, subject to the provisions of this division and the Franchisee's Franchise award Ordinance, and to make such inspections as it shall find necessary to ensure compliance with governing laws, rules and regulations.

##### (3)    Right to Regulate Reserved

The County reserves the right to regulate the Franchisee's rates for service to the full extent permitted by law and the rules and regulations of the Federal Communications Commission, as these may change or be amended from time to time.

(4) Notification

The Franchisee shall give the County ninety (90) days advance written notice of and justification for any change in rates or charges.

SECTION 2.03.180      FRANCHISE FEE

(1) As compensation for a Franchise granted under this division, the Franchisee shall pay to the County an amount specified in the Franchise and in accordance with the requirements of Section 2.03.080(2).

(2) Time of Payment

The fee required by this section shall be payable quarterly and shall be due on or before the last day of each January, April, July and October during each year the Franchise is in effect.

(3) Acceptance of Payment by the County

The County's acceptance of any payments due under this section shall not be considered a waiver by the County of any breach of the Franchise.

SECTION 2.03.190      CUSTOMER SERVICE AND CONSUMER PROTECTION

Any Franchisee shall at a minimum comply with all FCC Consumer Protection and Customer Service requirements as such requirements may be amended from time to time. In addition, the County reserves the right to establish by County ordinance, whether in a Franchise or separately, such additional consumer protection and customer service requirements as the County may deem appropriate to ensure a high level of service or to meet special needs of cable Subscribers in the County.

SECTION 2.03.200

REPORTS TO THE COUNTY AND PUBLIC  
HEARINGS

(1) On or prior to March 15 of each year of the term of the Franchise, the Franchisee shall furnish the County's Accountant with a written report, signed by an officer of the Franchisee, which includes the following elements:

(a) Audited verification of the amount of Gross Revenues of the Franchisee derived from its operations within the unincorporated areas of Curry County during the periods covered by such payments.

(b) A summary of the number of subscribers in all principal categories, with an indication of the number gained or lost.

(c) A summary of any programming or other services added or dropped.

(d) A summary of the technical status of the Franchisee's Cable System, including: the results of the most recent FCC proof-of-performance test; a summary of system design specifying electronic and optical components; system routing with maps and the status of any construction or improvements.

(e) A summary of any subscriber complaints since the previous Franchise fee payment, identifying the number and nature of complaints and their disposition.

(f) Audited financial statements for the Franchisee and any parent companies including statements of income, balance sheets, and statements of sources and applications of funds, covering the previous two years on a comparative basis.

(g) A list of all owners of more than ten percent (10%) interest in the Franchisee, provided, however, such list shall be delivered only if such ownership has changed from the date of the previous report delivered to Curry County.

(h) Outline of the plans for expansion and improvement of the Cable System in the next two fiscal years.

(2) Communications with Regulatory Agencies

Whenever any petitions, applications, communications, or reports referring to actual or potential changes of a material nature in the legal, financial, technical or operational status of the Franchisee are submitted by the Franchisee to the Federal Communications Commission, Securities and Exchange Commission, or any other Federal or State regulatory agency having jurisdiction in matters affecting Cable System operations authorized by this division, such petitions, applications, communications or reports shall be submitted simultaneously to the County. Copies of responses, or any other communications from regulatory agencies to the Franchisee if they refer to actual or potential material changes of Franchisee status, shall likewise be furnished immediately to the County. Copies of any notice of violation of rules or procedures by any regulatory agency to the Franchisee shall be furnished immediately to the County.

(3) Other Reports

The Franchisee shall furnish the County at times and in the form prescribed by the County such other reports with respect to its operations, affairs, transactions, or properties, as the County may deem reasonably necessary or appropriate to the performance of its functions.

(4) Public Review of Reports & Public Hearings

(a) The County reserves the right to conduct, at its sole expense, a public review and evaluation of any and all reports submitted by the Franchisee. For this purpose, the Franchisee shall supply any additional information, documents, or other materials requested by the County reasonably necessary for such review and evaluation, upon thirty (30) days written notice by the County. The Franchisee shall also, upon thirty (30) days written notice by the County, cause one or more appropriately knowledgeable and responsible representatives of the Franchisee, or the managing general partner of the Franchisee, to be present at any public hearing devoted to the public review and evaluation of Franchisee's reports or for such other public hearings as the County may call from time to time.

(b) The County acknowledges that certain information contained in the reports required by this section and by other sections of this division may be confidential. Accordingly, any information designated as confidential by the Franchisee is provided for and shall be used only for the benefit of the County



and the same shall not be disclosed, in whole or in part or in any form or manner, to any third party without the express written permission of the Franchisee or unless such disclosure is required by law or the order of a court of competent jurisdiction.

SECTION 2.03.210

FINANCIAL AND TECHNICAL CABLE SYSTEM  
DATA

(1) The Franchisee shall keep accurate books of financial accounts in compliance with generally acceptable accounting principles relating to the operation of the Cable System throughout the term of the Franchise, and shall also maintain current Cable System maps and other technical operations data relating to its Cable System. The Franchisee shall make all such information dating back as far as the County may deem necessary for the fulfillment of its regulatory responsibilities, available for the County's inspection, at Franchisee's sole expense, at any time during normal business hours, except as prohibited by law.

(2) The County, at its sole expense, may audit the Franchisee's books and records from time to time. Upon request and two (2) weeks notice by the County, the Franchisee shall supply to the County photocopies of such reports, documents, logs, financial data, technical test results, subscriber lists, billing records, or other materials, dating back for up to two (2) years, as the County may reasonably deem necessary to carry out any review and evaluation of the Franchisee's reports required pursuant to this division.

SECTION 2.03.220

PERMIT AND INSPECTION FEES

Unless otherwise specified herein, nothing in this division or a Franchise issued hereunder shall be construed to limit the rights of the County to require the Franchisee to pay reasonable costs incurred by the County in connection with issuance of a permit, making an inspection, or performing any other service for or in connection with the franchisee or its facilities, whether pursuant to this division or any other ordinance or regulation now in effect or hereafter adopted by the County. The Franchisee shall be responsible for ascertaining the applicability of permit requirements in connection with its operations, and for obtaining all required permits.

#### SECTION 2.03.230

#### REMEDIES FOR FRANCHISE VIOLATIONS

After providing (a) written notice to the Franchisee of any alleged violation or breach of the material terms of its Franchise and (b) a period of sixty (60) days, County may revoke the Franchise pursuant to the terms of Section 2.03.260, or impose a penalty, or pursue any remedy at law or in equity including but not limited to an action for money damages.

Specific penalties which may be imposed may include, without limitation, the following:

- (1) Impose monetary penalties per day, incident or other measure of violation, as may be appropriate under the circumstances;
- (2) To the extent authorized by law, require Franchisee to reduce its rates and charges by such amount or amounts as is reasonable in light of the violation;
- (3) To the extent authorized by law, require Franchisee to make payments or refunds to its Subscribers or Subscriber Classes in such amount and on such bases as are reasonable. For purposes of this Subsection, "Subscriber Class" means any group of actual or potential Subscribers identified by the Franchisee on the basis of specified characteristics for the purpose of providing, marketing or establishing any combination or package of Cable Services, rates or charges, or for the purpose of providing or directing customer services or marketing in any form;
- (4) To the extent authorized by law, require a Franchisee to correct or cure the violation prior to any rate increase becoming effective, or otherwise delay consideration of any rate request until the violation is corrected or cured; or
- (5) Reduce the duration of the term of a Franchise on such basis as is reasonable for any violations of particular material Franchise provisions.

#### SECTION 2.03.240

#### COUNTY OMBUDSMAN COMMITTEE

- (1) The Board may, at its sole discretion, establish a committee consisting of a liaison and at least three citizens to serve as an Ombudsman Committee. The

citizen members shall be subject to Board confirmation. The duties of the Ombudsman Committee shall be as follows:

(a) To receive and monitor written citizen complaints regarding the operation of the cable Franchise.

(b) To serve as a liaison between cable customers, the community and the cable Franchisee. The role of the committee shall be to gather information, and attempt where appropriate to resolve written complaints. It shall have no power to levy administrative penalties or sanctions, but may at its discretion recommend additional procedures to the Board for incorporation in the Franchise of future Franchises and shall report all violations of the Franchise agreement to the Board for action.

(c) To serve as an information resource for the community regarding the operation of the cable Franchise.

(2) The Ombudsman Committee shall meet from time to time as may be necessary to fulfill their functions. It shall provide notice of its meetings as required by state statute. Because the powers of the committee are limited and it will not hold public hearings, it is the intent of the Board to provide for a flexible meeting format in order that the committee can receive comments and act independently with the cable Franchisee and its customers. The committee may delegate to its individual members the ability to gather information or fulfill specific tasks, including the investigation of a specific complaint. ( A copy of each complaint shall be directed to the Franchisee upon receipt.) A quorum of the committee, consisting of at least two (2) of its citizen members, shall be required at an official public meeting in order to make a recommendation to the Board regarding additional oversight procedures or to forward a complaint to the Board that the Franchise has been violated.

(3) It shall be the duty of the committee to request, where appropriate, follow up reports regarding the resolution of specific complaints. The Cable System Franchisee shall not be required to produce proprietary financial information which would not otherwise be available under the terms of the Franchise nor shall it be required to release private information. The Franchisee shall be required to cooperate with reasonable requests of the Ombudsman Committee by providing

information during normal working hours and to permit inspection of its records relating to an incident or complaint during normal working hours.

(4) The County reserves the right to lawfully modify the scope of duties and responsibilities of the committee by either expansion, contraction and/or revision thereof, as the Board may deem appropriate.

#### SECTION 2.03.250      REMEDIES NOT EXCLUSIVE; WAIVER

All remedies under this division are cumulative, and recovery or enforcement of one is not a bar to the recovery or enforcement of any other remedy. Failure to enforce any provision of the division shall not be construed as a waiver or a breach of any other term, condition or obligation of this division.

#### SECTION 2.03.260      FRANCHISE TERM AND FRANCHISE REVOCATION

##### (1) Term of Franchise

A Franchise issued under this division shall be granted for a term as specified in the Franchise award Ordinance. Upon expiration of said term the County will have the right to:

(a) Renew the Franchise, with such changes as may be determined by the County through negotiations with the Franchisee pursuant to Federal law; or (b) invite additional Franchise applications or proposals; or (c) allow the Franchise to expire if the County determines that it will no longer provide any cable Franchise or services whatsoever. Notwithstanding anything to the contrary herein, the County and the Franchisee shall respect any provisions of federal or State law, and any rules and regulations of the Federal Communications Commission, that may be in effect at any time during the duration of the Franchise, regarding the renewal and extension of Franchises.

##### (2) Franchise Revocation

In addition to any rights set out elsewhere in this document, the County reserves the right to revoke the Franchise, including all its rights and privileges, in the event that (a) the Franchisee becomes insolvent, becomes unable to or unwilling

to pay its debts, or is adjudged bankrupt; (b) the Franchisee is found to have practiced fraud or deceit of a material nature upon the County; (c) the Franchisee fails to obtain and maintain any required Federal or State permit relating to the operation of the Cable System after notification from the appropriate government agency that the permit is lacking and the Franchisee fails to obtain (or to commence reasonable efforts to obtain) the permit within a reasonable time; (d) the Franchisee, after receiving written notice and a thirty (30) day cure period, fails to maintain the full amount of its surety bond as required in Section 2.03.050 of this division; or (e) there is no other reasonably adequate means for remedying a substantial and material violation of the Franchise agreement; provided, however, a revocation of the Franchise agreement shall be declared only by written decision of the County after an appropriate public proceeding before the County affording the Franchisee due process and full opportunity to be heard and to respond to any such notice of revocation; and provided further, that the County may, in its discretion and upon a finding of a material violation or failure to comply, impose a lesser penalty than revocation or excuse the violation or failure to comply upon a showing by the Franchisee of mitigating circumstances. In the event of Franchise revocation, the Franchisee shall be afforded a six (6) month period within which to sell, transfer or convey its Cable System to a qualified purchaser. During such period which shall run from the effective date of the final order or decision imposing revocation, including any appeal, the Franchisee shall have the right to operate its Cable System pursuant to the provisions of the Franchise agreement.

#### SECTION 2.03.270

#### FRANCHISE REVIEW AND MODIFICATION

It shall be the policy of the County and the Franchisee to amend any Franchise, upon the request of either party, when necessary to take advantage of technological, regulatory or legal developments which will afford an opportunity to more effectively, efficiently, or economically serve the subscribers. The cost of the Franchise amendment process shall be the responsibility of the initiating party.

#### SECTION 2.03.280

#### PROTECTION OF PRIVACY

(1) The Franchisee and the County will constantly guard against possible abuses of the right of privacy or other rights of any subscriber or person. In

particular, the Franchisee shall comply with the privacy provisions of the "Cable Act, Section 631", incorporated herein by reference.

(2) The Franchisee shall not permit the transmission of any signal, aural, visual, or digital, including "polling" the channel selection, from any subscribers premises without first obtaining the informed consent of the subscriber which shall not have been obtained from the subscriber as a condition of any service for which transmission is not an essential element. The request for such consent shall be contained in a separate document which enumerates and describes the transmissions being authorized and includes a prominent statement that the subscriber is authorizing the permission in full knowledge of its provision, and shall be revocable at any time by the subscriber without penalty of any kind whatsoever. This provision is not intended to prohibit the use or transmission of signals useful for the control or measurement of system performance or used only for billing subscribers or providing optional pay services.

(3) The Franchisee shall not permit the use of any special terminal equipment in any subscriber's premises that shall permit transmission from the subscriber's premises of the two-way services utilizing aural, visual or digital signals without first obtaining written permission of the subscriber.

(4) The Franchisee or any of its agents or employees, shall not, without the specific written authorization of the subscriber involved, sell or otherwise make available to any party any list which identifies the viewing habits or responses of individual subscribers.

#### SECTION 2.03.290      CONSTITUTIONALITY

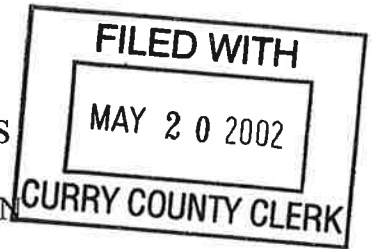
If any section, subsection, sentence, clause or portion of this division is for any reason held invalid or rendered unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the constitutionality of the remaining portions hereof. If for any reason the Franchise fee is invalidated or amended by the act of any court or governmental agency, then the highest reasonable Franchise fee allowed by such court or other governmental agency shall be the Franchise fee paid by the Franchisee.

## ARTICLE TWO

DIVISION FOUR

RESERVED

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON



In the Matter of an Amendment       )  
to the Curry County Code               )  
Regarding Solid Waste Franchising    )

ORDINANCE NO. 02-01

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1                TITLE

This ordinance shall be known as Ordinance 02-01, an ordinance amending the Curry County Code.

SECTION 2                AUTHORITY

This ordinance is enacted pursuant to ORS 203.035, ORS 459.085(1)(e), and ORS Chapter 459A.

SECTION 3                PURPOSE

The purpose of this ordinance is to recognize that the Curry County Board of Commissioners has combined the former Solid Waste Advisory Committee and the Recycling Committee, and to update the ordinance provisions regarding the new Solid Waste/ Recycling Advisory Committee.

SECTION 4                ADOPTION

Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment to the Curry County Code.

SECTION 5                REPEALER

Current sections 2.05.060, 2.05.070 and 2.05.080 of the Curry County Code (Ordinance 96-7) are hereby repealed.

SECTION 6                SEVERANCE CLAUSE


If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such

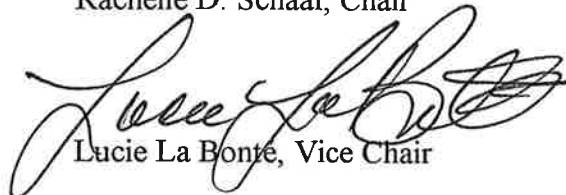


judgment shall not affect the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

ADOPTED this 20 day of May, 2002.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Rachelle D. Schaaf, Chair


  
Lucie La Bonte, Vice Chair

  
Marlyn Schafer, Commissioner

Attest:

  
Recording Secretary

Reviewed as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 5/6/02  
Second Reading: 5/20/02  
Emergency Adoption: \_\_\_\_\_  
Effective Date: 5/20/02

## EXHIBIT "A"

### SECTION 2.05.060

### SOLID WASTE/ RECYCLING ADVISORY COMMITTEE

- (1) There is hereby created a Solid Waste/ Recycling Advisory Committee.
- (2) The Solid Waste/ Recycling Advisory Committee shall consist of the following voting members:
  - (a) One member representing the current solid waste collection franchise holder in Curry County, and
  - (b) Three representatives of Curry County cities consisting of one official from the respective governments of each of the three incorporated cities within the County, and
  - (c) Three lay citizens representing a cross section of the county of whom a minimum of two shall be residents from the unincorporated regions of the county.
- (3) The Curry County liaison commissioner for solid waste/ recycling shall be a non voting member of the Solid Waste/ Recycling Advisory Committee.

### SECTION 2.05.070

### APPOINTMENT OF SOLID WASTE/ RECYCLING ADVISORY COMMITTEE

- (1) Except as otherwise provided herein, appointments of members shall be for three year terms. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the Board for the balance of an unexpired term. City representatives on the Committee shall be appointed by the Board from a list of nomination(s) from the respective city councils.
- (2) The Committee shall select a Chair, Vice Chair and Secretary. Each office shall be for a period of one year. Four voting members of the Committee shall constitute a quorum for the transaction of business. The Committee shall meet at such times as deemed necessary or as called by the Board of Curry County Commissioners.

### SECTION 2.05.080

### DUTIES OF THE SOLID WASTE/ RECYCLING ADVISORY COMMITTEE

The Committee shall:

- (1) Review the Curry County solid waste program and make recommendations for suggested

changes.

- (2) Review recycling data and make recommendations regarding goals and implementation of the recycling program.
- (3) Review and make recommendations on solid waste rate proposals.
- (4) Perform such other duties as directed by the County Board of Commissioners or as the Committee may find necessary to effectively carry out the solid waste program of the County.

## ARTICLE TWO

### DIVISION FIVE

### SOLID WASTE FRANCHISING

#### SECTION 2.05.010

#### COUNTY MAY GRANT AN EXCLUSIVE FRANCHISE

(1) The Board of County Commissioners may grant an exclusive franchise for the collection and transfer of solid waste for the service area described in the franchise for a term not to exceed ten years.

(2) "Transfer" is part of the collection franchise and it includes the right and obligation to operate and maintain all transfer sites located within Curry County including the BEF, Nesika Beach, and Agness transfer sites within Curry County. It also includes the right and obligation to haul Curry County's solid waste from the point of collection to:

- (a) an in-county disposal site; or
- (b) one or more designated transfer sites, if Curry County elects to dispose of its solid waste out of county.

(3) The Board of County Commissioners may promulgate rules and regulations as necessary to establish conformity with State and other requirements.

#### SECTION 2.05.020

#### FRANCHISE FEE

If, in the judgment of the Board of County Commissioners more than one applicant qualifies for the franchise, the Board of County Commissioners shall grant the franchise to the applicant offering the most favorable financial return to the County in consideration of its granting the applicant the franchise.

#### SECTION 2.05.030

#### FRANCHISE REQUIREMENTS

An applicant for a license by a person wishing to perform a solid waste services shall:

- (1) Describe the service for which he or she is seeking a license.
- (2) Describe the territory within which he or she proposes to perform the service.
- (3) Demonstrate that he or she has or can obtain the equipment and personnel required to provide the service.
- (4) Submit a certificate of public liability insurance with a 30 day notice of cancellation clause, acceptable to the Board of County Commissioners, which will cover his or her business operation including each vehicle operated by him or her. The insurance shall indemnify and save the county harmless against liability or damage which may arise or occur

from an injury to persons or property as a result of the license holder's operation of the solid waste business.

- (5) Provide a cash security deposit or a performance bond in the amount of \$1,000 to guarantee payment to the county or another affected person of a judgment secured against the license holder because of work performed that does not conform with the requirements of the license or this and other ordinances of the county. The deposit or bond shall continue until one year after expiration of the license and after all claims or demands made against it have settled or secured.
- (6) Demonstrate through evidence of prior experience and knowledge that he or she has the ability to provide service of the quality and quantity required by this ordinance.
- (7) Have no record of violations of law or ordinance that indicate an inability to satisfactorily perform the service being licensed.

#### SECTION 2.05.040      ISSUANCE OR DENIAL OF FRANCHISE

- (1) Upon receipt of the information required with submission of an application for a solid waste service license by a person seeking to provide a solid waste service and after conducting such investigation as is considered appropriate, the Board of County Commissioners shall determine whether the applicant is qualified and whether there is a need that warrants issuance of a license and, if so, shall issue the license.
- (2) If, on the basis of the application review, the Board of County Commissioners determines the applicant does not qualify for issuance of a license to provide a service in the area proposed or that there is no need for additional service, the application shall be denied and the reasons for denial shall be provided to the applicant.

#### SECTION 2.05.050      ALLOCATION OF SERVICE AREAS

A Franchise to provide collection of solid waste in a portion of the county shall be granted only after a determination of need for the service. Ordinarily, if one person has been franchised to provide such collection, another shall not be franchised to provide the same service in the same area. The determination of need is the responsibility of the Board of County Commissioners which shall seek to gain the best balance of the following objectives:

- (1) To provide the most effective service at the least cost.
- (2) To avoid duplication of service that will cause inefficiency or excessive use of fuel.
- (3) To provide service in areas of marginal return.
- (4) To improve the likelihood of the franchise holder making a reasonable profit and thereby encouraging investment in modern equipment.
- (5) To cooperate with the County by recognizing their service

arrangements.

- (6) To otherwise provide for the service in a manner appropriate to the public interest.

SECTION 2.05.060      SOLID WASTE ADVISORY COMMITTEE

- (1) There is hereby created a Solid Waste Advisory Committee.
- (2) The Solid Waste Advisory Committee shall consist of the following voting members:
  - (a) One member representing the current Solid Waste Collection franchise holder in Curry County, and
  - (b) Three representatives of Curry County cities consisting of one official from the respective governments of each of the three incorporated cities within the county, and
  - (c) Five lay citizens representing a cross section of the county of whom a minimum of four shall be residents from the unincorporated regions of the county.
- (3) The Solid Waste Advisory Committee shall also consist of the following exofficio non voting members:
  - (a) One member representing the Curry County Planning Department.
  - (b) One member representing the Curry County Environmental Sanitation Office.
  - (c) Such other exofficio members and advisors to the Committee as becomes necessary for the effective solid waste collection and disposal in Curry County.

SECTION 2.05.070      APPOINTMENT OF SOLID WASTE ADVISORY COMMITTEE

- (1) The membership of the Solid Waste Advisory Committee and the terms of its individual members shall remain the same as it was immediately before the adoption of this Division, except that by operation of Section 2.05.060 above, the position of Board representative is automatically removed and the Board shall appoint a representative of the current Solid Waste Collection Franchise collection company to the Committee whose term shall correspond to that of the Board representative just removed.
- (2) Future appointments of members shall be for three year terms. Members shall serve until their successors are appointed and qualified. Vacancies shall be filled by the Board for the balance of an unexpired term. City representatives on the Committee shall be appointed by the Board from a list of nomination(s) from the respective city councils.

- (3) The Committee shall select a Chair, Vice-Chair, and Secretary. Each office shall be for a period of one year. Five voting members of the Committee shall constitute a quorum for the transaction of business. The Committee shall meet at such times as deemed necessary or as called by the Board of Curry County Commissioners.

SECTION 2.05.080

DUTIES OF THE SOLID WASTE ADVISORY  
COMMITTEE

The Committee shall:

- (1) Make an annual report to the County Board of Commissioners containing an evaluation of the current rate structure, recommendation on development and implementation of a solid waste management plan including recycling, and any necessary regulation or amendments to this ordinance or other County Solid Waste Ordinances.
- (2) In consultation with responsible public officials and person providing service:
  - (a) Develop and periodically review a solid waste management plan including regional disposal sites and necessary disposal systems requiring review, adoption or modification by the County Board of Commissioners.
  - (b) Develop and recommend to the appropriate agency or the County Board of Commissioners minimum standards for location and operation of disposal sites including, but not limited to, protection of adjacent or nearby property.
- (3) Review and make recommendations on solid waste rate proposals.
- (4) Perform such other duties as directed by the County Board of Commissioners or as the Committee may find necessary to effectively carry out the Solid Waste Program of the County.

FILED WITH

JUN 20 2007

CURRY COUNTY CLERK

IN THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment )  
to the Curry County Code )  
Regarding Article Two )  
Division Six - Granting of )  
Solid Waste Franchise to CTR )

ORDINANCE NO. 07-05

The Board of Curry County Commissioners ordains as follows:

SECTION I            TITLE

This ordinance shall be known as Ordinance 07-05,  
an ordinance amending the Curry County Code.

SECTION II          AUTHORITY

This ordinance is enacted pursuant to ORS 203.035, ORS 459.065 and ORS 459.085.

SECTION III        FINDINGS

- A. Curry County, by ordinance and agreement, entered into a solid waste franchise agreement with Curry Transfer and Recycling (CTR) on August 5, 1996.
- B. The current ordinance and agreement provides that the County's franchise fee is to be paid in the form of services rendered to the County (at the prevailing rate) and monthly payments.
- C. Because of the County's current less than favorable financial situation, the Board of Curry County Commissioners has asked that the franchise fee be in the form of monthly payments only, instead of services offered.

COPY



- D. CTR is not opposed to paying the franchise fee in the form of monthly payments.

SECTION IV      REPEALER

The current Section 2.06.040, subsection (16) of Section 2.06.090 and Exhibit "B" of Article Two, Division Six of the Curry County Code (Ordinance 96-7, as amended) and of the franchise agreement are repealed.

SECTION V      ADOPTION

Attachment "A", the new Section 2.06.040 which is incorporated by reference, is adopted as an amendment to the Curry County Code and to the franchise agreement.

SECTION VI      SEVERANCE CLAUSE

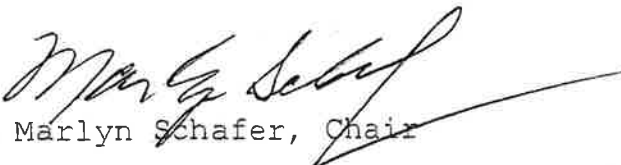
If any section, provision, clause or paragraph of the Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of the Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.


SECTION VII      EMERGENCY CLAUSE


The Board of Curry County Commissioners deems this ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this ordinance shall be in full force and effect on July 1, 2007.

DATED this 18<sup>th</sup> day of June, 2007.


BOARD OF CURRY COUNTY COMMISSIONERS

  
Marlyn Schafer, Chair


  
Georgia Yee Nowlin, Vice Chair

  
Lucie La Bonté, Commissioner

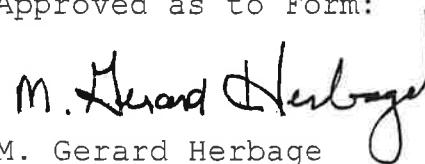
Terms of Franchise Amendment and Ordinance Accepted:

  
Authorized Representative of CTR

1<sup>st</sup> Reading: 6/18/07  
2<sup>nd</sup> Reading None  
Emergency: Yes  
Effective Date: 7/1/07

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

**ATTACHMENT "A"**

SECTION 2.06.040      FRANCHISE FEE

Franchisee shall pay the County an annual fee as compensation for the rights granted to Franchisee under the terms of this Division. This fee is set at 3% of the base collection fee, and it shall be paid promptly in monthly installments to the County.

## ARTICLE TWO

### DIVISION SIX

### GRANTING OF SOLID WASTE FRANCHISE TO CTR

(Note this Division was effective on 8-5-96)

### SECTION 2.06.010

### RESERVED

### SECTION 2.06.020

### DEFINITIONS

For the purposes of this Division, the following terms shall have the following meanings:

- (1) "Basic Solid Waste Collection Service Component" shall mean the monthly Solid Waste collection and disposal rates, as set forth on the rate sheets, less closure/post-closure charges, surcharges and container rental charges.
- (2) "Commercial" shall mean any activity conducted for business purposes including non-profit businesses.
- (3) "CPI" shall mean the Portland Consumer Price Index (CPI)
- (4) "County" shall mean Curry County, a political subdivision of the State of Oregon.
- (5) "Disposal Facility" shall mean a Solid Waste facility which has all applicable permits and authorizations needed to accept Solid Waste for transformation, recovery, recycling, transfer or disposal.
- (6) "Franchise Area" shall mean the unincorporated area of Curry County.
- (7) "Franchisee" shall mean CTR.
- (8) "Generators" shall mean all individuals, businesses and other entities, including federal, state county and local agencies located within the Franchise Area, or that generate Solid Waste or Recyclable Materials within the Franchise Area.
- (9) "Hazardous Waste" shall mean all Solid Waste defined or characterized as Hazardous Waste by the federal Solid Waste Disposal Act, all future amendments thereto or regulations promulgated thereunder, all Solid Waste defined or characterized as Hazardous Waste by the principal agencies of the state having jurisdiction over such Hazardous Waste and those substances and items which are

not normally disposed of by generally accepted sanitary landfill disposal methods.

- (10) "Infectious Waste" shall have the definition set forth in ORS 459.386(2).
- (11) "Recyclable Materials" shall have the definition set forth in ORS 459.005(19). The initial list of Recyclable Materials is set forth with particularity in Section 2.06.100 of this Division.
- (12) "Residential" shall mean premises consisting of two dwelling units or less, under the same ownership.
- (13) "Self Hauler" shall mean any Residential Generator who delivers all or any part of his or her Solid Waste or Recyclable Materials to the appropriate in-county Transfer Station.
- (14) "Solid Waste" shall mean all useless or discarded putrescible and nonputrescible materials, including, but not limited to garbage, rubbish, refuse, vehicular and trailer tires, ashes, paper and cardboard, useless or discarded commercial, industrial, demolition, and construction materials, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials (including wood wastes, grass clippings, and yard wastes). Solid Waste does not include:
  - (a) Environmentally hazardous waste as defined in ORS 466.005.
  - (b) Sewer sludge and septic tank and cesspool pumping or chemical toilet waste.
  - (c) Reusable beverage containers as defined in ORS 459 A.700 et.seq.
  - (d) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.
  - (e) Motor vehicles and recyclable/reusable motor vehicle parts.

This section shall not be construed to prohibit Oregon licensed contractors from collecting and transporting demolition and construction waste, wood waste, concrete rubble, manure, contaminated soils, and fill dirt produced as part of that person's business or occupation; or to prohibit yard maintenance persons from collecting and transporting grass clippings and yard debris produced as part of

that person's business or occupation to the appropriate in county transfer station or recycling destination.

- (15) "Transfer Station" shall mean any of the in-county facilities operated by Franchisee, where Solid Waste or Recyclable Materials are disposed of, recycled, or transferred for disposal or recycling.

#### SECTION 2.06.030      GRANT OF FRANCHISE

The County hereby grants to Franchisee the following rights, privileges, and franchise, subject to the terms, obligations and responsibilities on the part of Franchisee as set forth in this Division:

- (1) **SOLID WASTE AND INFECTIOUS WASTE COLLECTION.** Franchisee shall have the exclusive right to provide all Solid Waste and Infectious Waste collection services within the Franchise Area, and the exclusive right to use the roads of the County for that purpose. Franchisee shall provide Infectious Waste collection to all Infectious Waste Generators within the Franchise Area. Except as otherwise provided in this Division, no other person or entity shall provide Solid Waste or Infectious Waste collection within the Franchise Area.
- (2) **CURBSIDE RECYCLING COLLECTION.** Franchisee shall have the exclusive right to establish curbside Recyclable Materials collection routes within the Franchise Area, including the exclusive right to use the roads of the County for that purpose, and to collect all Recyclable Materials within the Franchise Area from the Generator. Except as otherwise provided in this Division, no other person or entity shall collect or recycle Recyclable Materials within the Franchise Area.
- (3) **TRANSPORTATION AND DISPOSAL OF COLLECTED MATERIALS.** Within Franchisee's sole and exclusive rights and obligations to collect Solid Waste, Infectious Waste and Recyclable Materials, shall be Franchisee's sole and exclusive right and obligation to transport all Solid Waste from the point of collection to any DEQ approved Transfer Station or Disposal Facility. Franchisee shall also have the sole and exclusive right and obligation to transport all collected Infectious Waste to an approved Infectious Waste disposal or treatment facility. Additionally, Franchisee shall have the sole and exclusive right and obligation to transport all Recyclable Materials collected by Franchisee to a Transfer Station, or to a storage, sorting, processing or buy back facility. Subject to the existing contract between Franchisee and Douglas County and the terms of this Division,

Franchisee shall have the sole and exclusive right to determine which Disposal Facility to which it shall transport Solid Waste and Recyclable Materials. Except as otherwise provided in this Division, no other person or entity shall transport or dispose of Solid Waste or Recyclable Materials within the Franchise Area.

- (a) Franchisee shall have available for loading, a sufficient number of top-loading trailers as may be needed to handle the throughput at the Transfer Stations. Such trailers shall be of a size and design to accommodate the physical facilities of the Transfer Stations and will meet all requirements of federal, state and local law with respect to weight, length, dimensions and other characteristics. Franchisee shall assure that the trailers have on-board scales or some other method of independently determining proper load/trailer weight.
  - (b) Franchisee shall provide adequate storage of all trucks, trailers and appurtenant equipment utilized in performing the services required under this Section.
  - (c) Franchisee shall determine and record the tonnage of Solid Waste, departure times and destination of each trailer leaving the Transfer Stations. Such records shall be available to the County for inspection at all reasonable times.
- (4) **TRANSFER STATIONS.** As part of Franchisee's obligations under this franchise, it will continue to operate the County owned Transfer Stations at Agness, Nesika Beach, and Port Orford so long as those Transfer Stations are needed and any other additional Transfer Stations the County may choose to open during the term of this franchise. The Franchisee shall also operate the Transfer Stations owned and/or operated by Franchisee at Wridge Creek and Brookings. The County will continue to be the designated Permittee at the County owned Transfer Stations in operation and shall maintain said permits in full force and effect and shall maintain said Transfer Stations in operation at all times this franchise agreement is in force. Franchisee shall conduct the operations at the County owned Transfer Stations in compliance with the applicable DEQ permits on file, as they may be amended from time to time. Except as otherwise provided, the County shall continue to direct all solid waste and recyclables collected in the county to the permitted Transfer Stations, whether said solid waste is collected by the Franchisee or a Self-Hauler.
- (5) **ADDITIONAL SERVICES.** Franchisee shall have the right of first refusal to

provide any other exclusive services concerning Solid Waste, Recyclable Materials, Infectious or any other classification of wastes or Recyclable/reusable materials not granted under this Division. Any request for provision of new services shall be made subject to the terms of Section 2.06.220 of this Division.

- (6) **COLLECTION AND HAULING.** The Franchisee shall collect Solid Waste at the various residences, business establishments and other places within the Franchise Area where such service is requested promptly and with dispatch, and haul such Solid Waste from the Franchise Area upon the payment of not more than the maximum rates authorized by the most recent rate schedule and approved by the County.

#### SECTION 2.06.040      FRANCHISE FEE

Franchisee shall pay the County an annual fee as compensation for the rights granted to Franchisee under the terms of this Division. Payment shall be in the form of services rendered (at the prevailing rate) and/or monthly payments as set forth herein in Exhibit "B".

#### SECTION 2.060.050      USE OF SERVICES

- (1) Each Generator, including but not limited to property owners, Commercial or Residential lessees, households and businesses in the Franchise Area, shall comply with all reasonable policies and programs with regard to Solid Waste, Infectious Waste and recycling. Franchisee shall make its service available where practicable to each customer in the Franchise Area subject to the terms and conditions set forth in this Division.
- (2) Residential Generators shall have the right to self haul the Solid Waste and Recyclable Materials generated themselves to the appropriate in-county Transfer Station. Solid Waste and Recyclable Materials produced by a tenant, lessee, licensee, occupant or person other than the owner of the premises are considered to be generated by such person and not by the Landlord or the owner of the premises.
- (3) Except as otherwise provided herein, the County shall direct all Solid Waste and Recyclable Materials generated or disposed of within the Franchise Area to the appropriate in-county Transfer Station for long-haul transportation by Franchisee to a Disposal Facility, or recycling facility, as the case may be.



## SECTION 2.06.060      TERM

Except as otherwise provided in this Division, the term of this Franchise shall be a continuing year to year term, subject to termination as follows:

Beginning on January 1 of each year, this Franchise shall be considered renewed for an additional year unless at least thirty (30) days prior to January 1 of any year the County notifies Franchisee, in writing, by certified mail, return receipt requested, of its intent to terminate this Franchise. Upon giving notice of termination, this Franchise shall terminate ten (10) years from the date of notice, so that Franchisee may finance, amortize and depreciate its investment in the equipment it has or will use for providing services under this Franchise. The County may then later extend the term of this Franchise or reinstate the continuing term upon mutual agreement with Franchisee. Termination under this Section may be with or without cause.

## SECTION 2.06.070      RATES

- (1) As compensation for performing the services required under this Division, Franchisee shall be authorized to collect from Generators reasonable fees set by the County, as required by this Division, and levied upon Generators in accordance with rates duly enacted by the County. The rates established under this Agreement shall not be less than the base rate established at the commencement of this Division, except in the following circumstances:
  - (a) When the closure and post-closure components set forth in Section 2.06.190 of this Division are no longer required, Franchisee shall no longer be entitled to collect such component.
  - (b) In the event that the County modifies Franchisee's service requirements pursuant to Section 2.06.220 hereof, and such modification results in reduced operational costs to Franchisee, such savings shall be passed on to Generators in the form of reduced rates.

The initial rate sheets (base rates) are attached hereto as Exhibit "A", and by reference are fully incorporated herein.

- (2) All revenues received by Franchisee from the sale of Recyclable Materials collected by Franchisee and all fees received by Franchisee from rate payers for services hereunder shall become the property of Franchisee as consideration for the performance of services hereunder.

- (3) County shall not be responsible for the payment of any federal, state or local taxes due as a result of compensation under this Division.

SECTION 2.06.080

RATE REVIEW AND ADJUSTMENT

- (1) **WHEN RATE ADJUSTMENTS MAY BE SOUGHT.** Requests for rate adjustments may be made once each year, at Franchisee's or County's discretion. Rate applications shall be timely filed by the Franchisee to give reasonably adequate time for consideration by the County staff and the Board of Commissioners at a regular meeting, after giving notices required by law in order to go into effect at the date requested by Franchisee. Rate adjustments may be sought for all reasonable reasons, including but not limited to additional costs incurred or to be incurred by Franchisee, or a loss of revenues due to:
- (a) A new service or a change in service ordered or authorized by the County or a modification or renegotiation of any material term or condition of this Division. Such adjustment shall be based upon Franchisee's costs and revenues incurred in providing the service, plus a rate of return of eight percent of any additional costs. The proposed cost adjustment shall be reviewed after the first year of providing such new or changed service, and the proposed costs shall be adjusted to reflect the actual costs of providing such new or changed service;
  - (b) A change in the requirements for collection, treatment, disposal or processing of Solid Waste, or a change in requirements for collection, transfer, disposal or processing of Recyclable Materials, or any surcharges, either by action of the County or of any federal, state, or local governmental agency or other unanticipated charges or expenses incurred by Franchisee as a result of actions outside of Franchisee's control;
  - (c) Failure of Franchisee to earn a rate of return of not less than six and one-half percent of all reasonable costs incurred by Franchisee in its provision of the services required under this Division; or
  - (d) Any portion of this Division being later declared invalid.
- (2) **BURDEN OF PROOF.** The Franchisee shall bear the burden of justifying to the County by a preponderance of the evidence any rate increase. If the County determines that the Franchisee has not met its burden, the Franchisee may, within 60 days of County's determination, and before seeking arbitration, request

another hearing to produce additional evidence. Upon request, the County shall permit said additional hearing.

- (3) **COST OF LIVING ADJUSTMENT (COLA).** In addition to the rate adjustments described above, the portion of the rates for recycling, collection, transportation and disposal represented by specific dollar amounts listed on the rate sheets (Exhibit "A") shall be further adjusted upon written request of the Franchisee if Franchisee can demonstrate by a preponderance of the evidence, an increase in the CPI over the preceding calendar year. The rate sheets may also be further adjusted upon written request of the County if County can demonstrate, by a preponderance of the evidence, a decrease in the CPI over the proceeding calendar year. The adjustment shall be based upon the change in the CPI from December 31 of the current year, compared to the CPI as of December 31 of the prior year. The rates shall be subject to adjustment on or about the 1st day of April each year thereafter (the "adjustment date") as follows:
- (a) The base for computing the adjustment is the CPI (U) published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), which is published for the month nearest the date of the commencement of the term of this Division ("Beginning Index"). If the Index published for the most recent month prior to the rate application ("Extension Index") has increased over the Beginning Index, the rates for the following year (until the next adjustment) shall be set by multiplying the rates by a fraction, the numerator which is the Extension Index and the denominator of which is the Beginning Index. After request for adjustment as provided herein, the parties shall act with all diligence to adjust the rates as set forth hereunder.
  - (b) If the CPI is changed so that the base year differs from that used as of the month immediately preceding the month in which the term commences, the CPI shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the CPI is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or revised.
  - (c) The COLA adjustment provided for herein shall not be granted to Franchisee in any rate hearing where Franchisee is requesting a rate adjustment pursuant to Section 2.060.080(1)(c) of this Division.

- (4) RATE DISPUTES. If the County rejects a rate adjustment requested by the Franchisee, grants an increase less than what was requested by Franchisee, or fails to act timely upon all or any part of the Franchisee's rate adjustment application, then the Franchisee may request binding arbitration of the matter as provided in Section 2.06.160 of this Division.
- (5) ALTERNATE DISPOSAL FACILITY COSTS. Subject to existing disposal contracts, Franchisee shall dispose of Solid Waste at the lowest cost (considering both disposal and transportation) Disposal Facility approved by DEQ. If Franchisee does not use the lowest cost Disposal Facility approved by DEQ, then Franchisee may not recover, through any rate adjustment, its disposal costs which exceed the disposal costs at the lowest cost Disposal Facility.
- (6) AUDITS. IF Franchisee seeks a rate adjustment pursuant to Section 2.060.080(1)(c) hereof, then County may require Franchisee to provide a financial audit for the previous year of operations. The audit shall be completed according to generally accepted accounting procedures, and shall be at no cost to County. The auditor shall be chosen by County with the concurrence of Franchisee. Franchisee shall be entitled to recover the reasonable costs for the audit through Franchisee's rates.
- (7) UNREASONABLE COSTS. For the purposes of Section 2.06.080(1)(c) of this Division, the following shall not be included within the meaning of the "reasonable costs":
- (a) Contributions;
  - (b) Fines and penalties;
  - (c) Affiliated party transaction costs to the extent they exceed the fair market rate for such goods and services;
  - (d) Costs associated with future purchase of other companies including ESOP payments, goodwill, amortization of goodwill, premiums on key-person life insurance policies;
  - (e) Principal or interest payments on acquisitions of residential Solid Waste or recycling collection routes, or the purchase of equipment and facilities at a price, that would be construed to include goodwill or a premium in excess of fair market value at the time of acquisition;

- (f) State, federal and local income taxes;
- (g) Accruals for future unknown regulatory changes.

SECTION 2.06.090      GENERAL FRANCHISE TERMS AND CONDITIONS

The following terms and conditions shall apply:

- (1) Unless otherwise set forth in this Division, Franchisee shall collect Solid Waste from each Generator throughout the Franchise Area at least once weekly. No collections need be made on legal holidays.
- (2) Subject to the conditions herein, Franchisee need not provide service to any Generator who has been billed for service and who is more than 45 days in arrears of any outstanding balance. In that event the Franchisee may terminate service to such Generator. Additionally, Franchisee need not provide service to non-owners of property, where the owner does not request and pay the charges therefor, unless payment for said service has been guaranteed in advance by the property owner, or a satisfactory cash deposit or advance payment has been made by such non-owner requesting service.
- (3) For accounts more than 90 consecutive days in arrears, Franchisee shall have the authority to require a deposit from such Generators, equal to two months charges for such Generator, and shall have the authority to require the Generator to maintain such deposit, for the services performed hereunder. This requirement shall not apply to Generators in arrears as of the effective date of this Division.
- (4) For Generators who terminate service, and within 60 days of such termination, resume service, Franchisee may charge each such Generator a service termination fee, and a service start up fee.
- (5) Accounts not paid in full within 30 days from payment date may accrue interest from and after the date due at the legal rate of interest. In addition to said interest, accounts not paid in full within 60 days from payment due date may accrue a reasonable handling fee of \$25.
- (6) In the event service has been terminated for non-payment, Franchisee shall charge such Generator a \$25. fee for re-instituting service.
- (7) Franchisee shall provide the services required to be performed herein in

compliance with all federal, state and local laws, statutes, ordinances and regulations, including ORS Chapters 459 and 459 A, and the regulations of the Department of Environmental Quality, the Worker's Compensation Board and the State Accident Insurance Fund. Additionally, Franchisee shall provide the services required to be performed herein in a good and workmanlike manner.

- (8) Each vehicle used by Franchisee for the collection and transportation of Solid Waste and Recyclable Materials:
  - (a) Shall be maintained in a safe and legal operating condition at all times.
  - (b) Shall be kept clean and sanitary, in good repair and well and uniformly painted.
  - (c) Shall have the Franchisee's name, telephone number and vehicle identification number printed or painted in letters not less than 4 inches in height on both sides of the vehicle.
  - (d) Shall be maintained at all times in a manner to prevent unnecessary noise during its operation.
  - (e) Shall not be operated in a manner that results in undue interference with normal traffic flows.
  - (f) Shall not be parked, or left unattended on the public streets when loaded.
- (9) Franchisee may temporarily suspend any service required under the terms of this Division if:
  - (a) The street or road access is unavoidably blocked or otherwise impassable through no fault of the Franchisee and there is no reasonable alternate route available, or the street or road access is otherwise inaccessible to Franchisee's vehicles and equipment;
  - (b) Adverse weather conditions render providing service unduly hazardous.
- (10) Service to a Generator may be terminated if Franchisee, its officers, employees, agent or contractors, jointly or individually are placed at risk with regard to their physical health or welfare.

- (11) Unless otherwise specifically approved by Franchisee, no Solid Waste container shall exceed the standard size of 32 gallons in capacity or 55 pounds in weight. No Solid Waste container shall be located greater than five feet from curbside or greater than eight feet from the edge of the public roadway. Franchisee reserves the right to determine the type and style of container which any Generator shall use.
- (12) All containers shall be placed in a location readily accessible to Franchisee, outside of garages and other buildings, and outside of all fences, gates and other obstructions, unless the Generator pays the appropriate additional fee, as set forth on the rate sheets.
- (13) Once a Generator's service requirements exceed the equivalent of three 32 gallon cans per week, the Generator shall be required to utilize appropriate sized bins, carts or containers provided by Franchisee.
- (14) Any Generator utilizing a trash compactor shall insure that said compactor is reasonably compatible with the equipment owned by the Franchisee, at the time the Generator signs up for collection service, or the equipment that the Franchisee is willing to acquire. The County shall establish separate collection and disposal rates for compacted and uncompacted Solid Waste, which rates shall not be more than three times the rate of the same volume of non-compacted Solid Waste.
- (15) In the event that Generator has an occasional item or items of Solid Waste which do not fit into said Generator's Solid Waste container, the Generator shall place the additional item or items adjacent to the Generator's container at regular collection time and the item or items shall be collected on the same route day by the Franchisee. Franchisee shall charge the Generator according to the rate sheets (Exhibit "A") for such additional collection.
- (16) Franchisee shall provide free collection and disposal service to the County in quantities, and on the terms set forth in Exhibit "B".
- (17) Title to Recyclable Materials shall pass to Franchisee either when placed in Franchisee's collection bins, or when delivered to Franchisee at designated locations for collection by Franchisee, whichever is applicable. Title to all other materials, including Solid Waste and Infectious Waste, shall remain with the Generator until disposal, where title shall pass to the facility owner or operator.
- (18) Service provided under the terms of this Division shall be subject to the

supervision of the County. The Franchisee shall, at all reasonable times, permit inspection of its facilities, equipment, personnel and records as they relate to the services to be provided under this Division.

- (19) Franchisee shall comply with all federal Occupational Safety and Health Administration (OSHA) and applicable State of Oregon and Curry County requirements. Franchisee shall also comply with all Worker's Compensation Department requirements and all other state and local code requirements.
- (20) Franchisee shall fully comply with all requirements of ORS Chapter 279, including without limitation ORS 279.312, 279.314, 279.316, and ORS 279.334. Additionally, the hourly rate of wage paid by Franchisee to its workers under the terms of this Division shall not be less than the minimum wage as established by the State of Oregon, unless Franchisee is exempt from such law.
- (21) Franchisee shall comply with all equal opportunity laws, orders, rules and regulations promulgated by any federal, state, county or local governmental agency.
- (22) Franchisee shall provide industrial accident insurance for all persons employed on work to be done under this Division.
- (23) Franchisee shall comply with ORS 279.320 relating to liability for monies due to State Commissions.
- (24) Infectious Waste Generators shall comply with all federal, state and local laws, regulations or orders pertaining to Infectious Waste.
- (25) In the event that Franchisee shall desire to terminate service under the terms of this Division, then it shall give the County not less than 48 months notice of its intent to terminate service and the obligations of the Franchisee. In the event of such voluntary termination of service by Franchisee, the County shall have the right of first refusal to purchase all or any part of the equipment of the Franchisee at the price to be agreed upon between the parties. If the parties cannot agree upon a price, then such dispute shall be submitted to binding arbitration pursuant to Section 2.06.160 of this Division.
- (26) The Franchisee shall respond to any written complaint on service within 7 days of Franchisee's receipt of such written complaint.



- (27) The Franchisee shall provide the opportunity to recycle in accordance with ORS Chapter 459 A.
- (28) The Franchisee shall not give any rate preference to any person, locality or type of solid waste stored, collected, transported, disposed of or resource recovered. This paragraph shall not prohibit uniform classes of rates based upon length of haul, time of haul, type or quantity of Solid Waste handled and location of customers, so long as such rates are reasonably based upon costs of the particular service and are approved by the County in the same manner as other rates.

SECTION 2.06.100      RECYCLING

- (1) The Franchisee shall have the following rights and obligations:
  - (a) The sole and exclusive right and obligation to operate curbside Recyclable Materials collection routes as stated in Section 2.06.030(2) of this Division;
  - (b) The sole and exclusive right and obligation to place all Recyclable Materials collection bins located within the Franchise Area;
  - (c) The sole and exclusive right and obligation to collect, recycle, process, transport, market and sell all Recyclable Materials collected from the Generator.
- (2) Franchisee shall provide for recycling of the following properly prepared materials; newspaper, magazines, office paper, cardboard, glass containers, tin cans, aluminum, and certain plastics. The foregoing list of Recyclable Materials may be amended from time to time upon mutual agreement of the parties. Such amendment shall be deemed a New or Changed Service.
- (3) Curbside Recyclable Materials collection may be made available.
- (4) All Recyclable Materials collected by Franchisee shall become the property of Franchisee.
- (5) Franchisee shall have the exclusive right to remove Recyclable Materials or other salvageable materials from the Solid Waste generated within the Franchise Area.
- (6) Nothing contained in this Division shall prohibit any third person or any business

entity from collecting Recyclable Materials within the Franchise Area, so long as said third person or other business entity either:

- (a) Purchases said Recyclable Materials from Generators; or
  - (b) Receives said Recyclable Materials from Generators for no compensation.
- (7) This Subsection shall not permit any third person or any business entity to:
- (a) Rent or lease containers to any Generator, and to act as a recycling or Solid Waste consultant, if in conjunction with said rental, lease, or consulting agreement, such person or entity agrees to collect, recycle, process, transport, market, and/or sell Recyclable Materials for no compensation;
  - (b) Adversely impact the County's recycling rate mandated by the state legislature and administered by the State Department of Environmental Quality; or
  - (c) Adversely impact Franchisee's recycling revenues to a material extent.
- (8) Franchisee shall comply with all reasonable reporting requirements from the County regarding data concerning Solid Waste and Recyclable Materials collection, transportation and sale.
- (9) Recycling revenues received by the Franchisee for the sale of Recyclable Materials subject to this Division, shall be considered revenues for the purposes of rate adjustments hereunder.
- (10) Nothing herein shall prohibit non-profit groups located within the Franchise Area from collecting, for compensation from the Generator, cans and bottles subject to the Oregon deposit law in effect at the time.

#### SECTION 2.06.110      DISPOSAL FACILITY

Subject to this Division and the existing contract between Franchisee and Douglas County, Franchisee shall dispose of all collected Solid Waste and Infectious Waste at permitted Disposal Facilities, selected at Franchisee's sole option.

SECTION 2.06.120      INSURANCE

Franchisee agrees to carry and maintain in effect at all times, at its own expense, the following:

- (1) Workers' Compensation Insurance.
- (2) General liability insurance against injury or damage to person or property naming the County, its officers, employees, officials and agents as additional insured and giving the County notice of cancellation, in an amount not less than \$2,000,000 per occurrence. Such insurance shall be primary and not excess, and shall be procured from an insurer authorized to do business in this state.
- (3) Motor vehicle liability insurance on each vehicle owned or used by Franchisee for the services required under this Division insuring against injury or damage to person or property, naming the County as an additional insured and giving the County notice of cancellation, in an amount equal to that required under Subparagraph 2 above.
- (4) All insurance premiums shall be paid by the Franchisee and shall be without cost to the County.
- (5) The terms of each policy shall provide that 30 days written notice of cancellation, material change in terms or of Franchisee's intent to not renew be given to the County.
- (6) The Franchisee shall provide proof of insurance coverage on the terms indicated in this Section.

SECTION 2.06.130      INDEMNIFICATION

Franchisee agrees to defend, indemnify and hold free and harmless County, and its elected and appointed officials, officers, employees and agents, from any liability arising from the subject of this Division, including but not limited to any and all claims, demands, losses, expenses, damages, fees, penalties, environmental contamination, personal injury, property damage, and all expenses relating to any claim or cause of action of any nature, including clean-up or remedial action sought by private or governmental bodies, arising out of Franchisee's negligent or intentional actions or omissions.

#### SECTION 2.06.140

#### ASSIGNMENT

Franchisee shall not sell, assign or otherwise transfer any rights and obligations granted under this Division without first obtaining the written consent of the County by resolution. The County may attach reasonable terms and conditions to the consent as it deems necessary to maintain and guaranty the quality of service under the Franchise. Consent by County will not be unreasonably withheld, provided however that County may require proof of the proposed assignee's financial responsibility, experience in providing Solid Waste disposal services and ability to perform all requirements of the Franchise during the Franchise term. The County shall not unreasonably withhold its consent if the Franchisee can demonstrate to the reasonable satisfaction of the County that the proposed assignee possesses good character, adequate financial capability and operational expertise, including personnel experienced in Solid Waste management systems of similar size and scope, to provide a level of service to County equal to or better than the level provided by Franchisee.

Notwithstanding Section 2.06.060, in the event the Franchisee does sell, assign, or transfer rights and obligations under this Division, and the County so approves, the Franchise shall terminate one year following the County's approval.

#### SECTION 2.06.150

#### ABANDONMENT, PERFORMANCE BOND

Franchisee shall not abandon or terminate its services within the Franchise Area during the term of this Franchise without having first obtained the written approval of the County. Additionally, Franchisee shall, at its own cost, post a performance bond with the County, and at all times during the existence of this Franchise shall maintain said bond in full force and effect. The bond shall be in the amount of \$100,000, shall be purchased through a reliable company licensed to do business in this state and shall guarantee Franchisee's faithful performance of this obligations under this Franchise. If Franchisee fails to perform any of its material obligations under this Franchise, the County may recover from the principal and surety of the bond all foreseeable damages or losses suffered.

#### SECTION 2.06.160

#### BINDING ARBITRATION

Except as set forth in Section 2.06.170, in the event of any dispute arising under this Division, County and Franchisee shall continue performance of their respective obligations and shall attempt to resolve such dispute in a cooperative manner, including negotiating in good faith, prior to initiation of arbitration. Any unresolved dispute or claim which arises out of or relates to this Division, or to the interpretation thereof, shall

be resolved by binding arbitration. Arbitration shall be by a single, neutral arbitrator. If the parties are unable to agree upon an arbitrator, then either party may apply to the Circuit Court of Curry County for appointment of an arbitrator. The arbitration hearing shall be held in Gold Beach, Oregon unless the parties otherwise agree. The arbitrator shall have the powers described in ORS 36.335 and shall follow applicable law in reaching a decision on the controversy submitted. The arbitrator's fees and expenses shall be divided equally between the parties. Each party shall pay its own arbitration related fees and costs. Franchisee's portion of the arbitrator's fees, and its portion of the arbitration related fees and costs may only be recovered through the rates in the event that Franchisee is entitled to a rate adjustment pursuant to Section 2.06.080(1)(c) of this Division. County and Franchisee shall attempt to conclude all arbitration proceedings within 30 days of the appointment of the arbitrator. Except as otherwise set forth herein, the parties shall follow the arbitration procedures set forth in ORS 36.300 et. seq. The decision of the arbitrator shall be final and binding on the parties, and any judgment on the arbitration award may be entered in any court of competent jurisdiction.

#### SECTION 2.06.170      DEFAULT

- (1) In the event that a party substantially fails to perform its obligations as set forth in this Division, then such party shall be in default hereof. In such case, the non-defaulting party shall provide the defaulting party with written notice of default detailing the nature of the default with reasonable particularity, and the steps required to cure the default. The non-defaulting party may terminate this Franchise, upon written notice, if the defaulting party fails to cure such default or to commence and diligently pursue a cure within 30 days after receiving the default notice.
- (2) In the event that the County finds an immediate and serious danger to the public creating a health hazard or serious public nuisance, the County may, after a minimum of 24 hours actual notice to Franchisee and a public meeting if the Franchisee requests it, authorize another person to temporarily provide service under this Division, or the County may provide such service. In either event, the Franchisee agrees as a condition of this Franchise that any real property, facilities or equipment may be used to provide such emergency service. The county shall return Franchisee's property upon abatement of the health or nuisance hazard created by the general interruption of service. In the event the power under this Section is exercised, the usual charges for service shall prevail and Franchisee shall be entitled to collect such usual charges, but shall reimburse the County for its actual cost, as determined by the County.

#### SECTION 2.06.180

#### EFFECT OF ORDINANCE

This Division shall apply to all third parties within the Franchise Area. Violation of the provisions of this Division shall be deemed to be a civil violation.

#### SECTION 2.06.190

#### LANDFILL CLOSURE/POST CLOSURE

Notwithstanding any other provision of this Division, Franchisee and County agree:

- (1) Franchisee shall be responsible for completing the closure and post-closure of the Wridge Creek Landfill to the satisfaction of the Department of Environmental Quality (DEQ). With respect to the County's portion of such closure/post-closure costs, Franchisee shall be entitled to recover its actual costs incurred in accomplishing satisfactory closure and post-closure at the Wridge Creek Landfill, from Franchise revenues under this Division. However, Franchisee shall not be entitled to recover any "profit" on those costs. The closure and post-closure costs shall be segregated from Franchisee's other costs.
- (2) Franchisee agrees to collect a surcharge for closure and post-closure for the Port Orford Landfill, in a manner and in an amount to be determined by the county, and to deposit those funds in a trust account as directed by Curry County and DEQ. Franchisee shall not be entitled to recover any profit on such funds. The closure and post-closure costs shall be segregated from Franchisee's other costs.

#### SECTION 2.06.200

#### ENTIRE AGREEMENT

This Division is the entire agreement between the parties and supersedes any and all other agreements between the parties, whether written or oral.

#### SECTION 2.06.210

#### ENFORCEMENT

The County shall take reasonable actions to enforce compliance with the terms and conditions of this Division as it may apply to any third party. To the extent permitted by law, the Franchisee may enforce any and all of its rights and privileges granted hereunder or granted by operation of law against any third party if the County fails or refuses to do so.

#### SECTION 2.06.220

#### MODIFICATION OF FRANCHISEE'S SERVICES

The County shall have the right to make reasonable modifications to the services to be

provided by the Franchisee to Generators. However, this Section shall not permit the County to substantially reduce the services provided by the Franchisee to Generators. Modifications shall only be made after:

- (1) The County provides a written, proposed change order to Franchisee setting forth the nature of the modification with reasonable particularity, not less than 60 days prior to the proposed effective date of the modification. The proposed change order shall include any proposed change in compensation to Franchisee.
- (2) Upon receipt of the proposal, the Franchisee shall have 30 days in which to accept the proposed change order or submit a written response to the proposed change order with suggested modifications.
- (3) Following receipt of Franchisee's written response, the County shall have up to 30 days in which to accept or reject the Franchisee's suggestions and issue a final change order that may be the same as originally proposed or it may be modified to address some or all issues raised by Franchisee. If the final change order issued by the County is not acceptable to the Franchisee, the Franchisee will be obligated to perform the work, but the Franchisee may seek relief under the rate adjustment provisions herein, or, if justified, under the arbitration provisions herein.

#### SECTION 2.06.230      FORCE MAJEURE

If the performance by either party of their respective obligations under this Division is delayed or prevented in whole or in part by any legal requirement (and not attributable to an act or omission of the party), or by any acts of God, fire or other casualty, floods, storms, explosions, accidents, epidemics, war, civil disorders, strikes or other labor difficulties, shortage or failure of supply of materials, labor, fuel, power, equipment, supplies or transportation, or by any other cause not reasonably within the party's control, whether or not specifically mentioned, the party shall be excused, discharged and released from performance to the extent such performance or obligation is so limited or prevented by such occurrence without liability of any kind.

#### SECTION 2.060.240      EFFECT OF PARTIAL INVALIDITY

The invalidity of any portion of this Division shall not be deemed to affect the validity of any other portion. In the event that any portion of this Division is held to be invalid, the remaining provisions shall be deemed to be in full force and effect.

#### SECTION 2.060.250 WAIVER

Waiver of any breach of any term or condition of this Division shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Division shall be held to be waived, modified or deleted, except by an instrument, in writing, signed by the parties.

#### SECTION 2.060.260 NOTICES

All notices required under this Division shall be personally delivered or mailed by certified or registered mail, postage prepaid thereon, and addressed as follows:

If to CTR:

Curry Transfer & Recycling, Inc.  
Attn: President  
Post Office Box 4008  
Brookings, OR 97415

If to Curry County:

Curry County  
Attn: County Counsel  
Post Office Box 746  
Gold Beach, OR 97444



# EXHIBIT "A"

## EFFECTIVE JULY 1, 1995 LONG HAUL RATE ADJUSTMENTS TO RATE SCHEDULE 95/96 - CURRY COUNTY

### CANS/CARTS: SET OUT (CURB SIDE) SERVICE:

\$16.51 per month - one thirty (32) gallon can each week.  
\$33.02 per month - one sixty (64) gallon cart each week.  
\$49.53 per month - one ninety (96) gallon cart each week.  
\$12.60 per month - one twenty (20) gallon can where available.  
Recycle Only Customers.

### CANS/CARTS: OTHER THAN SET OUT SERVICE:

\$.88 per trip plus \$.88 for each additional twenty five feet from truck access. Long driveways, \$.88 for first 100 yards, over 100 yards \$.88 for each additional 200 yards or portion thereof, Per Trip. An additional \$.88 for each gate, fence, hallway and/or stairs per trip and overweight limits of cans ( 32 gallon - 55 lbs ).

### COMERCIAL/RENTAL SERVICES:

32 Gallon Can - Per Month.	\$ 18.58
Container Service - Per Loose Yard - Per Pick-Up.	\$ 21.11
Container Service - Per Loose Yard - Wood Waste (Roll Off).	\$ 9.50
Container Service - Per Loose Yard - Metal Only (Roll Off).	\$ 9.50
Container Rental - One-Eight Yards - Per Month.	\$ 11.01
Customer Requested - Other Than Wkly-Each Trip Minimum.	\$ 19.50
Customer Requested - Customized Pick Up (Times)-Minimum.	\$ 19.50
Container Service - Roll Out Service - Extra.	10%
Container Service - Gate Fee (Per Gate) - Extra.	10%
Container Service - Ramp Roll Out Service - Extra.	20%
Customer Requested After Hour, Saturday or Sunday - Extra.	50%

### RECYCLING CREDITS (When Service Available):

Container Service - Newsprint (Properly Prepared).	50%
Container Service - Waste Paper/Office Paper/Cans/Bottles/ Plastics/Glass (Properly Prepared).	25%

### OTHER RESIDENTIAL & COMMERCIAL CHARGES:

(1) Occasional Extra In Route Pickup - Each.	\$ 4.38
(2) Customer Requested Special Pickup-Minimum.	\$ 6.14
(3) Initial One Time Set Up Charge.	\$ 4.95
(4) Monitored Inactive Status - Each Time.	\$ 4.95
(5) Rental Property Owners Responsible For Sanitation Charges.	
(6) Mechanically Compacted Waste 2.75 Times Yard Or Can Rate.	
(7) Extra Heavy Roofing/Demolition 2.75 Time Yd. Rate.	
(8) Waste In Excess Of 280 LBS Subject To The Approved Tonnage Rate.	

(9) Household Hazardous Waste.

(As Approved)

# Exhibit "B"

## Curry County

Estimated Franchise Fees for the County based on March 1996 Billing.

			Monthly Base Collection Service	Annual Franchise Fee	Franchise Fee %
Residential Commercial Transfer Stations			33,445	\$6,020	1.5%
			38,037	\$6,847	1.5%
			9,285	\$1,671	1.5%
	Total		80,766		
			969,196		
Annualized				14,538	1.5%
Cash Payment				Annual Franchise Fee	
			Proposed Franchise Fee		
			Monthly		
Free Services:			48	578	0.1%
Home Health	Gold Beach	1 Yd EOW	542	6,508	0.7%
Occupancy	Gold Beach	6 Yd WK	400	400	0.0%
Park Dept	Lobster Creek	Estimated for summer credit	90	1,084	0.1%
Road Dept	Hunter Creek	2 Yd WK	50	600	0.1%
Sheriff Dept	Estimated Transfer Station	monthly Credit	54	642	0.1%
Fiscal Services	Port Orford	1 Yd EOW	136	1,627	0.2%
Occupancy	Brookings	1.5 Yd WK	73	878	0.1%
Road Dept	Brookings	1.5 Yd EOW			
			1,081	12,317	1.3%
Total Free Services					
				1,828	0.2%
Additional Services:					
Brush Disposal 250 Yds Per Year				28,683	3%

Est First Annual Franchise Fee  
Est Franchise Fees over 10 Years based on  
CPI of 3% and Growth rate of 2 %

Franchise Fees over 10 Years @ 3% CPI

360,769

The annual franchise fee shall be  
 3% of the base collection fee.

## ARTICLE TWO

### DIVISION SEVEN

### RECYCLING

#### SECTION 2.07.010

#### FINDINGS

(1) The Board of Curry County Commissioners (Board) is mindful of the benefits of recycling which include reduction of the waste stream and conservation of resources by re-using material for the purposes for which it was originally intended, or by recycling material which cannot be directly re-used; and

(2) In order to develop a recycling program, the Board appointed a Curry County Recycling Committee consisting of a cross section of Curry County citizens representing various interests; and

(3) The Curry County Recycling Committee upon meeting on numerous occasions, has made recommendations to the Board in a report dated May 17, 1990, and these recommendations have been reviewed by Curry County's solid waste consultant; and

(4) The Board is desirous of implementing many of the recycling committee's recommendations through a county-wide ordinance under authority of ORS 203.035.

#### SECTION 2.07.020

#### POLICY AND GOALS

(1) It is the policy of the Board to aggressively promote recycling within Curry County.

(2) From time to time the Board will set recycling goals.

#### SECTION 2.07.030

#### DEFINITIONS

The following definitions shall apply to this Division:

(1) "Board" means the Board of Curry County Commissioners.

(2) "Cardboard" means corrugated cardboard or kraft paper.

(3) "Commercial Waste Generator" means a public or private corporation, an unincorporated association, a partnership, or a government body, but not a human being or individual household, and it includes both customers and non-customers of the service provider.

(4) "Office Paper" means clean white or colored bond, book, and ledger paper, white or colored notebook paper, white or colored envelopes (without labels or plastic windows), computer paper, file folders, manila envelopes, and NCR (carbonless) paper.

(5) "Person(s)" means (a) human being, a household, a public or private

corporation, an unincorporated association, a partnership, or a government body.

(6) "Service Provider" means and includes the collection franchisee who provides the required recycling services.

(7) "Yard Waste" means vegetative material such as grass clippings, weeds, leaves, and wood waste.

#### SECTION 2.07.040      ASSIGNMENT OF RESPONSIBILITY

The responsibility for providing the minimum opportunity to recycle shall be as follows:

(1) The Service Provider shall make available curbside recycling within the Brookings urban growth boundary to all residential solid waste collection customers who request this service. Recyclables shall be collected at least once each month and the service provided shall be consistent with the requirements of ORS 459.165(1)(a) and ORS 459.200(6).

(2) The Service Provider shall maintain a site for collection source separated recyclable material at the transfer stations or disposal sites that serve each of the County's population centers. Currently the recycling centers are located at the Brookings Transfer Station, Wridge Creek Transfer Station, Nesika Beach Transfer Station, Agness Transfer Station and Port Orford Landfill. In the near future the recycling center at Wridge Creek will be closed.

Each of the recycling centers shall accept properly prepared waste oil in sealed unbreakable containers, cardboard, glass, newsprint, metal, plastic, and wood and yard waste, white goods, tires, and other large recyclables. Large loads can be directed to a suitable site.

(3) The Service Provider shall offer 20-gallon and 15-gallon can collection service at a lower cost than the ordinary 30-gallon can service to promote recycling.

(4) Education and promotion for recycling shall be a shared responsibility between the county and the service provider. It is the intent of the county to enlist the aid of volunteers, civic service organizations, educational institutions, fraternal organizations, media, businesses, state local and federal government, and others in this program.

#### SECTION 2.07.050      MANDATORY RECYCLING COMPONENTS

(1) Any commercial waste generator who generates in excess of 80 pounds or 2.75 cubic feet of office paper per month shall separate the paper from the other waste and dispose of it separately.

(2) Any commercial waste generator who generates in excess of 80 pounds of cardboard waste per month shall separate the cardboard from other waste and dispose of it separately.

(3) Any person who generates in excess of ten pounds of yard waste per

month shall separate such waste from the other waste and dispose of it separately.

(4) The Service Provider shall not knowingly collect solid waste which is not source separated as required in Subsections 1-3 above. Prior thereto, it may issue warnings for such known violations.

(5) When solid waste is not picked up by the Service Provider under the terms of this section, the Service Provider may still charge for the collection service which has been subscribed to and would have been provided for, but for the enforcement of the violation.

(6) The Service Provider is authorized to charge for collection of office paper and cardboard from commercial waste generators at rates to be set by the Board.

## ARTICLE TWO

### DIVISION EIGHT

### CURRY COUNTY BUILDING CODE

#### SECTION 2.08.010

#### TITLE

These regulations shall be known as the Curry County Building Code, may cited as such and will be referred to herein as "this code".

#### SECTION 2.08.020

#### PURPOSE

The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation.

#### SECTION 2.08.030

#### SCOPE

- (1) This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.
- (2) Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (3) Where, in any specific case, there is a conflict between this Code and Oregon Revised Statute, the statutes shall govern.

#### SECTION 2.08.040

#### DEFINITIONS

For the purpose of the Code (Division), the following definition shall apply:

Building Official - shall mean the Curry County Building Official

#### SECTION 2.08.050

#### ALTERNATE MATERIALS AND METHODS

- (1) The provisions of this code are not intended to prevent the use of any alternate

material, design or method of construction not specifically proscribed by this code, provided such alternate has been approved and its use authorized by the building official.

(2) The building official may approve any such alternate material, design or method, provided the building official finds that the proposed material, design or method complies with the provisions of this code and that it is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

(3) The building official shall require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the agency.

#### SECTION 2.08.060      MODIFICATIONS

When there are practical difficulties in carrying out the provisions of this code, the building official may grant modifications provided the building official finds that the modification is in conformance with the intent and purpose of this code and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the code enforcement agency.

#### SECTION 2.08.070      TESTS

(1) Whenever there is insufficient evidence of compliance with the provisions of this code or that any material, method or design does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to this jurisdiction.

(2) Test methods shall be as specified by this code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

(3) All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

## SECTION 2.08.080

## POWERS AND DUTIES OF BUILDING OFFICIAL

### (1) General Powers and Duties

- (a) There is hereby established a code enforcement agency which shall be under the administrative and operational control of the building official.
- (b) The building official is authorized to enforce all the provisions of this code.
- (c) The building official shall have the power to render written and oral interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this code.

### (2) Deputies

In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint technical officers and inspectors and other employees to carry out the functions of the code enforcement agency.

### (3) Right of Entry

When it may be necessary to inspect to enforce the provisions of this code, or the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this code or which otherwise makes the building or premises unsafe, dangerous or hazardous, the building official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by ORS to secure entry.

### (4) Stop Work Orders

Whenever any work is being done contrary to the provisions of this code (or other pertinent laws or ordinances implemented through its enforcement), the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until



specifically authorized by the building official to proceed thereafter.

(5) Authority to Disconnect Utilities in Emergencies

The building official or the building official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this code when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time thereafter.

(6) Connection After Order to Disconnect

No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this code which has been disconnected or ordered disconnected or discontinued by the building official until the building official specifically authorizes the reconnection and/or use of such equipment.

(7) Occupancy Violations

Whenever any building, structure or equipment therein regulated by this code is used contrary to the provisions of this code, the building official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the building official in his notice and make the structure, or portion thereof, comply with the requirements of this code.

SECTION 2.08.090      RESERVED

SECTION 2.08.100      PLANS AND PERMITS

(1) Issuance

(a) The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in application for a permit and the plans, specifications and

other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees have been paid, the building official shall issue a permit therefor to the applicant.

(b) When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications REVIEWED. Such plans and specifications shall not be changed, modified and altered without authorizations from the building official, and all work regulated by this code shall be done in accordance with the reviewed plans.

(c) The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of a partial permit shall proceed without assurances that the permit for the entire building or structure will be granted.

## (2) Retention of Plans

One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than 90 days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

## (3) Validity of Permit

(a) The issuance of granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction or any other federal, state, or local law, statute, rule, regulation, or ordinance.

(b) The issuance of a permit based on plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of this jurisdiction.

## (4) Expiration of Plan Reviews

Applications for which no permit is issued within 180 days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

(5) Permit Expiration, Extension and Reinstatement

(a) Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section.

(b) Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the building official to indicate the intent to start and complete the project. The building official may require the permittee to document these activities.

(c) Any permittee holding an unexpired permit may apply for an extension for the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written requests by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

(6) Work Without Permit/Investigation Fees

(a) Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

(b) An investigation fee, in addition to the permit fee, shall be collected

whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

(7) Not Transferable

A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform work thereunder.

(8) Suspension/Revocation

The building official may, in writing, suspend or revoke a permit issued under the provisions for this code whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any provisions of this code.

(9) Inspections

(a) It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner, provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the building official. The permit holder shall not proceed with construction activity until authorized to do so by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his agent.

(b) Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. The record shall be maintained available by the permit holder until final approval has been granted by the building official.

SECTION 2.08.110      STRUCTURAL CODE

The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015, except as modified in this code, is enforced as part of this code.

SECTION 2.08.120      MECHANICAL CODE

The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, except as modified in this code, is enforced as part of this code.

SECTION 2.08.130      PLUMBING CODE

The Oregon Plumbing Speciality Code, as adopted by 918-750-0010, except as modified in this code, is enforced as part of this code.

SECTION 2.08.140      ONE AND TWO FAMILY DWELLING CODE

The Oregon One and Two Family Dwelling Speciality Code, as adopted by OAR 918-480-000 through 918-480-0010, except as modified by this code, is enforced as part of this code.

SECTION 2.08.150      MANUFACTURED DWELLING CODE/PARKS

The manufactured dwelling park and mobile home park rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this code, are enforced as part of this code.

SECTION 2.08.160      MANUFACTURED HOME INSTALLATION

The manufactured dwelling rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this code, are enforced as part of this code.

SECTION 2.08.170      RECREATIONAL PARK AND ORGANIZATIONAL CAMP REGULATIONS

The recreational park and organizational camp rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this code, are enforced as part of this code.

## ARTICLE TWO

### DIVISION NINE                      ESTABLISHMENT OF A BUILDING CODE APPEALS BOARD AND APPEAL PROCEDURE

#### SECTION 2.09.010                      RESERVED

#### SECTION 2.09.020                      APPEALS BOARD - ESTABLISHMENT

The County Building Code Appeals Board referred to in this title as “appeals board”, is created to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of the standards applicable to the building, plumbing, mechanical, and manufactured homes codes.

#### SECTION 2.09.030                      APPEALS BOARD - COMPOSITION

The appeals board shall be composed of seven voting members. Each member shall be a resident of the county, and all shall be qualified by experience and training in building construction and related activities. Five members shall represent the building trades or related industries. Two members shall be citizens at large. All members shall be appointed by the Board and shall serve at its pleasure. The building official shall serve as an ex officio member and shall serve as secretary to the appeals board. The appeals board shall elect one member to serve as chairperson.

#### SECTION 2.09.040                      APPEALS BOARD - TERM

Upon the effective date of the (original) ordinance codified in this title, two members shall be appointed for a term of one year; two members shall be appointed for a term of two years and the remaining three members shall be appointed for a term of three years. Thereafter, each member shall be appointed for a term of four years. If a member is removed by the Board or resigns from the appeals board, any replacement member shall serve for the remainder of the term of the member being replaced.

#### SECTION 2.09.050                      APPEALS BOARD - MEETINGS

The appeals board shall meet at the call of the chairperson as necessary to perform the duties required by Section 2.08.020. The building official shall assist the chairperson in scheduling meetings. The chairperson shall preside at all meetings of the appeals

board and shall conduct the meetings in accordance with procedural rules established by the appeals board.

#### SECTION 2.09.060      APPEALS BOARD - ACTION

Four voting members shall constitute a quorum. No decision shall be made by the appeals board unless a quorum is present. A majority of the total members of the appeals board must vote in favor of any proposed decision or action of the appeals board before it may be implemented. All decisions and findings shall be in writing and shall be provided to interested persons and the State of Oregon Building Code Administrator.

#### SECTION 2.09.070      NOTICE OF APPEAL

(1) Upon filing a notice of appeal with the building official, all matters and activities being appealed shall be stayed until the final decision of the appeals board. In the event the building official determines that an immediate and serious danger exists to the public, the building official may take action necessary to alleviate the situation including but not limited to carrying out the decision or order that is being appealed.

(2) Following receipt of a timely filed notice of appeal, the building official shall notify the appeals board and shall assist in scheduling a time and place for the hearing. Written notice of the time and place of the hearing shall be sent at least ten days prior to the date of the hearing by certified mail, postage prepaid, addressed to person filing the notice at the person's last known address. The hearing shall be held not less than ten days nor more than sixty days from the date the notice of appeal was filed with the building official. Written notice to the hearing date may be waived by the person filing the notice of appeal.

(3) Failure to file a notice of appeal within the thirty days from the final decision of the building official shall constitute a waiver of the person's right to hearing and shall constitute a final adjudication of the building official's decision.

#### SECTION 2.09.080      HEARINGS

(1) The appeals board hearing shall be conducted by and under the control of the chairperson of the appeals board. At the discretion of the chairperson, the hearing shall provide all interested persons the right to appear, present oral or written evidence and to examine or cross-examine any witnesses. Any and all relevant evidence shall be admitted if it is the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs.

(2) Continuances may be granted for good cause shown.

(3) The hearing may be tape recorded at the request of either the building official or the person filing the notice of appeal. Copies of the tape recordings shall be made available to all interested persons upon request and the cost of such copies shall be charged to the person making such request.

(4) During the hearing the appeals board may inspect any building or premises which is the subject of the appeal, provided that:

- (a) A reasonable time and date is scheduled with all interested persons;
- (b) Notice of such inspection shall be given to all interested persons prior to the inspection;
- (c) All interested persons are given the opportunity to be present during the actual inspection;
- (d) Inspections shall be relevant to the issues being appealed;
- (e) Following inspection, the appeals board shall state their findings of fact and conclusions. Each party shall have the right to rebut or to explain the findings.

#### SECTION 2.090.090      DECISION

The appeals board may adopt, reject or modify the building official's decision in accordance with the provisions of this division. Decisions made by the appeals board shall be in writing and shall contain findings of fact and conclusions of law. A copy of the decision shall be delivered to the person filing the notice of appeal by regular mail. The effective date of the decision shall be stated therein.

#### SECTION 2.090.100      FEES

Fees for the cost of appeals under this division shall be set by order of the Board of Curry County Commissioners



## ARTICLE TWO

### DIVISION TEN

### REGULATION OF FOOD SERVICE, TOURIST, SWIMMING AND RELATED FACILITIES

#### SECTION 2.10.010

#### RULES OF THE STATE HEALTH DIVISION

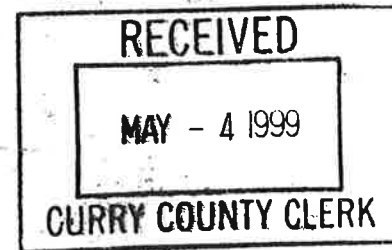
That the rules of the State Health relating to the County's performance of the authority, responsibilities, and functions of the Administrator of the State Health Division, relating to food service facilities, tourist facilities, and swimming facilities in Curry County are hereby accepted and approved and shall be complied with in all respects.

#### SECTION 2.10.020

#### RULES OF PROCEDURE

That the Attorney General's Rules of Procedure under the Administrative Procedures Act, ORS Ch. 183, are hereby adopted and approved for use in all hearings pursuant to the aforementioned Delegation of Authority; Responsibilities and Functions by the State Health Division.

In the Board of County Commissioners  
In and For the County of Curry



In the Matter of An )  
Ordinance Repealing )  
Article Two Division )  
Eleven (Manufactured )  
Dwelling Storage Permits) )  
of the Curry County Code )

Ordinance No 99.2

The Board of Curry County Commissioners Ordains as Follows:

Section 1 Findings

- 1.1 The Board of Curry County Commissioners adopted Ordinance No. 96-5 on May 20, 1996, to provide a means for authorizing the storage of manufactured dwellings which are not being used for residential use.
- 1.2 On November 18, 1996, the Board repealed Ordinance No. 96-5 and readopted it as Article Two Division 11 of the Curry County Code (Ordinance 96-7).
- 1.3 Since the adoption of ordinance provisions relating to manufactured dwelling storage permits, Curry County has had a plethora of apparent violations under the permits wherein a number of permittees have been living in the manufactured dwellings.
- 1.4 The allowance of manufactured dwelling storage permits is an optional program of the County.


Section 2 Repealer

- 2.1 Article 2, Division 11 (entitled "Manufactured Dwelling Storage Permits") of the Curry County Code (Ordinance 96-7, as amended) is hereby repealed in its entirety.

Adopted this 3rd day of May, 1999.

Board of Curry County Commissioners

  
Lloyd Olds, Chairman

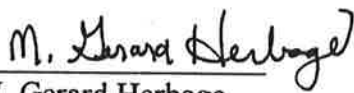
  
Cheryl Thorp, Vice Chair

Not Present  
Bill Roberts, Commissioner

Attest:

  
Recording Secretary

Reviewed As To Form:

  
M. Gerard Herbage  
Curry County Council

First Reading	<u>4/19/99</u>
Second Reading	<u>5/3/99</u>
Emergency Adoption	<u>NO</u>
Effective Date	<u>8/1/99</u>

## ARTICLE TWO

### DIVISION ELEVEN      MANUFACTURED DWELLING STORAGE PERMITS

#### SECTION 2.11.010      RESERVED

#### SECTION 2.11.020      DEFINITIONS

“Tract” shall mean one or more contiguous lots under the same ownership.

#### SECTION 2.11.030      MANUFACTURED DWELLING STORAGE PERMITS

- (1) Storage of a manufactured dwelling on a tract must be approved in writing by the Curry County Planning Department.
- (2) The maximum length of time a manufactured dwelling may be stored on a tract is six (6) months, unless an extension has been granted by the County.
- (3) Only one extension, for a maximum of an additional six (6) months, may be granted. The application must request that extension prior to the expiration of the Manufactured Dwelling Storage Permit.
- (4) The applicant must request approval of a storage permit in writing and submit a signed statement acknowledging that the manufactured dwelling will not be used for residential use. The attached permit application form is specifically approved by the Board of Curry County Commissioners. Amendments to the permit application form may be approved by Board order.
- (5) Electrical, plumbing, and sewer hookup of the stored manufactured dwelling/mobile home is expressly prohibited.
- (6) Only one manufactured dwelling storage permit may be issued on any tract within any five year period.
- (7) All normal setback standards of the zone shall be met.

SECTION 2.11.040      FEEES

- (1)    The fee for a permit under this division shall be \$25.00.
- (2)    The fee for a one-time extension to the permit is also set at \$25.00.



Made Arch on the Curry Coast  
COUNTY OF CURRY

## MANUFACTURED DWELLING STORAGE PERMIT

Property Owner \_\_\_\_\_ Phone No. \_\_\_\_\_  
Applicant Name \_\_\_\_\_ Phone No. \_\_\_\_\_  
Mailing Address \_\_\_\_\_ City \_\_\_\_\_ St \_\_\_\_\_ ZIP \_\_\_\_\_  
Property Address \_\_\_\_\_

I hereby seek written approval for storage of a manufactured dwelling on my property described as follows in the records of Curry County:

Assessor Map No. \_\_\_\_\_ Tax Lot(s) \_\_\_\_\_

This request is pursuant to Curry County Ordinance No. 96- . The manufactured dwelling will be placed on the above described property, in storage, beginning on \_\_\_\_\_ (date). This approval is to place the following manufactured dwelling in storage:

Make: \_\_\_\_\_ Year: \_\_\_\_\_ X#: \_\_\_\_\_ Size: \_\_\_\_\_

This request is for administrative approval. I have received a copy of Ordinance No. 96-5 and acknowledge that it requires the following:

- 1) The manufactured dwelling can be stored for six months from the above date;
- 2) A one time six month extension can be granted by submitting a written request and the extension fee;
- 3) Permanent blocking (per mobile home code), electrical, plumbing, and/or sewage hookup is expressly prohibited (one block per girder at each end of the manufactured dwelling and other tie down necessary for wind upset is permissible for temporary storage);
- 4) I will submit a signed statement acknowledging that the stored manufactured dwelling will not be used for residential purposes while being stored; and,
- 5) Only one manufactured dwelling storage permit may be issued on a tract of land within any 5 year period.
- 6) All property line setback requirements of the \_\_\_\_\_ zoning district must be met:
  - A) Firebreak: \_\_\_\_\_ feet around stored manufactured dwelling;
  - B) Setbacks: Front \_\_\_\_\_ feet, Side \_\_\_\_\_ feet, Rear \_\_\_\_\_ feet.

In making this application for a permit to store a manufactured dwelling, I hereby acknowledge and agree that the manufactured dwelling **will not be used for residential purposes** under this permit.

Signed: \_\_\_\_\_ Signed \_\_\_\_\_  
Property Owner Manufactured Dwelling Owner

Date \_\_\_\_\_ Date \_\_\_\_\_

### DEPARTMENT APPROVAL

Planning Director \_\_\_\_\_ Date \_\_\_\_\_ Permit No. \_\_\_\_\_  
Fee: \$25.00 Receipt No. \_\_\_\_\_ Exp. Date \_\_\_\_\_ Site Ins. Date \_\_\_\_\_ Ren. Date \_\_\_\_\_

++++ THIS IS NOT A MANUFACTURED DWELLING INSTALLATION PERMIT +++++

## ARTICLE TWO

### DIVISION TWELVE      PARK MODEL RV INSTALLATION

#### SECTION 2.12.010      FINDINGS

The Board of Curry County Commissioners finds that because of the high winds and seismic activity in the county, it is in the County's best interest to adopt installation standards for park model recreational vehicles.

#### SECTION 2.12.020      AUTHORITY

This division is authorized under OAR 918-530-005(1) which allows counties and cities to adopt installation standards for park model recreation vehicles.

#### SECTION 2.12.030      PARK MODEL RV INSTALLATION STANDARDS

The attached requirements of OAR 918-530-005 through 918-530-120 and Tables 1, 2, and 3 and OAR 918-535-010 through 918-535-070, which are incorporated by reference, are adopted as requirements in the unincorporated areas of Curry County, as well as in the incorporated cities of Port Orford and Gold Beach.

## DIVISION 530

## Park Trailer and Cabana Installation Standards

## Park Trailer and Cabana Installation Standards - General (Effective January 1, 1994)

918-530-005 (1) All park trailers, when required by the authority having jurisdiction, shall be installed to the installation requirements in OAR 918-530-005 through 918-530-120 and Tables 1, 2 and 3.

EXCEPTION: Park trailers less than 8-1/2 feet in width and park trailers installed temporarily on display or in storage and not occupied or intended to be occupied are not required to be installed according to these rules. This exception does not include park trailers installed in recreational vehicle parks, mobile home parks or subdivisions.

(2) All prefabricated cabanas used in conjunction with a park trailer shall be installed to the manufacturer's installation instructions, the Oregon One and Two Family Dwelling Specialty Code and the provisions of OAR 918-530-010, 918-530-050 through 110 and OAR 918-535-010 through 070.

(3) All site built cabanas used in conjunction with park trailers shall be constructed to the Oregon One and Two Family Dwelling Specialty Code and the provisions of OAR 918-530-010, 918-530-050 through 110 and 918-535-010 through 070.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist: f. 12-1-93, cert. ef. 1-1-94

## Site Preparation

918-530-010 (1) Each site shall be suitable for its intended use and shall comply with applicable federal, state and local laws.

(2) When, during preparation of the site, unforeseen factors such as rock formation, high ground water levels, springs or biological generated gasses are encountered, corrective work shall be taken prior to the siting of the park trailer or accessory structure.

(3) Grades shall slope downward away from patios, stands, walls, skirting, foundations and water supply wells.

(4) Site grading and drainage shall:

(a) Provide a diversion of any surface water away from the park trailer, accessory structures and stands except as necessary for controlled irrigation;

and

(b) Prevent standing water and soil saturation from becoming detrimental to structures and site use.

(5) Park trailer stands without a subsurface drainage system shall have a crown gradient for surface drainage acceptable to the authority having jurisdiction.

(6) Grading, plantings or drainage systems shall be constructed to prevent erosion of the Park Trailer stand from high velocity water runoff.

(7) Where natural soils or controlled fill (free of grass and organic material) are used, such soils or fill shall support the loads imposed by the support system of the park trailer and cabana placed thereon. The required load-bearing capacity shall be calculated based on the design loads shown in OAR 918-530-020 and Table 1.

(8) Pier support spacing and footing sizes for natural soils shall be based on Table 2.

(9) Up to 6" of non-compacted crushed rock or gravel, no smaller than 3/4" minus, may be placed on a park trailer or cabana stand without affecting the soil bearing capacity of the stand.

Hist: f. 12-1-93, cert. ef. 1-1-94

## Foundation Systems

918-530-020 (1) This rule prescribes Oregon standards for siting, design and installation of park trailer foundation systems and identifies acceptable foundation systems.

(2) The jurisdiction having authority may approve an unusual installation design not otherwise allowed by these rules.

(3) Except for wheels, tires, axles, hitches and transportation lights, designed to be detached from the vehicle, no portion of a park trailer transportation platform (chassis and running gear) shall be removed before or after the park trailer is installed.

(4) The foundation, whether a site-built or site-assembled system of stabilizing devices, shall be:

(a) Capable of transferring design vertical loads and other loads unique to local sites due to wind, seismic and water conditions imposed by or on the structure into the underlying soil bedrock without failure; and

(b) Constructed of materials acceptable to the authority having jurisdiction.

(5) The required load bearing capacity of individual load bearing supports and their footings shall be calculated using the values shown in Table 1. Footings shall be sized to withstand the uniform live loads and dead loads and any concentrated loads of



the park trailer but shall not be less than 256 square inches and not less than the width of the pier. Footings shall be:

(a) Made up of one or two four-inch nominally thick concrete pads either precast or poured in place;

(b) Two to four perpendicular layers of two-inch nominally thick foundation grade lumber pressure-treated on all six sides;

(c) A minimum of six-inch nominally thick continuous concrete footings, not less than 18 inches wide with two continuous #4 rebar lapped 12 inches installed and centered vertically and horizontally under the main frames, 10 inches apart and no closer than three inches from the edge of the footing;

(d) A minimum four-inch nominally thick concrete slab containing at least one, one-inch deep control joint; or

(e) Other equivalent materials approved for the intended use by the authority having jurisdiction.

(6) Footings and pier foundations (unless designed by a registered professional engineer or architect) shall be placed level on a stand free of grass and organic materials and having a minimum load bearing capacity of 1000 pounds per square foot.

(7) Pier and load-bearing devices shall be designed and constructed to distribute loads evenly. Prefabricated or site built piers and load-bearing devices or supports, other than those described in Sections (8) through (12) and (23) through (26) of this rule, shall be capable of individually supporting 6,000 pounds and be:

(a) Tested, listed and labeled by a nationally recognized testing and listing laboratory; or

(b) Designed by a professional engineer registered with the Oregon State Board of Engineering Examiners, or architect registered with the Oregon State Board of Architect Examiners and approved by the authority having jurisdiction.

(8) Piers less than 36 inches high under the main frames or 48 inches high under the perimeter shall be constructed of open or closed cell, 8" x 8" x 16" concrete blocks with open cells placed vertically upon the footing. Single stacked block piers shall be installed with the 16-inch dimension perpendicular to the main frame (I-beam or channel beam). The piers shall be capped with material described in Section (11) of this rule. Pier height shall be measured from the top of the footing or slab to the bottom of the main frame or floor joists.

(9) Piers between 36 inches and 80 inches in height and all corner piers over three blocks high shall be double blocked with blocks interlocked and capped with material described in Section (11) of this rule. No more than 25 percent of the piers

supporting a park trailer shall exceed 36 inches in height at the main frames and 48 inches in height at the perimeter.

(10) Piers over 80 inches high but not exceeding 144 inches shall be constructed according to Section (9) of this rule and be laid in concrete mortar with steel reinforcing bars inserted in block cells and the block cells filled with concrete. The piers shall be capped with material described in Section (11) of this rule. No more than 25 percent of the piers supporting a park trailer shall exceed 36 inches in height at the main frame and 48 inches in height at the perimeter.

(11) Each pier shall have a pier cap equal in area to the pier blocking (i.e., 8" x 16" or 16" x 16"). Pier caps shall be a minimum:

(a) Four-inch nominally thick solid concrete block;

(b) One-inch nominally thick group 2 or 3 parallel laminated veneer wood plate; or

(c) Two-inch nominally thick two or better grade board lumber.

(12) Each pier may be shimmed up to nine vertical inches between the top of the pier cap and the bottom of the main frame with any combination of the following materials:

(a) Minimum two-inch nominally thick solid concrete block equal in area to the pier cap;

(b) Minimum one-inch nominally group 2 or 3 parallel laminated veneer wood plate equal in area to the pier cap; or

(c) Minimum nominally 2" x 6" x 16" two or better grade board lumber; and

(d) No more than four, 1" thick by 4" wide by 8" long wood wedges fitted perpendicular with and driven tight to the bottom of the main frame, transferring loads uniformly to the pier.

(13) When the park trailer is installed on a basement or split level type foundation over a habitable lower-level area, or when more than one-fourth of the area of a park trailer is installed so the bottom of the main frame members are more than three feet above the footing or slab, the foundation system shall be designed by a registered professional engineer or architect and approved by the authority having jurisdiction.

(14) Load-bearing and non-load bearing walls under a park trailer constructed on site shall be constructed to resist lateral pressure from adjacent earth and support design loads as determined by acceptable engineering practice.

(15) A minimum clearance of 12 inches shall be maintained beneath the lowest member of the main frame (I beam or channel beam) in the area of the

utility connections. No more than 25 percent of the underside of the main frame of the park trailer shall have less than 12 inches of clearance.

(16) Under the main frame, (I beam or channel beam) supports shall be placed not more than two feet from the exterior of each end wall. All pier supports shall be installed (centered) directly under and perpendicular to each main frame of the park trailer.

(17) Unless the entire support system is designed and calculated by a registered professional engineer or architect, Table 2 shall be applicable for all park trailer foundation support systems.

(18) Ground level installation refers to a park trailer installed over an open excavation where the supporting foundation is below the finished ground level. This type of installation is suitable for locations where ground moisture is not detrimental to the park trailer site or where adequate drainage has been provided.

(19) Retaining walls used to resist the lateral displacement of soil and other materials shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practices. Retaining walls, if fastened to the park trailer at the time of installation, shall not degrade stabilizing devices of the park trailer. A retaining wall shall not rely on the park trailer for support. Retaining walls shall be constructed of treated foundation grade wood, concrete, masonry or other approved materials or combinations of these materials according to the Oregon Structural Specialty Code.

(20) All fill and backfill soil surrounding the park trailer shall be compacted to not allow displacement. Soil grading around the park trailer shall allow water to drain away from the park trailer at a slope of 1/2-foot vertical for every 12 feet horizontal.

(21) Regardless of the type foundation system provided, the foundation construction shall assure a level park trailer or cabana floor.

(22) Under no conditions shall the actual loads exceed the design capacity of the foundation system or equipment.

(23) All concrete masonry pads, blocks, caps and shims used in the foundation support system shall be equivalent to ASTM C-90, Grade N, Type I (grade N-I) constructed to be lightweight with a blend of aggregates conforming to ASTM C-331 and ASTM C-33.

(24) All lumber and concrete described in these rules are identified by their nominal sizes only. Actual sizes may vary from 1/8-inch to 1/2-inch.

(25) All poured in place concrete shall cure seven days prior to installation of the park trailer or cabana.

(26) All poured in place concrete shall have a compressive strength not less than 2,500 pounds per square inch in 28 days.

(27) Pumice and cinder block material may not be used in the foundation system in place of concrete pads or blocks.

(28) All components of the foundation support system requiring tests shall be tested to their dead load plus superimposed live load equal to 1.75 times the required live load using the test procedures in CFR 3280.401.

(29) All prefabricated piers and load bearing devices or supports, other than those described in Sections (8) and (12) and (23) through (26) of this rule, shall be permanently marked or labeled with the following information:

(a) The product's intended use (i.e., footing or pier);

(b) The product manufacturer's name and location;

(c) The product's model or identification number;

(d) The product's design loads or capacity;

(e) The product's tested or calculated loads (1.75 minimum);

(f) If tested and listed, the name, logo or identification mark of the testing laboratory and listing agency; and

(g) If tested and listed, the product's test report and listing numbers.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Anchoring Systems

918-530-040 (1) To resist overturning and lateral movement from high winds, all park trailers installed in the following counties shall be tied down: Clatsop, Tillamook, Lincoln, Coos, Curry, Multnomah, Hood River, Sherman, Gilliam, Morrow and Umatilla; Lane and Douglas if located within 20 miles of the coast; and Wasco County if located within 30 miles of the Columbia River.

(2) To resist movement and reduce damage, all park trailers installed in designated flood plain areas shall be tied down when required by a municipality or the Federal Emergency Management Agency.

(3) Each approved ground anchor, when installed, shall be capable of resisting an allowable working load at least equal to 3,150 pounds in the

direction of the tie plus 50 percent overload without failure.

(4) Anchoring equipment, including all straps, cables, turnbuckles, chains and tension devices, installed and used to secure a park trailer shall be capable of resisting an allowable working load at least equal to or exceeding 3,150 pounds and shall be capable of withstanding 50 percent overload (4,725 pounds) without failure of either the anchoring equipment or the attachment point to the park trailer. When the stabilizing system is designed by a qualified engineer or architect, alternate working loads may be used if the anchoring equipment is capable of withstanding a 50 percent overload.

(5) All anchoring equipment shall be tested, listed and labeled as capable of meeting all the requirements of this rule or be permitted if found acceptable to the authority having jurisdiction.

(6) Each type of anchor suitable for the purpose of this rule shall have specification data showing the soil classification for which it qualifies.

(7) Anchors designed for the connection of multiple ties shall be capable of resisting the combined working load and overload consistent with the intent expressed in this rule and shall be installed to resist resultant forces.

(8) Anchor selection shall be based on the soil class at the depth where the anchor will be installed.

(9) Anchors shall be installed to the full depth shown in the manufacturer's installation instructions. The load carrying portion of the ground anchor shall extend below the frost line.

(10) Ties, strapping or other approved methods or material shall be used for ties according to the following requirements:

(a) All ties shall be fastened to ground anchors and drawn tight with turnbuckles, other adjustable tensioning devices or devices supplied with the ground anchor;

(b) Tie materials shall be capable of resisting an allowable working load of 3150 pounds with no more than two percent elongation and shall withstand a 50 percent overload;

(c) Ties shall connect the ground anchor to the main structural steel frame (I-beam or equivalent) which runs lengthwise under the park trailer. Ties shall not connect to steel outrigger beams which fasten to and intersect with the main structural frame;

(d) The connection of the cable frame tie to the park trailer main structural frame member shall be a 5/8-inch drop-forged, closed-eye bolt through a hole drilled in the upper one-quarter of the main frame or other approved methods. The main frame shall be reinforced, if necessary, to maintain the designed

strength of the mainframe;

(e) Cable ends shall be secured with at least three U-bolt type cable clamps with the U portion of the clamp installed on the short (dead) end of the cable to assure strength equal to that required by Section (1) of this rule; and

(f) Strapping installed on park trailers located within 20 miles of the coast shall be made of stainless steel or galvanized steel 0.035" thick and 1.25" wide coated with not less than 0.30 ounces of zinc per foot and certified as conforming to ASTM standard specification D3953-87.

(12) Tension devices, such as turnbuckles or yoke type fasteners, shall be ended with clevis, forged or welded eyes.

(13) Anchoring equipment shall be designed to prevent self-disconnection when ties are slack. Open hook ends shall not be used in any part of the anchoring system.

(14) Anchoring devices shall be installed 11 feet on center and no more than one foot from each end along both sides of the park trailer.

(15) Under no condition shall the actual loads exceed the design capacity of the anchoring system or equipment.

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Skirting

918-530-050 (1) Skirting and permanent enclosures on park trailers and cabanas shall be installed where specifically required by local ordinance.

(2) Skirting shall be of material suitable for exterior exposure and contact with the ground. Untreated wood shall not be nearer than six inches to any earth, unless separated by three inches of metal, concrete or foundation grade lumber. Permanent perimeter enclosures shall be constructed of materials as required by these rules for regular foundation construction.

EXCEPTION: Supporting members of untreated lumber for metal skirting shall be separated from the ground by not less than two inches.

(3) Skirting shall be installed according to the skirting manufacturer's installation instructions and these rules.

(4) Skirting shall be adequately secured to assure stability, minimize vibration, susceptibility to wind damage and compensate for possible frost heave.

(5) All holes or gaps between the skirting and the ground or other locations shall be sealed.

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Ventilation

918-530-060 (1) Provisions shall be made to minimize condensation in underfloor areas through ventilation openings.

(2) If combustion air for heat-producing appliance(s) is taken from within the underfloor areas, ventilation shall be adequate to assure proper operation of appliances.

(3) Ventilation openings shall be provided for ground level installations of park trailers and cabanas installed over an excavation.

(4) A minimum of four ventilation openings shall be provided from the underfloor space to the exterior. A ventilation opening shall be placed at, or as near to, each corner as practicable and as high as practicable. The total net free area for ventilation shall be one square foot for every 300 square feet of underfloor area and shall be calculated using Table 3. Openings shall provide cross ventilation on at least two sides. The openings shall be covered with 1/4-inch corrosion resistant wire mesh or with louvered openings with not less than 1/8-inch screen to retard entry of dry vegetation, waste materials, or rodents. The net free area of a vent shall not be diminished in size by vent hardware.

(5) Intake air for indoor ventilation purposes shall not be drawn from under floor spaces of the park trailer or cabana. (This does not include combustion air.)

(6) Provisions shall be made to further reduce moisture and humidity in underfloor spaces by installing a continuous membrane sheeting vapor barrier to cover the ground surface or pavement within the perimeter enclosure of the park trailer or cabana stand. A uniform six mil black polyethylene, linear low density poly (6x) sheet material or other approved equivalent membrane vapor barrier materials shall be installed for this purpose according to the following:

(a) Membrane seams shall be overlapped by at least eight inches;

(b) Edges of the sheeting shall extend to the perimeter of the park trailer;

(c) Stones or bricks shall be placed over seams and around the point of contact of the sheeting with the perimeter enclosure on a spacing of approximately four feet to maintain a reasonable seal between sheets and the foundation material;

(d) All holes, tears and penetrations in the membrane shall be adequately sealed with permanent tape;

(e) Underfloor continuous membrane sheeting vapor barrier shall not contact wood which is not treated foundation grade lumber; and

(f) Underfloor continuous membrane sheeting vapor barrier shall not be placed under concrete slabs.

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Electrical Connections

918-530-070 (1) Park trailers shall be connected to power sources according to Article 551 of the National Electrical Code (NFPA 70-1993) and shall:

(a) Not be permanently connected to any site electrical supply equipment;

(b) Only be connected to the site electrical supply equipment through approved cord connected power-supply assemblies;

(c) Have a minimum 30 ampere rated power supply assembly; and

(d) Have a maximum of two 50 ampere rated power-supply assemblies.

(2) Accessory equipment, structures and buildings shall not be powered by the park trailer electrical system.

(3) At the time of installation, all park trailers shall be tested to the following criteria:

(a) All 110 volt electrical receptacle outlets shall be subjected to a polarity test to determine all connections have been made properly; and

(b) All electrical lights, equipment, ground fault circuit interrupters and appliances shall be subjected to an operational test to demonstrate all equipment is connected and in working order.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Plumbing Connections

918-530-080 Park trailers and cabanas shall be connected to water sources and waste disposal terminals according to the Oregon Plumbing Specialty Code and to the following standards.

(1) A full way shutoff valve shall be provided on the water supply serving each park trailer site.

(2) The water inlet shall be connected to the site water supply outlet by an approved flexible connector not less than 3/4-inch nominal diameter or by other approved means identified in the Oregon Plumbing

Specialty Code.

(3) Where static water pressure exceeds 80 pounds per square inch, a pressure regulator shall be installed.

(4) The water distribution system of the park trailer and cabana and the supply connection shall be subjected to a test to assure there is no evidence of leakage under normal operating pressure. If water under normal operating pressure is not available, the park trailer and cabana water distribution system shall show no evidence of leakage, by sustaining 80 pounds per square inch of air pressure for 15 minutes.

(5) Each park trailer and cabana shall be connected to the sewer inlet by means of a three-inch diameter drain connector consisting of approved pipe, not less than schedule 40, appropriate directional fittings and listed and approved shielded flexible connectors at each end of the pipe.

(6) The park trailer and cabana drainage piping system shall be connected to the lot or site drain inlet and tested by allowing water to flow into all fixtures and receptors, including the clothes washer standpipe, for a period of three minutes. If water under pressure is not available, the drainage piping system shall be tested by letting at least three gallons of water into each fixture and receptor. Each P-trap shall be visible during this test to assure there is no evidence of leaks.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Mechanical

918-530-090 (1) Mechanical equipment installed outside of and not supported by the park trailer or cabana shall be mounted on a level concrete slab not less than three inches thick, a three-inch thick precast reinforced concrete slab, or be mounted according to the applicable equipment manufacturer's installation instructions.

(2) Mechanical equipment shall not be installed:

(a) In a manner which obstructs any means of egress;

(b) In window openings which are part of an egress system; and

(c) Where it might obstruct sidewalks or any means of egress from the park trailer or cabana.

(3) Exhaust duct systems of clothes dryers,

ranges or other appliances shall not terminate beneath the park trailer or cabana. Exhaust ducts shall be routed through the skirting foundation or retaining wall to the exterior. Exhaust duct installations shall have no dips or traps and shall be installed according to the applicable appliance manufacturer's installation instructions.

(4) Moisture or heat producing appliances, such as dryers, shall be vented to the outside atmosphere to insure moisture laden air is carried out beyond the perimeter of the park trailer.

(5) Dryer exhaust ducts shall be installed according to the dryer manufacturer's installation instructions and the following requirements:

(a) The duct shall be a minimum of four inches in diameter;

(b) The duct material shall be metal and have a smooth interior surface or be flexible metal no longer than six feet;

(c) There shall be no dips in the duct run;

(d) There shall be no screws, mechanical fasteners, screens or any other obstructions extending into any interior portion of the duct;

(e) The total length of the duct shall not exceed eight feet;

(f) There shall not be more than two 90-degree elbow fittings or four 45-degree elbow fittings installed in the duct run; and

(g) The duct termination shall be equipped with a back-draft damper.

(6) When installed, adequate distance shall be maintained under the park trailer and cabana for an air conditioning duct. The air conditioning duct shall be blocked or suspended off the ground, providing a one-inch minimum ground clearance and be supported and connected according to the appliance manufacturer's instructions and not be crushed, dented, compressed, have sharp bends or stress at the connections. All tears, holes and penetrations in air conditioning ducts shall be sealed.

(7) Inlets or outlets of an exhaust vent, combustion air vent, return air vent, or any other vent opening capable of conveying air or gasses into or out of the park trailer or cabana, or to or from any appliance used in conjunction with the park trailer, shall not be located in an area where an accessory building is to be attached.

(8) Inlets or outlets of an exhaust vent, combustion air vent, return air vent, condensation drain or any other vent opening capable of conveying air or gasses into or out of the park trailer or cabana, or to or from any appliance used in conjunction with the park trailer or cabana, shall not be located under the park trailer when located over a basement.

(9) Condensation drains from air conditioning, heat pumps, evaporative coolers, dehumidifiers, refrigeration equipment or any other appliance shall not terminate under a park trailer or cabana.

(10) Mechanical installations not a part of the park trailer shall be in conformance with the Oregon One and Two Family Dwelling Specialty Code.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Fuel Supply

918-530-100 (1) All fuel gas piping systems serving park trailers and cabanas shall be designed and constructed according to applicable provisions of the Oregon Mechanical Specialty Code.

(2) Where fuel gas is provided, each park trailer site shall have a listed gas shutoff valve installed upstream from the park trailer site gas outlet. Such valve shall not be located under any park trailer or cabana. The outlet shall be equipped with a cap or plug to prevent discharge of gas whenever the park trailer site outlet is not connected to a park trailer or cabana.

(3) Each flexible gas supply connector shall be listed for outdoor use and have a capacity rating adequate to supply the connected load.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Access

918-530-110 (1) Each required egress door on a park trailer shall be accessible by steps, temporary steps or ramps or have door thresholds within eight inches of grade.

(2) Except for temporary steps, all ramps, steps, porches and landings shall be constructed in conformance with the Oregon One and Two Family Dwelling Specialty Code.

(3) Temporary steps may be provided and used without the required landing if the temporary steps are:

(a) Constructed with a minimum 30-inch wide, maximum 48-inch high, with an eight-inch maximum tread rise and a minimum nine-inch tread run;

(b) Constructed and cross braced with number two or better grade lumber;

(c) Provided with a handrail on one side at a minimum of 30 inches and maximum of 34 inches above the stair tread when there are three or more risers;

(d) Supported on four, 16" x 16" footings, as described in OAR 918-530-020(5), and shimmed to prevent movement;

(e) Identified "temporary" in two-inch letters by paint, label, decal or stencil;

(f) Constructed so the top step is not more than 8-1/2 inches below the door threshold; and

(g) Used no longer than 30 days after occupancy.

(4) Installation inspections shall not be approved until a means of access has been provided to each required exit door on the park trailer.

(5) See OAR 918-535-050; Exits, Porches, Ramps, Stairways, Railings, Landings and Decks.

(6) Access openings through skirting shall be not less than 18" x 24" and located as close as practical to the utilities so fuel, electric, water and sewer connections located under the park trailer are accessible for inspection, service and repair. Such access panels or doors shall not require tools or operation of more than four devices to remove or open the access panel or door. There shall be a minimum 30-inch access space directly in front of each access panel or door.

(7) Access wells shall be provided for all ground level installations of park trailers and shall meet the requirements of:

(a) Section (6) of this rule for location, size, clearance and operation of the access door or panel located within or over the access well;

(b) OAR 918-530-010 (4) and (6) for water diversion and drainage; and

(c) OAR 918-530-020 (4), (18) and (19) for protection from frost damage, retaining wall construction, backfill and compaction.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Rodent Proofing

918-530-120 All cuts, holes or tears in the bottom board or floor insulation, including but not limited to areas around plumbing, mechanical and heating equipment penetrations shall be adequately

repaired to prevent the entrance of rodents and to  
limit heat loss.

Hist.: f. 12-1-93, cert. ef. 1-1-94

## DIVISION 535

### Recreational Vehicle and Accessory Building or Structure Standards

#### Construction of Accessory Structures

918-535-010 (1) Every recreational vehicle accessory building or structure shall be designed and constructed according to the applicable Oregon specialty codes.

(2) Any recreational vehicle accessory structure or adjacent structure shall be located so any required egress window, door or opening of the recreational vehicle is not blocked.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Cabanas

918-535-020 (1) A cabana shall be installed or constructed on a recreational vehicle site only as an accessory to a recreational vehicle.

(2) A cabana shall be designed and constructed as a freestanding, self-supporting structure attached to a recreational vehicle only with appropriate flashing or sealing materials to provide a weather seal. Cabanas shall meet the requirements of the applicable Oregon specialty codes, and those constructed off-site shall comply with the rules for construction of prefabricated structures as provided in OAR 918-674-005 through 155.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Awnings and Carports

918-535-030 (1) A permanent or rigid awning or carport shall be erected, constructed or maintained on a recreational vehicle site only as an accessory to a recreational vehicle located on the same site.

(2) A permanent or rigid awning or carport shall not be enclosed with rigid materials or walls or converted for use as a habitable room or cabana unless the completed construction complies with all the requirements of the applicable Oregon specialty

codes and these rules.

(3) No load shall be imposed on a recreational vehicle by an attached permanent or rigid awning or carport. (4) Permanent or rigid awnings and carports shall not be attached to recreational vehicle roof trusses, rafters, eaves, or fascias.

(5) This rule does not apply to temporary, transportable and flexible awnings and carports used with recreational vehicles.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Ramadas

918-535-040 (1) A ramada shall be erected, constructed or maintained on a recreational vehicle site only as an accessory to a recreational vehicle located on the same site.

(2) A ramada or any portion thereof shall have a clearance of not less than 18 inches in a vertical direction above the highest portion of a recreational vehicle roof and not less than six inches in a horizontal direction from each side of a recreational vehicle.

(3) Cross braces, architectural appurtenances, and structural ties shall not obstruct the installation or removal of any recreational vehicle.

(4) A ramada shall be designed and constructed as a freestanding, self-supporting structure meeting the requirements of the applicable Oregon specialty codes.

(5) A ramada shall not be wholly or partially enclosed on any side or end, except that one side may be enclosed when the ramada roof is continuous with the roof of a cabana constructed on one side only of the recreational vehicle.

(6) Ventilation openings shall be installed at the highest point in the ramada roof ten feet apart and shall have a minimum cross-sectional area of 28 square inches for each vent.

(7) Chimneys or any required vents from fuel-burning appliances shall extend at least three feet above the part of the ramada roof through which it passes and at least two feet above the highest elevation of any part of the ramada or recreational vehicle within ten feet of the chimney.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available



JAN 10 1994

Jerry - according to this - both 918-530 and 918-535 must be adopted for R-V Set up rules  
Sorry - Dennis.

COURT BR 91 PAGE 1041

(c) A smoke detector installed in any loft or second story to the requirements of section 3-4 of ANSI A-119.5 (1993 edition).

(6) Park trailers over 8-1/2 feet wide shall be installed according to OAR 918-530 and 918-535 in all areas of the state where the Building Codes Division has jurisdiction and where a municipality having jurisdiction has adopted these standards by local ordinance. In conformance with ORS 446.185 and 446.200, no municipality shall enact any other safety standards for the installation of park trailers.

(7) Recreational vehicles and recreational vehicle accessory structures shall be sited and installed according to OAR 918-535.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Building Codes Division.]

Stat.Auth.: ORS 183.325-410, 446.003-285 & Ch. 990

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 22-1990(Temp), f. & cert. ef. 9-4-90; BCA 27-1990, F. 11-28-90, cert. ef. 11-30-90; BCA 16-1993, f. 8-12-93, cert. ef. 9-1-93; f. 12-1-93, cert. ef. 1-1-94

918-525-050

Stat. Auth.: ORS Ch. 466

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; repealed f. 12-1-93, cert. ef. 1-1-94

#### Park Trailer Installer License Requirements

918-525-055 Persons installing park trailers, accessory structures or accessory buildings are not required to have a Division issued installers license but shall comply with all applicable provisions of ORS Chapters 316, 656, 657 and 701.

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Manufacturer's Quality Assurance Manual

918-525-060 (1) Each manufacturer of recreational vehicles seeking certification under OAR 918-525-080 shall submit to the Division a manual outlining the quality assurance procedures to be followed at its particular manufacturing facility or facilities. If the quality assurance manual is applicable to more than one manufacturing facility, the manual shall adequately define procedures specific to each facility. The quality assurance manual shall be submitted in duplicate and contain the following:

(a) The name and address of the facility in which this quality assurance manual will be used;

(b) An organizational chart showing the accountability, by position, of the manufacturer's quality assurance personnel;

(c) A description of production tests, test procedures and test equipment required to determine compliance with this division of rules;

(d) A station-by-station description of each manufacturing facility's manufacturing process;

(e) A plant layout showing each stage of the production line;

(f) A list of quality assurance inspections required by the manufacturing facility at each station;

(g) Identification, by title, publisher, edition, date and publication number, those codes and standards to be enforced by the manufacturer's quality control;

(h) A copy of the manufacturer's owners manual for each recreational vehicle produced under this quality assurance manual; and

(i) A description of procedures for the receipt, storage and handling of materials and components used in the manufacture of recreational vehicles.

(2) Each manufacturer shall supplement its quality assurance manual following each code change, change in production process or change to any item described in Subsection (1)(a) through (i) of this rule and submit the supplement to the Division along with the fees in OAR 918-525-510.

Stat. Auth.: ORS Ch. 466

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; f. 12-1-93, cert. ef. 1-1-94

#### Compliance Monitoring

918-525-065 (1) To maintain consistent compliance with these rules the Division:

(a) May inspect recreational vehicles at each facility selling, offering for sale or displaying for sale, the manufacturers products whether for wholesale, retail or consignment;

(b) Shall inspect recreational vehicles at all manufacturing facilities a minimum of once each year; and

(c) Shall evaluate the manufacturer's compliance with the rules adopted by the Division.

(2) If the Division determines that recreational vehicles produced by the manufacturer consistently fail to conform with the requirements of these rules, the manufacturer's quality assurance program or the pre-established acceptable quality level, the Division may:

(a) Post a Notice of Violation on each recreational vehicle which fails to conform in

for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Exits, Porches, Ramps, Stairways, Railings, Landings, and Decks

918-535-050 (1) A porch or deck erected, constructed or maintained adjacent to a recreational vehicle to be used as an exit way for the use of the occupants of the recreational vehicle located on the same site shall comply with all the Oregon specialty codes and the requirements of these rules.

(2) The design and construction of all structural elements of exterior porches, decks, landings, ramps, stairs and railings used as exit ways for recreational vehicles shall be according to the applicable provisions of the Oregon specialty codes.

(3) Accessory buildings or structures shall not obstruct a required exit, egress window, appliance access or utility access except where specifically permitted in this rule. No hinged exterior egress door shall be prevented from opening at least 90 degrees.

(4) Every habitable room in a cabana shall have access to at least one exterior opening directly to the outside without passing through the recreational vehicle. When an accessory building or structure encloses an exit door of the recreational vehicle or an emergency egress window, an additional exit exterior door shall be installed.

(5) An accessory building or structure which encloses all required means of recreational vehicle egress shall not be constructed. One required means of egress from the recreational vehicle must open directly to the outside without passing through an accessory building or structure.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available for review at the office of the Building Codes Division.]

Hist.: f. 12-1-93, cert. ef. 1-1-94

#### Fire Protection

918-535-070 (1) Recreational vehicles in recreational parks or mobile home parks shall not be installed or located less than five feet from any property line.

(2) Recreational vehicles in recreational vehicle parks or mobile home parks shall not be installed or located less than ten feet from any adjacent

recreational vehicle, manufactured dwelling or site-built structure except when:

(a) A structure is a recreational vehicle accessory structure specifically designed and constructed for use with the recreational vehicle to which it is adjoined;

(b) A recreational vehicle is in a designated storage area or sales display area, not connected to utility services, other than electricity, and is not used for habitation;

(c) A site-built structure is not less than six feet from the recreational vehicle it serves;

(d) A site-built structure is not less than three feet from the recreational vehicle it serves and has a minimum one-hour fire resistive rating on the wall facing the recreational vehicle; or

(e) A site-built structure is less than 120 square feet in floor area and not less than three feet from the recreational vehicle it serves.

(3) Recreational vehicle accessory structures, other than ramadas, located in recreational vehicle parks or mobile home parks shall not exceed 200 square feet per accessory structure or a total of 400 square feet per recreational vehicle. The square footage for two accessory structures occupying the same space (i.e., deck and awning) shall only be counted once.

(4) The gross floor area of a recreational vehicle located in a recreational vehicle park or mobile home park shall not exceed 400 square feet in the set-up mode. The habitable area of a recreational vehicle shall not be increased by use of a cabana, manufactured dwelling, another recreational vehicle or any other additional structures.

Hist.: f. 12-1-93, cert. ef. 1-1-94

TABLE: 1	
Design Load	Pounds Per Square Foot
Roof Live Load	20 pounds per square foot
Roof Dead Load	10 pounds per square foot
Floor Live Load	40 pounds per square foot
Floor Dead Load	10 pounds per square foot

TABLE 2

## PIER SUPPORT SPACING FOR PARK TRAILERS

Location of Pier Support		Perimeter Pier Blocking	Main Frame Pier Spacing		
Floor Section Size	16" X 16" Footing	16" X 16" Footing	18" X 20" Footing	18" X 6" Continuous Footing	<b>INSTRUCTIONS</b>  1. Sizes indicated are for the width of one floor section. 2. Perimeter blocking, when required, shall be installed under the two exterior sidewalls but are not required under the end walls. 3. Perimeter blocking, when required, shall be installed at each side of each sidewall opening exceeding 4 feet, (i.e., doors, windows, recessed openings, etc.) 4. Concrete footings may be precast or poured-in-place portland cement, 4" thick minimum. 5. Two or more perpendicular layers of 2" foundation grade lumber equivalent in area may be used for footings. 6. "Light" means a park trailer constructed with metal roof and metal exterior siding (without sub-sheathing). 7. "Heavy" means a park trailer constructed with any two of the following: shingled roof, wood or wood composite exterior siding, gypsum interior wall or ceiling. 8. All piers shall be installed perpendicular to the main frame except for those located under the sidewalls at the perimeter.
8' to 10' Wide	Not Required	6'-6"	9'-2"	11'-10"	
12' Wide Light	Not Required	5'-11"	7'-2"	9'-4"	
12' Wide Heavy	At each opening 4' or larger	4'-8"	6'-7"	8'-8"	
12' Wide Heavy	8' on center and at each 4' + opening	8'-1"	11'-4"	14'-9"	
14' Wide Light	8' on center and at each 4' + opening	7'-6"	10'-6"	13'-4"	
14' Wide Heavy	8' on center and at each 4' + opening	6'-11"	9'-9"	12'-8"	
See Notes 1, 6 & 7	See Notes 2, 3, 4 & 5	See Notes 4 & 5			

TABLE 3

Total Required Net Area (Square Inches) of Underfloor Ventilation at 1/300

Length (Feet)	Width of Park Trailer (Feet)				INSTRUCTIONS
	8	10	12	14	
20	77	96	115	134	1. The table above indicates the total area, in square inches, needed for underfloor ventilation of park trailers when the underfloor area is enclosed.  2. To determine the proper amount of ventilation for a park trailer, find the appropriate length in the left hand column and read across to the right until you come to the appropriate width indicated in the head of the column. The minimum ventilation required will be indicated where the appropriate row and column intersect on the table.
22	84	106	127	148	
24	92	115	138	161	
26	100	125	150	175	
28	108	134	161	188	
30	115	144	173	202	
32	122	154	184	215	3. To find the size each individual vent needs to be, divide the minimum ventilation required in the above table by the number of vents to be used. (A minimum of four (4) vents are required for each park trailer regardless of vent size.)
34	131	163	196	228	
36	138	173	207	242	4. To find the number of vents needed when the vent sizes are predetermined, divide the minimum ventilation required in the above table by the square inches of one individual vent. (A minimum of four (4) vents are required for each park trailer regardless of vent size.)
38	146	182	219	255	
40	154	192	230	269	5. Exhaust air vents and condensate drains from any appliance or fixture may not terminate beneath the park trailer or into any attached structure.
42	161	202	242	282	
44	169	211	253	296	6. Intake air for any appliance or fixture providing ventilation to the inside of the park trailer may not be drawn from below the dwelling or from any attached structure.
46	177	221	265	309	
48	184	230	276	323	
50	192	240	288	336	

M-0157 3/24/92

## ARTICLE TWO

DIVISION THIRTEEN

RESERVED

## ARTICLE TWO

### DIVISION FOURTEEN

### SOCIAL GAMES

#### SECTION 2.14.010

#### RESERVED

#### SECTION 2.14.020

#### GAMBLING

(1) No person shall participate in, operate, assist in operating, or allow to be operated on, premises under his or her control, any gambling game or activity, including a lottery.

(2) The term “gambling” shall mean any contest, game, gambling scheme, gaming device or machine in which the outcome depends, in a material degree, upon an element of chance, notwithstanding that the skill of the contestants may also be a factor therein.

(3) The term “gambling” shall not include social games; social games, mean:

(a) A game, other than a lottery, between players in a private home, where there is no house player, no house bank or house odds and there is no house income from the operation of the social game.

(b) Games, other than a lottery, between players in a private business, private club, or place of public accommodation, where no house player, house bank, or house odds exist and there is no house income from the operation of the social game.

#### SECTION 2.14.030

#### LICENSE REQUIRED

Social games are authorized in a private business, private club, or place of public accommodation, only upon issuance of a license as provided under this division. Licenses thereby issued are subject to the provisions of this division.

#### SECTION 2.14.040

#### APPLICATION FOR LICENSE

(1) Any person, partnership, or corporation applying for a license under this must include within said application:

(a) The name and title of the applicant for a licenses;

(b) The name and address of the business of establishment for which the license is requested;

(c) The name and address of the owner of the business or establishment for which a license is requested;

(d) A signed statement by the owner of the business or establishment to the effect that the applicant has permission to operate a table(s) within the establishment, and the number of tables he has permission to operate;

(e) The number of tables the applicant seeks to have licensed;

(f) The applicant's primary type of business conducted on the premises; and

(g) The list of the employees who will be operating the table(s).

(2) All applications shall be filed with the Board of Curry County Commissioners.

#### SECTION 2.14.050

#### CONSIDERATION OF APPLICATION

Consideration of the application for a social game license shall be made within twenty (20) days after said application is received unless the Board decides to take the application under advisement for a reasonable period of time for further investigation, including, but not limited to the holding of hearings.

#### SECTION 2.14.060

#### ISSUANCE OF LICENSE

(1) Upon approval of an application for a license the Board shall issue a license to the applicant. A license granted under this ordinance shall contain:

(a) The name of the applicant-licensee;

(b) The address of the establishment or business conducting social games under that license;

(c) The duration of the license;

(d) The number of tables licensed for social games under that license, which shall be a maximum of three (3); and

(e) The names of employees authorized to operate the table(s).

(2) The license shall be valid for one (1) year from date of issue unless revoked as provided herein.

SECTION 2.14.070

RESTRICTIONS ON LICENSE

(1) A license may not be transferred to another licensee or another establishment.

(2) However, other amendments to a license may be allowed at the Board's discretion.

SECTION 2.14.080

LICENSE FEE

The annual basic fee for a social games license shall be set by order of the Board of Curry County Commissioners.

SECTION 2.14.090

EXPENDITURE OF LICENSE FEES

All fees and charges collected from the issuing of social games licenses go into the General Fund of Curry County.

SECTION 2.14.100

RENEWAL OF LICENSE

It shall be the responsibility of the licensee to make application for renewal of an existing license.

SECTION 2.14.110

BETTING LIMITS

For any social game licensed under the division betting limits shall be set by order of the Board of Curry County Commissioners.

SECTION 2.14.120

AGE LIMITS

It is a violation of this division for any licensee or her or his agent, employee, officer, or servant to allow any person under the age of twenty-one (21) to participate in any activity in the licensed premises when such activity would be gambling but for the fact it is a social game. A culpable mental state is not required for a violation of this section to occur.

SECTION 2.14.130

SUSPENSION AND REVOCATION OF LICENSE

(1) The Board shall temporarily suspend any social games license issued hereunder if:

(a) Any owner or manager of the business premises has been convicted of a felon



within the last ten (10) years.

(b) Any owner or manager of the business premises has been previously convicted for any crime involving gambling, or has been involved directly or indirectly in a forfeiture proceeding regarding a gambling device as defined above.

(c) Any false or misleading information is supplied in the application or any information requested is omitted either in the original application or at other proceedings.

(d) Any owner of the business premises or the business premises itself has a license revoked or suspended by the Oregon Liquor Control Commission, during the period of the social games licenses.

(e) Any owner or manager of the business premises profits from gambling or promotes gambling, either on the licensed premises and/or in any other activity.

(f) Employees not authorized under the license operate table(s).

(g) Any other conduct involving moral turpitude on the part of any of the premises owner, his agents, his employees, or other representatives.

(2) Action taken in this respect shall be subject to the right of appeal to the Board of Commissioners meeting in regular scheduled session. Notice of such appeal must be filed with the County Clerk within ten (10) days or such action of the Board shall be deemed to be final and conclusive. A temporary suspension shall be for thirty (30) days.

(3) Permanent revocation may be made only by the Board of Commissioners, and such revocation shall only take place at a Board meeting in regular session upon application of the Sheriff, and only after the licensee has been served with notice at least fourteen (14) days prior to the Board meeting. Such notice shall include the time and date of the Board meeting and the grounds upon which the permanent revocation is sought. Notice shall be deemed to be received by licensee if the County Clerk mails such notice to the address listed by the licensee on his or her application.

#### SECTION 2.14.140

#### GAMBLING DEVICES

No person shall have in his or her possession any property, instrument or device designed or adopted for use in any gambling activity. Any such property, instrument or device is hereby declared a public nuisance and may summarily seized by any peace officer. Property so seized shall remain in the custody of the seizing agency, subject to order by a court exercising proper jurisdiction.

SECTION 2.14.150

AUTHORITY

This ordinance is created under the authority of ORS 167.121.

SECTION 2.14.160

FAILURE TO COMPLY

Penalties are as provided in Article 10 of this ordinance.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance Correcting )  
A Scrivener's Error on the Ordinance )  
Amending Ordinance No. 14-03 as )  
Amended Regarding Medical Marijuana )  
Dispensary Facilities )

ORDINANCE NO.

15-04

The Board of Curry County Commissioners ordains as follows:

**SECTION 1**      **TITLE**

This ordinance shall be known as Ordinance No. 15-04, an ordinance amending the Curry County Code.

**SECTION 2**      **FINDINGS**

- A. On April 24, 2015, the County filed with the Curry County Clerk Ordinance No. 15-02 which was entitled "In the Matter of the Adoption of a Change to the Curry County Comprehensive Plan and Zoning Maps Related to File No. CP/Z 1501 for Applicant JADA Investments-English Village, LLC" and given a number CJ:2015-146.
- B. On June 19, 2015, the County filed with the Clerk an Ordinance regarding medical marijuana dispensaries identified as CJ:2015-223 which was mistakenly labeled also as Ordinance No. 15-02. It should have been designated as Ordinance No. 15-03.
- C. For identification purposes, it is important that each Ordinance adopted by the Board be individually identified.

**SECTION 3**      **CORRECTION OF SCRIVENER'S ERROR**

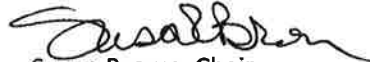
The Ordinance filed with the Curry County Clerk on June 19, 2015, as document CJ-2015-223, and entitled "In the Matter of an Ordinance Amending Ordinance No. 14-03 (as Amended by Ordinance No. 14-09) Regarding Medical Marijuana Dispensary Facilities" is hereby corrected to be identified as Ordinance No. 15-03 instead of Ordinance No. 15-02.

**SECTION 4**      **EMERGENCY CLAUSE; EFFECTIVE DATE**

This Ordinance, being necessary for the preservation and protection of the public peace, health and safety and general welfare of Curry County, and an emergency having been unanimously declared to exist, this ordinance shall take effect upon its passage.

Adopted this 24<sup>th</sup> day of June, 2015.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Susan Brown, Chair

  
Thomas Huxley, Vice Chair

  
David Brock Smith, Commissioner

Attest:



Recording Secretary

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Emergency Adoption: \_\_\_\_\_

Effective Date: \_\_\_\_\_

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance                     )  
Amending Ordinance No. 14-03                    )  
(As Amended by Ordinance No.                 )  
14-09) Regarding Medical Marijuana            )  
Dispensary Facilities                                )

ORDINANCE NO. 15-02

The Board of Commissioners for the County of Curry ordains as follows:

**SECTION 1**      **TITLE**

This ordinance shall be known as Ordinance No. 15-02, an ordinance amending Ordinance No. 14-03 which was previously amended by Ordinance No. 14-09, which are both part of the Curry County Code.

**SECTION 2**      **FINDINGS**

- A. On May 21, 2014, the Board of Curry County Commissioners adopted Ordinance No. 14-03, an "Ordinance Regulating Medical Marijuana Dispensary Facilities in the Unincorporated Area of Curry County, Establishing a Permit Process, and Declaring an Emergency."
- B. On October 1, 2014, the Board of Curry County Commissioners adopted Ordinance No. 14-09, amending Ordinance No. 14-03 regarding background checks and hours of operation.
- C. The Sheriff's Office LEDS agreement does not allow the Curry County Sheriff's Office to do background checks regarding owners, employees and volunteers of medical marijuana dispensary facilities.
- D. Ordinance No. 14-03, as amended by Ordinance No. 14-09, needs to be amended to account for the above-referenced finding in Section 2 (c) above.
- E. The Public Services Department will become the Department of Community Development effective July 1, 2015, and Ordinance No. 14-03 as amended by Ordinance No. 14-09, should be amended to reflect this change.

**SECTION 3**      **AUTHORITY**

This ordinance is adopted pursuant to ORS 203.035, and SB 1531 (2014).

**SECTION 4**      **AMENDMENTS**

The following amendments are made to Ordinance No. 14-03 as amended by Ordinance No. 14-09:

- (1) Subsections 2.15.040(4)(d) and 2.15.060(5), and Section 2.15.120 are repealed.
- (2) In each place in the ordinance where "Public Services Department" is referenced, the following language shall be inserted immediately after "Public Services Department": (the Department of Community Development, effective July 1, 2015).

A new amended Exhibit "A" reflecting the above amendments is attached hereto and incorporated by reference.

**SECTION 5**      **SEVERANCE CLAUSE**

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion declared to be unconstitutional or invalid, is valid.

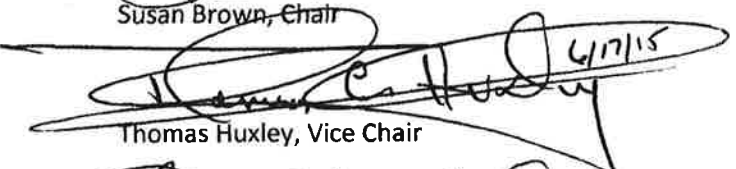
**SECTION 6**      **EMERGENCY CLAUSE**

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be in full force and effect on its passage.

DATED this 17<sup>th</sup> day of June, 2015.

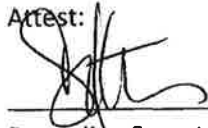
**BOARD OF CURRY COUNTY COMMISSIONERS**

  
Susan Brown, Chair

  
Thomas Huxley, Vice Chair

  
David Brock Smith, Commissioner

Attest:



Recording Secretary

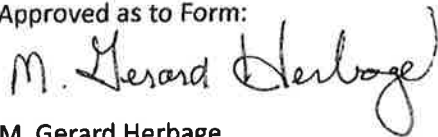
First Reading: 06/03/15

Second Reading: 06/17/15

Emergency Adoption: Yes

Effective Date: 06/17/15

Approved as to Form:



M. Gerard Herbage

Curry County Legal Counsel

**EXHIBIT "A"**

**ARTICLE TWO**

DIVISION FIFTEEN

MEDICAL MARIJUANA DISPENSARY FACILITIES

SECTION 2.15.010      AUTHORITY      This division of Article Two is enacted pursuant to ORS 203.035, and Senate Bill 1531 (2014).

SECTION 2.15.020

PROHIBITED ACTIVITIES

After June 15, 2014:

- (1) It shall be unlawful to operate, use or allow the operation of a medical marijuana dispensary facility in the unincorporated area of Curry County without having a current county marijuana dispensary permit under this division.
- (2) It is unlawful to lease, rent or otherwise allow any medical marijuana dispensary facility in any building, structure, premises, location or land in the unincorporated area of Curry County unless the medical marijuana dispensary facility has a current county marijuana dispensary permit.

SECTION 2.15.030

COUNTY MARIJUANA DISPENSARY PERMIT REQUIRED

A medical marijuana dispensary facility may only be located in the unincorporated area of Curry County only if the business has first obtained a county marijuana dispensary permit.

SECTION 2.15.040

APPLICATION FOR COUNTY MARIJUANA DISPENSARY PERMIT

- (1) After June 1, 2014, a person or entity seeking a county marijuana dispensary permit shall submit an application to the county on forms provided by the county. At the time of application, applicant shall pay a nonrefundable application fee to cover the costs incurred by the county in processing the application.
- (2) The applicant shall be the individual to whom the Oregon Health Authority ("OHA") has granted a permit pursuant to Chapter 726, Oregon Laws 2013 and the corresponding administrative rules.



- (3) The applicant shall submit a separate application and pay a separate application fee for each physical location for which the applicant seeks a county marijuana dispensary permit.
- (4) The applicant shall provide the following information on the application form and other required information in support of the application:
  - (a) Name of business and business location;
  - (b) Name of business owner and manager (if different);
  - (c) Copy of OHA permit for the business;
  - (d) **(REPEALED)**
  - (e) Written authorization for OHA to disclose information to Curry County about the business and the applicant in conjunction with the OHA permit;
  - (f) The permit holder shall save harmless, indemnify, and defend Curry County and any of its elected officials, officers, employees or agents for any and all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from county liability to agencies of the federal government pursuant to contracts or grants from those federal agencies occurring because of the issuance of a county marijuana dispensary permit to the permit holder.
  - (g) The permit holder shall waive liability against Curry County and any of its elected officials, officers, employees or agents for any claims arising out of the revocation or refusal to grant a permit; for any claims alleging a taking or inverse condemnation because of the revocation of or refusal to permit a particular location or relocation of a permitted facility for failing to satisfy all the requirements of a permit; or for any actions taken or not taken by Curry County pursuant to a permit;
  - (h) The permit holder shall waive liability against Curry County and any of its elected officials, officers, employees or agents for any claims for any lawful arrest or prosecution of the applicant or any employees, clients or customers for a violation of federal or state criminal laws.

**SECTION 2.15.050**

**TERM AND RENEWAL OF COUNTY MARIJUANA DISPENSARY PERMIT**

- (1) A county marijuana dispensary permit is effective upon the date of its issuance and expires at the end of the 365<sup>th</sup> day (one year) following its issuance.
- (2) In order to renew a county marijuana dispensary permit, the applicant shall submit an application to the county on forms provided by the county no more than ninety and at least sixty days prior to the expiration of the existing county marijuana dispensary permit. A renewal application shall contain all of the information and documentation required of an original application.
- (3) At the time of filing a renewal application, the applicant shall pay a nonrefundable application fee to cover the costs incurred by the county in processing the renewal application.
- (4) If a specific location that is the subject of a renewal application has a documented history of law enforcement contacts during the time that the specific location has been permitted

under this division, the Sheriff may recommend denial of a renewal application. In the event that the Sheriff recommends denial of a renewal application, the Sheriff shall forward the recommendation to the Public Services Department (the Department of Community Development, effective July 1, 2015). The Public Services Department (the Department of Community Development, effective July 1, 2015) may issue a notice of denial based upon the Sheriff's recommendation. Denial of a renewal application based upon the Sheriff's recommendation may be reviewed by the Board of Commissioners pursuant to Section 2.15.100 of this ordinance.

SECTION 2.15.060

COUNTY MARIJUANA DISPENSARY PERMIT REGULATIONS

A person or entity having or required to obtain county marijuana dispensary permit for a medical marijuana dispensary business shall comply with the following regulations:

- (1) The person or entity shall comply with all building code or zoning requirements applicable to the property on which the business is located.
- (2) The person or entity shall comply with all federal, state and local laws applicable to the business.
- (3) The days of operation shall be limited to Monday through Saturday, 9:00 A.M. to 6:00 P.M.
- (4) The medical marijuana dispensary facility cannot be located within 1000 feet of any boundary of a property containing a church, public playground, public park, pre-kindergarten, Head Start program, community learning center, or certified child care facility regulated pursuant to ORS chapters 329, 329A, and 657A, a relief nursery regulated pursuant to ORS Chapter 417, or a location prohibited by OHA regulation, which currently includes being located within 1000 feet of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, or within 1000 feet of another medical marijuana dispensary facility.
- (5) **(REPEALED)**
- (6) The person or entity shall keep all real and personal property tax accounts current for the business for which it is the taxpayer.
- (7) The business must not be operated as a home occupation in any zone.
- (8) No minors are allowed on the business premises unless the minor is an Oregon Medical Marijuana Program (OMMP) cardholder and is accompanied by a parent or guardian and not in areas prohibited by OAR 333-008-1200.
- (9) No consumption of medical marijuana is allowed on the business premises unless otherwise allowed for employees in OAR 333-008-1200. The business must comply with the Oregon indoor clean air act that prohibits indoor tobacco smoking. The business may not be co-located with a tobacco smoking lounge, or any kind of medical marijuana social club where medical marijuana is consumed.

SECTION 2.15.070

NO VESTED OR NONCONFORMING RIGHTS

Neither this division of Article Two nor any other provision of the Curry County Code, or any action, failure to act, statement, representation, certificate, approval or permit issued shall create, confer or convey any vested or nonconforming right or benefit regarding any medical marijuana business, medical marijuana dispensary facility or other facility.

SECTION 2.15.080

VIOLATIONS

Any violations of this division may be enforced including but not limited to as set forth in the enforcement ordinance (Article Ten of the Curry County Code), and by seeking administrative, injunctive, or other judicial relief. In addition, violations of this division may be deemed a public nuisance and may be abated by the county as a public nuisance.

SECTION 2.15.090

DENIAL OR REVOCATION OF A PERMIT

- (1) An application may be denied unless the applicant satisfies all the application requirements and regulations set forth in this division of Article Two.
- (2) A permit may be revoked if the person or entity issued the permit fails to satisfy all the application requirements and regulations set forth in this division of Article Two at any time after issuance of the permit, and the unsatisfied application requirement or regulation cannot be remedied within the time specified in the notice of revocation sent to the person or entity.
- (3) A permit may be suspended if the person or entity issued the permit fails to satisfy an application requirement or regulation set forth in this division of Article Two at any time after issuance of the permit, but the unsatisfied application requirement or regulation can be remedied within the time specified in the notice of suspension sent to the person or entity. Upon satisfaction of the application requirement or regulation, the notice of suspension will be withdrawn.

SECTION 2.15.100

APPEAL PROCEDURE

- (1) If an application is denied or a permit is revoked, or suspended, the applicant or permit holder may appeal the denial, revocation or suspension to the Board of Curry County Commissioners (BOC). Appeals must be in writing and filed within 15 days after receipt of the notice of the denial, revocation or suspension. The appeal shall be filed in the office of the Curry County Public Services Department (the Department of Community Development, effective July 1, 2015), accompanied by a nonrefundable appeal fee set by county Resolution that is to cover the costs incurred by the county in processing the appeal.
- (2) The appeal shall set forth the following information:
  - (a) The name and address of the applicant or permit holder;

- (b) The proposed (for a denial) or current (for a revocation or suspension) location of the facility in question;
  - (c) Whether the decision being appealed is a denial, revocation, or suspension; and
  - (d) The reason the decision is deemed incorrect.
- (3) The BOC shall hear the appeal within a reasonable time of the receipt of the appeal. At least ten days prior to the hearing, the county shall mail notice of the time and location of the hearing to the applicant or permit holder.
- (4) The BOC shall determine whether the applicant or permit holder satisfies all the application requirements and regulations set forth in this division of Article Two on the basis of the appellant's written statement and any relevant additional evidence submitted. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the Public Services Department (the Department of Community Development, effective July 1, 2015) by a preponderance of the evidence.
- (5) The BOC shall issue a written decision within a reasonable time of the hearing date. The written decision of the BOC is final. Appeal of the BOC's decision shall be only by writ of review under ORS Chapter 34.

SECTION 2.15.110      FEES

Fees specified in this division shall be set by BOC resolution.

Section 2.15.120 GRANDFATHERING

(REPEALED)

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY

In the Matter of an Ordinance Regulating )  
Medical Marijuana Dispensary Facilities )  
In the Unincorporated Area of Curry County, )  
Establishing a Permit Process, and Declaring )  
An Emergency )

ORDINANCE NO. 14-03

The Board of Commissioners for the County of Curry ordains as follows:

**SECTION 1**      **TITLE**

This ordinance shall be known as Ordinance 14-03, an ordinance amending the Curry County Code.

**SECTION 2**      **FINDINGS AND PURPOSE**

- A. The Board adopts the findings attached to this ordinance (Exhibit "B"), and incorporated by reference, as findings to support this division of the Curry County Code.
- B. The purpose of this ordinance is to enact a new division of the Curry County Code on the subject of the regulation of medical marijuana facilities.
- C. This ordinance is not intended to regulate the possession, cultivation or use of medical marijuana at a registered grow site or by anyone who is a registry identification cardholder.

**SECTION 3**      **ADOPTION**

Exhibit "A", that is attached hereto and incorporated by this reference, is adopted as an amendment to the Curry County Code; to wit, as a new Article Two Division 15.

**SECTION 4**      **SEVERANCE CLAUSE**

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

**SECTION 5**      **DECLARATION OF EMERGENCY**

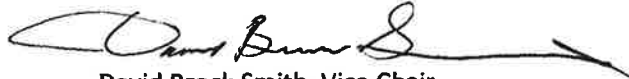
This ordinance being necessary for the preservation of the health, safety, and welfare of the community, an emergency is declared to exist and this ordinance will take effect immediately upon its passage.

ADOPTED this 21 day of May, 2014.

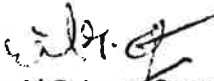
BOARD OF CURRY COUNTY COMMISSIONERS

Absent

Susan Brown, Chair



David Brock Smith, Vice Chair



David G. Itzen, Commissioner

Attest:



Recording Secretary

Approved as to Form:



M. Gerard Herbage

Curry County Legal Counsel

First Reading: May 7, 2014  
Second Reading: May 21, 2014  
Emergency Adoption: Yes  
Effective Date: May 21, 2014

**EXHIBIT "A"**

**ARTICLE TWO**

**DIVISION FIFTEEN**

**MEDICAL MARIJUANA DISPENSARY FACILITIES**

**SECTION 2.15.010**      **AUTHORITY**      This division of Article Two is enacted pursuant to ORS 203.035, and Senate Bill 1531 (2014).

**SECTION 2.15.020**      **PROHIBITED ACTIVITIES**

After June 15, 2014:

- (1) It shall be unlawful to operate, use or allow the operation of a medical marijuana dispensary facility in the unincorporated area of Curry County without having a current county marijuana dispensary permit under this division.
- (2) It is unlawful to lease, rent or otherwise allow any medical marijuana dispensary facility in any building, structure, premises, location or land in the unincorporated area of Curry County unless the medical marijuana dispensary facility has a current county marijuana dispensary permit.

**SECTION 2.15.030**

**COUNTY MARIJUANA DISPENSARY PERMIT REQUIRED**

A medical marijuana dispensary facility may only be located in the unincorporated area of Curry County only if the business has first obtained a county marijuana dispensary permit.

**SECTION 2.15.040**

**APPLICATION FOR COUNTY MARIJUANA DISPENSARY PERMIT**

- (1) After June 1, 2014, a person or entity seeking a county marijuana dispensary permit shall submit an application to the county on forms provided by the county. At the time of application, applicant shall pay a nonrefundable application fee to cover the costs incurred by the county in processing the application.
- (2) The applicant shall be the individual to whom the Oregon Health Authority ("OHA") has granted a permit pursuant to Chapter 726, Oregon Laws 2013 and the corresponding administrative rules.

- (3) The applicant shall submit a separate application and pay a separate application fee for each physical location for which the applicant seeks a county marijuana dispensary permit.
- (4) The applicant shall provide the following information on the application form and other required information in support of the application:
  - (a) Name of business and business location;
  - (b) Name of business owner and manager (if different);
  - (c) Copy of OHA permit for the business;
  - (d) Confirmation of passing a criminal background check by the Curry County Sheriff's Office pursuant to ORS 181.533 and OAR 257-010-0025(1)(a) for all owners, employees or volunteers that will work at the location identified in subsection 1 above;
  - (e) Written authorization for OHA to disclose information to Curry County about the business and the applicant in conjunction with the OHA permit;
  - (f) The permit holder shall save harmless, indemnify, and defend Curry County and any of its elected officials, officers, employees or agents for any and all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from county liability to agencies of the federal government pursuant to contracts or grants from those federal agencies occurring because of the issuance of a county marijuana dispensary permit to the permit holder.
  - (g) The permit holder shall waive liability against Curry County and any of its elected officials, officers, employees or agents for any claims arising out of the revocation or refusal to grant a permit; for any claims alleging a taking or inverse condemnation because of the revocation of or refusal to permit a particular location or relocation of a permitted facility for failing to satisfy all the requirements of a permit; or for any actions taken or not taken by Curry County pursuant to a permit;
  - (h) The permit holder shall waive liability against Curry County and any of its elected officials, officers, employees or agents for any claims for any lawful arrest or prosecution of the applicant or any employees, clients or customers for a violation of federal or state criminal laws.

#### SECTION 2.15.050

#### TERM AND RENEWAL OF COUNTY MARIJUANA DISPENSARY PERMIT

- (1) A county marijuana dispensary permit is effective upon the date of its issuance and expires at the end of the 365<sup>th</sup> day (one year) following its issuance.
- (2) In order to renew a county marijuana dispensary permit, the applicant shall submit an application to the county on forms provided by the county no more than ninety and at least sixty days prior to the expiration of the existing county marijuana dispensary permit. A renewal application shall contain all of the information and documentation required of an original application.
- (3) At the time of filing a renewal application, the applicant shall pay a nonrefundable application fee to cover the costs incurred by the county in processing the renewal application.



- (4) If a specific location that is the subject of a renewal application has a documented history of law enforcement contacts during the time that the specific location has been permitted under this division, the Sheriff may recommend denial of a renewal application. In the event that the Sheriff recommends denial of a renewal application, the Sheriff shall forward the recommendation to the Public Services Department. The Public Services Department may issue a notice of denial based upon the Sheriff's recommendation. Denial of a renewal application based upon the Sheriff's recommendation may be reviewed by the Board of Commissioners pursuant to Section 2.15.100 of this ordinance.

**SECTION 2.15.060**

**COUNTY MARIJUANA DISPENSARY PERMIT REGULATIONS**

A person or entity having or required to obtain county marijuana dispensary permit for a medical marijuana dispensary business shall comply with the following regulations:

- (1) The person or entity shall comply with all building code or zoning requirements applicable to the property on which the business is located.
- (2) The person or entity shall comply with all federal, state and local laws applicable to the business.
- (3) The days of operation shall be limited to Monday through Saturday, 9:00 A.M. to 4:00 P.M.
- (4) The medical marijuana dispensary facility cannot be located within 1000 feet of any boundary of a property containing a church, public playground, public park, pre-kindergarten, Head Start program, community learning center, or certified child care facility regulated pursuant to ORS chapters 329, 329A, and 657A, a relief nursery regulated pursuant to ORS Chapter 417, or a location prohibited by OHA regulation, which currently includes being located within 1000 feet of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, or within 1000 feet of another medical marijuana dispensary facility.
- (5) All employees and volunteers of the business must submit to a criminal background check by the Sheriff pursuant to ORS 181.533 and OAR 257-010-0025(1)(a) and pay the required fee. It shall be a violation of this ordinance if an employee or volunteer has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years of the date of the criminal background check; has been convicted more than once of the manufacture or delivery of a controlled substance in Schedule I or Schedule II at any time; criminal mistreatment based upon the unlawful manufacture of a controlled substance, child neglect I, racketeering, use of minor in controlled substance offense, manufacture or delivery of hydrocodone within 1000 feet of a school, manufacture or delivery of a controlled substance within 1000 feet of a school, causing another to ingest a controlled substance, application of a controlled substance to the body of another person, or felony driving under the influence.
- (6) The person or entity shall keep all real and personal property tax accounts current for the business for which it is the taxpayer.

- (7) The business must not be operated as a home occupation in any zone.
- (8) No minors are allowed on the business premises unless the minor is an Oregon Medical Marijuana Program (OMMP) cardholder and is accompanied by a parent or guardian and not in areas prohibited by OAR 333-008-1200.
- (9) No consumption of medical marijuana is allowed on the business premises unless otherwise allowed for employees in OAR 333-008-1200. The business must comply with the Oregon indoor clean air act that prohibits indoor tobacco smoking. The business may not be co-located with a tobacco smoking lounge, or any kind of medical marijuana social club where medical marijuana is consumed.

**SECTION 2.15.070**      **NO VESTED OR NONCONFORMING RIGHTS**

Neither this division of Article Two nor any other provision of the Curry County Code, or any action, failure to act, statement, representation, certificate, approval or permit issued shall create, confer or convey any vested or nonconforming right or benefit regarding any medical marijuana business, medical marijuana dispensary facility or other facility.

**SECTION 2.15.080**      **VIOLATIONS**

Any violations of this division may be enforced including but not limited to as set forth in the enforcement ordinance (Article Ten of the Curry County Code), and by seeking administrative, injunctive, or other judicial relief. In addition, violations of this division may be deemed a public nuisance and may be abated by the county as a public nuisance.

**SECTION 2.15.090**      **DENIAL OR REVOCATION OF A PERMIT**

- (1) An application may be denied unless the applicant satisfies all the application requirements and regulations set forth in this division of Article Two.
- (2) A permit may be revoked if the person or entity issued the permit fails to satisfy all the application requirements and regulations set forth in this division of Article Two at any time after issuance of the permit, and the unsatisfied application requirement or regulation cannot be remedied within the time specified in the notice of revocation sent to the person or entity.
- (3) A permit may be suspended if the person or entity issued the permit fails to satisfy an application requirement or regulation set forth in this division of Article Two at any time after issuance of the permit, but the unsatisfied application requirement or regulation can be remedied within the time specified in the notice of suspension sent to the person or entity. Upon satisfaction of the application requirement or regulation, the notice of suspension will be withdrawn.

**SECTION 2.15.100**

**APPEAL PROCEDURE**

- (1) If an application is denied or a permit is revoked, or suspended, the applicant or permit holder may appeal the denial, revocation or suspension to the Board of Curry County Commissioners (BOC). Appeals must be in writing and filed within 15 days after receipt of the notice of the denial, revocation or suspension. The appeal shall be filed in the office of the Curry County Public Services Department, accompanied by a nonrefundable appeal fee set by county Resolution that is to cover the costs incurred by the county in processing the appeal.
- (2) The appeal shall set forth the following information:
  - (a) The name and address of the applicant or permit holder;
  - (b) The proposed (for a denial) or current (for a revocation or suspension) location of the facility in question;
  - (c) Whether the decision being appealed is a denial, revocation, or suspension; and
  - (d) The reason the decision is deemed incorrect.
- (3) The BOC shall hear the appeal within a reasonable time of the receipt of the appeal. At least ten days prior to the hearing, the county shall mail notice of the time and location of the hearing to the applicant or permit holder.
- (4) The BOC shall determine whether the applicant or permit holder satisfies all the application requirements and regulations set forth in this division of Article Two on the basis of the appellant's written statement and any relevant additional evidence submitted. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the Public Services Department by a preponderance of the evidence.
- (5) The BOC shall issue a written decision within a reasonable time of the hearing date. The written decision of the BOC is final. Appeal of the BOC's decision shall be only by writ of review under ORS Chapter 34.

**SECTION 2.15.110**

**FEES**

Fees specified in this division shall be set by BOC resolution.

## **EXHIBIT "B"**

### **CURRY COUNTY, OREGON**

#### **MEDICAL MARIJUANA DISPENSARY FACILITIES PERMIT ORDINANCE FINDINGS**

##### **NATURE OF THE LEGISLATIVE PROCEEDING**

This matter is before the Board of Curry County Commissioners pursuant to its legislative authority under SB 1531 (2014) and ORS 203.035 to, by ordinance, "exercise authority within the county over matters of county concern, to the fullest extent allowed by Constitutions and laws of the United States and of this state" and that this power "shall be liberally construed, to the end that counties have all powers over matters of county concern that is possible for them to have under the Constitutions and laws of the United States and of this state."

The Board held a work session on this topic on March 26, 2014, and in addition, discussed this at a regular Board of Commissioner's meeting on April 16, 2014. The Commissioners individually have informed themselves on this topic through various means, including, but not limited to, meetings, conferences, news media, research articles, citizen input, and discussions with other public officials.

##### **FEDERAL LAW**

Since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based upon the federal government's categorization of marijuana as having a "high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment." Gonzales v. Raich, 545 U.S. 1, 14 (2005), Controlled Substances Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq.

On August 29, 2013, the U.S. Department of Justice (USDOJ) issued a memorandum to all United States Attorneys, acknowledging that several states had adopted laws authorizing marijuana production, distribution and possession by establishing a regulatory scheme for these purposes.

In this memo, the DOJ advised that in recent years, the USDOJ has "focused its efforts on certain law enforcement priorities that are particularly important to the federal government," such as: (a) preventing the distribution of marijuana to minors; (b) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels; (c) preventing the diversion of marijuana from states where it is legal under state law in some form to other states; (d) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (e) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (f) preventing drugged driving and the exacerbation of other adverse public health consequences associated with the marijuana use; (g) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on county lands; and (h) preventing marijuana possession and use on federal property.

Also, in this memo, the USDOJ warned that “[i]f state enforcement efforts are not sufficiently robust to protect against the harms [identified above] the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring the individual enforcement actions, including criminal prosecutions, focused on those harms,” and USDOJ further warned that a regulatory system adequate to the task “must not only contain robust controls and procedures on paper, it must be effective in practice.”

The USDOJ advised that “in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department’s enforcement priorities [listed above]” and that federal prosecutors “should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system.”

On the same date, the U.S. Attorney for the District of Oregon, S. Amanda Marshall, issued a press release reiterating the priorities related to enforcing federal marijuana laws and further stating that “in Oregon, federal prosecutors will remain aggressive when it comes to protecting these eight federal enforcement interests” and will exercise “their prosecutorial discretion to investigate and prosecute individuals who infringe against any of these stated federal interests, regardless of state law.”

The Oregon U.S. Attorney further warned that the USDOJ expects strict regulatory schemes with strong, state-based enforcement efforts, backed by adequate funding, that it will take a “trust but verify approach” that the state regulatory scheme is adequate, and if the state does not follow through imposing strict controls regulating marijuana-related conduct that “the federal prosecutors will act aggressively to bring individual prosecutions and may challenge the regulatory scheme themselves.”

A decision by the USDOJ to “not enforce” criminal laws does not make medical marijuana lawful under federal law. The opinion of the USDOJ and Oregon’s US Attorney is that medical marijuana is unlawful under federal law. The USDOJ policy regarding enforcement of this law has flipped back and forth from enforcement to qualified non-enforcement over the last few years. For example, on June 3, 2011, the US Attorney for the District of Oregon in response to a memo from the USDOJ issued a notice to the owners, operators and landlords of medical marijuana dispensaries that marijuana dispensaries were unlawful under federal and state law and that people and businesses involved could face risk of prosecution, civil forfeiture, and seizure of assets. Although this has now changed to a policy of qualified non-enforcement, there are no guarantees that USDOJ’s stance on enforcement will not change once again, so long as marijuana is illegal under federal law.

Furthermore, Curry County has entered into federal grants and contracts that include in the required terms and conditions compliance with the Controlled Substances Act. In the award or implementation of these grants and contracts, these agencies are not bound by the USDOJ’s current position of non-enforcement of federal criminal laws. Contractual remedies against Curry County could include disqualification, non-selection, debarment, fines, penalties or repayment of federal funds.

Until such time as marijuana is not listed as an unlawful drug under the Controlled Substances Act, or federal law recognizes medical marijuana as lawful, marijuana, including medical marijuana, is unlawful under federal law. The county is put in a conflict of laws position by the state to pick and choose which federal laws it will recognize or with which it must comply, or which federal contractual requirement it may ignore, and the individual county officers are placed in a conflict as to their oaths of office.

#### State Law

As with federal law, marijuana is considered a controlled substance under the Oregon Uniform Controlled Substances Act, Oregon Revised Statutes (ORS) 475.005 to 475.285. The unlawful manufacture, cultivation, transportation or possession of a controlled substance is a crime under ORS chapter 167 and ORS 475.752 to 475.980.

Oregon has adopted laws relating to medical marijuana, with the intent that a person with one of certain "debilitating medical condition[s], the person's primary caregiver and the person responsible for a marijuana grow site that is producing [for the registered cardholder]", is exempted from certain criminal laws related to the possession, delivery, or production of marijuana, ORS 475.309, ORS 475.300 to 475.346.

The Oregon State Legislature passed House Bill 3460 in 2013, now codified in ORS chapter 475, that added the person responsible for or employed by a medical marijuana facility (dispensary) to the list of persons exempt from certain criminal laws so long as they do not commit the acts anywhere other than at the medical marijuana facility, and directed the Oregon Health Authority (OHA) to establish rules for a medical marijuana facility registration system with an operative date of March 1, 2014. HB 3460 requires medical marijuana facilities to be a registered business, to only be located in areas zoned for commercial, industrial, mixed use, or agricultural, but not at the same location as a marijuana grow site, not be within 1000 feet of a public or private elementary, secondary or career schools attended primarily by minors, or within 1000 feet of another dispensary, comply with authority rules related to security and health, and allow the authority to conduct a criminal backgrounds check only of the person listed as responsible for the medical marijuana facility for prior convictions of manufacture or delivery of a Schedule I or Schedule II controlled substance.

The Oregon Legislature then passed Senate Bill 1531 in 2014 with an effective date of March 1, 2014. Section 3 of the bill allows the governing body of a city or county to adopt an ordinance enacting a moratorium on the operation of registered medical marijuana facilities, but only until May 1, 2015. The Board of Curry County Commissioners, following public input and research on the matter, decided not to enact a moratorium on medical marijuana facilities, but instead, to regulate such facilities. This local regulation is allowed pursuant to Section 2 of Senate Bill 1531. This section allows the governing bodies of cities and counties to adopt ordinances that impose reasonable regulations on the operation of medical marijuana facilities registered, or applying for registration, under ORS 475.314 that are located in the area subject to the jurisdiction of the city or county. In the bill, "reasonable regulations" includes "reasonable limitations on the hours during which a medical marijuana facility may be operated,

reasonable limitations on where a medical marijuana facility may be located within a zone described in ORS 475.314(3)(a) and reasonable conditions on the manner in which a medical marijuana facility may dispense medical marijuana.”

The statutory provisions of HB 3460 and SB 1531 together with the OHA temporary rules, Oregon Administrative Rules (OAR) 338-008-1000 to 333-008-1400, OAR 333-008-1190 Appendix A and 333-008-0010 to 333-008-0120, establish the state medical marijuana system, administrative, physical and technical facility requirements, and rules related to facility operations. However, the county has no assurances that this proposed regulatory scheme is sufficiently robust or satisfies the enforcement priorities established by the federal government, and has serious concerns that the proposed staffing and funding are inadequate for meaningful review, inspection and enforcement of medical marijuana facilities. The state granted itself immunity under HB 3460 for any actions that it takes, or doesn't take, under the medical marijuana facility registry program. Local government has no such immunity despite having many responsibilities related to businesses, land use and public safety.

Another issue is that state law requires a limited background check of the one person listed as responsible for the facility, who could be an owner, operator or other person legally responsible for the facility, but does not require any background checks of employees or other individuals who may be dispensing a controlled substance. This is not sufficiently robust to prevent a facility from being run by a criminal enterprise, gang or cartel, or being used as a cover for the trafficking of other illegal drugs or activities.

A significant complication is that HB 3460 requires that the business location of the medical marijuana facility and the name of the person responsible for the medical marijuana facility be kept confidential by OHA. Under the OHA rules, applicants will be asked, but not required, to sign an authorization to allow OHA to publish the location of the registered facility, but not the name of the person responsible for the facility. The law also states that OHA shall not publicly disclose the location of the person responsible for the facility, and will verify information on the list only to authorized law enforcement with adequate identification and badge number. Verify means confirm only. For example, as the law and the rules read, law enforcement responding to a dispatch at a particular location may call OHA to verify that the location is a registered medical marijuana facility, but OHA would be prohibited from telling law enforcement the name of the person responsible for the facility to contact.

Keeping the location of a registered medical marijuana facility and the person responsible for that facility confidential does not make sense for a registered business. No protected health information or individually identifiable health information would be disclosed by allowing the public disclosure to local government of the location of a registered medical marijuana dispensary and the person responsible for that facility.

Because of a lack of transparency and confidentiality of the location of medical marijuana facilities and the identity of the person responsible for the facility under state law, the county is significantly impeded or finds it impossible to carry out many of its local responsibilities related to medical marijuana facilities including but not limited to, assessment and taxation of the real and

personal property of the business, land use planning and permitting, public health and safety, and contract compliance. Voluntary disclosure to local government by some medical marijuana dispensary facilities, but not required of all, does not allow for consistent implementation of local responsibilities or equal treatment of medical marijuana facilities. For these reasons, Curry County's position is that medical marijuana facilities are banned unless the facility has obtained a Curry County marijuana dispensary permit.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance                     )  
Amending Ordinance No. 14-03                    )  
Regarding Medical Marijuana                    )  
Dispensary Facilities                                )

ORDINANCE NO. 14-09

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1        TITLE

This ordinance shall be known as Ordinance No. 14-09, an ordinance amending Ordinance No. 14-03 in the Curry County Code.

SECTION 2        FINDINGS

- A. On May 21, 2014, the Board of Curry County Commissioners adopted Ordinance No. 14-03, an "Ordinance Regulating Medical Marijuana Dispensary Facilities in the Unincorporated Area of Curry County, Establishing a Permit Process, and Declaring an Emergency."
- B. Section 2.15.060(3) of the Ordinance provides that the days of operations for medical marijuana facilities shall be limited to Monday through Saturday, 9:00 A.M. to 4:00 P.M.
- C. The Board has received requests to extend the hours to 6:00 P.M., which the Sheriff's Office has not objected to.
- D. The Board has found that there is some ambiguity in the language of the Ordinance regarding criminal background checks, and that these sections should be amended and clarified.

SECTION 3        AUTHORITY

This ordinance amendment is adopted pursuant to ORS 203.035, and SB 1531 (2014).

SECTION 4        AMENDMENTS

The following amendments are made to Ordinance No. 14-03.

- (1) The former Section 2.15.040(4)(d) is repealed. A new Section 2.15.040(4)(d) is adopted which reads as follows:

"Confirmation of passing a criminal background check by the Curry County Sheriff's Office pursuant to ORS 181.533 and OAR 257-010-0025(1)(a) for all applicants and owners in all circumstances, and confirmation of passing a criminal background check for all employees and volunteers that will work at the location identified in Subsection 1 above."

- (2) The former Section 2.15.060(3) is amended by striking "4:00 P.M." and inserting "6:00 P.M."
- (3) Section 2.15.060(5) is amended by inserting the words "applicants and owners" after the word "All" in the first sentence of this section. Also, Section 2.15.060(5) is further amended in the second sentence of this section by adding the words "an applicant or owner, or" to the second sentence so that it now reads: It shall be a violation of this ordinance if an applicant or owner, or an employee or volunteer has been convicted of..."
- (4) A new section 2.15.120 is added to Ordinance No. 14.03 which provides as follows:

SECTION 2.15.120      GRANDFATHERING

Once a permit is granted under Ordinance No. 14-03, that permit and subsequent renewals of the same permit are subject to the rules regarding background checks that were in existence at the time of the issuance of the original permit. This grandfathering clause is limited to provisions regarding background checks only. Nothing in this section shall be deemed to change the requirement that an applicant must first obtain an OHA Permit.

A new amended exhibit "A" reflecting the modifications to Ordinance No. 14-03 is attached hereto and incorporated by reference.

SECTION 5      SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion declared to be unconstitutional or invalid, is valid.

DATED this 15 day of Oct, 2014.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Susan Brown, Chair

  
David Brock Smith, Vice Chair

  
David G. Itzen, Commissioner

Attest:

  
Recording Secretary

First Reading: 1 October 2014

Second Reading: 15 Oct. 2014

Emergency Adoption: No

Effective Date: 13 Jan 2015

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

## **EXHIBIT "A"**

### **ARTICLE TWO**

#### **DIVISION FIFTEEN**

#### **MEDICAL MARIJUANA DISPENSARY FACILITIES**

**SECTION 2.15.010**      **AUTHORITY**      This division of Article Two is enacted pursuant to ORS 203.035, and Senate Bill 1531 (2014).

#### **SECTION 2.15.020**

#### **PROHIBITED ACTIVITIES**

After June 15, 2014:

- (1) It shall be unlawful to operate, use or allow the operation of a medical marijuana dispensary facility in the unincorporated area of Curry County without having a current county marijuana dispensary permit under this division.
- (2) It is unlawful to lease, rent or otherwise allow any medical marijuana dispensary facility in any building, structure, premises, location or land in the unincorporated area of Curry County unless the medical marijuana dispensary facility has a current county marijuana dispensary permit.

#### **SECTION 2.15.030**

#### **COUNTY MARIJUANA DISPENSARY PERMIT REQUIRED**

A medical marijuana dispensary facility may only be located in the unincorporated area of Curry County only if the business has first obtained a county marijuana dispensary permit.

#### **SECTION 2.15.040**

#### **APPLICATION FOR COUNTY MARIJUANA DISPENSARY PERMIT**

- (1) After June 1, 2014, a person or entity seeking a county marijuana dispensary permit shall submit an application to the county on forms provided by the county. At the time of application, applicant shall pay a nonrefundable application fee to cover the costs incurred by the county in processing the application.
- (2) The applicant shall be the individual to whom the Oregon Health Authority ("OHA") has granted a permit pursuant to Chapter 726, Oregon Laws 2013 and the corresponding administrative rules.

- (3) The applicant shall submit a separate application and pay a separate application fee for each physical location for which the applicant seeks a county marijuana dispensary permit.
- (4) The applicant shall provide the following information on the application form and other required information in support of the application:
  - (a) Name of business and business location;
  - (b) Name of business owner and manager (if different);
  - (c) Copy of OHA permit for the business;
  - (d) Confirmation of passing a criminal background check by the Curry County Sheriff's Office pursuant to ORS 181.533 and OAR 257-010-0025(1)(a) for all applicants and owners in all circumstances, and confirmation of passing a criminal background check for all employees and volunteers that will work at the location identified in Subsection 1 above;
  - (e) Written authorization for OHA to disclose information to Curry County about the business and the applicant in conjunction with the OHA permit;
  - (f) The permit holder shall save harmless, indemnify, and defend Curry County and any of its elected officials, officers, employees or agents for any and all claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from county liability to agencies of the federal government pursuant to contracts or grants from those federal agencies occurring because of the issuance of a county marijuana dispensary permit to the permit holder.
  - (g) The permit holder shall waive liability against Curry County and any of its elected officials, officers, employees or agents for any claims arising out of the revocation or refusal to grant a permit; for any claims alleging a taking or inverse condemnation because of the revocation of or refusal to permit a particular location or relocation of a permitted facility for failing to satisfy all the requirements of a permit; or for any actions taken or not taken by Curry County pursuant to a permit;
  - (h) The permit holder shall waive liability against Curry County and any of its elected officials, officers, employees or agents for any claims for any lawful arrest or prosecution of the applicant or any employees, clients or customers for a violation of federal or state criminal laws.

SECTION 2.15.050

TERM AND RENEWAL OF COUNTY MARIJUANA DISPENSARY PERMIT

- (1) A county marijuana dispensary permit is effective upon the date of its issuance and expires at the end of the 365<sup>th</sup> day (one year) following its issuance.
- (2) In order to renew a county marijuana dispensary permit, the applicant shall submit an application to the county on forms provided by the county no more than ninety and at least sixty days prior to the expiration of the existing county marijuana dispensary permit. A renewal application shall contain all of the information and documentation required of an original application.

- (3) At the time of filing a renewal application, the applicant shall pay a nonrefundable application fee to cover the costs incurred by the county in processing the renewal application.
- (4) If a specific location that is the subject of a renewal application has a documented history of law enforcement contacts during the time that the specific location has been permitted under this division, the Sheriff may recommend denial of a renewal application. In the event that the Sheriff recommends denial of a renewal application, the Sheriff shall forward the recommendation to the Public Services Department. The Public Services Department may issue a notice of denial based upon the Sheriff's recommendation. Denial of a renewal application based upon the Sheriff's recommendation may be reviewed by the Board of Commissioners pursuant to Section 2.15.100 of this ordinance.

#### SECTION 2.15.060

#### COUNTY MARIJUANA DISPENSARY PERMIT REGULATIONS

A person or entity having or required to obtain county marijuana dispensary permit for a medical marijuana dispensary business shall comply with the following regulations:

- (1) The person or entity shall comply with all building code or zoning requirements applicable to the property on which the business is located.
- (2) The person or entity shall comply with all federal, state and local laws applicable to the business.
- (3) The days of operation shall be limited to Monday through Saturday, 9:00 A.M. to 6:00 P.M.
- (4) The medical marijuana dispensary facility cannot be located within 1000 feet of any boundary of a property containing a church, public playground, public park, pre-kindergarten, Head Start program, community learning center, or certified child care facility regulated pursuant to ORS chapters 329, 329A, and 657A, a relief nursery regulated pursuant to ORS Chapter 417, or a location prohibited by OHA regulation, which currently includes being located within 1000 feet of the real property comprising a public or private elementary, secondary, or career school attended primarily by minors, or within 1000 feet of another medical marijuana dispensary facility.
- (5) All applicants and owners, and employees and volunteers of the business must submit to a criminal background check by the Sheriff pursuant to ORS 181.533 and OAR 257-010-0025(1)(a) and pay the required fee. It shall be a violation of this ordinance if an applicant or owner, or an employee or volunteer has been convicted of the manufacture or delivery of a controlled substance in Schedule I or Schedule II within five years of the date of the criminal background check; has been convicted more than once of the manufacture or delivery of a controlled substance in Schedule I or Schedule II at any time; criminal mistreatment based upon the unlawful manufacture of a controlled substance, child neglect I, racketeering, use of minor in controlled substance offense, manufacture or delivery of hydrocodone within 1000 feet of a school, manufacture or delivery of a controlled substance within 1000 feet of

a school, causing another to ingest a controlled substance, application of a controlled substance to the body of another person, or felony driving under the influence.

- (6) The person or entity shall keep all real and personal property tax accounts current for the business for which it is the taxpayer.
- (7) The business must not be operated as a home occupation in any zone.
- (8) No minors are allowed on the business premises unless the minor is an Oregon Medical Marijuana Program (OMMP) cardholder and is accompanied by a parent or guardian and not in areas prohibited by OAR 333-008-1200.
- (9) No consumption of medical marijuana is allowed on the business premises unless otherwise allowed for employees in OAR 333-008-1200. The business must comply with the Oregon indoor clean air act that prohibits indoor tobacco smoking. The business may not be co-located with a tobacco smoking lounge, or any kind of medical marijuana social club where medical marijuana is consumed.

#### SECTION 2.15.070      NO VESTED OR NONCONFORMING RIGHTS

Neither this division of Article Two nor any other provision of the Curry County Code, or any action, failure to act, statement, representation, certificate, approval or permit issued shall create, confer or convey any vested or nonconforming right or benefit regarding any medical marijuana business, medical marijuana dispensary facility or other facility.

#### SECTION 2.15.080      VIOLATIONS

Any violations of this division may be enforced including but not limited to as set forth in the enforcement ordinance (Article Ten of the Curry County Code), and by seeking administrative, injunctive, or other judicial relief. In addition, violations of this division may be deemed a public nuisance and may be abated by the county as a public nuisance.

#### SECTION 2.15.090      DENIAL OR REVOCATION OF A PERMIT

- (1) An application may be denied unless the applicant satisfies all the application requirements and regulations set forth in this division of Article Two.
- (2) A permit may be revoked if the person or entity issued the permit fails to satisfy all the application requirements and regulations set forth in this division of Article Two at any time after issuance of the permit, and the unsatisfied application requirement or regulation cannot be remedied within the time specified in the notice of revocation sent to the person or entity.
- (3) A permit may be suspended if the person or entity issued the permit fails to satisfy an application requirement or regulation set forth in this division of Article Two at any time

after issuance of the permit, but the unsatisfied application requirement or regulation can be remedied within the time specified in the notice of suspension sent to the person or entity. Upon satisfaction of the application requirement or regulation, the notice of suspension will be withdrawn.

**SECTION 2.15.100**      **APPEAL PROCEDURE**

- (1) If an application is denied or a permit is revoked, or suspended, the applicant or permit holder may appeal the denial, revocation or suspension to the Board of Curry County Commissioners (BOC). Appeals must be in writing and filed within 15 days after receipt of the notice of the denial, revocation or suspension. The appeal shall be filed in the office of the Curry County Public Services Department, accompanied by a nonrefundable appeal fee set by county Resolution that is to cover the costs incurred by the county in processing the appeal.
- (2) The appeal shall set forth the following information:
  - (a) The name and address of the applicant or permit holder;
  - (b) The proposed (for a denial) or current (for a revocation or suspension) location of the facility in question;
  - (c) Whether the decision being appealed is a denial, revocation, or suspension; and
  - (d) The reason the decision is deemed incorrect.
- (3) The BOC shall hear the appeal within a reasonable time of the receipt of the appeal. At least ten days prior to the hearing, the county shall mail notice of the time and location of the hearing to the applicant or permit holder.
- (4) The BOC shall determine whether the applicant or permit holder satisfies all the application requirements and regulations set forth in this division of Article Two on the basis of the appellant's written statement and any relevant additional evidence submitted. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the Public Services Department by a preponderance of the evidence.
- (5) The BOC shall issue a written decision within a reasonable time of the hearing date. The written decision of the BOC is final. Appeal of the BOC's decision shall be only by writ of review under ORS Chapter 34.

**SECTION 2.15.110**      **FEES**

Fees specified in this division shall be set by BOC resolution.

**SECTION 2.15.120**      **GRANDFATHERING**

Once a permit is granted under Ordinance No. 14-03, that permit and subsequent renewals of the same permit are subject to the rules regarding background checks that were in existence at the



time of the issuance of the original permit. This grandfathering clause is limited to provisions regarding background checks only.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance    )  
Repealing Article Two, Division   )  
Fifteen of the Curry County       )  
Code                                    )

ORDINANCE NO. 16-02

The Board of Commissioners for the County of Curry ordains as follows:

**SECTION ONE   TITLE**

This Ordinance shall be known as Ordinance No. 16-02, an Ordinance amending the Curry County Code.

**SECTION TWO   FINDINGS**

- 1) The current Article Two, Division Fifteen of the Curry County Code is entitled "Regulating Medical Marijuana Dispensary Facilities in the Unincorporated Area of Curry County, establishing a permit process and declaring an emergency (**Ordinance 14-03**)"; "Amendment to Ordinance 14-03 re Medical Marijuana Dispensary Facilities (**Ordinance 14-09**); (**Ordinance No. 15-02**) Amending Ordinance No. 14-03 (as amended by Ordinance No. 14-09) Regarding Medical Marijuana Dispensary Facilities); and (**Ordinance No. 15-04**) Correcting a Scrivener's Error on the Ordinance Amending Ordinance No. 14-03 as Amended Regarding Medical Marijuana Dispensary Facilities.
- 2) Since the adoption of the above Ordinances, the State of Oregon has made lawful the retail sale of recreational marijuana.
- 3) The state law allows counties to adopt reasonable time, place and manner regulations of recreational marijuana retailers.
- 4) Curry County has decided to adopt retail marijuana regulations.
- 5) In equity and fairness, the Curry County Board of Commissioners repeals its Regulating Medical Marijuana Dispensary Facilities Ordinances.

**SECTION THREE   REPEALER**

Article Two, Division Fifteen of the Curry County Code concerning "Regulating Medical Marijuana Dispensary Facilities in the Unincorporated Area of Curry County" is repealed.

**SECTION FOUR   EMERGENCY CLAUSE**

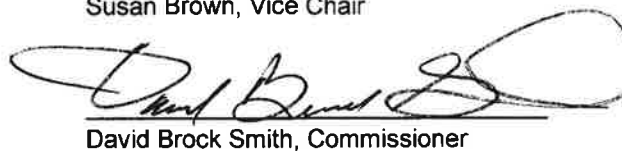
With this Ordinance being necessary for the preservation of the health, safety, and welfare of the community, an emergency is declared to exist and this ordinance will take effect immediately upon its passage.

Dated this 04 day of MAY, 2016

Curry County Board of Commissioners


  
Thomas Huxley, Chair

  
Susan Brown, Vice Chair

  
David Brock Smith, Commissioner

  
Recording Secretary

Approved as to Form:

  
John Hutt,  
Curry County Counsel

First Reading:

Second Reading:

Emergency Adoption:

Effective Date:

APRIL 20, 2016  
MAY 04, 2016  
MAY 04, 2016  
MAY 04, 2016

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance Implementing     )  
The Marijuana Retail Sales Tax Ordinance     )  
for Curry County; Providing Administrative     )  
Procedures for Collection; Refunds;     )     ORDINANCE NO. 16-04  
Enforcement; and Establishing Penalties for     )  
ORDINANCE NO. 16-03.     )

The Board of Curry County Commissioners hereby ordains as follows:

**SECTION I**     **TITLE**

This Ordinance shall be known as the Marijuana Retail Sales Tax Ordinance, Ordinance No. 16-04.

**SECTION II**     **AUTHORITY**

This Ordinance is enacted pursuant to ORS 203.035 through ORS 203.055, and ORS 475B.345.

**SECTION III**     **PURPOSE**

The purpose of this Ordinance is to implement Ordinance No. 16-03, and to provide for certain administrative procedures to carry out its purposes.

**SECTION IV**     **SEVERANCE CLAUSE**

If any section, subsection, provision, clause or paragraph of the Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of the Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

**SECTION V**     **EFFECTIVE DATE**

This Ordinance, if the Marijuana Retail Sales Tax is approved by the voters at the November 8, 2016 election, shall become effective at 12:01 A.M. on the 1<sup>st</sup> day of January, 2017.

DATED this 4th day of May, 2016.

BOARD OF CURRY COUNTY COMMISSIONERS

 5/4/16  
Thomas Huxley, Chair


  
Susan Brown, Vice Chair

  
David Brock Smith, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
John Hutt  
Curry County Legal Counsel

First Reading: April 20, 2016

Second Reading and Adoption: May 04, 2016

**Exhibit "A"**  
**ARTICLE TWO**

**DIVISION SIXTEEN - IMPLEMENTATION OF MARIJUANA RETAIL SALES TAX**

**Section 2.16.020 Definitions**

For definitions, refer to Ordinance No. 16-03 Section 2.16.020

**Section 2.16.070 Title and Effective Date**

This Ordinance shall be known and may be cited as the "Marijuana Retail Sales Tax Ordinance of Curry County Implementing Ordinance, and as Ordinance No. 16-04. This Implementing Ordinance shall be effective on January 1, 2017 only upon passage of Ordinance Imposing a Marijuana Retail Sales Tax by voters.

**Section 2.16.080 Registration of Licensee; Form and Contents; Execution; Certification of Authority**

- 1) Every person engaging or about to engage in business as a licensee in this County shall register with the Board of Commissioners or its designee on a form provided by the Board.
  - (a) Licensees engaged in business at the time this Ordinance is adopted must register not later than thirty (30) calendar days after this adoption.
  - (b) Licensees starting business after this Ordinance is adopted must register within fifteen (15) calendar days after commencing business.
- (2) The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration.
- (3) Registration shall set forth:
  - (a) the name under which a licensee transacts or intends to transact business;
  - (b) the location of its place or places of business; and,
  - (c) the name of a natural person personally responsible for payment of taxes, in addition to the business;
  - (d) such other information to facilitate the collection of the tax as the Board may require.

The registration shall be signed by the licensee. The Board of Commissioners or its designee shall, within ten days after registration, issue without charge a certificate of authority to each licensee to collect the tax from consumer. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Board of Commissioners or its designee upon the cessation of business at the location named or upon its sale or

transfer. Each certificate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Said certificate shall, among other things, state the following:

- (a) The name of the licensee;
- (b) The address of the business;
- (c) The date upon which the certificate was issued;

(d) "This Marijuana Retail Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Recreational Marijuana Retail Tax Ordinance of Curry County by registration with the Board of Commissioners or its designee for the purpose of collecting from consumers the three percent (3%) tax imposed by said County and remitting said tax to the Board of Commissioners or its designee. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a marijuana retail business without strictly complying with all local applicable laws including but not limited to those requiring a permit from any board, commission, department or office of Curry County. This certificate does not constitute a permit."

#### Section 2.16.090 Due Date and Form of Returns

(1) On or before the last day of each month a return for the preceding month's tax collections shall be filed with the Board of Commissioners or its designee. The return shall be filed in such form as the Board of Commissioners or its designee may prescribe by every licensee liable for payment of tax.

(2) Returns shall show the amount of tax collected or otherwise due for the related period. The Board of Commissioners or its designee may require returns to show the total sales upon which tax was collected or otherwise due, gross receipts of licensee for such period and an explanation in detail of any discrepancy between such amounts, if any.

(3) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Board of Commissioners or its designee at its office either by personal delivery by mail or by any commercially reasonable means, including but not limited to electronic or telephonic transfer, or private delivery service(PDS). For purposes of determining delinquencies, the date of delivery is the later of receipt of the return or receipt of the tax by the Board of Commissioners or its designee. If the return is mailed, the postmark date from the United States Postal Service shall be considered the date of delivery for determining delinquencies. (PDS) shipping date may be treated as an equivalent to the United States Postal Service for purposes of the postmark rule. If the return is delivered in person, it must be received on or before the due date during business hours (8am-12 Noon and 1pm-5pm, Monday-Friday). For purposes of imposing penalties and interest for delinquent filing, a 5 day grace period shall be given. This means that any return and tax remittance delivered within 5 days of the due date will not be assessed penalties and or interest.

(4) For good cause, the Board of Commissioners or its designee may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the Curry County Board of Commissioners upon appeal. Any licensee to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this Ordinance.

#### Section 2.16.100 Tax Collection

For the privilege of selling marijuana goods after the effective date of this Ordinance, each Marijuana Licensee shall pay a tax in the amount required by Curry County Ordinance No. 16-03. The tax constitutes a debt owed by the Marijuana Licensee to the County, which is extinguished only by payment by the Marijuana Licensee tax collector to the County. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

#### Section 2.16.110 Marijuana Licensee Tax Collector's Duties

Each Marijuana Licensee tax collector shall collect the tax imposed by this Ordinance at the same time as the tax is collected from every consumer. The amount of tax shall be separately stated upon the Marijuana Licensee's tax collector's records, and any receipt rendered by the Marijuana Licensee tax collector. No Marijuana Licensee tax collector of a Marijuana Licensee shall advertise that the tax or any part of the tax will be assumed or absorbed by the Marijuana Licensee tax collector, or that it will not be added to the "marijuana product", or that, when added, any part will be refunded, except in the manner provided by this Ordinance.

#### Section 2.16.120 Penalties and Interest

(1) Original Delinquency. Any licensee who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Ordinance prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

(2) Continued Delinquency. Any licensee who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.

(3) Fraud. If the Board of Commissioners or its designee determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (1) and (2) of this section.

(4) Interest. In addition to the penalties imposed, any licensee who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one percent (1%) per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.



(5) **Penalties Merged With Tax.** Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(6) **Petition for Waiver.** Any licensee who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated provided, however, the licensee may petition the Board of Commissioners for waiver and refund of the penalty or any portion thereof and the Board of Commissioners may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

(7) **Notwithstanding the provisions of this section, failure to remit taxes constitutes a violation of this Ordinance subject to citation and fine under Article Ten of the Curry County Ordinances. Further, the County reserves all rights at law or in equity to enforce the provisions of this Ordinance.**

**Section 2.16.130 Deficiency Determinations; Evasion; Marijuana Retail Sales Tax Collector Delay**

(1) **Deficiency Determination.** If the Board of Commissioners or its designee determines that the returns are incorrect, the Board may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in Section 2.16.120.

(a) In making a determination the Board of Commissioners or its designee may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 2.16.120

(b) The Board of Commissioners or its designee shall give to the licensee or occupant a written notice of its determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the licensee at its address as it appears in the records of the Board of Commissioners or its designee. In the case of service by mail of any notice required by this Ordinance the service is complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud, intent to evade this Ordinance or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the Board of Commissioners or its designee has given notice thereof, provided, however, the licensee may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(2) **Fraud, Refusal to Collect, Evasion.** If any licensee shall fail or refuse to collect said tax or to make, within the time provided in this Ordinance, any report and remittance of said tax or any

portion thereof required by this Ordinance, or makes a fraudulent return or otherwise willfully attempts to evade this Ordinance, the Board of Commissioners or its designee shall proceed in such manner as it may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Board of Commissioners or its designee has determined the tax due that is imposed by this Ordinance from a licensee who has failed or refused to collect the same and to report and remit said tax, it shall proceed to determine and assess against such licensee the tax, interest, and penalties, provided for by this Ordinance. In case such determination is made, the Board of Commissioners or its designee shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the Board of Commissioners or its designee of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the Board of Commissioners or its designee has given notice thereof, provided, however, the licensee may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(3) Licensee Delay. If the Board of Commissioners or its designee believes that the collection of any tax or any amount of tax required to be collected and paid to the County will be jeopardized by delay, or if any determination will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the licensee shall immediately pay same determination to the Board of Commissioners or its designee after service of notice thereof, provided, however, the licensee may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten days from the date of service of notice by the Board of Commissioners or its designee.

#### Section 2.16.140 Redeterminations

(1) Any person against whom a determination is made under Section 2.16.130, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in Section 2.16.130(1)(d). If a petition for redetermination and refund is not filed within the time required therein, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the Board of Commissioners or its designee shall reconsider the determination, and, if the person has so requested in its petition, shall grant the person an oral hearing and shall give him ten day notice of the time and place of the hearing. The Board of Commissioners or its designee may continue the hearing from time to time as may be necessary.

(3) The Board of Commissioners or its designee may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

(4) The order or decision of the Board of Commissioners or its designee upon a petition for redetermination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Board of Commissioners within the ten (10) days after service of such notice.

(5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the licensee has first complied with the payment provisions hereof.

#### Section 2.16.150 Security for Collection of Tax

(1) The Board of Commissioners or its designee, whenever he deems it necessary to insure compliance with this Ordinance, may require any licensee subject thereto to deposit with it such security in the form of cash, bond, or other security as the Board of Commissioners or its designee may determine. The amount of the security shall be fixed by the Board of Commissioners or its designee but shall not be greater than twice the licensee's estimated average monthly liability for the period for which it files returns, determined in such manner as the Board of Commissioners or its designee deems proper, or Five Thousand Dollars (\$5,000), whichever amount is less. The amount of the security may be increased or decreased by the Board of Commissioners or its designee subject to the limitations herein provided. The licensee has a right to appeal to the Board of Commissioners any decision of the Board of Commissioners or its designee made under this section.

(2) Any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Board of Commissioners or its designee may bring an action in the courts of this State, or any other state, or of the United States in the name of the Curry County to collect the amount delinquent together with penalties and interest.

#### Section 2.16.160 Lien

The tax imposed by this Ordinance together with the interest and penalties herein provided and the filing fees paid to the County Clerk of Curry County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this Ordinance shall be and, until paid, remain a lien from the date of its recording with the County Clerk of Curry County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the Recreational Marijuana Retail operations of a licensee within Curry County and may be foreclosed on and sold as may be necessary to discharge said lien, if the lien has been recorded with the County Clerk of Curry County, Oregon. Notice of lien may be issued by the Board of Commissioners or its designee whenever the licensee is in default in the payment of said tax, interest and penalty and shall be recorded with the County Clerk of Curry County, Oregon and a copy sent to the delinquent licensee. The personal property subject to such lien may be foreclosed on and sold as provided by law.

Any lien for taxes as shown on the records of the proper County Official shall, upon the payment of all taxes, penalties, and interest thereon, be released by the Board of Commissioners or its designee when the full amount determined to be due has been paid to the County and the licensee or person making such payment shall receive a receipt therefor stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

#### Section 2.16.170 Refunds

(1) Licensee Refunds. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Board of Commissioners or its designee under this Ordinance, it may be refunded, provided a verified claim in writing therefor stating the specific reason upon which the claim is founded, is filed with the Board of Commissioners or its designee within three years from the date of payment. The claim shall be made on forms provided by the Board of Commissioners or its designee. If the claim is approved by the Board of Commissioners or its designee, the excess amount collected or paid may be refunded or may be credited on any amounts due and payable from the licensee from whom it was collected or by whom paid and the balance may be refunded to such licensee, its administrators, executors or assignees.

(2) Consumer Refunds. Whenever the tax required by this Ordinance has been collected by the licensee, and deposited by the licensee with the Board of Commissioners or its designee, and it is later determined that the tax was erroneously or illegally collected or received by the Board of Commissioners or its designee, it may be refunded by it to the consumer, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with said Board of Commissioners or its designee within three years from the date of payment.

#### Section 2.16.180 Administration of Funds

(1) The Board of Commissioners or its designee shall forward taxes to the County Treasurer for deposit of the proceeds of the Recreational Marijuana Retail tax into the General Fund.

(2) Records Required from Licensees; Form. Every licensee shall keep guest records of sales and accounting books and records of the sales. All records shall be retained by the licensee for a period of three years and six months after they come into being.

(3) Examination of Records; Investigations. The Board of Commissioners or its designee or any person authorized in writing by the Board may examine during normal business hours, the books, papers and accounting records relating to sales of marijuana items of any licensee after notification to the licensee liable for the tax and may investigate the business of the licensee in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. To assist in this process, the Board of Commissioners or its designee may request certified copies of annual tax returns covering licensee.

(4) Confidential Character of Information Obtained - Disclosure Unlawful. It shall be unlawful for the Board of Commissioners or its designee or any person having an administrative or clerical duty under the provisions of this Ordinance to make known in any manner whatsoever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Licensee Registration Certificate, or pay taxes herein, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person, provided that nothing in this subsection shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment by another Curry County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Ordinance; or collecting taxes imposed hereunder.

(b) The disclosure after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that the County Counsel approves each such disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;

(c) The disclosure of the names and addresses of any persons to whom Licensee Registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the County.

#### Section 2.16.190 Penalties

Violation of any of the provisions of this Ordinance shall be a Class A violation, with a maximum penalty of \$2,000 in fines. Penalties may be enforced in accordance with Article Ten of the Curry County Code. Enforcement under Article Ten of Curry County Code does not preclude enforcement by any other legal or equitable means.

#### Section 2.16.200 Alternative Collection Methods

In the alternative to the collection methodologies set forth herein, the County may employ any other method to collect the tax imposed, including but not limited to, contracting with a private or public entity for collection.

#### Section 2.16.210 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The legislative body hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional (or otherwise invalid).

#### Section 2.16.220 Effective Date

This Ordinance shall become effective at 12:01 A.M. on the 1<sup>st</sup> day of January, 2017, if Ordinance No. 16-03 is approved by voters at the November 8, 2016 election.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance Imposing                     )  
A Marijuana Retail Sales Tax within                         )  
Curry County; Authorizing Rule                             )       ORDINANCE NO. 16-03  
Making; And Referring it to the People                     )

The Board of Curry County Commissioners hereby ordains as follows:

SECTION I        TITLE

This Ordinance shall be known 16-03 and may be cited as the "Marijuana Retail Sales Tax Ordinance of Curry County."

SECTION II       AUTHORITY

ORS 475B.110 and ORS 475B.345, and ORS 203.035 to 203.055.

SECTION III      PURPOSE

The purpose of this Ordinance is to impose a tax on the retail sales of marijuana items, and authorize local Ordinance administering rules and procedures to administer tax Ordinance.

SECTION IV       ADOPTION AND REFERRAL

Exhibit "A", the text of this Ordinance, which is attached hereto and incorporated by reference, is hereby adopted, subject to and effective on approval by a majority of Curry County voters at an election on November 8, 2016.

SECTION V        SEVERANCE CLAUSE

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The legislative body hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional (or otherwise invalid).

SECTION VI       EFFECTIVE DATE

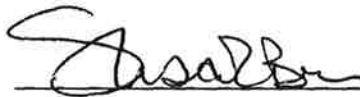
This Ordinance, if approved by the voters at the November 8, 2016, election, shall become effective at 12:01 A.M. on the 1<sup>st</sup> day of January, 2017.

DATED this 4<sup>th</sup> day of May, 2016.

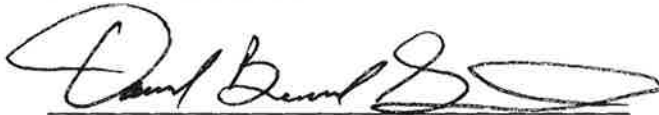
BOARD OF CURRY COUNTY COMMISSIONERS:



Thomas Huxley, Chair



Susan Brown, Vice Chair



David Brock Smith, Commissioner

Attest:



Recording Secretary

Approved as to Form:



John Hutt

Curry County Legal Counsel

First Reading: April 20, 2016

Second Reading and Adoption: May 04, 2016

Exhibit "A"

ARTICLE TWO

DIVISION SIXTEEN - IMPOSING MARIJUANA RETAIL SALES TAX

Section 2.16.010 Title

This Ordinance shall be known as the Marijuana Retail Sales Tax Ordinance No. 16-03

Section 2.16.020 Definitions

As used herein, words shall have such meaning as defined in ORS 475B.015 and ORS 475B.700. A non-exhaustive list of definitions is set forth below for example. State of Oregon administrative rules can be used to further interpret the definitions.

- (1) "Board of Commissioners / BOC" means the Curry County Board of County Commissioners, or its designee.
- (2) "Cannabinoid" means any of the chemical compounds that are the active constituents of marijuana.
- (3)(a) "Cannabinoid product" means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair, that contains cannabinoids or dried marijuana leaves or flowers.
  - (b) "Cannabinoid product" does not include:
    - (1) Usable marijuana by itself;
    - (2) A cannabinoid concentrate by itself;
    - (3) A cannabinoid extract by itself; or
    - (4) Industrial hemp, as defined in ORS 571.300.
- (4) "Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale.
- (5) "Board of Commissioners or its designee" means the Board of Commissioners or its designee of the Curry County, Oregon, or designee.
- (6)(a) "Financial consideration" means value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions or donations.
  - (b) "Financial consideration" does not include:



(1) Homegrown marijuana that is given or received when nothing is given or received in return; or

(2) Homemade cannabinoid products or cannabinoid concentrates that are given or received when nothing is given or received in return.

(7) "Licensee" means a holder of a recreational marijuana retail license under ORS 475B.110 and the rules promulgated thereunder.

(8) "Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

(9)(a) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(b) "Marijuana" does not include industrial hemp, as defined in ORS 571.300.

(10) "Marijuana flowers" means the flowers of the plant genus Cannabis within the plant family Cannabaceae.

(11) "Marijuana items" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

(12) "Marijuana leaves" means the leaves of the plant genus Cannabis within the plant family Cannabaceae.

(13) "Marijuana retailer" means a licensee who sells marijuana items to a consumer in this state.

(14) "Marijuana Retail Facility" means an establishment, physical or virtual, where a marijuana retailer makes marijuana items available to consumers for financial consideration.

(15) "Mature marijuana plant" means a marijuana plant that is not an immature marijuana plant.

(16) "Noncommercial" means not dependent or conditioned upon the provision or receipt of financial consideration.

(17) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(18)(a) "Premises" or "licensed premises" includes the following areas of a location licensed under 475B.110:

(1) All public and private enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms;

(2) All areas outside a building specifically licensed for the production, processing, wholesale sale or retail sale of marijuana items; and

(3) "Premises" or "licensed premises" does not include a primary residence.

(19) "Public place" means a place to which the general public has access and includes, but is not limited to, hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence, and highways, streets, schools, places of amusement, parks, playgrounds and areas used in connection with public passenger transportation.

(20) "Retail sale" means any transfer, exchange, gift or barter of a marijuana item by any person to a consumer.

(21) "Retail sales price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item. [2015 c.699 §1]

(22) "Tax" means either the tax payable by the consumer, or the aggregate amount of taxes due from a retailer during the period for which he is required to report his collections.

(23)(a) "Usable marijuana" means the dried leaves and flowers of marijuana.

(b) "Usable marijuana" does not include:

(1) The seeds, stalks and roots of marijuana; or

(2) Waste material that is a by-product of producing or processing marijuana.

#### Section 2.16.030 Implementing Ordinance Authorization

The Board may by separate Ordinance promulgate additional definitions, rules and regulations necessary or convenient for the administration, collection, refund, and enforcement of this Ordinance.

#### Section 2.16.040 Tax Imposed

(1) For the privilege of operating a marijuana retail facility in Curry County, a tax of three percent (3%) is imposed on any consideration rendered for the sale or transfer of Marijuana Items from a licensee to a consumer.

(a) The tax must be computed on the total retail sales price, including all charges other than taxes, paid by a person for marijuana items.

(b) The tax shall be collected by the licensee that receives the consideration rendered for the marijuana item.

(c) The tax imposed by this subsection is in addition to and not in lieu of any state tax on marijuana Items, or any other sales taxes after adopted by the County.

#### Section 2.16.050 Effective Date

This Ordinance shall become effective at 12:01A.M. on the 1<sup>st</sup> day of January, 2017, if it is approved by voters at the November 8, 2016 election.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the repeal and replacement )  
Of Curry County Code Article 3 – Roads. )

ORDINANCE NO. 17-02

The Board of Curry County Commissioners ordains as follows:

**SECTION 1. TITLE**

This ordinance shall be known as Ordinance 17-02, an ordinance amending the Curry County Code.

**SECTION 2. AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035.

**SECTION 3. PURPOSE**

The purpose this ordinance is to repeal and replace Curry County Road Article 3 (last amended by Ordinance 02-06).

**SECTION 4. ADOPTION**

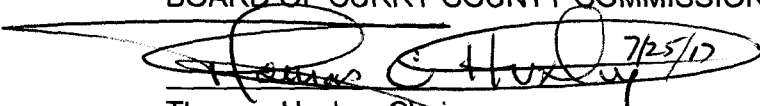
Exhibit "A" attached hereto and incorporated by reference, is adopted as Article 3 – Roads of the Curry County Code.

**SECTION 5 – SEVERANCE CLAUSE**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or unlawful, such decision shall not affect the validity of the remaining portions of this ordinance.

DATED this 21<sup>st</sup> day of June, 2017.

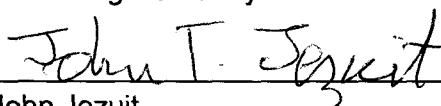
BOARD OF CURRY COUNTY COMMISSIONERS

  
Thomas Huxley, Chair

  
Sue Gold, Vice-Chair

  
Court Boice, Commissioner

Recording Secretary:


  
John Jezuit

First Reading: June 21, 2017

Second Reading: July 5, 2017

Effective Date: October 3, 2017

Approved as to Form:

  
John Hutt  
Curry County Legal Counsel

**EXHIBIT "A"**

**CURRY COUNTY CODE  
ARTICLE 3 - ROADS**

# CURRY COUNTY CODE

## ARTICLE THREE - ROADS

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## **ARTICLE THREE – ROADS**

### **DIVISION ONE: CURRY COUNTY ROAD STANDARDS**

#### **CHAPTER ONE: INTRODUCTORY PROVISIONS**

##### **SECTION 3.01.010 RESERVED**

##### **SECTION 3.01.020 PURPOSES**

The several purposes of this division are: a) to establish specifications and standards for the construction and reconstruction of all roads, driveways and bridges in Curry County; b) to delineate responsibilities of individuals and Curry County as to the maintenance of roads; and c) to promote public health, safety, convenience and general welfare.

##### **SECTION 3.01.030 DEFINITIONS**

As used in this article, the masculine includes the feminine and neuter and the singular include the plural. The following words and phrases, unless the context otherwise requires, shall mean:

- (1) “AASHTO” – American Association of State Highway and Transportation Officials.
- (2) “ADT” – Average Daily Traffic on a given road.
- (3) “Alley” – A street or highway primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular traffic.
- (4) “Arterial Road” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement.
- (5) “Avenue” – A wide street or main thoroughfare. A means of approach to a given place, activity or goal. “Avenue” may be used in immediate vicinity of any municipality.
- (6) “AWDS” – All-weather Drivable Surface: A surface constructed of a minimum of two (2) inches of crushed aggregate placed on the required base aggregate to create a drivable surface. An AWDS may also be constructed of asphalt concrete or acceptable alternative surface treatments.
- (7) “Base Aggregate” – A course of specified aggregate of planned thickness placed on the subgrade.
- (8) “Board” or “Board of Commissioners” - The Curry County Board of Commissioners.

- (9) “CCZO” - Curry County Zoning Ordinance - An ordinance designed to provide and coordinate regulations in Curry County governing the development and use of lands and to implement the Curry County Comprehensive Plan.
- (10) “Collector Road” – A road supplementary to the arterial road system and used for both through traffic and access to abutting properties.
- (11) “County” – The County of Curry, State of Oregon.
- (12) “County Road” – A public road which has been accepted into the County road system by the County Board of Commissioners or designee by dedication or deed or grant of right-of-way and is maintained by the County.
- (13) “Drive” – A scenic road, especially for leisure driving.
- (14) “Driveway” – Means of egress and ingress from thoroughfare to structure. A short private road as regulated and administered by the County Community Development Department.
- (15) “Driveway/Road Approach Permit” - A permit allowing construction or alteration of a facility which provides ingress to or egress from a County road (i.e., a driveway, an intersecting road or street, a footpath, a bike path, widened vehicular access, etc.). The permit regulations apply to that portion of the facility which is or will be upon a County road right-of-way.
- (16) “Easement” – A grant of one or more property rights by a property owner to or for use by the public or another person or entity.
- (17) “Fog Coat” - An emulsified asphaltic surface treatment applied to existing asphalt concrete pavement surfaces to renew and seal the pavement surface. May be used with or without aggregate cover materials.
- (18) “High Density Residential Road” – A road within an urban growth boundary providing direct access to abutting property which has a lot size density sufficient to qualify for high density status based upon the standards established in the respective urban growth boundary agreements.
- (19) “HMAC” – Hot Mix Asphalt Concrete - A hot mixture of asphalt cement; well graded, high quality aggregate; mineral filler and additives as required; plant mixed into a uniformly coated mass, hot laid on a prepared foundation, and compacted to a specified density.
- (20) “Lane” – Designation for all private thoroughfares. A limited passageway of course designated for vehicles.
- (21) “Local Access Road” – A public road that is not a County road, State highway or Federal road. County has full jurisdiction, but no liability to maintain.

(22) “Local Road” – A public road that is not a city street, State highway or Federal road. A road connecting the local uses with the collector system. Property access is the main priority; through-traffic is not encouraged. All County roads not classified as arterials or collectors are the County’s local roads, including Resource/Industrial/Commercial, High density Residential and Residential.

County Road Examples: Townley Lane, Coy Creek Road, Eggers Road.

(23) “Loop” – Road whose beginning and ending points intersect on a common road.

(24) “Major Collector” – A road providing service to land uses that generate trips such as consolidated schools, shipping points, parks, mining and agricultural areas. This type of road links minor collectors with roads of higher classification.

County Road Examples: Airport Road, Cedar Valley Road, North Bank Chetco River Road.

(25) “Major Road Improvement” - An improvement or alteration for which detailed plans and adherence thereto are deemed necessary by the Roadmaster.

(26) “Minor Arterial” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement. Jerry’s Flat Road is the only minor arterial within the County.

(27) “Minor Collector” – A road providing service to small communities. This type of road links locally important land uses that generate trips with rural destinations.

County Road Examples: Floras Lake Road, Nesika Road, Oceanview Drive.

(28) “Minor Road Improvement” - An improvement or alteration for which detailed plans are not deemed necessary by the Roadmaster.

(29) “Monument” – A permanent and fixed survey marker conforming to the requirements established by the State law and the regulations of Curry County.

(30) “Manual on Uniform Traffic Control Devices” (MUTCD) - The MUTCD contains the national standards governing all traffic control devices.

(31) “ODOT” – Oregon Department of Transportation.

(32) “Place” – A public square or thoroughfare in a town. A short street, or court, a private residence terrace, or some similar variation from the ordinary street.

(33) “Prime Coat” – A penetration treatment to aggregate surfaces to coat and bind the material into a hard surface.

(34) “Principal Arterial” – Corridors with substantial interstate and statewide travel. Highway 101 is the only principal arterial within the County.

(35) “Private Driveway” – A roadway which traverses and serves one lot or parcel as regulated and administered by the County Community Development Department.

(36) “Private Road” – A road which is owned, controlled and maintained by the persons it serves, providing the principal means of access to the abutting property, and not intended for use by the general public. Private roads are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

(37) “Public Road” – A road over which the public has a right of use that is a matter of public record but which has not been accepted into the County road system per subsection (12) above.

(38) “Residential Road” – A road providing direct access to abutting property. Lot size and/or traffic volume indicate density of one or more lots per five acres, but less than four lots per acre.

(39) “Resource/Industrial/Commercial” – A road which primarily accesses adjacent land, carries significant volumes of timber, mining or agricultural products and/or provides service to a large industrial or commercial facility.

County Road Examples: McKenzie Road, Nesika Beach Dump Road, Boat Basin Road.

(40) “Right-of-Way” – Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility or other public purpose related to a transportation or public utility improvement.

(41) “Road” - The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. “Road” includes, but is not limited to:

- a. Ways described as streets, highways, throughways or alleys;
- b. Road related structures that are in a right-of-way, such as tunnels, culverts or similar structures; and
- c. Structures that provide for continuity of the right-of-way, such as bridges.

(42) “Road Encroachment Permit” - A permit allowing private facilities of a diverse nature, such as fences, structures, gates, stock guards, signs and landscaping, to be placed within a County road right-of-way. The permit shall state whether the permitted use is temporary or permanent.

(43) “Road Improvement Permit” - A permit allowing alterations or improvements, such as grading, surfacing or oiling, of a County road by a person not associated with the County Road Department.

- (44) “Roadmaster” - The person designated by the County Board of Commissioners as being responsible for administration of the road activities of the County.
- (45) “Roadway” - The portion of a road, including shoulders, for vehicular use.
- (46) “Rural Road” – A road subject to low traffic volume, used as access to a remote area having density less than one lot per five acres.
- (47) “Special Permit” - A permit allowing temporary use of a County road right-of-way for business operations or public events, such as log loading, an aircraft taxiway, scheduled public walks, runs and biking events.
- (48) “Street” – A paved public way or thoroughfare, as in a city or town.
- (49) “Subgrade” – That portion of the graded earthwork roadbed on which base course surfacing is to be placed.
- (50) “Tack Coat” – Application of liquid asphalt to an existing asphalt concrete to insure a thorough bond between courses.
- (51) “Turnaround” – A road over 150’ in length must be terminated by a turnaround. See Exhibit “A” following the text of Division Four of Article Three for typical turnaround designs. Standards for Turnarounds outside of an Urban Growth Boundary are listed in Section 3.01.050 subsection (7) of this division.
- (52) “Utility Permit” – A permit allowing the placement and routine maintenance of public facilities, such as water and sewer lines, gas lines and transmission lines, within a County road right-of-way.
- (53) “Variance” – An authorized deviation from specific requirement(s) set forth in this division.
- (54) “Way or Court” – A course, route, passage, track or path of any kind.

#### SECTION 3.01.040 COMPLIANCE WITH DIVISION PROVISIONS

No road shall hereafter be constructed, reconstructed, enlarged or altered contrary to the provisions of this division.

### **CHAPTER TWO: COUNTY ROADS**

#### SECTION 3.01.050 CONSTRUCTION SPECIFICATIONS OF COUNTY ROADS

- (1) RIGHT-OF-WAY – Right-of-ways shall be a minimum of 50 feet in width except that a lesser width not less than 40 feet is authorized when (a) specially permitted by the County Board of Commissioners and (b) the road meets the other standards set forth in this division as

otherwise provided. A wider than 50 foot right-of-way may be required, depending on variations or other engineering considerations. In no case shall the right-of-way be less than 40 feet.

(2) GRADES

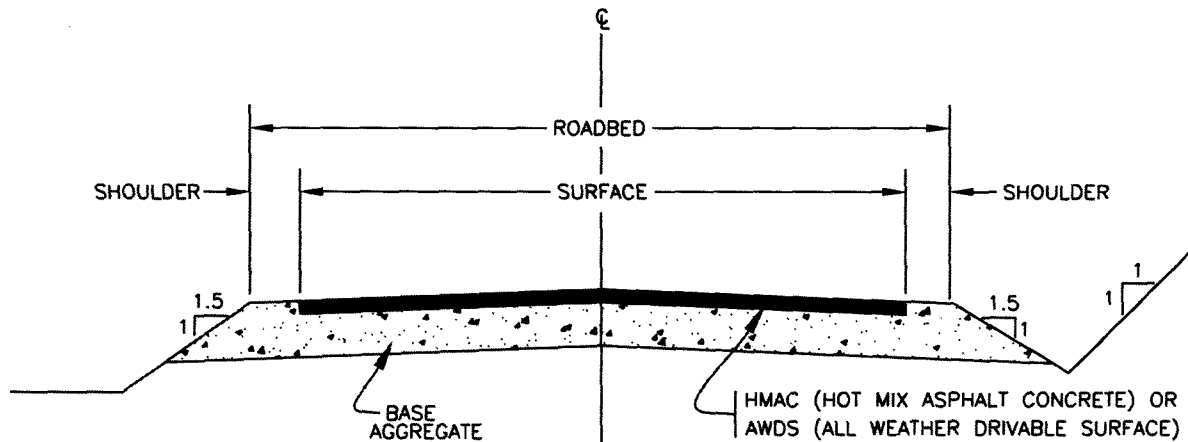
(a) Minor Arterial:		
8% to 10%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(b) Major Collector:		
8% to 12%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(c) Minor Collector:		
12% to 15%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 10% for the roads listed in (a), (b) and (c) above.

(d) Residential:		
18% to 20%	Maximum Length	400'
16% to less than 18%	Maximum Length	600'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit
(e) Resource/Industrial/Commercial		
16% to 18%	Maximum Length	500'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 13.5% for the roads listed in (d) and (e) above.

(3) RURAL ROAD STANDARDS CHART



Functional Class	Surface Type	Minimum Surface Depth	Minimum Surface Width	Minimum Shoulder Width	Base Aggregate	Maximum Grade
Minor Arterial	HMAC	4"	26'	6'	12"	10%
Major Collector	HMAC	4"	26'	4'	12"	12%
Minor Collector	HMAC	4"	24'	2'	12"	15%
Resource/ Industrial/ Commercial	HMAC	4"	24'	2'	12"	18%
Residential 11+ dwelling units	AWDS	2"	* 20'	2'	12"	20%
Residential 5 to 10 dwelling units	AWDS	2"	* 18'	0'	12"	20%
Residential 4 or less dwelling units	AWDS	2"	* 16'	0'	12"	20%
Driveway	AWDS	2"	* 16'	0'	6"	20%
Turnarounds	See subsection (7) TURNAROUNDS below					

\* Inter-visible opposing turnouts required. On roads where 16 foot, 18 foot or 20 foot surfaces are allowed, inter-visible opposing turnouts that result in an area of road surface at least 50' in length, not including entry and exit tapering, by 22' in width, exclusive of shoulders, are mandatory. Turn-outs shall be sited at least one every 500 feet, and opposing inter-visible where curves prohibit visibility.

Road Width with a Fire Hydrant: Adjacent to fire hydrants, roads shall have a minimum driving surface of not less than 26' in width, exclusive of shoulders, extending 20' in either direction from the fire hydrant.

Vertical Clearance: All roads shall have a minimum vertical height clearance of not less than fourteen feet.

Additional requirements, as stipulated by the rural fire protection district of the area in which the road is located, as well as the section entitled "Appendix D, Fire Apparatus Access Roads" of the Oregon Fire Code, may be required.

The standards for urban roads are as outlined in the Curry County Zoning Ordinance for the respective Urban Growth Boundary.

(4) DRIVEWAYS. Approaches shall be limited to a 60-90 degree intersection angle with the public road. There shall be enough room at the approach for a vehicle to be at a 90 degree angle to the road. See Exhibit "B" following the text of Division Four of Article Three for Typical Design.

Stopping sight distance shall be calculated for driveway entrances using the chart of Exhibit "C" following the text of Division Four of Article Three. The minimum stopping distance is calculated for wet road conditions using

$$D = \frac{V^2}{30(F+G)} \quad \text{where:}$$

V = Velocity

F = Coefficient of friction

G = Grade in percent

D = Total stopping distance in feet (reaction plus braking)

MINIMUM SIGHT DISTANCE  
LEVEL ROADWAY (Wet Pavement)

Design Speed MPH	Sight Distance (feet)		Corner Intersection
	Stopping	Passing	
20	125	800	210
25	150	950	
30	200	1100	310
35	225-250	1300	
40	275-325	1500	415
45	325-400	1650	
50	400-475	1800	515
55	450-550	1950	
60	525-650	2100	650
65	550-725	2300	
70	625-850	2500	

\*See Exhibit "C" following the text of Division Four of Article Three

(5) HORIZONTAL CURVES The minimum radius for horizontal curves shall be 60 feet on Local Roads. The following formula shall be used to determine minimum curve radius on all other functional classes.



$$R = \frac{V^2}{15(e+f)} \quad \text{where:}$$

R = minimum radius (feet)

V = design speed (MPH)

e = maximum super elevation (range 0.04 to 0.10)

f = maximum friction factor (range 0.10 to 0.17)

(6) **VERTICAL CURVES** Vertical curves shall be used at all grade changes where the difference in grades is 2% or greater. Minimum length of vertical curve shall be 100 feet.

(7) **TURNAROUNDS** In any area outside of an Urban Growth Boundary, turnarounds shall be provided for emergency vehicle maneuvering at the end of any road over 150' in length. Typical County turnarounds are shown in Exhibit "A" following the text of Division Four of Article Three.

(8) Minimum intersection spacing for roads of various functional classes shall be as noted in the following table:

<b>Functional Class Intersection Type</b>	<b>Public Road Type</b>	<b>Spacing*</b>	<b>Private Driveway Type</b>	<b>Spacing**</b>
Arterial Road/Hwy	At-grade	1/4 mile	L/R turns	500 ft.
Collector Road	At-grade	250 ft.	L/R turns	100 ft.
Local Road	At-grade	250 ft.	L/R turns	each lot
Alley	At-grade	250 ft.	L/R turns	each lot
* Between roads				
**Between driveways & intersections (measured from center to center)				

### **SECTION 3.01.060 FACILITY PERMITS**

(1) No person, partnership, association or corporation may place, build or construct on the right-of-way of any County maintained road any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance or change the manner of using any such approach road without first obtaining a permit from the County Roadmaster.

(2) The Curry County Road Department shall be given the power to investigate and issue the facility permit.

(3) The holder of a facility permit shall follow the regulations and rules set out in Article Three, Division Four of this code.

### SECTION 3.01.070 SIGNS

- (1) Curry County has jurisdiction concerning the type and location of all signs on County maintained roads and public ways.
- (2) The Roadmaster may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card, or poster placed in violation of ORS 368.942.
- (3) When in the Roadmaster's opinion there may be a need for a change in the speed limit for a road, he or she shall request the Oregon State Speed Control Board to study the road in question. If the Speed Control Board issues an order to post a speed limit on the road, Curry County will furnish and install the speed limit signs at the County's expense.
- (4) Name signs for all roads shall have a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices.
- (5) Signing will be paid for by the County as follows:
  - (a) Stop and name signs at intersections of two County maintained roads.
  - (b) Regulatory and warning signs along County maintained roads.
  - (c) The County may, at the Roadmaster's recommendation, install signs for non-County maintained roads. Cost of the sign, installation and maintenance will be paid for by the person(s) requesting the sign. This person may include the Board or its delegated authority.

### SECTION 3.01.075 DELINEATION OF UTILITY LOCATIONS WITHIN COUNTY ROAD RIGHTS-OF-WAY

- (1) Pole line locations shall have a minimum height above the traveled road surface of 18 feet. This 18-foot standard applies whether the pole lines cross the roadway or are located parallel to the roadway. Poles shall be located not less than 10 feet from the edge of pavement on paved-surfaced roads or the edge of gravel on gravel-surfaced roads. Wherever possible, poles shall be located along the tangent sections of roads and on the short radius side of curves. Poles to be located on the long radius side of curves will require additional approval by the Roadmaster and will be subject to special conditions.
- (2) Buried cable or pipe depth shall be not less than 30 inches (36 inches for electrical) below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 30 inch (36 inch for electrical) bury depth shall be measured from the existing ground surface.
- (3) Pedestals installed as part of a buried cable installation are to be located one foot from the right-of-way line unless permission is obtained from the Roadmaster to locate elsewhere. In no case shall the pedestals be located within the road maintenance operating area, including mowing

operations, or nearer the pavement edge than any official highway sign in the same general location.

See “Special Conditions for Underground Utilities Within County Road Rights-of-Way” in “Exhibit D, Permit Regulations & Classification”, following the text of Division Four of Article Three for additional requirements and details.

#### SECTION 3.01.080 ROAD HAZARDS, WEED CONTROL AND DRAINAGE

##### (1) ROAD HAZARDS.

(a) No person, landowner or occupant of land shall obstruct road drains or waterways or create road hazards as set forth in ORS 368.251 and ORS 368.256.

(b) The County Roadmaster may abate any road hazard following the procedures set forth in ORS 368.261 and ORS 368.271.

(c) The Board may assess and recover costs from the person, landowner and occupant of the land responsible for the road hazard or the owner of the land that is the source of the hazard pursuant to the procedures in ORS 368.276 and ORS 368.281.

(2) WEED CONTROL. The County Board of Commissioners through its Roadmaster shall endeavor to prevent the spread or seeding of any noxious weed as set forth in ORS Ch. 570 on any land owned by the County or constituting the right-of-way for any County road, drainage or irrigation ditch, power or transmission line, or other purposes under their jurisdiction.

##### (3) DRAINAGE

(a) The purpose of highway drainage design is to prevent the accumulation and retention of water on and by the highway. Culverts, ditches and other drainage features shall be installed as needed to effectively remove water from the drivable surface under all types of weather conditions. Culverts shall be capable of supporting a single axle load of 32,000 pounds (Highway Loading H-20). Prior to submitting a development application and its related access feature where a stream crossing will be required, the applicant shall submit an Oregon Department of Fish and Wildlife (ODFW) determination to the Building Official indicating whether the stream crossing location is a fish habitat as required by ORS 509.585. If the ODFW determines that there is a potential for fish habitat or there is fish habitat in the stream crossing that will be impacted, fish passage shall be required consistent with Division 412 of the Oregon Administrative Rules (635-412-0005 through 635-412-0040).

(b) Surface water shall be conveyed along rights-of-way by the most direct means considering ease of maintenance with minimum disturbance of natural conditions.

(c) All drainage structures shall be sized for the following design flood frequencies.

<u>Drainage Facility</u>	<u>Design Flood</u>
Bridge	100 year flood
Culvert	25 year flood
Low Water Bridges	Optional
Depressed Roadway	25 year flood
Channel Change	100 year flood
Storm Sewer	10 year flood
Ditches, Gutters, Inlets	10 year flood

The design should be reviewed to ensure that backwater from the 100 year flood will not cause extensive property damage or result in loss of a bridge.

(d) The design of any water carrying system shall meet or exceed the design criteria set by the current ODOT Highway Division Hydraulics Manual.

Cross culverts shall be a minimum of 18 inches in diameter except:

A 12 inch cross culvert may be used to convey water from a catch basin to the closest natural drain if a grated inlet is used.

Connections to existing roadside culverts shall be at the same or greater capacity and must not inhibit the existing discharge of flow in any way.

#### SECTION 3.01.090 ROADWAY MATERIAL STANDARD SPECIFICATIONS

All roadway excavation, fill construction, subgrade preparation, aggregate bases, surfacing, prime coats and paving shall be built in accordance with the current edition of the ODOT Oregon Standard Specifications for Construction. Whenever these specifications refer to the State or Agency, consider that to mean the County of Curry, the appropriate County Department, or appropriate County address.

In case of discrepancy or conflict in the plans, standard specifications, supplemental standards specifications and special provisions, they shall govern in the following manner:

1. Special Provisions
2. Plans Specifically Applicable to the Project
3. Standard or General Plans
4. Supplemental Standard Specifications
5. Standard Specifications

(1) Subgrade. All subgrade shall be compacted in accordance with the Earthwork Compaction Requirements, Section 00330.43 of the Oregon Standard Specifications for Construction.

(2) Aggregate Base. Aggregates for aggregate base shall be crushed rock or pit run rock. Pit run materials, when used in place of crushed rock, shall be placed at 1.25 times the required

depth of aggregate. Crushed rock shall meet the requirements of Section 02630 of the Oregon Standard Specifications for Construction. Pit run material shall meet the durability and sand equivalent requirements of Section 02630 of the Oregon Standard Specifications for Construction and shall have the gradation approved by the Curry County Road Department. See the following tables.

(3) Asphalt Concrete Pavement. Where asphalt concrete pavement is required it shall be hot mix asphalt concrete pavement done in accordance with Section 00744 of the Oregon Standard Specifications for Construction. The class and grade mix design shall be in the contract. See the following tables.

### SECTION 3.01.100 GRADATION CHARTS

#### (1) BASE AGGREGATES

<b>Table 02630-1</b>					
<b>Grading Requirements for Dense-Graded Aggregate</b>					
<b>Separated Sizes</b>					
<b>Sieve Size</b>	<b>2 1/2" - 0</b>	<b>2" - 0</b>	<b>1 1/2" - 0</b>	<b>1" - 0</b>	<b>3/4" - 0</b>
<b>Percent Passing (by Weight)</b>					
3"	100				
2 1/2"	95 - 100	100			
2"	—	95 - 100	100		
1 1/2"	—	—	95 - 100	100	
1 1/4"	55 - 75	—	—	—	
1"	—	55 - 75	—	90 - 100	100
3/4"	—	—	55 - 75	—	90 - 100
1/2"	—	—	—	55 - 75	—
3/8"	—	—	—	—	55 - 75
1/4"	30 - 45	30 - 45	35 - 50	40 - 55	40 - 60
No. 4 <sup>1</sup>	—	—	—	—	—
No. 10	2	2	2	2	2

<sup>1</sup> Report percent passing sieve when no grading requirements are listed

<sup>2</sup> Of the fraction passing the 1/4 inch sieve, 40 percent to 60 percent shall pass the No. 10 sieve

Fracture Of Base Aggregates - Fracture of base aggregates produced from rounded rock shall be determined according to AASHTO T 335. Provide at least one fractured face based on the following percentage of particles retained on the 1/4 inch sieve for the designated size:

<b>Minimum Percent of Fractured Particles (by Weight of Material)</b>	
Designated Size	Retained on 1/4 inch Sieve
1 1/2" - 0 and larger	50
Smaller than 1 1/2" - 0	70

Durability - Dense graded base aggregate shall meet the following durability requirement.

Test	Test Method	Requirements
Abrasion	AASHTO T 96	35.0% maximum
Degradation (coarse aggregate)		
Passing No. 20 sieve	ODOT TM 208	30.0% maximum
Sediment Height	ODOT TM 208	3.0" maximum

(2) ASPHALT CONCRETE AGGREGATES\*

Sieve Size	1/2" ACP Control Points (% passing by Weight)	
	Min.	Max.
3/4"	100	
1/2"	90	100
3/8"	-	90
No. 4	-	-
No. 8	28	58
No. 200	2.0	10.0
Asphalt Cement	5	6

\*Aggregate for flexible pavements shall conform with Section 00744 of the "Oregon Standard Specifications for Construction"

Durability – Provide aggregate not exceeding the following maximum values:

Test	Test Method		Aggregates Coarse
	ODOT	AASHTO	
Abrasion		T 96	30.0%
Degradation			
Passing No. 20 sieve	TM 208		30.0%
Sediment Height	TM 208		3.0"

Fractured Faces - Provide crushed aggregate with not less than the minimum number of fractured faces as determined by AASHTO T 335 as follows:

Type of Mix	Percent of Fracture (by Weight)	
	Material Retained on 1", 3/4", 1/2" and No. 4 Sieve (two fractured faces)	Material Retained on No. 8 sieve (one fractured face)
All ACP	75	75

### SECTION 3.01.110 MONUMENTATION

(1) The County and its agents shall monument County roads in accordance with the following standards:

- 5/8 inch rebar on both R/W lines at point of curvature and point of tangency of curve.
- 5/8 inch rebar along R/W lines at 500 foot intervals or property lines.
- Plastic caps branded "Curry Co. R/W" on rebar.
- Rebar along utilized property should be approximately 6 inches below ground level.
- Brass or aluminum caps shall be placed along R/W a minimum of once every mile. Two brass or aluminum caps shall be used as basis of bearing when other monuments are not available.
- Initial roadway point shall be marked by a brass or aluminum cap.
- All brass and aluminum caps shall be marked by a 4 inch by 4 inch by 4 foot treated white wooden post or a metal post.

(2) Roads within a subdivision must be monumented in accordance with current applicable state and local laws relating to the platting of subdivisions.

### DEDICATION OF ROADS TO COUNTY ROAD SYSTEM

#### SECTION 3.01.130 ACCEPTANCE BY COUNTY

##### (1) TENTATIVE APPROVAL PRIOR TO CONSTRUCTION

(a) The developer submits plans and letter to the Board of Commissioners of his intent to dedicate a road to the County. A complete set of Improvement Plans shall be submitted and approved, in writing, by the Board of Commissioners prior to the start of construction on any public, private or subdivision road which is to become a dedicated County road. The "Complete Set" refers to the following:

1. Plan view of the proposed roadway
2. Profile
3. Description
4. Typical cross-section

All plans shall be stamped by a registered engineer or surveyor licensed in the State of Oregon.

(b) A statement in writing must be obtained from the Chief of the Rural Fire Protection District of the area in which the road(s) is/are located, and submitted with the plans, verifying that the District's large fire-fighting equipment can safely negotiate the road and serve all new parcels or lots. The statement shall also include an assessment of whether or not the access route proposed to each boundary of the subject property is safely negotiable.

(c) The County Road Department reviews the Improvement Plans and makes recommendations to the Board of Commissioners. The recommendations shall include any special considerations which may be pertinent to acceptance or rejection of the road as a dedicated County road.

(d) The developer's project is put on the agenda of a regular Board meeting for consideration of his intent to dedicate the road to the County. Upon submission of the developer's plans and letter of intent to dedicate the road, the Board will, within 30 days, consider the application in a public meeting.

(e) The Board will give a letter of intent to accept or deny the dedication of the road project presented by the developer. If the dedication of the road is denied, and the plans and specifications adhere to the "Curry County Road Standards" herein, the Board must give its reasons for denial, in writing to the developer, within thirty (30) days from the date of the public meeting.

(2) INSPECTION OF PROPOSED COUNTY ROADS

(a) The inspection of the base and paving shall be coordinated in advance with the Curry County Road Department to avoid scheduling conflicts. The base is to be inspected prior to the placement of the pavement.

If proper notification for inspection has not been given, the Curry County Road Department will not recommend granting acceptance of the road to the Board of Commissioners for twelve (12) months. Any deficiencies that develop in the road shall be corrected before the Road Department will recommend granting acceptance to the Board.

(b) After acceptance by the Board of Commissioners, the contractor shall guarantee construction of the road built under his supervision for a period of one year. Any defects within that time period shall be corrected by the contractor, at his own expense.

(c) All testing except as herein noted will conform to methods prescribed by the Oregon Department of Transportation (ODOT) or the American Association of State Highway and Transportation Officials (AASHTO).

(3) FINAL ACCEPTANCE.

A County governing body may initiate proceedings to accept a public road as a County road:

(a) On its own action; or

(b) If a person files with the governing body:

i) A petition described in ORS 368.081; or



- ii) A written proposal to dedicate or donate land owned by that person for public road purposes.

(4) MAINTENANCE.

After acceptance the County shall maintain such highway, road or street as a County road.

**CHAPTER THREE**      **PUBLIC ROADS**

**SECTION 3.01.140 PUBLIC ROAD STANDARDS**

A public road will conform in all ways with the standards set for a County road, except for the following condition:

Roads shall be constructed with an all-weather drivable surface on residential roads. See the Road Standards Chart in Section 3.01.050, subsection (3) for construction requirements.

**SECTION 3.01.150 DEDICATION**

- (1) By presenting to the Board of Commissioners a good and sufficient deed or dedication properly executed forever dedicating the land and granting such public road easement, and the deed is accepted by the Board of Commissioners and placed of record.
- (2) Presenting to the Board of Commissioners, as provided by law, any map or plat of any town, addition or subdivision, dedicating to the use of the public for road purposes all streets, roads, and alleys shown thereon and the map or plat is approved and accepted by the Board and placed of record.

**SECTION 3.01.160 LIABILITY FOR MAINTENANCE**

- (1) All public roads shall be maintained pursuant to a maintenance agreement to be recorded with the final plat in the official records of Curry County. The recorded maintenance agreement shall include the following elements:

- (a) The maintenance agreement shall be binding on all owners of parcels within the plat or map, other properties served by the dedicated way, and all interests in such property thereafter acquired. The owners shall maintain the road according to the terms of the maintenance agreement.

- (b) Any person who is party to the agreement, or any interested public body who believes the dedicated way is impassable to emergency vehicles, may file a written complaint with the County Board of Commissioners. The Board shall direct the County Roadmaster to investigate the complaint and submit a report to the Board. This report shall contain an evaluation of the condition of the road and particularly whether the road's condition meets a

minimum standard for maintenance of such roads. The report shall also set forth an estimation of the costs, including all likely administrative costs, necessary to bring the road up to a passable condition. The Board shall hold a public hearing at which interested parties may appear. Notice of the hearing shall be given to the property owners benefitted by the road.

(c) When, in the opinion of the County Board of Commissioners, the road constitutes a hazard to public safety or is impassable to emergency vehicles, based upon the testimony at the hearing, the Board by its order may:

- i) Declare the owners in default of the maintenance agreement; and either
- ii) Direct the County Roadmaster to undertake the road work which, in the opinion of the Roadmaster, is necessary to bring the road up to a passable condition and allocate the costs as estimated by the Roadmaster pursuant to paragraph (b) above; or
- iii) Initiate proceedings to improve the road as provided in ORS 371.605 et. seq.

(d) The County may collect the assessed costs from the owners either prior to or upon completion of the maintenance work.

(2) In no event shall the duties or liabilities of Curry County be greater than those provided in ORS 368.031.

#### SECTION 3.01.170 LOCAL ACCESS ROAD MAINTENANCE POLICY

(1) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

- (a) The public use of the road justifies the expenditure;
- (b) There are County funds or resources available for the request; and

(c) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.

(2) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is not an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

(a) At least 60% of the property owners, representing at least 60% of the property frontage along the road proposed to be repaired or maintained, sign a petition requesting the work be done. The petition shall contain a clause that the property owners agree to pay for all the materials used in the repair or maintenance; the County will provide all labor and equipment; and

- (b) The County Roadmaster has recommended such an expenditure; and
  - (c) The public use of the road justifies the expenditure; and
  - (d) There are County funds or resources available for the request; and
  - (e) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.
- (3) The intent of these policies is to provide a vehicle by which local access roads may be repaired or maintained without obligating the County for future work on these roads.
- (4) If the Board authorizes County financial support for a non-emergency request, it shall enact an order or resolution authorizing the work to be a single project so as to minimize future obligations to the County and encourage the owners to seek alternate sources for maintenance, i.e., special road districts.

#### **CHAPTER FOUR**

#### **PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

##### **SECTION 3.01.180 DEFINITION REGARDING PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

A private road is any road in a privately owned and controlled right-of-way which is constructed, controlled, maintained and otherwise kept in a drivable condition by the efforts of the people it serves. A private road is not intended for use by the general public other than persons providing a public service to the lots or parcels served by the private road.

A private driveway is a roadway which traverses and serves one lot or parcel.

A private bridge is any bridge located on a private road or driveway.

##### **SECTION 3.01.185 APPLICABILITY OF PRIVATE ROAD, DRIVEWAY AND BRIDGE STANDARDS**

Private road, driveway and bridge standards are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

#### **CHAPTER FIVE**

#### **VARIANCE**

##### **SECTION 3.01.210 AUTHORIZATION FOR VARIANCES**

The Roadmaster may grant variances, (as described herein), from the provisions of this division where it has been shown that due to unusual topographic conditions, unusual conditions related to the shape of the property or the location of a building on the property, or other conditions over which the applicant has no control, the literal interpretation of this division

would cause an undue hardship upon the applicant. In granting a variance the Roadmaster may attach conditions which he or she finds necessary to protect the best interests of the County, surrounding property or neighborhood and to otherwise achieve the purposes of this division.

#### SECTION 3.01.220 CIRCUMSTANCES FOR GRANTING A VARIANCE

A variance may be granted only in the event that all the following circumstances exist.

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity and result from lot size, shape, topography, or other circumstances over which the owner of the property has no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the vicinity of the subject property.
- (3) The variance would not be materially detrimental to the purposes of this division, or to property in the vicinity of the subject property, or otherwise conflict with the objectives of any County plan or policy.
- (4) The variance requested is the minimum variance which would alleviate the hardship.
- (5) The applicant shall provide a written statement from the governing board of the fire protection district having responsibility for structural fire protection in the area where the new dwelling or structure is to be located which states that their fire-fighting vehicles and equipment can negotiate the proposed road and/or driveway.

#### SECTION 3.01.230 FEASIBILITY REPORT

The applicant shall provide the Roadmaster a feasibility report on all requested variances. The Roadmaster shall contact all property owners abutting and using the road for which the variance has been requested and shall consider their comments regarding the requested variance.

#### SECTION 3.01.240 APPEALS OF VARIANCES

The applicant shall have the right of appeal of a denied variance. An affected property owner who has commented to the Roadmaster shall have the right to appeal an approved variance. Appeals of variances under this division shall be to the Board of Commissioners.

### CHAPTER SIX

### GENERAL PROVISIONS

#### SECTION 3.01.260 PRE-EXISTING ROADS, DRIVEWAYS AND BRIDGES

- (1) Substandard roads, driveways and bridges in existence on the effective date of adoption of this division shall be considered as nonconforming roads, driveways and bridges.
- (2) Expansion of nonconforming roads, driveways and/or bridges shall be accomplished in

the following manner:

(a) Upgrade the road, driveway or bridge to the minimum standard required by this division; or

(b) Obtain an approved variance of the minimum standards as provided under Chapter Five of this division, except that a variance cannot be granted for the firefighting equipment access provisions of this division unless the agency providing fire protection concurs in the granting of the variance.

(c) Expansion of a nonconforming road or driveway includes the creation of additional parcels or lots by partitioning or subdivision of land accessed by the road and/or the construction of new habitable structures on land accessed by the road or driveway.

#### SECTION 3.01.270 INTERPRETATION

The provisions of this division shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this division are less restrictive than conditions imposed by any other provisions of this division or of any other ordinance, resolution, regulation or statute; the provisions which are more restrictive shall govern.

#### SECTION 3.01.280 ABATEMENT AND PENALTY

Violations of the provisions of this division are subject to the following forms of abatement or penalties.

(1) If a person builds or maintains a road, driveway or bridge in violation of this division or violates this ordinance in any way, the County, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the unlawful road, driveway or bridge.

(2) In addition to the provisions of subsection (1) above, any violation of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.

## **ARTICLE THREE – ROADS**

### **DIVISION TWO: NAMING OF ROADS WITHIN CURRY COUNTY**

#### **SECTION 3.02.010: RESERVED**

#### **SECTION 3.02.020: AUTHORITY**

The following procedures and requirements relating to the naming or renaming of roads in Curry County are hereby adopted pursuant to authority granted by ORS Chapter 215.

#### **SECTION 3.02.030: DEFINITIONS**

See Section 3.01.030 for definitions.

As used in this division the masculine includes the feminine and the singular includes the plural.

### **ROAD NAMING PROCESS**

#### **SECTION 3.02.040 ROAD NAMING**

Roads shall be named or renamed by the Community Development Director or her/his designee.

#### **SECTION 3.02.050 DUTIES**

The Community Development Director shall have the duty of naming or renaming roads within unincorporated Curry County. The Director shall select a name for the road in question and notify the Roadmaster and Sheriff of the proposed name. The Roadmaster and Sheriff, within 10 working days of receiving the proposed name, shall advise the Community Development Director of their concurrence with the name or any objections. Upon consideration of the Roadmaster's and Sheriff's comments and determination of the road name the Community Development Director shall notify the abutting property owners of record of the road under consideration advising of the new road name. Should any abutting property owner object to the road name, the Community Development Director may re-evaluate the name and choose another name utilizing the same process as noted herein.

#### **SECTION 3.02.060 NOTIFICATION OF PROPERTY OWNERS AND AGENCIES**

The Community Development Director will send notice of the proposed road name change to all affected agencies, including the Road Department, County Surveyor, Assessor, Sheriff, Clerk, appropriate fire districts and forest protection district, appropriate ambulance services, appropriate 911 call centers, Post Office, appropriate cities, and abutting property

owners of record. Such notice shall include a statement as to where and when any objections should be filed pursuant to Section 3.02.070 below.

#### SECTION 3.02.070 APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR DECISION

Upon receipt of the information regarding the road name, abutting property owners of record served by the road and agencies will have 10 working days to appeal the decision of the Community Development Director to the Board of Commissioners.

#### SECTION 3.02.080 FILING OF NEW ROAD NAME

Upon completion of the road naming process, the new road name shall be filed by the Community Development Director with the County Clerk, the County Assessor, the County Community Development Department, the County Roadmaster and the County Surveyor. The County Surveyor shall enter the new names of such roads or streets in red ink on any files, plats and tracings thereof which might be affected, together with the appropriate notations concerning the same.

#### SECTION 3.02.090 ROADS COVERED

Any County, public, or private street, road, highway or way visibly showing evidence of serving three or more existing residences, and a minimum of 500' in length is covered by this ordinance. Pursuant to ORS 227.120 those roads and streets within six (6) miles of the limits of any incorporated city shall not be renamed by the County.

#### SECTION 3.02.100 PREVIOUSLY NAMED ROADS

Requests to rename roads may be made through the Community Development Department by a majority of abutting property owners of record served by the road. Requests may be denied by the Community Development Director on the basis of length of the name, appropriateness of the name, disagreement among the property owners, confusion the name may cause, similarity to other road names or any other reasons the Community Development Director deems appropriate. No findings shall be required.

The Community Development Director may instigate renaming procedures on her/his own in order to bring roads into conformity with this division.

#### SECTION 3.02.110 LAMBERT GRID SYSTEM

The naming of roads under this system shall be done in such manner as to work compatibly with the Lambert Grid System which is utilized in Curry County.

- (1) Addresses will be assigned only to improved lots or parcels which include a driveway leading onto the named road.

- (2) Subsequent addressing of lots will be accomplished pursuant to Section 3.02.140 below.

#### SECTION 3.02.120 POSTING OF ROAD SIGNS

The Curry County Road Department may, at the Roadmaster's recommendation, install signs for non-County roads. Said signs shall be placed in a position to adequately indicate which road is being named. The signs may be placed upon public or private property for the protection of the health, safety, and welfare of the citizens of Curry County. The cost of the sign, installation and maintenance for non-County roads shall be borne by the person(s) requesting the sign. This person may include the Board or its delegated authority.

#### SECTION 3.02.130 ADDRESS NUMBER PLATES

The County Community Development Department shall assign addresses to new dwellings or developments when the owner is granted a building permit. At that time the Community Development Department will advise the Road Department of the address and the address number plate may be purchased from the County Road Department. If the address number plate is not purchased from the Road Department, it shall have a retroreflectorized green background with retroreflectorized white numbers. The numbers shall not be less than three inches in height. Upon completion of the dwelling or development the address number plate shall be posted by the property owner prior to the issuance of a certificate of occupancy. Said plates shall be conspicuously posted at all times by the resident in a manner to allow emergency vehicle drivers to immediately ascertain the address of each residence.

#### SECTION 3.02.140 PARTITIONS AND SUBDIVISIONS - ROAD NAMING AND POSTING

- (1) At the time a partition or subdivision is requested, an applicant shall name each road within said partition or subdivision subject to approval of the Community Development Director.
- (2) Upon completion of construction of the road(s), the applicant shall provide and install standard road name signs for each road in the partition or subdivision, said signs having a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices. Failure to provide and install standard road name signs can result in a disapproval of said partition or subdivision.



## **ARTICLE THREE – ROADS**

### **DIVISION THREE REMOVAL OF THE COUNTY BOARD OF COMMISSIONERS FROM JURISDICTION OVER STATUTORY WAYS OF NECESSITY**

#### **SECTION 3.03.010 AUTHORITY**

ORS 376.200 authorizes County Governing Bodies to remove themselves from jurisdiction over establishment of ways of necessity under ORS 376.150 to 376.200.

#### **SECTION 3.03.020 REMOVAL FROM JURISDICTION**

Because the Curry County Board of Commissioners feels that the Circuit Court is a preferable forum for litigating the establishment of statutory ways of necessity, it hereby removes the governing body of Curry County from jurisdiction over the establishment of ways of necessity under ORS 376.150 to 376.200.

## **ARTICLE THREE – ROADS**

### **DIVISION FOUR    USE OF ROAD RIGHTS-OF-WAY**

#### **SECTION 3.04.010    AUTHORITY**

This division is being adopted by the Board of Curry County Commissioners under authority of ORS 374.309.

#### **SECTION 3.04.020    DEFINITIONS**

See Section 3.01.030 for definitions.

#### **SECTION 3.04.030    WORK IN RIGHTS-OF-WAY; PERMIT REQUIRED; CONDITIONS; EQUITABLE REMEDIES**

(1) Except as otherwise provided in this division, no person shall place, build, construct, extend, enlarge or otherwise work on any facility, thing or appurtenance in the right-of-way of a County road without first obtaining a permit from the County Roadmaster. This requirement applies to all work, including but not limited to, the following:

(a) Constructing, grading, surfacing or providing drainage facilities under the access to private driveway or approach road;

(b) Pipelines, irrigation lines, sewer lines, underground cables, overhead wires and utility poles;

(c) Signs, billboards, symbols, notices, advertisements or directional guides;

(d) Sidewalks, curbs, gutters, retaining walls, meters, inlet basins, fences and ornamental objects;

(e) Planting of trees or other vegetation; and

(f) Mailboxes and supports other than those conforming to design standards provided by the Road Department.

(2) No person shall construct or maintain any facility, thing or appurtenance within any such right-of-way in violation of any of the conditions of a permit or any of the provisions of this division.

(3) No person shall use, occupy or maintain any facility or thing placed wholly or partly within the road right-of-way in violation of, or without first obtaining the permits required by, any law in effect at the time such thing or facility is so placed.

(4) Nothing in this section shall be construed to prevent the County from removing anything from a County road right-of-way, whether or not the same is installed under a permit or in compliance with this division, where the County Board of Commissioners finds that such removal has become necessary to the public's use or improvement of the road.

SECTION 3.04.040 EXCEPTIONS TO CERTAIN REQUIREMENTS; INTERPRETATION.

(1) A permit is not required for the following, providing the work does not involve excavation:

(a) Performing maintenance or minor improvement to existing facilities lawfully in place;

(b) Utilizing lawfully installed facilities as intended when installed, including the following:

(1) Inspection and cleaning of sewer and storm water facilities;

(2) Inserting cables in existing conduits or making service connections within a terminal structure; and

(3) Utilization that is expressly acknowledged by prior permit provisions; and

(c) Other miscellaneous minor activities as specifically approved in writing by the Roadmaster.

(2) Nothing in this section shall:

(a) Limit or affect any of the powers granted to, or duties imposed upon, the County Board of Commissioners, the Department of Transportation or the Public Utility Commissioner by ORS 758.010 and 758.020, or any rights granted or authorized under those statutes or any other statutes pertaining to powers, duties and rights of the aforesaid;

(b) Grant any right for the construction or placing of an approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance on the right-of-way of any County road; or

(c) Be deemed to affect any approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way of any County road prior to September 13, 1967, subject, however, to the authority reserved to the County Board of Commissioners in Section 3.04.030 (4).

#### SECTION 3.04.050 CHANGE IN USE OF APPROACH ROAD; PERMIT REQUIRED.

A change in the manner of using an approach road that connects to or intersects a County road requires a permit, as provided by ORS 374.305. A changed use includes, but is not limited to:

- (1) Any physical change requiring excavation, placing of an embankment, a culvert extension, construction of headwalls and repair or alteration of any existing lawfully installed facility pertinent to a driveway or approach road;
- (2) Any substantial change in the type or number of vehicles reasonably anticipated during the application for, and the review and approval of the latest existing permit on file for a driveway or approach road; and
- (3) Any other change in the approach road or its use which the Roadmaster finds may adversely affect the public's safety or the public's interest in the County road in the absence of limitations or conditions.

#### SECTION 3.04.060 REVIEW OF PERMIT APPLICATIONS.

From the date this division becomes effective the authority contained in ORS 374.305 through 374.325 relating to County roads applies to any facility, thing or appurtenance within a County road right-of-way. After a completed application with the required fee has been submitted, the Roadmaster, or his or her authorized representative, shall review the application and shall issue the permit if he or she determines that the proposal will comply with the provisions of this division and the applicable requirements imposed by State law. The Roadmaster may impose additional written conditions on a permit consistent with the provisions of this division if he or she finds such conditions to be necessary to the public interest in the safe use of the road and the preservation of the public improvements therein and on the property adjoining the same. The Roadmaster may also require the applicant to submit plans which, when approved, will become part of the conditions of the permit. The Roadmaster shall prepare appropriate forms to assist the applicant in providing the information necessary for the application review.

If the applicant disagrees with the Roadmaster's interpretation of the regulations or with the conditions imposed by the Roadmaster, or if the Roadmaster finds that the proposal raises problems of public safety or problems having to do with the public use or protection of the road, which problems are not addressed in the regulations, then either may refer the application to the County Board of Commissioners, which Board shall, within thirty days, afford them an opportunity to be publicly heard and make its final decision in the matter. If the Board finds that the proposal creates a problem to public interests in the road which cannot be solved by the application of the regulations or adequate conditions, the Board shall deny the application.

The Roadmaster shall arrange for whatever field study and inspection he or she deems to be appropriate to assure compliance with the requirements.

#### SECTION 3.04.070 PERMIT REGULATIONS AND CLASSIFICATION.

- (1) The regulations pertaining to each of the various permits issued by the Roadmaster, which are set forth in Exhibit D, "PERMIT REGULATIONS & CLASSIFICATION" following the text of this division, are hereby adopted and made a part of this division.
- (2) A permit fee shall be paid at the time the application for a permit is submitted to the Roadmaster. All permits issued by the Roadmaster shall be classified under one of the following headings on a general "Facility Permit" form.
  - (a) Driveway/road approach permit;
  - (b) Road encroachment permit;
  - (c) Road improvement permit;
  - (d) Special permit;
  - (e) Utility permit;
- (3) Copies of the regulations appropriate to the classification, as determined by the Roadmaster, shall be attached to, or referenced on, each permit issued.

#### SECTION 3.04.080 PERMIT FEES.

Fees for the various permits required by this division shall be set by Board resolution.

#### SECTION 3.04.090 EXEMPTIONS FROM FEE REQUIREMENT.

No fee shall be required for a permit in the following circumstances:

- (1) Where installation of public facilities by public or quasi-public entities is involved;
- (2) Where the Roadmaster finds that the organization which proposes the installation is engaged in a nonprofit activity and that the activity is for the benefit of the general public;
- (3) Where the permitted facility, thing or appurtenance in the right-of-way of the County road is in lawful existence as of the effective date of this division except that this exemption does not apply to work done after such effective date; and
- (4) In any instance where the Roadmaster deems it to be in the best interests of the County to waive the permit fee.

SECTION 3.04.100 VIOLATIONS; REMOVAL OR CORRECTION OF INSTALLATIONS;  
PROSECUTION.

(1) If any person fails to obtain a permit or to comply with the appropriate regulations or permit conditions, then the Roadmaster may take appropriate action to remove or correct the installation and recover the cost from the person responsible, all in accordance with the authority contained in ORS 374.307 and 374.320 as such statutes relate to County roads. However, such action shall not waive the County's right to prosecute the offender under Section 3.04.990.

(2) In addition to the remedies set forth in subsection (1) hereof or prescribed by ORS 374.307 or 374.320, any person who violates or fails to comply with any of the provisions of this chapter may be punished as provided in Section 3.04.990. A separate offense may be deemed committed each day during or on which such unlawful condition is maintained or continued after citation or notice of violation has been given. Offenses under this section may be charged under Article 10 of the Curry County Code.

SECTION 3.04.110 ALTERATION OR REMOVAL OF TREES AND VEGETATION IN  
COUNTY ROAD RIGHTS-OF-WAY.

(1) All trees within a County road right-of-way are subject to the County's control, and no tree may be altered or removed without a permit from the County. The permit requirement does not apply to public utilities exercising their rights within the right-of-way pursuant to State law or franchise. The authority to issue a permit under this section is delegated to the Roadmaster or his or her authorized representative. In issuing a permit, the County shall have the authority to impose such conditions as it deems necessary for public safety and convenience.

(2) The County has and claims the right to remove or alter any tree, or remove any other vegetation, situated entirely within the County road right-of-way if, in the judgement of the Roadmaster, such removal is necessary to the use or improvement of the road or related facilities or for public safety.

(3) If the Roadmaster finds that a tree to be removed may have marketable or ornamental value to the owner of the land abutting the half of the right-of-way on which the tree is situated, the County shall first send notice to the abutting owner, giving the owner thirty days within which to secure a permit and alter or remove the tree or vegetation. If within that period of time the tree or other vegetation is not removed or altered to the extent necessary to the public safety and convenience as found by the Roadmaster, the County may remove or alter the tree or vegetation and, if it is a merchantable tree, retain it to defray the cost of removal. For purposes of giving notice under this subsection, the owner according to the Assessor's records of the property abutting the half of the right-of-way within which the tree is situated shall be deemed the owner of the underlying tree. Notwithstanding the foregoing, if the Roadmaster or his or her authorized representative determines that an emergency exists which may affect the public safety, no notice shall be required prior to the removal of the tree or vegetation.

(4) The Roadmaster may define by written policy those criteria by which he or she determines that the removal or alteration of a tree or other vegetation within a County road right-

of-way is necessary for public safety or convenience; that a tree is marketable or has ornamental value to abutting property; or that an emergency exists which may affect the public safety. When such written policy is approved by the Board of Commissioners, any determination made by the Roadmaster pursuant to the policy is final.

(5) Notwithstanding subsection (4) hereof, the Board of Commissioners may, on its own motion, within the said thirty days, review a proposal to remove a tree under this division and may determine, at its discretion, whether there is a public interest which outweighs the public safety issue raised by the presence or condition of the tree, or may determine at its discretion that the public safety and convenience can be adequately served without the removal of the subject tree considering its value or function.

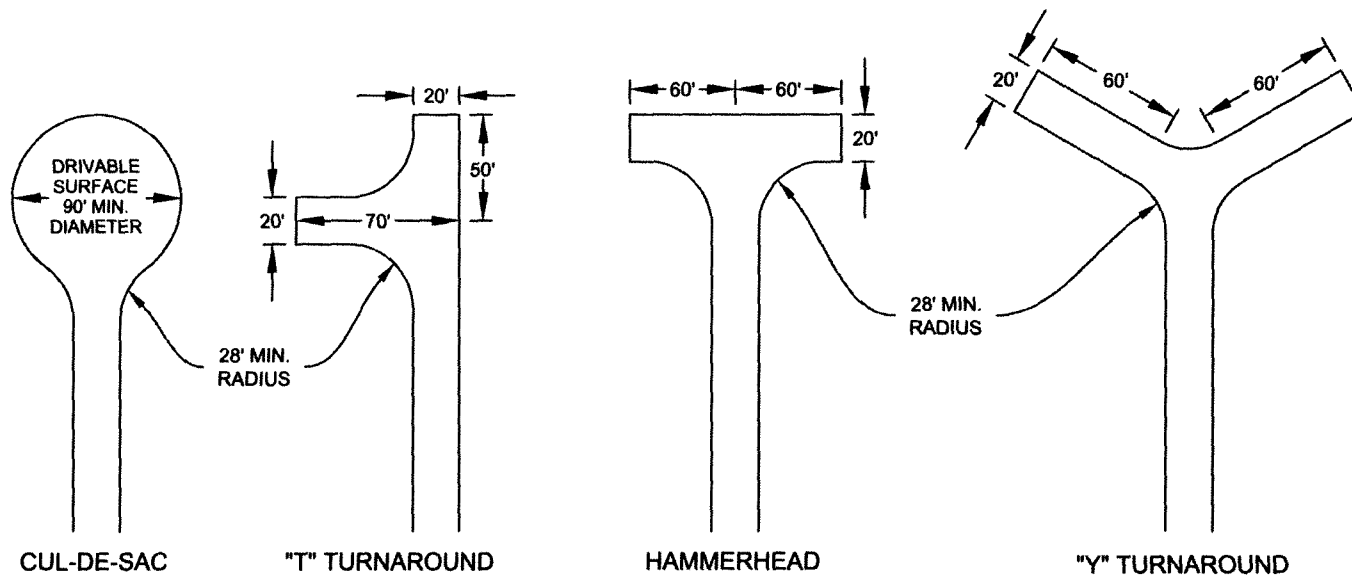
#### SECTION 3.04.990 PENALTY.

Violations of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.

**EXHIBITS TO ARTICLE THREE**



## EXHIBIT "A"

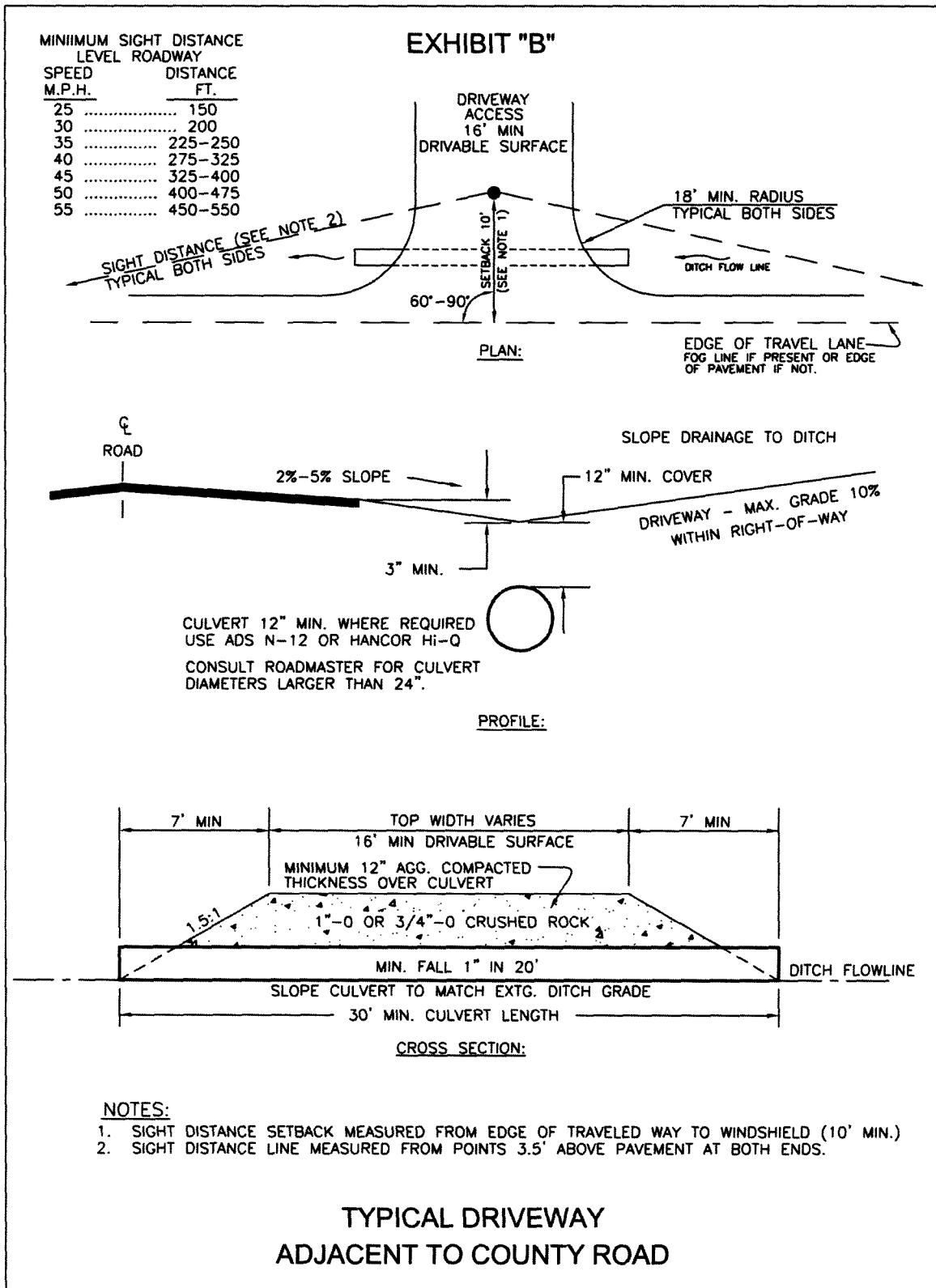
NOTES:

1. SLOPES: 1% MINIMUM, 4% MAXIMUM.
2. SURFACING: PAVED PER FUNCTIONAL CLASS.
3. TURNAROUNDS FOR FIRE ACCESS REQUIRE FIRE DEPARTMENT REVIEW/ APPROVAL (THEIR STANDARDS MAY BE GREATER).
4. ALL CONSTRUCTION SHALL COMPLY WITH CURRY COUNTY ROAD STANDARDS AND AN APPROVED PLAN.

MINIMUM TURNAROUND STANDARDS  
FOR RURAL ROADS

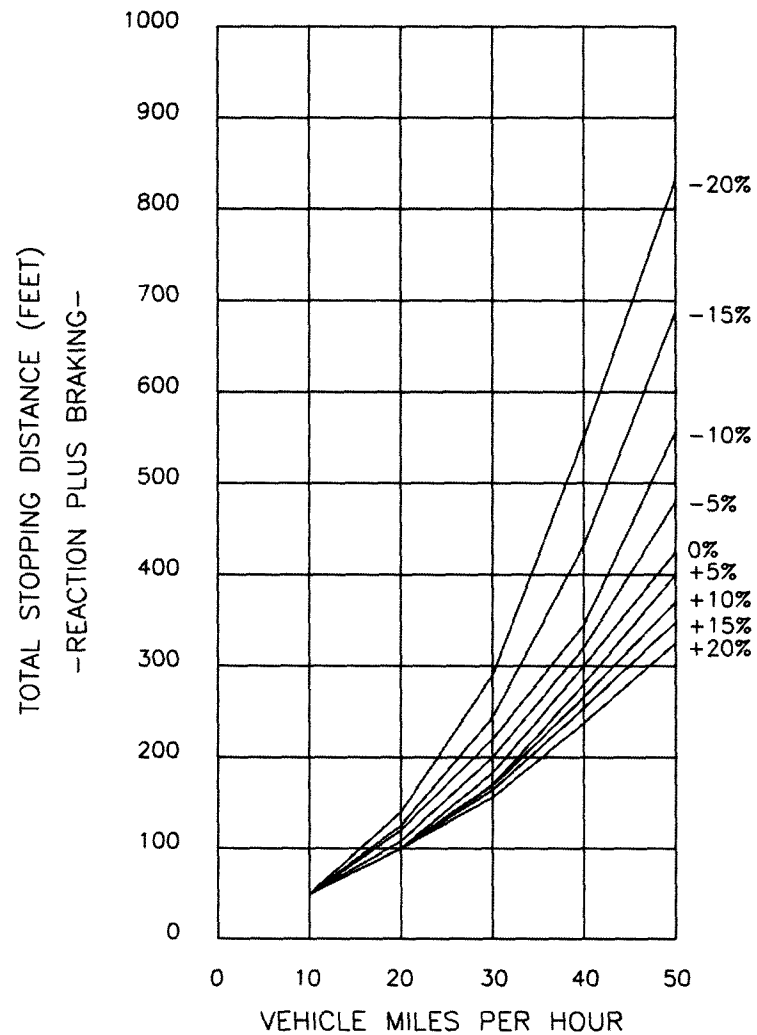
EXHIBIT "A" TO DIVISION ONE

## EXHIBIT "B" TO DIVISION ONE



**EXHIBIT "C" TO DIVISION ONE**

**EXHIBIT "C"**



BASED ON:  $\frac{V^2}{30 (F+G)} = D$

**GRADE EFFECT ON STOPPING DISTANCE**

**EXHIBIT "D" TO DIVISION FOUR**

**PERMIT REGULATIONS & CLASSIFICATION**

## APPLICATION FOR FACILITY PERMIT - EXAMPLE



### APPLICATION FOR FACILITY PERMIT (Subject to Conditions; Revocable)

**CURRY COUNTY ROAD DEPARTMENT**  
28425 Hunter Creek Road  
Gold Beach, OR 97444

PERMIT NO. \_\_\_\_\_

DATE: \_\_\_\_\_

TAX MAP \_\_\_\_\_

TAX LOT \_\_\_\_\_

**PERMIT TYPE AND FEE COLLECTED:**

\_\_\_\_\_ Driveway/Road Approach  
\_\_\_\_\_ Road Encroachment  
\_\_\_\_\_ Road Improvement  
\_\_\_\_\_ Major  
\_\_\_\_\_ Minor  
\_\_\_\_\_ Special  
\_\_\_\_\_ Utility

I, \_\_\_\_\_ hereby make application for a facility permit upon the right-of-way of  
(Applicant's Name)

\_\_\_\_\_ Milepost (s) \_\_\_\_\_ in strict conformity to the  
(Road Name-County Road Number)

exhibits attached hereto, subject to all terms, conditions, agreement stipulations, and provisions contained in the application and permit, and the rules and regulations regarding roads and rights-of-way, as set forth by the Curry County Code Article Three, and any other applicable regulations, law or ordinance.

**DESCRIPTION OF FACILITY:**

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

Signature \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email Address \_\_\_\_\_

**FACILITY PERMIT**

**SPECIAL PROVISIONS:** The terms and specifications which apply to this permit are as shown on the attachment herewith and the permit conditions listed on the reverse side of this application. Noncompliance with these terms, specifications and conditions will result in revocation of this permit.

**ATTACHMENTS FOR:**

\_\_\_\_\_ Driveway/Road Approach \_\_\_\_\_ Road Improvement \_\_\_\_\_ Utility  
\_\_\_\_\_ Road Encroachment \_\_\_\_\_ Special

**ADDITIONAL REQUIREMENTS:**

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

This permit shall be void unless the work herein contemplated shall have been completed before \_\_\_\_\_, 20\_\_\_\_.

**APPROVED:**

Issue Date \_\_\_\_\_ Approved \_\_\_\_\_

**INSPECTED:**

Date \_\_\_\_\_ Approved \_\_\_\_\_

Denied \_\_\_\_\_  
Douglas M. Robbins, Roadmaster

By \_\_\_\_\_ Denied \_\_\_\_\_

**RETURN** completed Permit Application to:

**Curry County Road Department, 28425 Hunter Creek Road, Gold Beach, OR 97444**

- A.** This permit covers public right-of-way and/or County property only.
- B.** It is the responsibility of the permit holder to re-establish any survey monument, moved, destroyed, etc. while working within County right-of-way. Re-establishment of survey monuments must be done by an approved registered surveyor and all costs will be borne by the permit holder.
- C.** Notification to the Curry County Road Department is required 24 hours before beginning work under this permit - (541) 247-7097. Prior approval for modifications to permit specifications is required.
- D.** Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Permits may be terminated or suspended when the permit holder is found to have obtained a permit through misrepresentation of the facts or when, in the judgment of the Roadmaster, terms of the permit are being violated or public safety is threatened. Permits shall remain in effect until a change in land use occurs. The permit holder shall be responsible for the cost of design, installation or construction of additional roadway improvements and traffic control devices at any time in the future when the traffic generated by the use for which the access permit is authorized necessitate such installation in the interest of the public safety.
- E. HOLD HARMLESS CLAUSE** - The permit holder agrees that their performance under this permit is at their own sole risk and that they shall indemnify Curry County, its agents and employees and hold them harmless from any and all liability for damages, costs, losses and expenses resulting from, arising out of, or in any way connected with this permit, or from the permit holder's failure to perform fully hereunder, and the permit holder further agrees to defend Curry County, its agents, and employees, against all suits, actions or proceedings brought by any third party against them for which the permit holder would be liable hereunder.
- F.** The permit holder guarantees all restoration work for a period of one year from the date of completing the installation, except non-cement/sand slurry backfills under pavements shall be warranted for two years from the date of completing the installation.
- G.** Any sight posts, sign posts, or mailboxes that are removed will be replaced immediately in like condition in the same location and the area around them will be restored to a like or better condition.
- H.** As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way and may order the location of such facility changed if deemed expedient.

## DRIVEWAY/ROAD APPROACH PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

Compliance with the standard drawings attached hereto is required.

### I. Materials

Culverts shall be double wall plastic (ADS N-12 or Hancor Hi-Q) pipe for diameters through 24". Consult with the Roadmaster for diameters larger than 24".

### II. Construction Regulations

1. Obtain permit from the Curry County Road Department. Permits are to be signed by the property owner unless the contractor has an authorized paper signed by the property owner to obtain permits for them.
2. Absolutely no work is to begin without having the permit in hand. **ALL WORK IS TO BE COMPLETED BEFORE THE EXPIRATION DATE.**
3. Culvert shall be installed on straight lines, both vertical and horizontal, and have a minimum fall of 1" in 20 feet. Bell ends of pipe shall be placed facing towards the inlet end of the culvert. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
4. Flow line of culvert shall match the flow line of the ditch and allow for a minimum of 12" of cover over the culvert. Cover materials shall maintain a 2% slope away from the roadway to the back of the ditch. Cover material shall be 1"-0 or ¾"-0 crushed rock. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
5. The driveway/road approach shall intersect the County road as near to a right angle as possible.

6. The maximum grade of the driveway/road approach in the County right-of-way should be ten (10) percent and constructed so that the low point in the grade is over the culvert or so that the slope is away from the road to prevent storm water and surfacing materials from encroaching on the road shoulder.
7. For road approaches in curb and gutter sections of road, the curb cut construction must conform to the Department's standard drawing. Behind the curb a standard concrete apron must be constructed or the portion of the driveway on the right-of-way must be paved with asphaltic concrete. The County must inspect the forms prior to the concrete pour.
8. Call for final inspection.

### III. General Provisions

1. The applicant declares that he or she is the owner or lessee of the real property abutting the above described County road and has the lawful authority to apply for this permit.
2. The County assumes no liability for any damage which may be caused to the approach due to routine road maintenance or road improvement. It shall be the responsibility of the holder of this permit to construct the approach to such lines and grades so as not to interfere with normal road maintenance operations.
3. A driveway/road approach permit may be denied when, in the opinion of the Roadmaster, lack of adequate sight distance would create a traffic safety hazard. The applicant may be required to remove brush, widen cut banks, relocate the proposed approach or otherwise satisfy sight distance requirements and to ensure that those distances are maintained. The minimum recommended sight distances for the estimated speed of the traffic are given below. The sight distance line shall be measured from points 42" above road surface at both ends.

Speed (mph)	Minimum Sight Distance (ft.)
25	150
30	200
35	225-250
40	275-325
45	325-400
50	400-475
55	450-550

4. Proper barricades and warning signs must be maintained at all times during construction by the holder of this permit so as to ensure the safety of the public.



5. The County road is to be restored to its original or to a better condition. All excess rock or dirt is to be removed from the traveled portion of the road by brooming or washing, as directed. Final clean-up is to be completed within one week after the approach is constructed.
6. Failure of the permit holder to construct the approach or approaches in strict conformance with all the provisions written herein, or with plans and standard drawings attached hereto, shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Removal of the partially constructed approach or approaches shall be done at the applicant's sole expense.

ROAD ENCROACHMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: _____	Permit No. _____
Phone: _____	Road _____
Email: _____	Mile Post _____
	Twp. _____ Rng. _____ Sec. _____
	Tax Lot(s) _____
	Expiration Date _____

General Conditions

This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

Description of Installation

*Description goes here.*

Location of Installation

\_\_\_\_\_(see attached sketch)

Special Terms and Conditions

1. This permit is valid only for work within the scope and extent as described above.
2. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installations.
3. In the event that County maintenance and/or construction require additional utilization of the public right-of-way this permit may be revoked and the permit holder may be required, **at his/her own expense**, to relocate the facilities to accommodate the work contemplated by the County. Curry County will make reasonable effort to provide the permit holder prior notification of any such planned activity.

4. In the event that the above described installation, in the opinion of the Roadmaster, adversely affects public safety, the Roadmaster shall revoke this permit. In this event, the permit holder shall immediately, and **at his/her own expense**, provide for the elimination of said encroachment and other items associated with the above described installation.
5. Additional pertinent road encroachment permit terms and conditions will be issued with the permit as needed.

## ROAD IMPROVEMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

### General Conditions

This permit is for a major/minor road improvement. This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

### Description of Installation

*Description goes here.*

### Location of Installation

\_\_\_\_\_ (see attached sketch)

### Special Terms and Conditions

1. Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall follow the attached signing plan.
2. The holder of this permit shall be responsible for all damages caused by any operations associated with the road improvement. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the road improvement.
3. The holder of this permit guarantees all parts of the road construction for a period of two years from the date of completing the project.
4. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installation.

5. The County may order the work suspended as set forth in Section 180 of the Oregon Standard Specifications for Construction for any reason deemed to be in the public interest.
6. All work and materials shall conform to the Curry County Road Department specifications.
7. Each phase of construction (culverts, subgrade, base rock, etc.) shall be inspected and approved by the Road Department before proceeding with the next phase.
8. Detailed plans prepared and stamped by a professional engineer registered in Oregon shall be required for major improvements.
9. The contractor shall call the Road Department at (541) 247-7097 for subgrade and form inspections (24 hour notice).
10. Additional pertinent permit terms and conditions will be issued with the permit as needed.

SPECIAL PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_

Permit No. \_\_\_\_\_

Phone: \_\_\_\_\_

Road \_\_\_\_\_

Email: \_\_\_\_\_

Mile Post \_\_\_\_\_

Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_

Tax Lot(s) \_\_\_\_\_

Expiration Date \_\_\_\_\_

Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

Pertinent special permit conditions will be issued with the permit as needed.

## UTILITY PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

### General Conditions

1. This permit is granted for use only on roads under the jurisdiction of the Curry County Board of Commissioners and is not valid upon any federal highway, state highway, city or town street, or any road not in the County road system of Curry County.
2. As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way, and may order the location of such facility changed if deemed expedient.
3. Permittee shall be responsible for all damages caused by any operations associated with the utility installation. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the utility installation.
4. By acceptance of this permit, permittee agrees to be responsible for all permit conditions, including the attached special conditions, and said responsibility shall survive the suspension or termination of this permit.
5. Utility permit applications shall be accompanied by 2 sets of plans or a sketch that accurately depicts and locates the work to be done so that someone unfamiliar with the work can determine the location of the installation. Said plans shall be adhered to unless written permission to vary is granted by the Roadmaster.

### Special Conditions

Compliance with the applicable "Special Conditions for Underground Utilities Within County Road Rights-of-Way", "Special Conditions for Underground Electric Power Line Installation Within County Road Rights-of-Way" and/or "Minimum Signing Requirements for Construction and Maintenance Areas" is required.

SPECIAL CONDITIONS FOR UNDERGROUND UTILITIES WITHIN COUNTY ROAD  
RIGHTS-OF-WAY

1. MAXIMUM LENGTH OF OPEN TRENCH

Unless otherwise approved by the Roadmaster, backfilling of longitudinal trenches shall be accomplished so that no more than 200 feet of trench is left open at any time. No more than half the road may be closed at any time for either longitudinal or transverse trenches.

2. CEMENT/SAND SLURRY BACKFILL AND BACKFILL MAINTENANCE

All paved surface cuts shall be backfilled with 1 sack cement/sand slurry poured at a 6"-8" slump. Slurry shall extend from the pipe zone to finish grade and be plated with 1/2" minimum steel plates of sufficient width to overlap the trench by 6". "BUMP" signs must be placed on either side of the plates to warn traffic. The slurry backfill is to stand on the angle of repose or it may be vertical if the edges are formed first. The edge of the slurry shall extend one foot outside of the edge of pavement. Steel plates shall be left in place until slurry is set. Plywood may not be used for traffic to pass over.

The surface of backfilled trenches using an alternate backfill material on larger longitudinal trenches shall be watered and graded as often as necessary to keep the travel way smooth and dust free. If required by the Roadmaster, an approved dust palliative shall be applied.

3. TEMPORARY PAVEMENT REPLACEMENT

Cross trenches or other local pavement cuts shall be repaved immediately unless the contractor chooses to wait until all trenching and backfilling is completed. Temporary asphalt covering (cold mix) may be constructed. The temporary surfacing shall be removed in its entirety before placement of the permanent pavement.

4. COMPACTION TESTING

Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and elevations as will be representative of the entire backfill. Final decision as to the location and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional compactive effort, other compactive method or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.



## 5. ROAD RESTORATION REQUIREMENTS

Restoration is the process of bringing a roadway as near as possible to the life and structural section a road had prior to construction. It is also part of maintaining a safe surface for driving (i.e. consistent road surface types for braking and turning maneuvers). Typically the County has three (3) major types of restoration.

- Tee cut
- Grind and inlay
- Overlay

The restoration requirements on the permit/plans approved by the County should be considered as best case. They will be the standards used if the construction does not cause any extra damage, the trench walls do not cave in, no modifications to the alignment, and no conflicts are discovered.

The restoration requirements are based on several items including:

- Current condition of the road based on a pavement condition index (PCI) as determined on a regular basis (usually every 2 years) by the County
- Functional classification of the road
- Next regularly scheduled maintenance
- Site conditions (curves, road hazards, signage, and speed zone)
- Professional engineering judgement

When an open trench cut is proposed on a road which is scheduled to be surfaced within the next six (6) months, a tee cut shall be required.

When an open trench cut is proposed on a road which has a PCI greater than eighty (80), and it is not scheduled to be surfaced within the next six (6) months, a grind and inlay will be required.

When an open trench cut is proposed on a road which has site conditions such as sharp curves, road hazards, or in a school zone, an overlay may be required.

When an open trench cut is proposed on a road which has been surfaced within the last five (5) years, open cuts may not be allowed. At the County's discretion, tap and bores may be allowed with a grind and inlay for any bore pit.

## 6. PROSECUTION AND PROGRESS OF ROAD RESTORATION

Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall ensure that road restoration work is prosecuted diligently and completed as quickly as practicable after trench compaction and testing. On lengthy projects, complete road restoration may be required on one section prior to continuance of the excavation phase on another.

7. INSPECTION AND SUPERINTENDENCE

When required by the Roadmaster, permittee shall provide for a full time representative on the project. The representative shall be an experienced inspector or engineer who will be responsible to ensure compliance with the contract documents and the County's General and Special Conditions of the project permit.

In case of conflict between the project plans and contract documents and the "Terms and Conditions of this Permit", the latter shall prevail.

8. STANDARDS AND SPECIFICATIONS

Except as otherwise shown or referred to in these Special Conditions, or as otherwise approved by the Roadmaster, all work and materials affecting roads and road structures shall conform to the Curry County Road Standards. Said standards and specifications include, by reference, the Oregon Department of Transportation "Oregon Standard Specifications for Construction" and the Federal Highway Administration "Manual on Uniform Traffic Control Devices" (MUTCD.).

9. CLEANUP AND REPAIR

All areas affected by the construction shall be brought to an "As good as or better than" condition prior to completion of the project. Repairs shall include, but are not limited to:

A. Roadway Repairs

In addition to road reconstruction within the trench area, the permittee shall ensure the repair of any other pavement, base material or subgrade damaged as a result of project operations. This includes damage to shoulders and pavement edges caused by detouring traffic and equipment around the work area. In case of excessive damage, reconstruction or an asphaltic overlay may be required.

B. Replacement of Contaminated Gravel

All gravel surfaces contaminated with mud, dirt, oversize rock or other foreign material shall be removed and replaced with 3/4"-0 crushed rock meeting the requirements hereinabove set forth.

C. Slopes and Roadside Ditches

Slopes and roadside ditches shall be trimmed, smoothed and compacted to the original lines and grades.

D. Driveways, Culverts and Ditches

Driveways, culverts and ditches shall be replaced to the original lines and grades.

E. General Cleanup

The contractor shall at all times during the work keep the roadway clean and orderly. All broken pavement, concrete, excess excavation material or other objectionable material shall be promptly removed from the County road right-of-way.

10. MISCELLANEOUS CONDITIONS

A. Detours

All requests for detours shall be submitted well in advance with a detour plan showing traffic signing proposed. No detour will be permitted until approval of the plan by the County Roadmaster. When the plan is approved the permittee shall notify all emergency agencies, school districts and postal carriers concerning the location and duration of the detour.

B. Backfill Compaction by Water Settlement Method

The use of the water settlement method of compaction for certain granular materials, as noted on the typical section, may be allowed under the following conditions:

1. Permittee shall, prior to backfilling any significant portion of trench, demonstrate by approved testing methods that the specified compaction is obtainable. Excessive groundwater infiltration or retainage of water in the backfill material will not serve as sufficient reason for not achieving specified compaction.
2. Water settling (jetting or ponding) shall proceed within a short distance behind the backfilling operation. Lateral trenches, other new excavation or re-excavation which may occur at a later time shall be compacted separately and, if necessary, by mechanical means in order to achieve the specified compaction.
3. Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and at such elevations as shall be representative of the entire backfill. Final decision as to the adequacy and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

4. Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional water settlement, dewatering, other compactive methods or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.

C. Pavement Replacement

Immediately prior to patching the trench with asphaltic concrete, the existing pavement shall be neatly cut with a pavement saw or other approved breaker. All cracked or ravelled pavement shall be removed without creating abrupt jogs in the cut line. Pavement trimming, finishing of the gravel surface, tacking the edges and pavement replacement shall be performed only under the immediate supervision of the Roadmaster or his authorized representative. Unless otherwise approved by the Roadmaster, all trenches within a paved travelled way shall be resurfaced with asphaltic concrete within 10 calendar days after testing and approval of the backfill. The finished surface of the new pavement, when tested with a 10-foot straightedge, shall not vary from the testing edge by more than 1/4 inch at any point. The top course of asphalt shall be constructed only by workmen thoroughly familiar with asphalt finishing work.

An emulsified asphalt fog coat of the entire paved surface may be required after the asphaltic concrete patching has been completed on projects having numerous cross trenches or where there has been extensive damage to the surface. The fog coat shall be CQS-1h emulsified asphalt mixed at a 1 to 1 ratio with water according to the manufactures directions. Apply the fog coat at a rate of 0.11 gallons per square yard.

On longitudinal trenches, unless otherwise approved by the Roadmaster, the existing pavement shall be removed and replaced to full paving machine width (normally 10 feet). Drag boxes or other pull-type asphalt spreaders will not be permitted for longitudinal trench pavement replacement.

D. Manhole and Valve Box Adjustment

Manholes, valve boxes and similar structures shall be raised to finish grade after paving is completed. The structure surface shall be no greater than 1/4 inch higher or lower than the surrounding surface when tested with a 10-foot straightedge. Level 3, 1/2" dense HMA asphaltic concrete may be used to fill in the void around the structure unless otherwise directed by the Roadmaster. If the Roadmaster so requires, concrete collars shall be constructed in accordance with the department's standard drawings "CONCRETE COLLARS FOR MANHOLES" and/or, "CONCRETE COLLARS FOR MONUMENT/VALVE BOXES". Usually, concrete will only be required (a) when it is impractical to maintain adequate working temperature for asphaltic concrete and (b) where the

structure configuration fails to provide adequate support to prevent being displaced by traffic.

11. SPECIAL CONDITIONS FOR UNDERGROUND ELECTRIC POWER LINE INSTALLATION WITHIN COUNTY ROAD RIGHTS-OF-WAY

Longitudinal power line installations shall not be allowed within the roadbed section, including ditches, unless the conditions are such that installation outside the ditch line would present an extreme difficulty. The burden of proving "extreme difficulty" shall lie with the applicant.

When located outside the roadbed section, the cable shall be placed as near the right-of-way line as possible while maintaining a generally uniform distance from the road centerline.

Warning signs shall be placed at frequent intervals over the cable, including both sides of road crossings.

The minimum depth for power cables shall be not less than 36 inches below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 36 inch bury depth shall be measured from the existing ground surface. **Under no circumstances shall the depth of power cable be less than 36 inches unless contained in steel conduit pipe.**

12. NORMAL WORKING HOURS

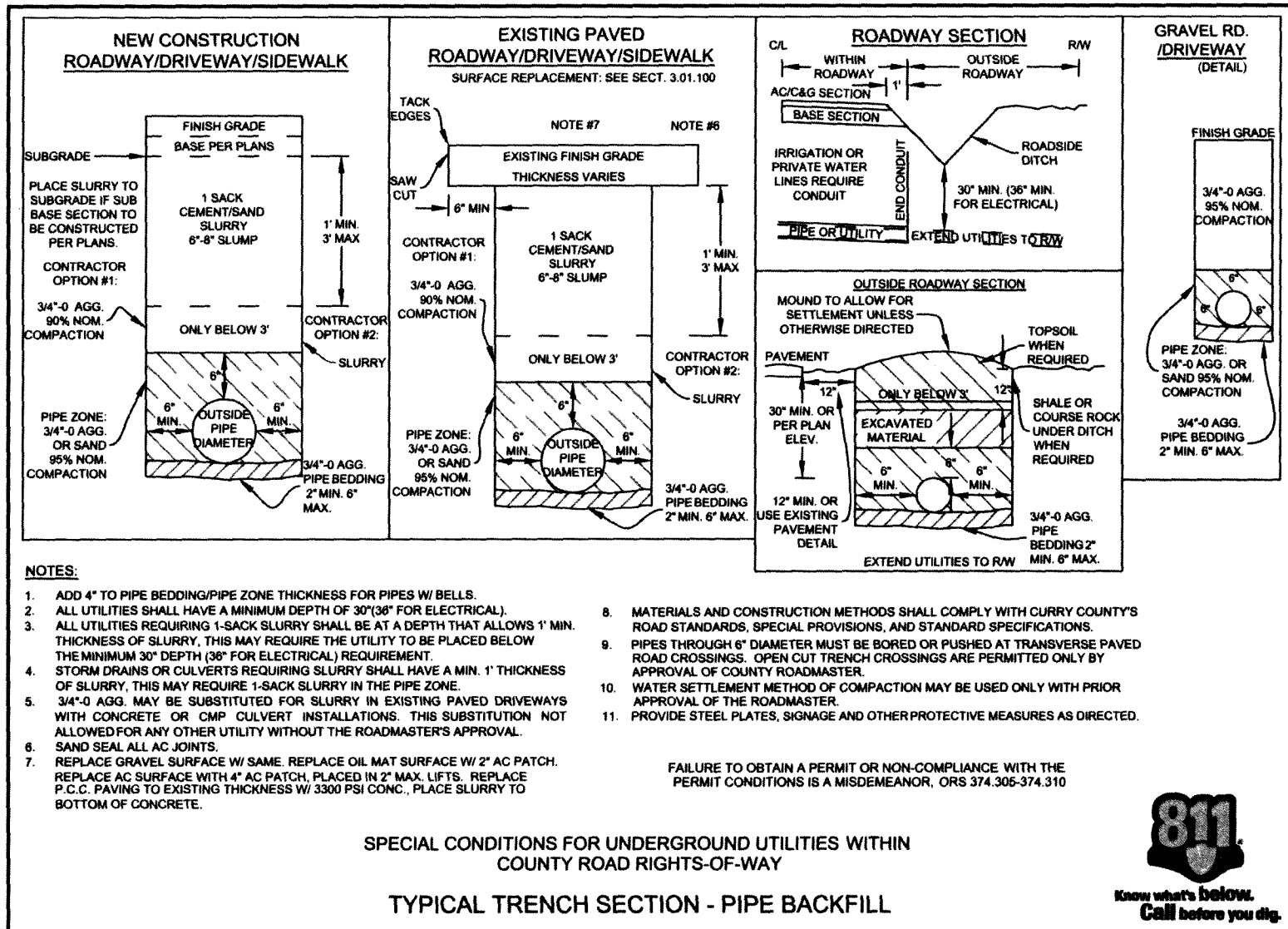
Working hours for the permitted work shall be between 6:00 a.m. to 10:00 p.m. on weekdays. Work on weekends or holidays must be approved by the Roadmaster. The permittee may be required to reimburse the County for inspection costs for any work that is permitted outside of normal departmental working hours.

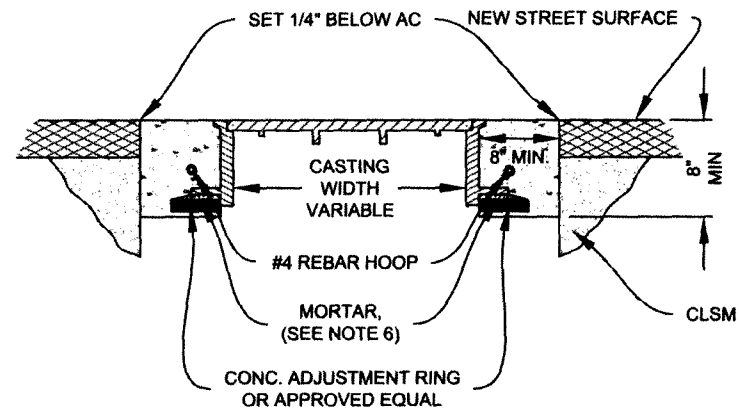
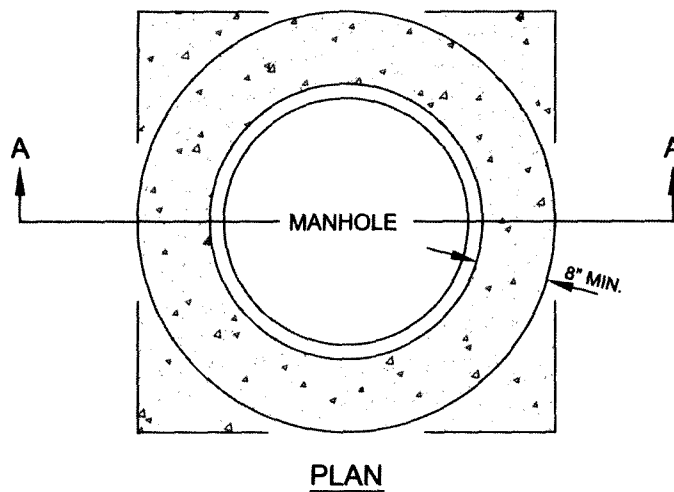
**REVOCATION OF PERMIT**

Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road rights-of-way.

Revocation of the permit will result in a "STOP WORK ORDER" on all or portions of the project.

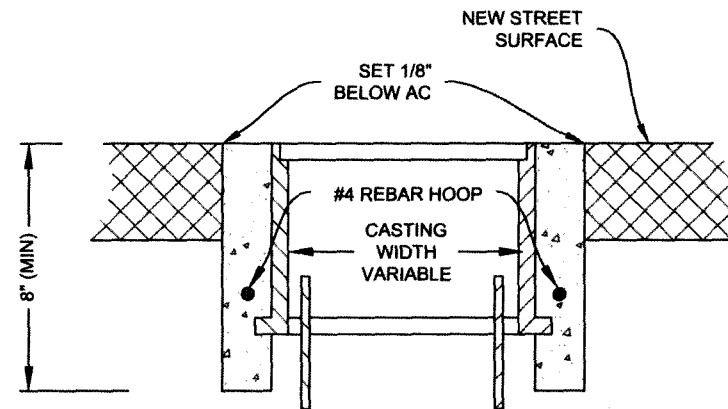
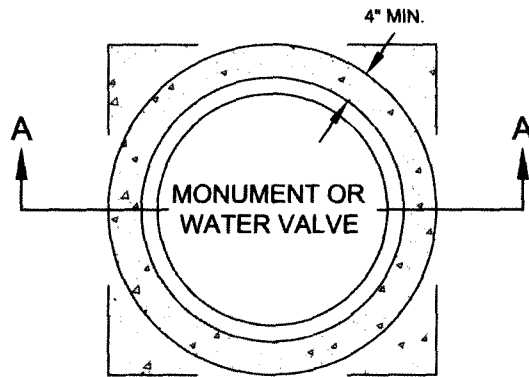
Work performed within the County road right-of-way without a valid permit is a violation of Curry County Code and is enforceable pursuant to Article 10 of the Curry County Code. For any person who causes or maintains a condition in violation of Curry County Code, Article Three, every day during which such unlawful condition is thus maintained or continued after citation or notice of violation has been given may be charged as a separate offense.



**NOTES:**

1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/4" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.
6. MORTAR TO BE 2" THICK MAX. USE EPOXY FOR SYNTHETIC GRADE RINGS.
7. NO MORE THAN ONE STEEL RISER MAY BE PLACED ON TOP OF FRAME IF REQUIRED.
8. RAISE MANHOLES TO GRADE AFTER PAVING UNLESS OTHERWISE APPROVED BY THE ROADMASTER.

**CONCRETE COLLARS FOR MANHOLES**



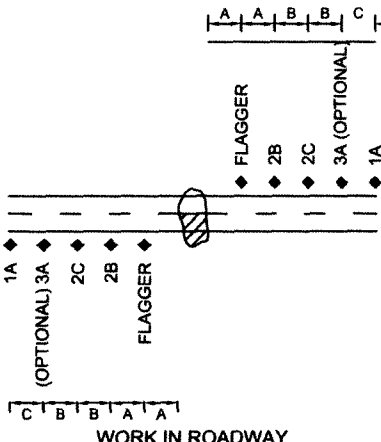
SECTION A - A

NOTES:

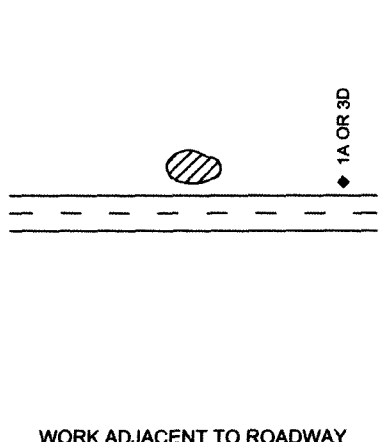
1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/8" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.

CONCRETE COLLARS FOR MONUMENT/ VALVE BOXES





**WORK IN ROADWAY**



**WORK ADJACENT TO ROADWAY**

**NOTES:**

SINCE IT IS NOT PRACTICAL TO PRESCRIBE DETAILED STANDARDS OF APPLICATION FOR ALL SITUATIONS THAT MAY CONCEIVABLY ARISE, MINIMUM STANDARDS ARE PRESENTED HERE FOR THE MOST COMMON SITUATIONS. IT IS EMPHASIZED THAT ADDITIONAL PROTECTION MUST BE PROVIDED WHEN SPECIAL COMPLEXITIES AND HAZARDS PREVAIL. "BUMP" SIGNS MUST BE PLACED ON EITHER SIDE OF UTILITY TRENCHES WHEN JUMP PLATES ARE USED.

AS A "RULE OF THUMB" THE MINIMUM SIGNING REQUIRED SHOULD CONVEY "INFORMATIONAL", "INSTRUCTIONAL", AND "SPECIFIC WARNING" (SEE BELOW) MESSAGES TO MOTORISTS ON ALL APPROACHES TO A WORK SITE OR HAZARD AREA.

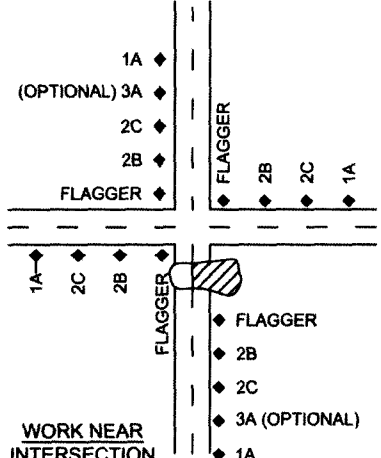
SIGNS ARE TO BE LOCATED NOT LESS THAN 250' IN ADVANCE OF HAZARDS AND STOP POINTS. MINIMUM SPACING BETWEEN SIGNS IS TO BE 100' UNLESS OTHERWISE DIRECTED.

SIGN STANDS ARE TO BE STABLE AND WEIGHTED TO PREVENT EASY TIPPING. SIGNS ARE TO BE SECURELY FASTENED TO STANDS.

SIGNS, STANDS, BARRICADES, ETC., AND THE PLACEMENT THEREOF, SHALL CONFORM TO THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (M.U.T.C.D.). WARNING SIGNS FOR CONSTRUCTION AREAS SHALL HAVE A BLACK LEGEND ON AN ORANGE BACKGROUND. THE MINIMUM DIMENSION FOR APPROACH SIGNING TO A WORK AREA SHALL BE 36" X 36". SIGNS WITHIN THE WORK AREA LIMITS MAY BE SMALLER (24" X 24" MINIMUM) IF APPROVED BY THE ROADMASTER OR HIS AUTHORIZED REPRESENTATIVE.

WHEN NOT PROTECTED BY FLAGGERS, ALL HAZARDOUS AREAS WITHIN THE TRAVELED WAY AND ROAD SHOULDER SHALL BE BARRICADED WITH LIGHT/REFLECTIVE BARRICADES IN ADDITION TO THE PRESCRIBED SIGNING. NON-APPROPRIATE SIGNS, SUCH AS "FLAGGERS" SHALL BE COVERED OR REMOVED WHEN NOT NEEDED.

NOTHING HEREIN SHALL PREVENT THE PERMITTEE FROM INSTALLING SUCH ADDITIONAL SIGNING, BARRICADING, ETC. AS HE MAY JUDGE NECESSARY; PROVIDED HOWEVER THAT ALL SUCH INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE M.U.T.C.D.



**WORK NEAR INTERSECTION**

**SIGN SPACING AND BUFFER LENGTHS (FT)**

POSTED SPEED	SPACING BETWEEN SIGNS *			BUFFER SPACE
	A	B	C	
20				50
25	100	100	100	75
30				100
35	350	350	350	125
40				150
45				180
50	500	500	500	210
55				250

\*LENGTHS AS PER OREGON TEMPORARY TRAFFIC CONTROL HANDBOOK, 2011 EDITION

SEE OTTC FOR DISTANCES NOT SPECIFIED.

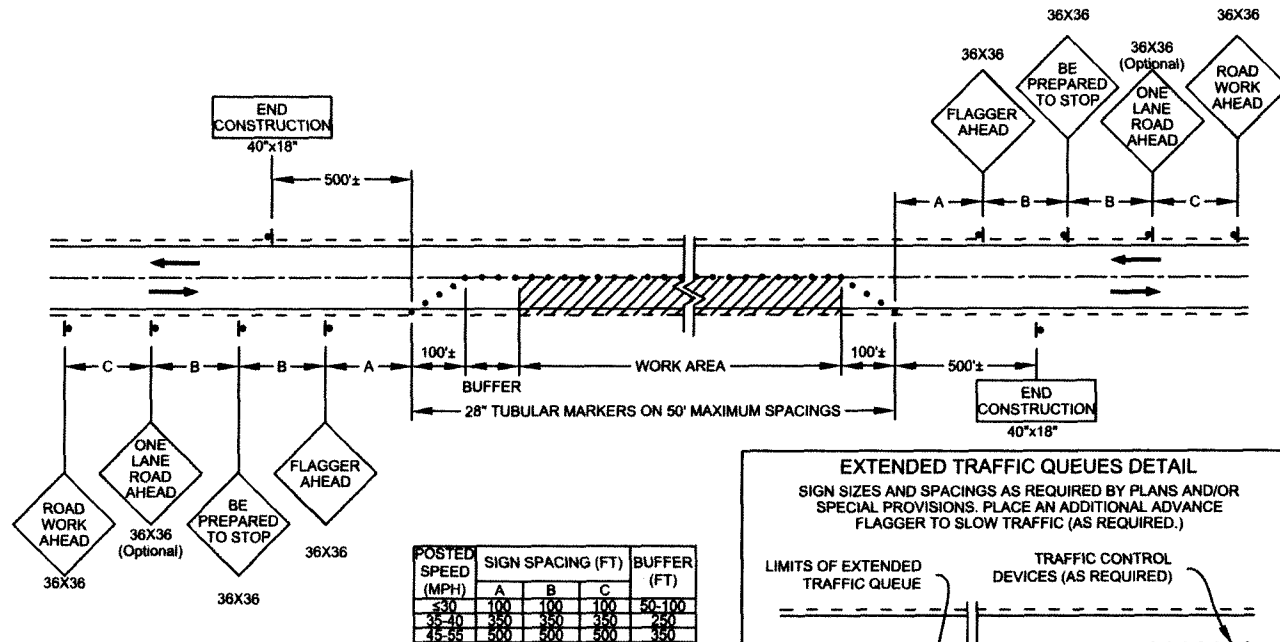
**MINIMUM SIGNING REQUIREMENTS**

**CONSTRUCTION AND MAINTENANCE AREAS**

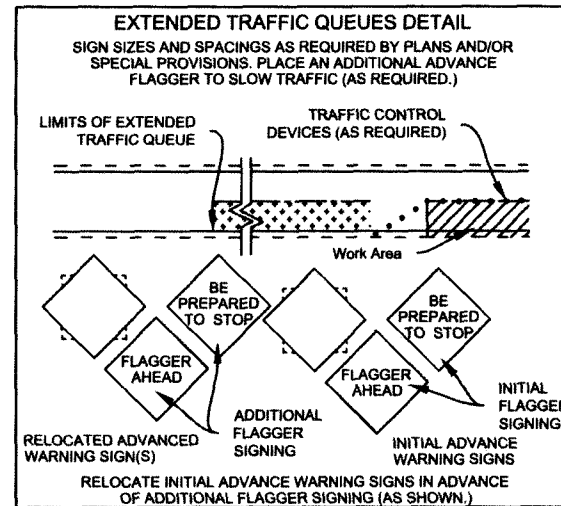
**SIGN EXAMPLES**

(USE SIGN(S) APPROPRIATE FOR CIRCUMSTANCES)

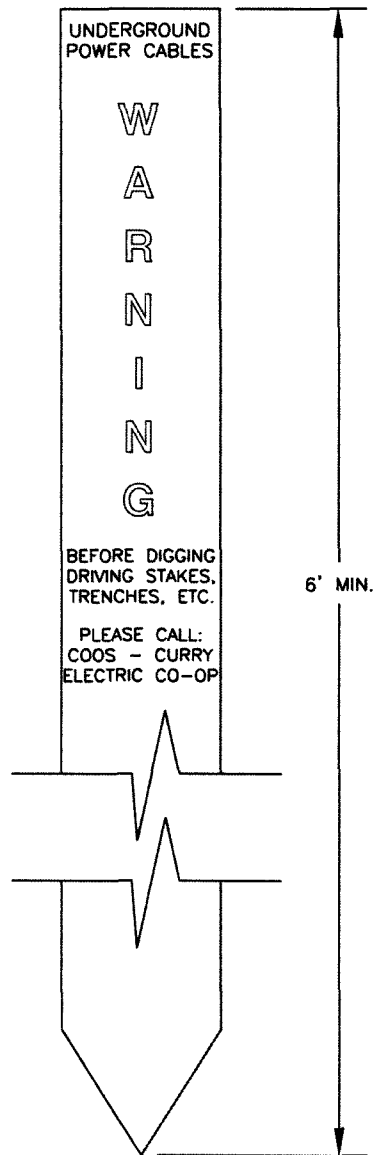
- INFORMATIONAL**
  - A. ROAD WORK/CONSTRUCTION AHEAD
  - B. WORKERS AHEAD
  - C. DETOUR AHEAD
  - D. OTHER - AS APPROPRIATE
- INSTRUCTIONAL**
  - A. SLOW
  - B. FLAGGER AHEAD
  - C. BE PREPARED TO STOP
  - D. OTHER - AS APPROPRIATE
- SPECIFIC WARNING**
  - A. ONE LANE ROAD AHEAD
  - B. DETOUR
  - C. ROUGH ROAD
  - D. SHOULDER WORK AHEAD
  - E. DIP
  - F. BUMP
  - G. OTHER - AS APPROPRIATE

**NOTES:**

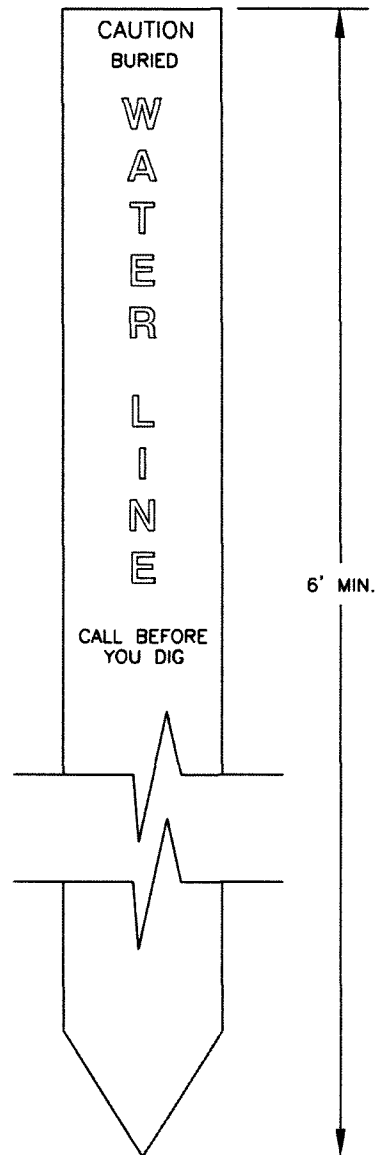
1. SIGNING AND OTHER TRAFFIC CONTROL DEVICES SHOWN TO BE INSTALLED IN CONJUNCTION WITH THE WORK AREA, SHALL MOVE WITH THE WORK AREA.
2. THE "BE PREPARED TO STOP" SIGN SHALL BE USED IN CONJUNCTION WITH THE "FLAGGER AHEAD" SIGN.
3. REMOVE EXISTING PAVEMENT MARKINGS AS DIRECTED.
4. TRAFFIC CONTROL UNDER CIRCUMSTANCES NOT COVERED BY THIS DRAWING SHALL BE PER THE MOST RECENTLY PUBLISHED VERSION OF "TRAFFIC CONTROL ON STATE HIGHWAYS FOR SHORT TERM WORK ZONES" AS PUBLISHED BY ODOT OR A JOB SPECIFIC TRAFFIC CONTROL PLAN APPROVED BY THE COUNTY.



**TEMPORARY PROTECTION AND DIRECTION OF TRAFFIC:  
2-LANE, 2-WAY ROADWAYS  
LANE CLOSURE W/ FLAGGING**

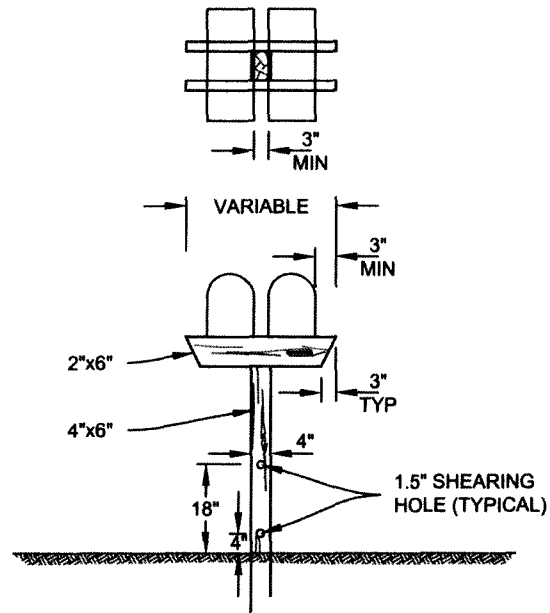


CALL YOUR LOCAL COOS-CURRY  
CO-OP OFFICE TO OBTAIN THIS  
POST AND INSTALLATION INSTRUCTIONS



THIS IS A MINIMUM STANDARD FOR  
A BURIED WATER LINE MARKER. IT IS  
THE PERMITTEE'S RESPONSIBILITY TO  
TO PROVIDE THIS MARKER.

## UNDERGROUND CABLE AND WATER WARNING SIGNS

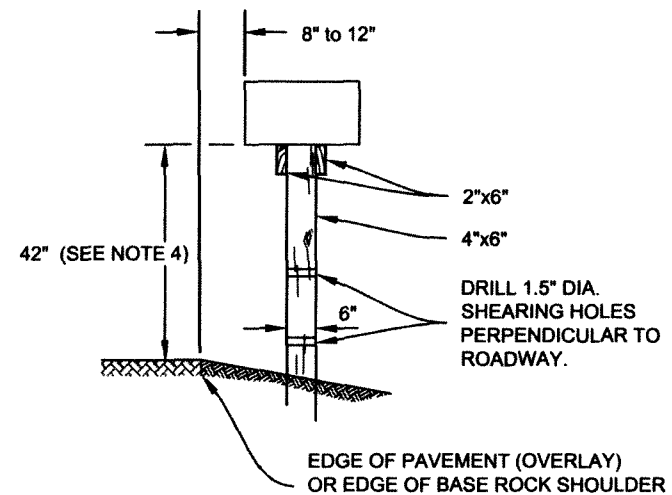


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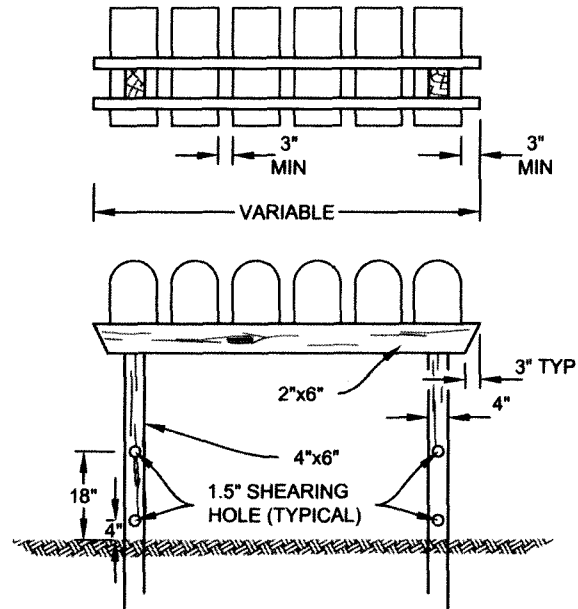
1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

**SINGLE UNIT**

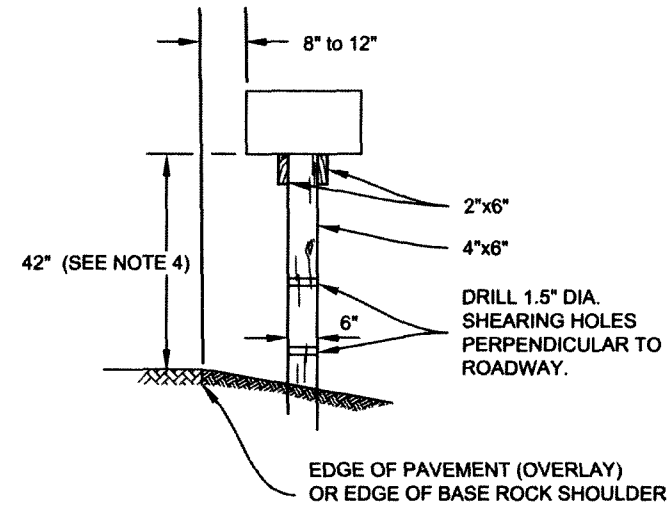
1 POST - 3 BOXES MAX



## MAILBOX STAND - SINGLE

**NOTES:**

1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

**MULTIPLE UNIT****2 POSTS****MAILBOX STAND-MULTIPLE**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the repeal and replacement )  
Of Curry County Code Article 3 – Roads. )

ORDINANCE NO. 17-02

The Board of Curry County Commissioners ordains as follows:

**SECTION 1. TITLE**

This ordinance shall be known as Ordinance 17-02, an ordinance amending the Curry County Code.

**SECTION 2. AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035.

**SECTION 3. PURPOSE**

The purpose this ordinance is to repeal and replace Curry County Road Article 3 (last amended by Ordinance 02-06).

**SECTION 4. ADOPTION**

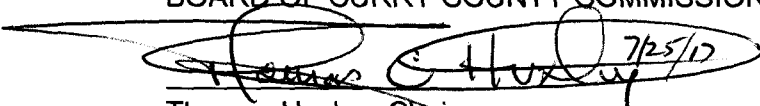
Exhibit "A" attached hereto and incorporated by reference, is adopted as Article 3 – Roads of the Curry County Code.

**SECTION 5 – SEVERANCE CLAUSE**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or unlawful, such decision shall not affect the validity of the remaining portions of this ordinance.

DATED this 21<sup>st</sup> day of June, 2017.

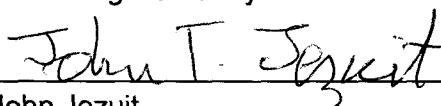
BOARD OF CURRY COUNTY COMMISSIONERS

  
Thomas Huxley, Chair

  
Sue Gold, Vice-Chair

  
Court Boice, Commissioner

Recording Secretary:


  
John Jezuit

First Reading: June 21, 2017

Second Reading: July 5, 2017

Effective Date: October 3, 2017

Approved as to Form:

  
John Hutt  
Curry County Legal Counsel

**EXHIBIT "A"**

**CURRY COUNTY CODE  
ARTICLE 3 - ROADS**



# CURRY COUNTY CODE

## ARTICLE THREE - ROADS

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## **ARTICLE THREE – ROADS**

### **DIVISION ONE: CURRY COUNTY ROAD STANDARDS**

#### **CHAPTER ONE: INTRODUCTORY PROVISIONS**

##### **SECTION 3.01.010 RESERVED**

##### **SECTION 3.01.020 PURPOSES**

The several purposes of this division are: a) to establish specifications and standards for the construction and reconstruction of all roads, driveways and bridges in Curry County; b) to delineate responsibilities of individuals and Curry County as to the maintenance of roads; and c) to promote public health, safety, convenience and general welfare.

##### **SECTION 3.01.030 DEFINITIONS**

As used in this article, the masculine includes the feminine and neuter and the singular include the plural. The following words and phrases, unless the context otherwise requires, shall mean:

- (1) “AASHTO” – American Association of State Highway and Transportation Officials.
- (2) “ADT” – Average Daily Traffic on a given road.
- (3) “Alley” – A street or highway primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular traffic.
- (4) “Arterial Road” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement.
- (5) “Avenue” – A wide street or main thoroughfare. A means of approach to a given place, activity or goal. “Avenue” may be used in immediate vicinity of any municipality.
- (6) “AWDS” – All-weather Drivable Surface: A surface constructed of a minimum of two (2) inches of crushed aggregate placed on the required base aggregate to create a drivable surface. An AWDS may also be constructed of asphalt concrete or acceptable alternative surface treatments.
- (7) “Base Aggregate” – A course of specified aggregate of planned thickness placed on the subgrade.
- (8) “Board” or “Board of Commissioners” - The Curry County Board of Commissioners.

- (9) “CCZO” - Curry County Zoning Ordinance - An ordinance designed to provide and coordinate regulations in Curry County governing the development and use of lands and to implement the Curry County Comprehensive Plan.
- (10) “Collector Road” – A road supplementary to the arterial road system and used for both through traffic and access to abutting properties.
- (11) “County” – The County of Curry, State of Oregon.
- (12) “County Road” – A public road which has been accepted into the County road system by the County Board of Commissioners or designee by dedication or deed or grant of right-of-way and is maintained by the County.
- (13) “Drive” – A scenic road, especially for leisure driving.
- (14) “Driveway” – Means of egress and ingress from thoroughfare to structure. A short private road as regulated and administered by the County Community Development Department.
- (15) “Driveway/Road Approach Permit” - A permit allowing construction or alteration of a facility which provides ingress to or egress from a County road (i.e., a driveway, an intersecting road or street, a footpath, a bike path, widened vehicular access, etc.). The permit regulations apply to that portion of the facility which is or will be upon a County road right-of-way.
- (16) “Easement” – A grant of one or more property rights by a property owner to or for use by the public or another person or entity.
- (17) “Fog Coat” - An emulsified asphaltic surface treatment applied to existing asphalt concrete pavement surfaces to renew and seal the pavement surface. May be used with or without aggregate cover materials.
- (18) “High Density Residential Road” – A road within an urban growth boundary providing direct access to abutting property which has a lot size density sufficient to qualify for high density status based upon the standards established in the respective urban growth boundary agreements.
- (19) “HMAC” – Hot Mix Asphalt Concrete - A hot mixture of asphalt cement; well graded, high quality aggregate; mineral filler and additives as required; plant mixed into a uniformly coated mass, hot laid on a prepared foundation, and compacted to a specified density.
- (20) “Lane” – Designation for all private thoroughfares. A limited passageway of course designated for vehicles.
- (21) “Local Access Road” – A public road that is not a County road, State highway or Federal road. County has full jurisdiction, but no liability to maintain.

(22) “Local Road” – A public road that is not a city street, State highway or Federal road. A road connecting the local uses with the collector system. Property access is the main priority; through-traffic is not encouraged. All County roads not classified as arterials or collectors are the County’s local roads, including Resource/Industrial/Commercial, High density Residential and Residential.

County Road Examples: Townley Lane, Coy Creek Road, Eggers Road.

(23) “Loop” – Road whose beginning and ending points intersect on a common road.

(24) “Major Collector” – A road providing service to land uses that generate trips such as consolidated schools, shipping points, parks, mining and agricultural areas. This type of road links minor collectors with roads of higher classification.

County Road Examples: Airport Road, Cedar Valley Road, North Bank Chetco River Road.

(25) “Major Road Improvement” - An improvement or alteration for which detailed plans and adherence thereto are deemed necessary by the Roadmaster.

(26) “Minor Arterial” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement. Jerry’s Flat Road is the only minor arterial within the County.

(27) “Minor Collector” – A road providing service to small communities. This type of road links locally important land uses that generate trips with rural destinations.

County Road Examples: Floras Lake Road, Nesika Road, Oceanview Drive.

(28) “Minor Road Improvement” - An improvement or alteration for which detailed plans are not deemed necessary by the Roadmaster.

(29) “Monument” – A permanent and fixed survey marker conforming to the requirements established by the State law and the regulations of Curry County.

(30) “Manual on Uniform Traffic Control Devices” (MUTCD) - The MUTCD contains the national standards governing all traffic control devices.

(31) “ODOT” – Oregon Department of Transportation.

(32) “Place” – A public square or thoroughfare in a town. A short street, or court, a private residence terrace, or some similar variation from the ordinary street.

(33) “Prime Coat” – A penetration treatment to aggregate surfaces to coat and bind the material into a hard surface.

(34) “Principal Arterial” – Corridors with substantial interstate and statewide travel. Highway 101 is the only principal arterial within the County.

(35) “Private Driveway” – A roadway which traverses and serves one lot or parcel as regulated and administered by the County Community Development Department.

(36) “Private Road” – A road which is owned, controlled and maintained by the persons it serves, providing the principal means of access to the abutting property, and not intended for use by the general public. Private roads are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

(37) “Public Road” – A road over which the public has a right of use that is a matter of public record but which has not been accepted into the County road system per subsection (12) above.

(38) “Residential Road” – A road providing direct access to abutting property. Lot size and/or traffic volume indicate density of one or more lots per five acres, but less than four lots per acre.

(39) “Resource/Industrial/Commercial” – A road which primarily accesses adjacent land, carries significant volumes of timber, mining or agricultural products and/or provides service to a large industrial or commercial facility.

County Road Examples: McKenzie Road, Nesika Beach Dump Road, Boat Basin Road.

(40) “Right-of-Way” – Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility or other public purpose related to a transportation or public utility improvement.

(41) “Road” - The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. “Road” includes, but is not limited to:

- a. Ways described as streets, highways, throughways or alleys;
- b. Road related structures that are in a right-of-way, such as tunnels, culverts or similar structures; and
- c. Structures that provide for continuity of the right-of-way, such as bridges.

(42) “Road Encroachment Permit” - A permit allowing private facilities of a diverse nature, such as fences, structures, gates, stock guards, signs and landscaping, to be placed within a County road right-of-way. The permit shall state whether the permitted use is temporary or permanent.

(43) “Road Improvement Permit” - A permit allowing alterations or improvements, such as grading, surfacing or oiling, of a County road by a person not associated with the County Road Department.

- (44) “Roadmaster” - The person designated by the County Board of Commissioners as being responsible for administration of the road activities of the County.
- (45) “Roadway” - The portion of a road, including shoulders, for vehicular use.
- (46) “Rural Road” – A road subject to low traffic volume, used as access to a remote area having density less than one lot per five acres.
- (47) “Special Permit” - A permit allowing temporary use of a County road right-of-way for business operations or public events, such as log loading, an aircraft taxiway, scheduled public walks, runs and biking events.
- (48) “Street” – A paved public way or thoroughfare, as in a city or town.
- (49) “Subgrade” – That portion of the graded earthwork roadbed on which base course surfacing is to be placed.
- (50) “Tack Coat” – Application of liquid asphalt to an existing asphalt concrete to insure a thorough bond between courses.
- (51) “Turnaround” – A road over 150’ in length must be terminated by a turnaround. See Exhibit “A” following the text of Division Four of Article Three for typical turnaround designs. Standards for Turnarounds outside of an Urban Growth Boundary are listed in Section 3.01.050 subsection (7) of this division.
- (52) “Utility Permit” – A permit allowing the placement and routine maintenance of public facilities, such as water and sewer lines, gas lines and transmission lines, within a County road right-of-way.
- (53) “Variance” – An authorized deviation from specific requirement(s) set forth in this division.
- (54) “Way or Court” – A course, route, passage, track or path of any kind.

#### SECTION 3.01.040 COMPLIANCE WITH DIVISION PROVISIONS

No road shall hereafter be constructed, reconstructed, enlarged or altered contrary to the provisions of this division.

### **CHAPTER TWO: COUNTY ROADS**

#### SECTION 3.01.050 CONSTRUCTION SPECIFICATIONS OF COUNTY ROADS

- (1) RIGHT-OF-WAY – Right-of-ways shall be a minimum of 50 feet in width except that a lesser width not less than 40 feet is authorized when (a) specially permitted by the County Board of Commissioners and (b) the road meets the other standards set forth in this division as



otherwise provided. A wider than 50 foot right-of-way may be required, depending on variations or other engineering considerations. In no case shall the right-of-way be less than 40 feet.

(2) GRADES

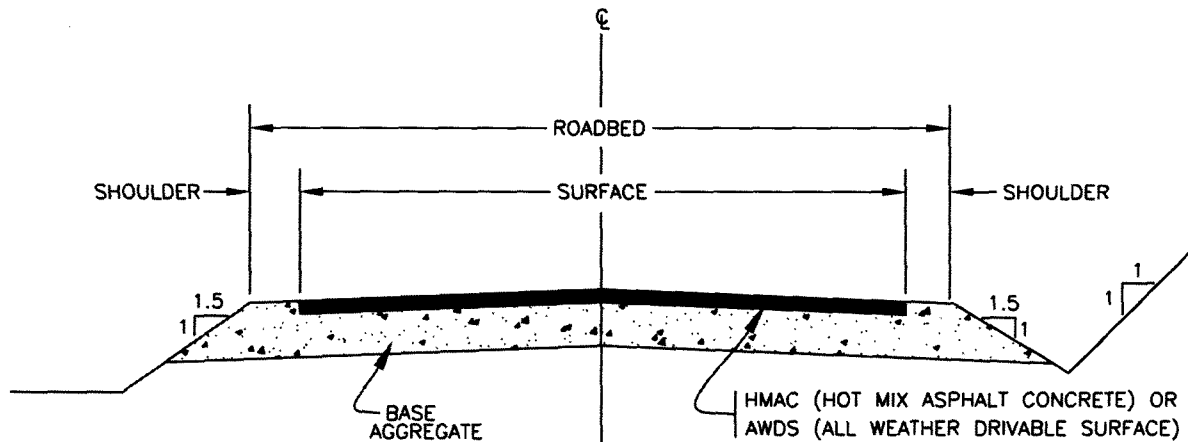
(a) Minor Arterial:		
8% to 10%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(b) Major Collector:		
8% to 12%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(c) Minor Collector:		
12% to 15%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 10% for the roads listed in (a), (b) and (c) above.

(d) Residential:		
18% to 20%	Maximum Length	400'
16% to less than 18%	Maximum Length	600'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit
(e) Resource/Industrial/Commercial		
16% to 18%	Maximum Length	500'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 13.5% for the roads listed in (d) and (e) above.

(3) RURAL ROAD STANDARDS CHART



Functional Class	Surface Type	Minimum Surface Depth	Minimum Surface Width	Minimum Shoulder Width	Base Aggregate	Maximum Grade
Minor Arterial	HMAC	4"	26'	6'	12"	10%
Major Collector	HMAC	4"	26'	4'	12"	12%
Minor Collector	HMAC	4"	24'	2'	12"	15%
Resource/ Industrial/ Commercial	HMAC	4"	24'	2'	12"	18%
Residential 11+ dwelling units	AWDS	2"	* 20'	2'	12"	20%
Residential 5 to 10 dwelling units	AWDS	2"	* 18'	0'	12"	20%
Residential 4 or less dwelling units	AWDS	2"	* 16'	0'	12"	20%
Driveway	AWDS	2"	* 16'	0'	6"	20%
Turnarounds	See subsection (7) TURNAROUNDS below					

\* Inter-visible opposing turnouts required. On roads where 16 foot, 18 foot or 20 foot surfaces are allowed, inter-visible opposing turnouts that result in an area of road surface at least 50' in length, not including entry and exit tapering, by 22' in width, exclusive of shoulders, are mandatory. Turn-outs shall be sited at least one every 500 feet, and opposing inter-visible where curves prohibit visibility.

Road Width with a Fire Hydrant: Adjacent to fire hydrants, roads shall have a minimum driving surface of not less than 26' in width, exclusive of shoulders, extending 20' in either direction from the fire hydrant.

Vertical Clearance: All roads shall have a minimum vertical height clearance of not less than fourteen feet.

Additional requirements, as stipulated by the rural fire protection district of the area in which the road is located, as well as the section entitled "Appendix D, Fire Apparatus Access Roads" of the Oregon Fire Code, may be required.

The standards for urban roads are as outlined in the Curry County Zoning Ordinance for the respective Urban Growth Boundary.

(4) DRIVEWAYS. Approaches shall be limited to a 60-90 degree intersection angle with the public road. There shall be enough room at the approach for a vehicle to be at a 90 degree angle to the road. See Exhibit "B" following the text of Division Four of Article Three for Typical Design.

Stopping sight distance shall be calculated for driveway entrances using the chart of Exhibit "C" following the text of Division Four of Article Three. The minimum stopping distance is calculated for wet road conditions using

$$D = \frac{V^2}{30(F+G)} \quad \text{where:}$$

V = Velocity

F = Coefficient of friction

G = Grade in percent

D = Total stopping distance in feet (reaction plus braking)

MINIMUM SIGHT DISTANCE  
LEVEL ROADWAY (Wet Pavement)

Design Speed MPH	Sight Distance (feet)		Corner Intersection
	Stopping	Passing	
20	125	800	210
25	150	950	
30	200	1100	310
35	225-250	1300	
40	275-325	1500	415
45	325-400	1650	
50	400-475	1800	515
55	450-550	1950	
60	525-650	2100	650
65	550-725	2300	
70	625-850	2500	

\*See Exhibit "C" following the text of Division Four of Article Three

(5) HORIZONTAL CURVES The minimum radius for horizontal curves shall be 60 feet on Local Roads. The following formula shall be used to determine minimum curve radius on all other functional classes.

$$R = \frac{V^2}{15(e+f)} \quad \text{where:}$$

R = minimum radius (feet)

V = design speed (MPH)

e = maximum super elevation (range 0.04 to 0.10)

f = maximum friction factor (range 0.10 to 0.17)

(6) **VERTICAL CURVES** Vertical curves shall be used at all grade changes where the difference in grades is 2% or greater. Minimum length of vertical curve shall be 100 feet.

(7) **TURNAROUNDS** In any area outside of an Urban Growth Boundary, turnarounds shall be provided for emergency vehicle maneuvering at the end of any road over 150' in length. Typical County turnarounds are shown in Exhibit "A" following the text of Division Four of Article Three.

(8) Minimum intersection spacing for roads of various functional classes shall be as noted in the following table:

<b>Functional Class Intersection Type</b>	<b>Public Road Type</b>	<b>Spacing*</b>	<b>Private Driveway Type</b>	<b>Spacing**</b>
Arterial Road/Hwy	At-grade	1/4 mile	L/R turns	500 ft.
Collector Road	At-grade	250 ft.	L/R turns	100 ft.
Local Road	At-grade	250 ft.	L/R turns	each lot
Alley	At-grade	250 ft.	L/R turns	each lot
* Between roads				
**Between driveways & intersections (measured from center to center)				

#### **SECTION 3.01.060 FACILITY PERMITS**

(1) No person, partnership, association or corporation may place, build or construct on the right-of-way of any County maintained road any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance or change the manner of using any such approach road without first obtaining a permit from the County Roadmaster.

(2) The Curry County Road Department shall be given the power to investigate and issue the facility permit.

(3) The holder of a facility permit shall follow the regulations and rules set out in Article Three, Division Four of this code.

### SECTION 3.01.070 SIGNS

- (1) Curry County has jurisdiction concerning the type and location of all signs on County maintained roads and public ways.
- (2) The Roadmaster may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card, or poster placed in violation of ORS 368.942.
- (3) When in the Roadmaster's opinion there may be a need for a change in the speed limit for a road, he or she shall request the Oregon State Speed Control Board to study the road in question. If the Speed Control Board issues an order to post a speed limit on the road, Curry County will furnish and install the speed limit signs at the County's expense.
- (4) Name signs for all roads shall have a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices.
- (5) Signing will be paid for by the County as follows:
  - (a) Stop and name signs at intersections of two County maintained roads.
  - (b) Regulatory and warning signs along County maintained roads.
  - (c) The County may, at the Roadmaster's recommendation, install signs for non-County maintained roads. Cost of the sign, installation and maintenance will be paid for by the person(s) requesting the sign. This person may include the Board or its delegated authority.

### SECTION 3.01.075 DELINEATION OF UTILITY LOCATIONS WITHIN COUNTY ROAD RIGHTS-OF-WAY

- (1) Pole line locations shall have a minimum height above the traveled road surface of 18 feet. This 18-foot standard applies whether the pole lines cross the roadway or are located parallel to the roadway. Poles shall be located not less than 10 feet from the edge of pavement on paved-surfaced roads or the edge of gravel on gravel-surfaced roads. Wherever possible, poles shall be located along the tangent sections of roads and on the short radius side of curves. Poles to be located on the long radius side of curves will require additional approval by the Roadmaster and will be subject to special conditions.
- (2) Buried cable or pipe depth shall be not less than 30 inches (36 inches for electrical) below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 30 inch (36 inch for electrical) bury depth shall be measured from the existing ground surface.
- (3) Pedestals installed as part of a buried cable installation are to be located one foot from the right-of-way line unless permission is obtained from the Roadmaster to locate elsewhere. In no case shall the pedestals be located within the road maintenance operating area, including mowing

operations, or nearer the pavement edge than any official highway sign in the same general location.

See “Special Conditions for Underground Utilities Within County Road Rights-of-Way” in “Exhibit D, Permit Regulations & Classification”, following the text of Division Four of Article Three for additional requirements and details.

#### SECTION 3.01.080 ROAD HAZARDS, WEED CONTROL AND DRAINAGE

##### (1) ROAD HAZARDS.

(a) No person, landowner or occupant of land shall obstruct road drains or waterways or create road hazards as set forth in ORS 368.251 and ORS 368.256.

(b) The County Roadmaster may abate any road hazard following the procedures set forth in ORS 368.261 and ORS 368.271.

(c) The Board may assess and recover costs from the person, landowner and occupant of the land responsible for the road hazard or the owner of the land that is the source of the hazard pursuant to the procedures in ORS 368.276 and ORS 368.281.

(2) WEED CONTROL. The County Board of Commissioners through its Roadmaster shall endeavor to prevent the spread or seeding of any noxious weed as set forth in ORS Ch. 570 on any land owned by the County or constituting the right-of-way for any County road, drainage or irrigation ditch, power or transmission line, or other purposes under their jurisdiction.

##### (3) DRAINAGE

(a) The purpose of highway drainage design is to prevent the accumulation and retention of water on and by the highway. Culverts, ditches and other drainage features shall be installed as needed to effectively remove water from the drivable surface under all types of weather conditions. Culverts shall be capable of supporting a single axle load of 32,000 pounds (Highway Loading H-20). Prior to submitting a development application and its related access feature where a stream crossing will be required, the applicant shall submit an Oregon Department of Fish and Wildlife (ODFW) determination to the Building Official indicating whether the stream crossing location is a fish habitat as required by ORS 509.585. If the ODFW determines that there is a potential for fish habitat or there is fish habitat in the stream crossing that will be impacted, fish passage shall be required consistent with Division 412 of the Oregon Administrative Rules (635-412-0005 through 635-412-0040).

(b) Surface water shall be conveyed along rights-of-way by the most direct means considering ease of maintenance with minimum disturbance of natural conditions.

(c) All drainage structures shall be sized for the following design flood frequencies.

<u>Drainage Facility</u>	<u>Design Flood</u>
Bridge	100 year flood
Culvert	25 year flood
Low Water Bridges	Optional
Depressed Roadway	25 year flood
Channel Change	100 year flood
Storm Sewer	10 year flood
Ditches, Gutters, Inlets	10 year flood

The design should be reviewed to ensure that backwater from the 100 year flood will not cause extensive property damage or result in loss of a bridge.

(d) The design of any water carrying system shall meet or exceed the design criteria set by the current ODOT Highway Division Hydraulics Manual.

Cross culverts shall be a minimum of 18 inches in diameter except:

A 12 inch cross culvert may be used to convey water from a catch basin to the closest natural drain if a grated inlet is used.

Connections to existing roadside culverts shall be at the same or greater capacity and must not inhibit the existing discharge of flow in any way.

#### SECTION 3.01.090 ROADWAY MATERIAL STANDARD SPECIFICATIONS

All roadway excavation, fill construction, subgrade preparation, aggregate bases, surfacing, prime coats and paving shall be built in accordance with the current edition of the ODOT Oregon Standard Specifications for Construction. Whenever these specifications refer to the State or Agency, consider that to mean the County of Curry, the appropriate County Department, or appropriate County address.

In case of discrepancy or conflict in the plans, standard specifications, supplemental standards specifications and special provisions, they shall govern in the following manner:

1. Special Provisions
2. Plans Specifically Applicable to the Project
3. Standard or General Plans
4. Supplemental Standard Specifications
5. Standard Specifications

(1) Subgrade. All subgrade shall be compacted in accordance with the Earthwork Compaction Requirements, Section 00330.43 of the Oregon Standard Specifications for Construction.

(2) Aggregate Base. Aggregates for aggregate base shall be crushed rock or pit run rock. Pit run materials, when used in place of crushed rock, shall be placed at 1.25 times the required

depth of aggregate. Crushed rock shall meet the requirements of Section 02630 of the Oregon Standard Specifications for Construction. Pit run material shall meet the durability and sand equivalent requirements of Section 02630 of the Oregon Standard Specifications for Construction and shall have the gradation approved by the Curry County Road Department. See the following tables.

(3) Asphalt Concrete Pavement. Where asphalt concrete pavement is required it shall be hot mix asphalt concrete pavement done in accordance with Section 00744 of the Oregon Standard Specifications for Construction. The class and grade mix design shall be in the contract. See the following tables.

### SECTION 3.01.100 GRADATION CHARTS

#### (1) BASE AGGREGATES

<b>Table 02630-1</b>					
<b>Grading Requirements for Dense-Graded Aggregate</b>					
<b>Separated Sizes</b>					
<b>Sieve Size</b>	<b>2 1/2" - 0</b>	<b>2" - 0</b>	<b>1 1/2" - 0</b>	<b>1" - 0</b>	<b>3/4" - 0</b>
<b>Percent Passing (by Weight)</b>					
3"	100				
2 1/2"	95 - 100	100			
2"	—	95 - 100	100		
1 1/2"	—	—	95 - 100	100	
1 1/4"	55 - 75	—	—	—	
1"	—	55 - 75	—	90 - 100	100
3/4"	—	—	55 - 75	—	90 - 100
1/2"	—	—	—	55 - 75	—
3/8"	—	—	—	—	55 - 75
1/4"	30 - 45	30 - 45	35 - 50	40 - 55	40 - 60
No. 4 <sup>1</sup>	—	—	—	—	—
No. 10	2	2	2	2	2

<sup>1</sup> Report percent passing sieve when no grading requirements are listed

<sup>2</sup> Of the fraction passing the 1/4 inch sieve, 40 percent to 60 percent shall pass the No. 10 sieve

Fracture Of Base Aggregates - Fracture of base aggregates produced from rounded rock shall be determined according to AASHTO T 335. Provide at least one fractured face based on the following percentage of particles retained on the 1/4 inch sieve for the designated size:

<b>Minimum Percent of Fractured Particles (by Weight of Material)</b>	
Designated Size	Retained on 1/4 inch Sieve
1 1/2" - 0 and larger	50
Smaller than 1 1/2" - 0	70



Durability - Dense graded base aggregate shall meet the following durability requirement.

Test	Test Method	Requirements
Abrasion	AASHTO T 96	35.0% maximum
Degradation (coarse aggregate)		
Passing No. 20 sieve	ODOT TM 208	30.0% maximum
Sediment Height	ODOT TM 208	3.0" maximum

(2) ASPHALT CONCRETE AGGREGATES\*

Sieve Size	1/2" ACP Control Points (% passing by Weight)	
	Min.	Max.
3/4"	100	
1/2"	90	100
3/8"	-	90
No. 4	-	-
No. 8	28	58
No. 200	2.0	10.0
Asphalt Cement	5	6

\*Aggregate for flexible pavements shall conform with Section 00744 of the "Oregon Standard Specifications for Construction"

Durability – Provide aggregate not exceeding the following maximum values:

Test	Test Method		Aggregates Coarse
	ODOT	AASHTO	
Abrasion		T 96	30.0%
Degradation			
Passing No. 20 sieve	TM 208		30.0%
Sediment Height	TM 208		3.0"

Fractured Faces - Provide crushed aggregate with not less than the minimum number of fractured faces as determined by AASHTO T 335 as follows:

Type of Mix	Percent of Fracture (by Weight)	
	Material Retained on 1", 3/4", 1/2" and No. 4 Sieve (two fractured faces)	Material Retained on No. 8 sieve (one fractured face)
All ACP	75	75

### SECTION 3.01.110 MONUMENTATION

(1) The County and its agents shall monument County roads in accordance with the following standards:

- 5/8 inch rebar on both R/W lines at point of curvature and point of tangency of curve.
- 5/8 inch rebar along R/W lines at 500 foot intervals or property lines.
- Plastic caps branded "Curry Co. R/W" on rebar.
- Rebar along utilized property should be approximately 6 inches below ground level.
- Brass or aluminum caps shall be placed along R/W a minimum of once every mile. Two brass or aluminum caps shall be used as basis of bearing when other monuments are not available.
- Initial roadway point shall be marked by a brass or aluminum cap.
- All brass and aluminum caps shall be marked by a 4 inch by 4 inch by 4 foot treated white wooden post or a metal post.

(2) Roads within a subdivision must be monumented in accordance with current applicable state and local laws relating to the platting of subdivisions.

### DEDICATION OF ROADS TO COUNTY ROAD SYSTEM

#### SECTION 3.01.130 ACCEPTANCE BY COUNTY

##### (1) TENTATIVE APPROVAL PRIOR TO CONSTRUCTION

(a) The developer submits plans and letter to the Board of Commissioners of his intent to dedicate a road to the County. A complete set of Improvement Plans shall be submitted and approved, in writing, by the Board of Commissioners prior to the start of construction on any public, private or subdivision road which is to become a dedicated County road. The "Complete Set" refers to the following:

1. Plan view of the proposed roadway
2. Profile
3. Description
4. Typical cross-section

All plans shall be stamped by a registered engineer or surveyor licensed in the State of Oregon.

(b) A statement in writing must be obtained from the Chief of the Rural Fire Protection District of the area in which the road(s) is/are located, and submitted with the plans, verifying that the District's large fire-fighting equipment can safely negotiate the road and serve all new parcels or lots. The statement shall also include an assessment of whether or not the access route proposed to each boundary of the subject property is safely negotiable.

(c) The County Road Department reviews the Improvement Plans and makes recommendations to the Board of Commissioners. The recommendations shall include any special considerations which may be pertinent to acceptance or rejection of the road as a dedicated County road.

(d) The developer's project is put on the agenda of a regular Board meeting for consideration of his intent to dedicate the road to the County. Upon submission of the developer's plans and letter of intent to dedicate the road, the Board will, within 30 days, consider the application in a public meeting.

(e) The Board will give a letter of intent to accept or deny the dedication of the road project presented by the developer. If the dedication of the road is denied, and the plans and specifications adhere to the "Curry County Road Standards" herein, the Board must give its reasons for denial, in writing to the developer, within thirty (30) days from the date of the public meeting.

(2) INSPECTION OF PROPOSED COUNTY ROADS

(a) The inspection of the base and paving shall be coordinated in advance with the Curry County Road Department to avoid scheduling conflicts. The base is to be inspected prior to the placement of the pavement.

If proper notification for inspection has not been given, the Curry County Road Department will not recommend granting acceptance of the road to the Board of Commissioners for twelve (12) months. Any deficiencies that develop in the road shall be corrected before the Road Department will recommend granting acceptance to the Board.

(b) After acceptance by the Board of Commissioners, the contractor shall guarantee construction of the road built under his supervision for a period of one year. Any defects within that time period shall be corrected by the contractor, at his own expense.

(c) All testing except as herein noted will conform to methods prescribed by the Oregon Department of Transportation (ODOT) or the American Association of State Highway and Transportation Officials (AASHTO).

(3) FINAL ACCEPTANCE.

A County governing body may initiate proceedings to accept a public road as a County road:

(a) On its own action; or

(b) If a person files with the governing body:

i) A petition described in ORS 368.081; or

- ii) A written proposal to dedicate or donate land owned by that person for public road purposes.

(4) MAINTENANCE.

After acceptance the County shall maintain such highway, road or street as a County road.

**CHAPTER THREE**      **PUBLIC ROADS**

**SECTION 3.01.140 PUBLIC ROAD STANDARDS**

A public road will conform in all ways with the standards set for a County road, except for the following condition:

Roads shall be constructed with an all-weather drivable surface on residential roads. See the Road Standards Chart in Section 3.01.050, subsection (3) for construction requirements.

**SECTION 3.01.150 DEDICATION**

- (1) By presenting to the Board of Commissioners a good and sufficient deed or dedication properly executed forever dedicating the land and granting such public road easement, and the deed is accepted by the Board of Commissioners and placed of record.
- (2) Presenting to the Board of Commissioners, as provided by law, any map or plat of any town, addition or subdivision, dedicating to the use of the public for road purposes all streets, roads, and alleys shown thereon and the map or plat is approved and accepted by the Board and placed of record.

**SECTION 3.01.160 LIABILITY FOR MAINTENANCE**

- (1) All public roads shall be maintained pursuant to a maintenance agreement to be recorded with the final plat in the official records of Curry County. The recorded maintenance agreement shall include the following elements:

- (a) The maintenance agreement shall be binding on all owners of parcels within the plat or map, other properties served by the dedicated way, and all interests in such property thereafter acquired. The owners shall maintain the road according to the terms of the maintenance agreement.

- (b) Any person who is party to the agreement, or any interested public body who believes the dedicated way is impassable to emergency vehicles, may file a written complaint with the County Board of Commissioners. The Board shall direct the County Roadmaster to investigate the complaint and submit a report to the Board. This report shall contain an evaluation of the condition of the road and particularly whether the road's condition meets a

minimum standard for maintenance of such roads. The report shall also set forth an estimation of the costs, including all likely administrative costs, necessary to bring the road up to a passable condition. The Board shall hold a public hearing at which interested parties may appear. Notice of the hearing shall be given to the property owners benefitted by the road.

(c) When, in the opinion of the County Board of Commissioners, the road constitutes a hazard to public safety or is impassable to emergency vehicles, based upon the testimony at the hearing, the Board by its order may:

- i) Declare the owners in default of the maintenance agreement; and either
- ii) Direct the County Roadmaster to undertake the road work which, in the opinion of the Roadmaster, is necessary to bring the road up to a passable condition and allocate the costs as estimated by the Roadmaster pursuant to paragraph (b) above; or
- iii) Initiate proceedings to improve the road as provided in ORS 371.605 et. seq.

(d) The County may collect the assessed costs from the owners either prior to or upon completion of the maintenance work.

(2) In no event shall the duties or liabilities of Curry County be greater than those provided in ORS 368.031.

#### SECTION 3.01.170 LOCAL ACCESS ROAD MAINTENANCE POLICY

(1) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

- (a) The public use of the road justifies the expenditure;
- (b) There are County funds or resources available for the request; and

(c) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.

(2) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is not an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

(a) At least 60% of the property owners, representing at least 60% of the property frontage along the road proposed to be repaired or maintained, sign a petition requesting the work be done. The petition shall contain a clause that the property owners agree to pay for all the materials used in the repair or maintenance; the County will provide all labor and equipment; and

- (b) The County Roadmaster has recommended such an expenditure; and
  - (c) The public use of the road justifies the expenditure; and
  - (d) There are County funds or resources available for the request; and
  - (e) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.
- (3) The intent of these policies is to provide a vehicle by which local access roads may be repaired or maintained without obligating the County for future work on these roads.
- (4) If the Board authorizes County financial support for a non-emergency request, it shall enact an order or resolution authorizing the work to be a single project so as to minimize future obligations to the County and encourage the owners to seek alternate sources for maintenance, i.e., special road districts.

#### **CHAPTER FOUR**

#### **PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

##### **SECTION 3.01.180 DEFINITION REGARDING PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

A private road is any road in a privately owned and controlled right-of-way which is constructed, controlled, maintained and otherwise kept in a drivable condition by the efforts of the people it serves. A private road is not intended for use by the general public other than persons providing a public service to the lots or parcels served by the private road.

A private driveway is a roadway which traverses and serves one lot or parcel.

A private bridge is any bridge located on a private road or driveway.

##### **SECTION 3.01.185 APPLICABILITY OF PRIVATE ROAD, DRIVEWAY AND BRIDGE STANDARDS**

Private road, driveway and bridge standards are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

#### **CHAPTER FIVE**

#### **VARIANCE**

##### **SECTION 3.01.210 AUTHORIZATION FOR VARIANCES**

The Roadmaster may grant variances, (as described herein), from the provisions of this division where it has been shown that due to unusual topographic conditions, unusual conditions related to the shape of the property or the location of a building on the property, or other conditions over which the applicant has no control, the literal interpretation of this division

would cause an undue hardship upon the applicant. In granting a variance the Roadmaster may attach conditions which he or she finds necessary to protect the best interests of the County, surrounding property or neighborhood and to otherwise achieve the purposes of this division.

#### SECTION 3.01.220 CIRCUMSTANCES FOR GRANTING A VARIANCE

A variance may be granted only in the event that all the following circumstances exist.

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity and result from lot size, shape, topography, or other circumstances over which the owner of the property has no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the vicinity of the subject property.
- (3) The variance would not be materially detrimental to the purposes of this division, or to property in the vicinity of the subject property, or otherwise conflict with the objectives of any County plan or policy.
- (4) The variance requested is the minimum variance which would alleviate the hardship.
- (5) The applicant shall provide a written statement from the governing board of the fire protection district having responsibility for structural fire protection in the area where the new dwelling or structure is to be located which states that their fire-fighting vehicles and equipment can negotiate the proposed road and/or driveway.

#### SECTION 3.01.230 FEASIBILITY REPORT

The applicant shall provide the Roadmaster a feasibility report on all requested variances. The Roadmaster shall contact all property owners abutting and using the road for which the variance has been requested and shall consider their comments regarding the requested variance.

#### SECTION 3.01.240 APPEALS OF VARIANCES

The applicant shall have the right of appeal of a denied variance. An affected property owner who has commented to the Roadmaster shall have the right to appeal an approved variance. Appeals of variances under this division shall be to the Board of Commissioners.

### CHAPTER SIX

### GENERAL PROVISIONS

#### SECTION 3.01.260 PRE-EXISTING ROADS, DRIVEWAYS AND BRIDGES

- (1) Substandard roads, driveways and bridges in existence on the effective date of adoption of this division shall be considered as nonconforming roads, driveways and bridges.
- (2) Expansion of nonconforming roads, driveways and/or bridges shall be accomplished in

the following manner:

(a) Upgrade the road, driveway or bridge to the minimum standard required by this division; or

(b) Obtain an approved variance of the minimum standards as provided under Chapter Five of this division, except that a variance cannot be granted for the firefighting equipment access provisions of this division unless the agency providing fire protection concurs in the granting of the variance.

(c) Expansion of a nonconforming road or driveway includes the creation of additional parcels or lots by partitioning or subdivision of land accessed by the road and/or the construction of new habitable structures on land accessed by the road or driveway.

#### SECTION 3.01.270 INTERPRETATION

The provisions of this division shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this division are less restrictive than conditions imposed by any other provisions of this division or of any other ordinance, resolution, regulation or statute; the provisions which are more restrictive shall govern.

#### SECTION 3.01.280 ABATEMENT AND PENALTY

Violations of the provisions of this division are subject to the following forms of abatement or penalties.

(1) If a person builds or maintains a road, driveway or bridge in violation of this division or violates this ordinance in any way, the County, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the unlawful road, driveway or bridge.

(2) In addition to the provisions of subsection (1) above, any violation of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.



## **ARTICLE THREE – ROADS**

### **DIVISION TWO: NAMING OF ROADS WITHIN CURRY COUNTY**

#### **SECTION 3.02.010: RESERVED**

#### **SECTION 3.02.020: AUTHORITY**

The following procedures and requirements relating to the naming or renaming of roads in Curry County are hereby adopted pursuant to authority granted by ORS Chapter 215.

#### **SECTION 3.02.030: DEFINITIONS**

See Section 3.01.030 for definitions.

As used in this division the masculine includes the feminine and the singular includes the plural.

### **ROAD NAMING PROCESS**

#### **SECTION 3.02.040 ROAD NAMING**

Roads shall be named or renamed by the Community Development Director or her/his designee.

#### **SECTION 3.02.050 DUTIES**

The Community Development Director shall have the duty of naming or renaming roads within unincorporated Curry County. The Director shall select a name for the road in question and notify the Roadmaster and Sheriff of the proposed name. The Roadmaster and Sheriff, within 10 working days of receiving the proposed name, shall advise the Community Development Director of their concurrence with the name or any objections. Upon consideration of the Roadmaster's and Sheriff's comments and determination of the road name the Community Development Director shall notify the abutting property owners of record of the road under consideration advising of the new road name. Should any abutting property owner object to the road name, the Community Development Director may re-evaluate the name and choose another name utilizing the same process as noted herein.

#### **SECTION 3.02.060 NOTIFICATION OF PROPERTY OWNERS AND AGENCIES**

The Community Development Director will send notice of the proposed road name change to all affected agencies, including the Road Department, County Surveyor, Assessor, Sheriff, Clerk, appropriate fire districts and forest protection district, appropriate ambulance services, appropriate 911 call centers, Post Office, appropriate cities, and abutting property

owners of record. Such notice shall include a statement as to where and when any objections should be filed pursuant to Section 3.02.070 below.

SECTION 3.02.070 APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR  
DECISION

Upon receipt of the information regarding the road name, abutting property owners of record served by the road and agencies will have 10 working days to appeal the decision of the Community Development Director to the Board of Commissioners.

SECTION 3.02.080 FILING OF NEW ROAD NAME

Upon completion of the road naming process, the new road name shall be filed by the Community Development Director with the County Clerk, the County Assessor, the County Community Development Department, the County Roadmaster and the County Surveyor. The County Surveyor shall enter the new names of such roads or streets in red ink on any files, plats and tracings thereof which might be affected, together with the appropriate notations concerning the same.

SECTION 3.02.090 ROADS COVERED

Any County, public, or private street, road, highway or way visibly showing evidence of serving three or more existing residences, and a minimum of 500' in length is covered by this ordinance. Pursuant to ORS 227.120 those roads and streets within six (6) miles of the limits of any incorporated city shall not be renamed by the County.

SECTION 3.02.100 PREVIOUSLY NAMED ROADS

Requests to rename roads may be made through the Community Development Department by a majority of abutting property owners of record served by the road. Requests may be denied by the Community Development Director on the basis of length of the name, appropriateness of the name, disagreement among the property owners, confusion the name may cause, similarity to other road names or any other reasons the Community Development Director deems appropriate. No findings shall be required.

The Community Development Director may instigate renaming procedures on her/his own in order to bring roads into conformity with this division.

SECTION 3.02.110 LAMBERT GRID SYSTEM

The naming of roads under this system shall be done in such manner as to work compatibly with the Lambert Grid System which is utilized in Curry County.

- (1) Addresses will be assigned only to improved lots or parcels which include a driveway leading onto the named road.

- (2) Subsequent addressing of lots will be accomplished pursuant to Section 3.02.140 below.

#### SECTION 3.02.120 POSTING OF ROAD SIGNS

The Curry County Road Department may, at the Roadmaster's recommendation, install signs for non-County roads. Said signs shall be placed in a position to adequately indicate which road is being named. The signs may be placed upon public or private property for the protection of the health, safety, and welfare of the citizens of Curry County. The cost of the sign, installation and maintenance for non-County roads shall be borne by the person(s) requesting the sign. This person may include the Board or its delegated authority.

#### SECTION 3.02.130 ADDRESS NUMBER PLATES

The County Community Development Department shall assign addresses to new dwellings or developments when the owner is granted a building permit. At that time the Community Development Department will advise the Road Department of the address and the address number plate may be purchased from the County Road Department. If the address number plate is not purchased from the Road Department, it shall have a retroreflectorized green background with retroreflectorized white numbers. The numbers shall not be less than three inches in height. Upon completion of the dwelling or development the address number plate shall be posted by the property owner prior to the issuance of a certificate of occupancy. Said plates shall be conspicuously posted at all times by the resident in a manner to allow emergency vehicle drivers to immediately ascertain the address of each residence.

#### SECTION 3.02.140 PARTITIONS AND SUBDIVISIONS - ROAD NAMING AND POSTING

- (1) At the time a partition or subdivision is requested, an applicant shall name each road within said partition or subdivision subject to approval of the Community Development Director.
- (2) Upon completion of construction of the road(s), the applicant shall provide and install standard road name signs for each road in the partition or subdivision, said signs having a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices. Failure to provide and install standard road name signs can result in a disapproval of said partition or subdivision.

## **ARTICLE THREE – ROADS**

### **DIVISION THREE REMOVAL OF THE COUNTY BOARD OF COMMISSIONERS FROM JURISDICTION OVER STATUTORY WAYS OF NECESSITY**

#### **SECTION 3.03.010 AUTHORITY**

ORS 376.200 authorizes County Governing Bodies to remove themselves from jurisdiction over establishment of ways of necessity under ORS 376.150 to 376.200.

#### **SECTION 3.03.020 REMOVAL FROM JURISDICTION**

Because the Curry County Board of Commissioners feels that the Circuit Court is a preferable forum for litigating the establishment of statutory ways of necessity, it hereby removes the governing body of Curry County from jurisdiction over the establishment of ways of necessity under ORS 376.150 to 376.200.

## **ARTICLE THREE – ROADS**

### **DIVISION FOUR    USE OF ROAD RIGHTS-OF-WAY**

#### **SECTION 3.04.010    AUTHORITY**

This division is being adopted by the Board of Curry County Commissioners under authority of ORS 374.309.

#### **SECTION 3.04.020    DEFINITIONS**

See Section 3.01.030 for definitions.

#### **SECTION 3.04.030    WORK IN RIGHTS-OF-WAY; PERMIT REQUIRED; CONDITIONS; EQUITABLE REMEDIES**

(1) Except as otherwise provided in this division, no person shall place, build, construct, extend, enlarge or otherwise work on any facility, thing or appurtenance in the right-of-way of a County road without first obtaining a permit from the County Roadmaster. This requirement applies to all work, including but not limited to, the following:

(a) Constructing, grading, surfacing or providing drainage facilities under the access to private driveway or approach road;

(b) Pipelines, irrigation lines, sewer lines, underground cables, overhead wires and utility poles;

(c) Signs, billboards, symbols, notices, advertisements or directional guides;

(d) Sidewalks, curbs, gutters, retaining walls, meters, inlet basins, fences and ornamental objects;

(e) Planting of trees or other vegetation; and

(f) Mailboxes and supports other than those conforming to design standards provided by the Road Department.

(2) No person shall construct or maintain any facility, thing or appurtenance within any such right-of-way in violation of any of the conditions of a permit or any of the provisions of this division.

(3) No person shall use, occupy or maintain any facility or thing placed wholly or partly within the road right-of-way in violation of, or without first obtaining the permits required by, any law in effect at the time such thing or facility is so placed.

(4) Nothing in this section shall be construed to prevent the County from removing anything from a County road right-of-way, whether or not the same is installed under a permit or in compliance with this division, where the County Board of Commissioners finds that such removal has become necessary to the public's use or improvement of the road.

SECTION 3.04.040 EXCEPTIONS TO CERTAIN REQUIREMENTS; INTERPRETATION.

(1) A permit is not required for the following, providing the work does not involve excavation:

(a) Performing maintenance or minor improvement to existing facilities lawfully in place;

(b) Utilizing lawfully installed facilities as intended when installed, including the following:

(1) Inspection and cleaning of sewer and storm water facilities;

(2) Inserting cables in existing conduits or making service connections within a terminal structure; and

(3) Utilization that is expressly acknowledged by prior permit provisions; and

(c) Other miscellaneous minor activities as specifically approved in writing by the Roadmaster.

(2) Nothing in this section shall:

(a) Limit or affect any of the powers granted to, or duties imposed upon, the County Board of Commissioners, the Department of Transportation or the Public Utility Commissioner by ORS 758.010 and 758.020, or any rights granted or authorized under those statutes or any other statutes pertaining to powers, duties and rights of the aforesaid;

(b) Grant any right for the construction or placing of an approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance on the right-of-way of any County road; or

(c) Be deemed to affect any approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way of any County road prior to September 13, 1967, subject, however, to the authority reserved to the County Board of Commissioners in Section 3.04.030 (4).

#### SECTION 3.04.050 CHANGE IN USE OF APPROACH ROAD; PERMIT REQUIRED.

A change in the manner of using an approach road that connects to or intersects a County road requires a permit, as provided by ORS 374.305. A changed use includes, but is not limited to:

- (1) Any physical change requiring excavation, placing of an embankment, a culvert extension, construction of headwalls and repair or alteration of any existing lawfully installed facility pertinent to a driveway or approach road;
- (2) Any substantial change in the type or number of vehicles reasonably anticipated during the application for, and the review and approval of the latest existing permit on file for a driveway or approach road; and
- (3) Any other change in the approach road or its use which the Roadmaster finds may adversely affect the public's safety or the public's interest in the County road in the absence of limitations or conditions.

#### SECTION 3.04.060 REVIEW OF PERMIT APPLICATIONS.

From the date this division becomes effective the authority contained in ORS 374.305 through 374.325 relating to County roads applies to any facility, thing or appurtenance within a County road right-of-way. After a completed application with the required fee has been submitted, the Roadmaster, or his or her authorized representative, shall review the application and shall issue the permit if he or she determines that the proposal will comply with the provisions of this division and the applicable requirements imposed by State law. The Roadmaster may impose additional written conditions on a permit consistent with the provisions of this division if he or she finds such conditions to be necessary to the public interest in the safe use of the road and the preservation of the public improvements therein and on the property adjoining the same. The Roadmaster may also require the applicant to submit plans which, when approved, will become part of the conditions of the permit. The Roadmaster shall prepare appropriate forms to assist the applicant in providing the information necessary for the application review.

If the applicant disagrees with the Roadmaster's interpretation of the regulations or with the conditions imposed by the Roadmaster, or if the Roadmaster finds that the proposal raises problems of public safety or problems having to do with the public use or protection of the road, which problems are not addressed in the regulations, then either may refer the application to the County Board of Commissioners, which Board shall, within thirty days, afford them an opportunity to be publicly heard and make its final decision in the matter. If the Board finds that the proposal creates a problem to public interests in the road which cannot be solved by the application of the regulations or adequate conditions, the Board shall deny the application.

The Roadmaster shall arrange for whatever field study and inspection he or she deems to be appropriate to assure compliance with the requirements.

SECTION 3.04.070 PERMIT REGULATIONS AND CLASSIFICATION.

- (1) The regulations pertaining to each of the various permits issued by the Roadmaster, which are set forth in Exhibit D, "PERMIT REGULATIONS & CLASSIFICATION" following the text of this division, are hereby adopted and made a part of this division.
- (2) A permit fee shall be paid at the time the application for a permit is submitted to the Roadmaster. All permits issued by the Roadmaster shall be classified under one of the following headings on a general "Facility Permit" form.
  - (a) Driveway/road approach permit;
  - (b) Road encroachment permit;
  - (c) Road improvement permit;
  - (d) Special permit;
  - (e) Utility permit;
- (3) Copies of the regulations appropriate to the classification, as determined by the Roadmaster, shall be attached to, or referenced on, each permit issued.

SECTION 3.04.080 PERMIT FEES.

Fees for the various permits required by this division shall be set by Board resolution.

SECTION 3.04.090 EXEMPTIONS FROM FEE REQUIREMENT.

No fee shall be required for a permit in the following circumstances:

- (1) Where installation of public facilities by public or quasi-public entities is involved;
- (2) Where the Roadmaster finds that the organization which proposes the installation is engaged in a nonprofit activity and that the activity is for the benefit of the general public;
- (3) Where the permitted facility, thing or appurtenance in the right-of-way of the County road is in lawful existence as of the effective date of this division except that this exemption does not apply to work done after such effective date; and
- (4) In any instance where the Roadmaster deems it to be in the best interests of the County to waive the permit fee.



SECTION 3.04.100 VIOLATIONS; REMOVAL OR CORRECTION OF INSTALLATIONS;  
PROSECUTION.

(1) If any person fails to obtain a permit or to comply with the appropriate regulations or permit conditions, then the Roadmaster may take appropriate action to remove or correct the installation and recover the cost from the person responsible, all in accordance with the authority contained in ORS 374.307 and 374.320 as such statutes relate to County roads. However, such action shall not waive the County's right to prosecute the offender under Section 3.04.990.

(2) In addition to the remedies set forth in subsection (1) hereof or prescribed by ORS 374.307 or 374.320, any person who violates or fails to comply with any of the provisions of this chapter may be punished as provided in Section 3.04.990. A separate offense may be deemed committed each day during or on which such unlawful condition is maintained or continued after citation or notice of violation has been given. Offenses under this section may be charged under Article 10 of the Curry County Code.

SECTION 3.04.110 ALTERATION OR REMOVAL OF TREES AND VEGETATION IN  
COUNTY ROAD RIGHTS-OF-WAY.

(1) All trees within a County road right-of-way are subject to the County's control, and no tree may be altered or removed without a permit from the County. The permit requirement does not apply to public utilities exercising their rights within the right-of-way pursuant to State law or franchise. The authority to issue a permit under this section is delegated to the Roadmaster or his or her authorized representative. In issuing a permit, the County shall have the authority to impose such conditions as it deems necessary for public safety and convenience.

(2) The County has and claims the right to remove or alter any tree, or remove any other vegetation, situated entirely within the County road right-of-way if, in the judgement of the Roadmaster, such removal is necessary to the use or improvement of the road or related facilities or for public safety.

(3) If the Roadmaster finds that a tree to be removed may have marketable or ornamental value to the owner of the land abutting the half of the right-of-way on which the tree is situated, the County shall first send notice to the abutting owner, giving the owner thirty days within which to secure a permit and alter or remove the tree or vegetation. If within that period of time the tree or other vegetation is not removed or altered to the extent necessary to the public safety and convenience as found by the Roadmaster, the County may remove or alter the tree or vegetation and, if it is a merchantable tree, retain it to defray the cost of removal. For purposes of giving notice under this subsection, the owner according to the Assessor's records of the property abutting the half of the right-of-way within which the tree is situated shall be deemed the owner of the underlying tree. Notwithstanding the foregoing, if the Roadmaster or his or her authorized representative determines that an emergency exists which may affect the public safety, no notice shall be required prior to the removal of the tree or vegetation.

(4) The Roadmaster may define by written policy those criteria by which he or she determines that the removal or alteration of a tree or other vegetation within a County road right-

of-way is necessary for public safety or convenience; that a tree is marketable or has ornamental value to abutting property; or that an emergency exists which may affect the public safety. When such written policy is approved by the Board of Commissioners, any determination made by the Roadmaster pursuant to the policy is final.

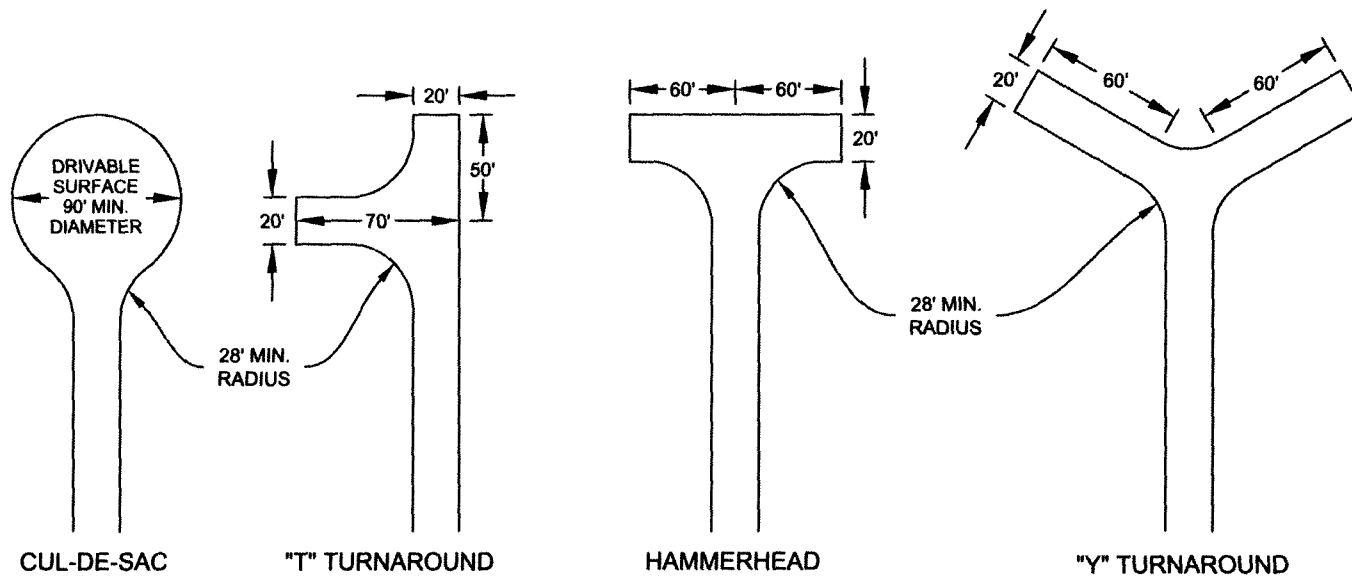
(5) Notwithstanding subsection (4) hereof, the Board of Commissioners may, on its own motion, within the said thirty days, review a proposal to remove a tree under this division and may determine, at its discretion, whether there is a public interest which outweighs the public safety issue raised by the presence or condition of the tree, or may determine at its discretion that the public safety and convenience can be adequately served without the removal of the subject tree considering its value or function.

#### SECTION 3.04.990 PENALTY.

Violations of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.

**EXHIBITS TO ARTICLE THREE**

## EXHIBIT "A"

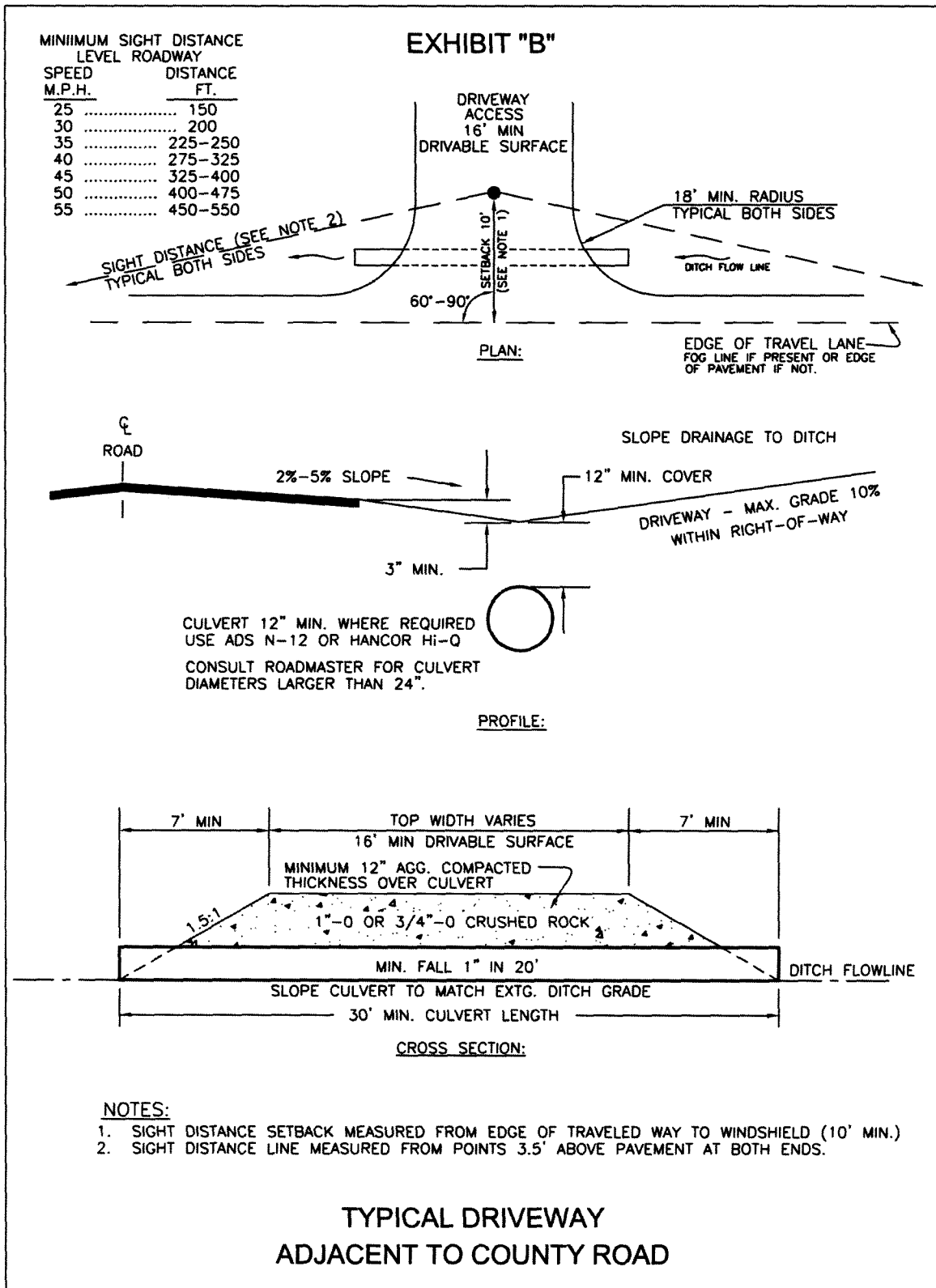
NOTES:

1. SLOPES: 1% MINIMUM, 4% MAXIMUM.
2. SURFACING: PAVED PER FUNCTIONAL CLASS.
3. TURNAROUNDS FOR FIRE ACCESS REQUIRE FIRE DEPARTMENT REVIEW/ APPROVAL (THEIR STANDARDS MAY BE GREATER).
4. ALL CONSTRUCTION SHALL COMPLY WITH CURRY COUNTY ROAD STANDARDS AND AN APPROVED PLAN.

MINIMUM TURNAROUND STANDARDS  
FOR RURAL ROADS

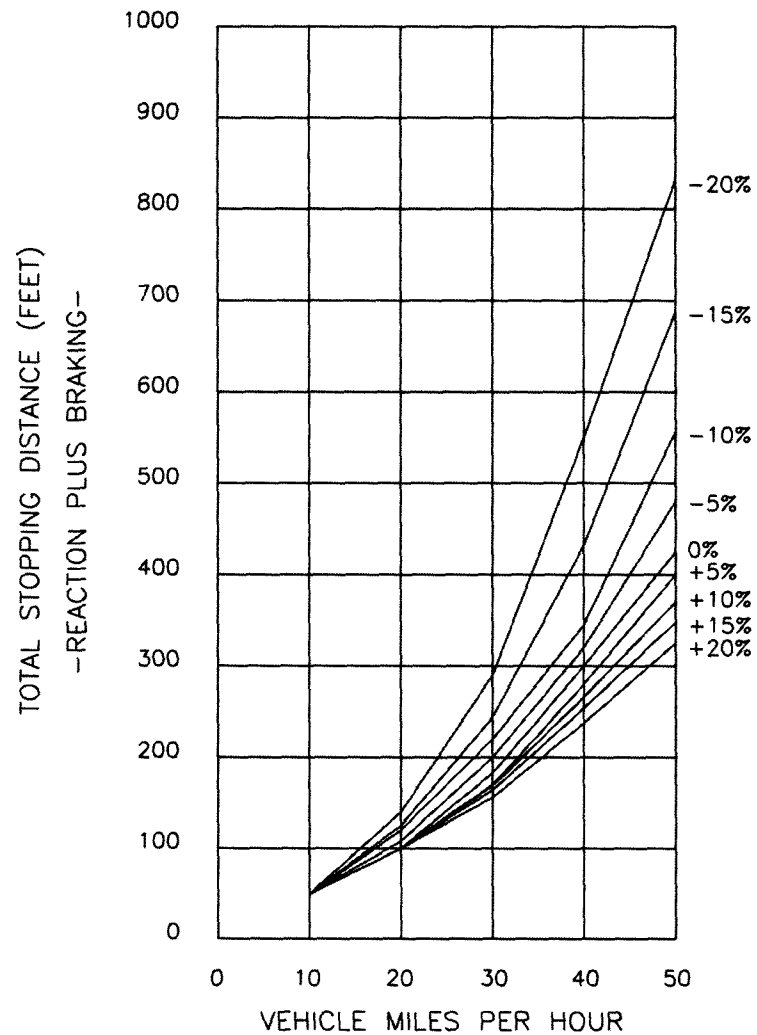
EXHIBIT "A" TO DIVISION ONE

## EXHIBIT "B" TO DIVISION ONE



**EXHIBIT "C" TO DIVISION ONE**

**EXHIBIT "C"**



BASED ON:  $\frac{V^2}{30 (F+G)} = D$

**GRADE EFFECT ON STOPPING DISTANCE**

**EXHIBIT "D" TO DIVISION FOUR**

**PERMIT REGULATIONS & CLASSIFICATION**

## APPLICATION FOR FACILITY PERMIT - EXAMPLE



### **APPLICATION FOR FACILITY PERMIT**

(Subject to Conditions; Revocable)

### **CURRY COUNTY ROAD DEPARTMENT**

28425 Hunter Creek Road  
Gold Beach, OR 97444

PERMIT NO. \_\_\_\_\_

DATE: \_\_\_\_\_

TAX MAP \_\_\_\_\_

TAX LOT \_\_\_\_\_

#### **PERMIT TYPE AND FEE COLLECTED:**

\_\_\_\_\_ Driveway/Road Approach  
\_\_\_\_\_ Road Encroachment  
\_\_\_\_\_ Road Improvement  
\_\_\_\_\_ Major  
\_\_\_\_\_ Minor  
\_\_\_\_\_ Special  
\_\_\_\_\_ Utility

I, \_\_\_\_\_ hereby make application for a facility permit upon the right-of-way of  
(Applicant's Name)

\_\_\_\_\_ Milepost (s) \_\_\_\_\_ in strict conformity to the  
(Road Name-County Road Number)

exhibits attached hereto, subject to all terms, conditions, agreement stipulations, and provisions contained in the application and permit, and the rules and regulations regarding roads and rights-of-way, as set forth by the Curry County Code Article Three, and any other applicable regulations, law or ordinance.

#### **DESCRIPTION OF FACILITY:**

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

Signature \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email Address \_\_\_\_\_

#### **FACILITY PERMIT**

**SPECIAL PROVISIONS:** The terms and specifications which apply to this permit are as shown on the attachment herewith and the permit conditions listed on the reverse side of this application. Noncompliance with these terms, specifications and conditions will result in revocation of this permit.

#### **ATTACHMENTS FOR:**

\_\_\_\_\_ Driveway/Road Approach \_\_\_\_\_ Road Improvement \_\_\_\_\_ Utility  
\_\_\_\_\_ Road Encroachment \_\_\_\_\_ Special

#### **ADDITIONAL REQUIREMENTS:**

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

This permit shall be void unless the work herein contemplated shall have been completed before \_\_\_\_\_, 20\_\_\_\_.

#### **APPROVED:**

Issue Date \_\_\_\_\_ Approved \_\_\_\_\_

#### **INSPECTED:**

Date \_\_\_\_\_ Approved \_\_\_\_\_

Denied \_\_\_\_\_  
Douglas M. Robbins, Roadmaster

By \_\_\_\_\_ Denied \_\_\_\_\_



**RETURN** completed Permit Application to:

**Curry County Road Department, 28425 Hunter Creek Road, Gold Beach, OR 97444**

- A.** This permit covers public right-of-way and/or County property only.
- B.** It is the responsibility of the permit holder to re-establish any survey monument, moved, destroyed, etc. while working within County right-of-way. Re-establishment of survey monuments must be done by an approved registered surveyor and all costs will be borne by the permit holder.
- C.** Notification to the Curry County Road Department is required 24 hours before beginning work under this permit - (541) 247-7097. Prior approval for modifications to permit specifications is required.
- D.** Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Permits may be terminated or suspended when the permit holder is found to have obtained a permit through misrepresentation of the facts or when, in the judgment of the Roadmaster, terms of the permit are being violated or public safety is threatened. Permits shall remain in effect until a change in land use occurs. The permit holder shall be responsible for the cost of design, installation or construction of additional roadway improvements and traffic control devices at any time in the future when the traffic generated by the use for which the access permit is authorized necessitate such installation in the interest of the public safety.
- E. HOLD HARMLESS CLAUSE** - The permit holder agrees that their performance under this permit is at their own sole risk and that they shall indemnify Curry County, its agents and employees and hold them harmless from any and all liability for damages, costs, losses and expenses resulting from, arising out of, or in any way connected with this permit, or from the permit holder's failure to perform fully hereunder, and the permit holder further agrees to defend Curry County, its agents, and employees, against all suits, actions or proceedings brought by any third party against them for which the permit holder would be liable hereunder.
- F.** The permit holder guarantees all restoration work for a period of one year from the date of completing the installation, except non-cement/sand slurry backfills under pavements shall be warranted for two years from the date of completing the installation.
- G.** Any sight posts, sign posts, or mailboxes that are removed will be replaced immediately in like condition in the same location and the area around them will be restored to a like or better condition.
- H.** As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way and may order the location of such facility changed if deemed expedient.

## DRIVEWAY/ROAD APPROACH PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

Compliance with the standard drawings attached hereto is required.

### I. Materials

Culverts shall be double wall plastic (ADS N-12 or Hancor Hi-Q) pipe for diameters through 24". Consult with the Roadmaster for diameters larger than 24".

### II. Construction Regulations

1. Obtain permit from the Curry County Road Department. Permits are to be signed by the property owner unless the contractor has an authorized paper signed by the property owner to obtain permits for them.
2. Absolutely no work is to begin without having the permit in hand. **ALL WORK IS TO BE COMPLETED BEFORE THE EXPIRATION DATE.**
3. Culvert shall be installed on straight lines, both vertical and horizontal, and have a minimum fall of 1" in 20 feet. Bell ends of pipe shall be placed facing towards the inlet end of the culvert. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
4. Flow line of culvert shall match the flow line of the ditch and allow for a minimum of 12" of cover over the culvert. Cover materials shall maintain a 2% slope away from the roadway to the back of the ditch. Cover material shall be 1"-0 or ¾"-0 crushed rock. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
5. The driveway/road approach shall intersect the County road as near to a right angle as possible.

6. The maximum grade of the driveway/road approach in the County right-of-way should be ten (10) percent and constructed so that the low point in the grade is over the culvert or so that the slope is away from the road to prevent storm water and surfacing materials from encroaching on the road shoulder.
7. For road approaches in curb and gutter sections of road, the curb cut construction must conform to the Department's standard drawing. Behind the curb a standard concrete apron must be constructed or the portion of the driveway on the right-of-way must be paved with asphaltic concrete. The County must inspect the forms prior to the concrete pour.
8. Call for final inspection.

### III. General Provisions

1. The applicant declares that he or she is the owner or lessee of the real property abutting the above described County road and has the lawful authority to apply for this permit.
2. The County assumes no liability for any damage which may be caused to the approach due to routine road maintenance or road improvement. It shall be the responsibility of the holder of this permit to construct the approach to such lines and grades so as not to interfere with normal road maintenance operations.
3. A driveway/road approach permit may be denied when, in the opinion of the Roadmaster, lack of adequate sight distance would create a traffic safety hazard. The applicant may be required to remove brush, widen cut banks, relocate the proposed approach or otherwise satisfy sight distance requirements and to ensure that those distances are maintained. The minimum recommended sight distances for the estimated speed of the traffic are given below. The sight distance line shall be measured from points 42" above road surface at both ends.

Speed (mph)	Minimum Sight Distance (ft.)
25	150
30	200
35	225-250
40	275-325
45	325-400
50	400-475
55	450-550

4. Proper barricades and warning signs must be maintained at all times during construction by the holder of this permit so as to ensure the safety of the public.

5. The County road is to be restored to its original or to a better condition. All excess rock or dirt is to be removed from the traveled portion of the road by brooming or washing, as directed. Final clean-up is to be completed within one week after the approach is constructed.
6. Failure of the permit holder to construct the approach or approaches in strict conformance with all the provisions written herein, or with plans and standard drawings attached hereto, shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Removal of the partially constructed approach or approaches shall be done at the applicant's sole expense.

ROAD ENCROACHMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: _____	Permit No. _____
Phone: _____	Road _____
Email: _____	Mile Post _____
	Twp. _____ Rng. _____ Sec. _____
	Tax Lot(s) _____
	Expiration Date _____

General Conditions

This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

Description of Installation

*Description goes here.*

Location of Installation

\_\_\_\_\_(see attached sketch)

Special Terms and Conditions

1. This permit is valid only for work within the scope and extent as described above.
2. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installations.
3. In the event that County maintenance and/or construction require additional utilization of the public right-of-way this permit may be revoked and the permit holder may be required, **at his/her own expense**, to relocate the facilities to accommodate the work contemplated by the County. Curry County will make reasonable effort to provide the permit holder prior notification of any such planned activity.

4. In the event that the above described installation, in the opinion of the Roadmaster, adversely affects public safety, the Roadmaster shall revoke this permit. In this event, the permit holder shall immediately, and **at his/her own expense**, provide for the elimination of said encroachment and other items associated with the above described installation.
5. Additional pertinent road encroachment permit terms and conditions will be issued with the permit as needed.

## ROAD IMPROVEMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

### General Conditions

This permit is for a major/minor road improvement. This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

### Description of Installation

*Description goes here.*

### Location of Installation

\_\_\_\_\_ (see attached sketch)

### Special Terms and Conditions

1. Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall follow the attached signing plan.
2. The holder of this permit shall be responsible for all damages caused by any operations associated with the road improvement. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the road improvement.
3. The holder of this permit guarantees all parts of the road construction for a period of two years from the date of completing the project.
4. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installation.

5. The County may order the work suspended as set forth in Section 180 of the Oregon Standard Specifications for Construction for any reason deemed to be in the public interest.
6. All work and materials shall conform to the Curry County Road Department specifications.
7. Each phase of construction (culverts, subgrade, base rock, etc.) shall be inspected and approved by the Road Department before proceeding with the next phase.
8. Detailed plans prepared and stamped by a professional engineer registered in Oregon shall be required for major improvements.
9. The contractor shall call the Road Department at (541) 247-7097 for subgrade and form inspections (24 hour notice).
10. Additional pertinent permit terms and conditions will be issued with the permit as needed.



SPECIAL PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_

Permit No. \_\_\_\_\_

Phone: \_\_\_\_\_

Road \_\_\_\_\_

Email: \_\_\_\_\_

Mile Post \_\_\_\_\_

Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_

Tax Lot(s) \_\_\_\_\_

Expiration Date \_\_\_\_\_

Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

Pertinent special permit conditions will be issued with the permit as needed.

## UTILITY PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

### General Conditions

1. This permit is granted for use only on roads under the jurisdiction of the Curry County Board of Commissioners and is not valid upon any federal highway, state highway, city or town street, or any road not in the County road system of Curry County.
2. As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way, and may order the location of such facility changed if deemed expedient.
3. Permittee shall be responsible for all damages caused by any operations associated with the utility installation. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the utility installation.
4. By acceptance of this permit, permittee agrees to be responsible for all permit conditions, including the attached special conditions, and said responsibility shall survive the suspension or termination of this permit.
5. Utility permit applications shall be accompanied by 2 sets of plans or a sketch that accurately depicts and locates the work to be done so that someone unfamiliar with the work can determine the location of the installation. Said plans shall be adhered to unless written permission to vary is granted by the Roadmaster.

### Special Conditions

Compliance with the applicable "Special Conditions for Underground Utilities Within County Road Rights-of-Way", "Special Conditions for Underground Electric Power Line Installation Within County Road Rights-of-Way" and/or "Minimum Signing Requirements for Construction and Maintenance Areas" is required.

SPECIAL CONDITIONS FOR UNDERGROUND UTILITIES WITHIN COUNTY ROAD  
RIGHTS-OF-WAY

1. MAXIMUM LENGTH OF OPEN TRENCH

Unless otherwise approved by the Roadmaster, backfilling of longitudinal trenches shall be accomplished so that no more than 200 feet of trench is left open at any time. No more than half the road may be closed at any time for either longitudinal or transverse trenches.

2. CEMENT/SAND SLURRY BACKFILL AND BACKFILL MAINTENANCE

All paved surface cuts shall be backfilled with 1 sack cement/sand slurry poured at a 6"-8" slump. Slurry shall extend from the pipe zone to finish grade and be plated with 1/2" minimum steel plates of sufficient width to overlap the trench by 6". "BUMP" signs must be placed on either side of the plates to warn traffic. The slurry backfill is to stand on the angle of repose or it may be vertical if the edges are formed first. The edge of the slurry shall extend one foot outside of the edge of pavement. Steel plates shall be left in place until slurry is set. Plywood may not be used for traffic to pass over.

The surface of backfilled trenches using an alternate backfill material on larger longitudinal trenches shall be watered and graded as often as necessary to keep the travel way smooth and dust free. If required by the Roadmaster, an approved dust palliative shall be applied.

3. TEMPORARY PAVEMENT REPLACEMENT

Cross trenches or other local pavement cuts shall be repaved immediately unless the contractor chooses to wait until all trenching and backfilling is completed. Temporary asphalt covering (cold mix) may be constructed. The temporary surfacing shall be removed in its entirety before placement of the permanent pavement.

4. COMPACTION TESTING

Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and elevations as will be representative of the entire backfill. Final decision as to the location and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional compactive effort, other compactive method or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.

## 5. ROAD RESTORATION REQUIREMENTS

Restoration is the process of bringing a roadway as near as possible to the life and structural section a road had prior to construction. It is also part of maintaining a safe surface for driving (i.e. consistent road surface types for braking and turning maneuvers). Typically the County has three (3) major types of restoration.

- Tee cut
- Grind and inlay
- Overlay

The restoration requirements on the permit/plans approved by the County should be considered as best case. They will be the standards used if the construction does not cause any extra damage, the trench walls do not cave in, no modifications to the alignment, and no conflicts are discovered.

The restoration requirements are based on several items including:

- Current condition of the road based on a pavement condition index (PCI) as determined on a regular basis (usually every 2 years) by the County
- Functional classification of the road
- Next regularly scheduled maintenance
- Site conditions (curves, road hazards, signage, and speed zone)
- Professional engineering judgement

When an open trench cut is proposed on a road which is scheduled to be surfaced within the next six (6) months, a tee cut shall be required.

When an open trench cut is proposed on a road which has a PCI greater than eighty (80), and it is not scheduled to be surfaced within the next six (6) months, a grind and inlay will be required.

When an open trench cut is proposed on a road which has site conditions such as sharp curves, road hazards, or in a school zone, an overlay may be required.

When an open trench cut is proposed on a road which has been surfaced within the last five (5) years, open cuts may not be allowed. At the County's discretion, tap and bores may be allowed with a grind and inlay for any bore pit.

## 6. PROSECUTION AND PROGRESS OF ROAD RESTORATION

Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall ensure that road restoration work is prosecuted diligently and completed as quickly as practicable after trench compaction and testing. On lengthy projects, complete road restoration may be required on one section prior to continuance of the excavation phase on another.

7. INSPECTION AND SUPERINTENDENCE

When required by the Roadmaster, permittee shall provide for a full time representative on the project. The representative shall be an experienced inspector or engineer who will be responsible to ensure compliance with the contract documents and the County's General and Special Conditions of the project permit.

In case of conflict between the project plans and contract documents and the "Terms and Conditions of this Permit", the latter shall prevail.

8. STANDARDS AND SPECIFICATIONS

Except as otherwise shown or referred to in these Special Conditions, or as otherwise approved by the Roadmaster, all work and materials affecting roads and road structures shall conform to the Curry County Road Standards. Said standards and specifications include, by reference, the Oregon Department of Transportation "Oregon Standard Specifications for Construction" and the Federal Highway Administration "Manual on Uniform Traffic Control Devices" (MUTCD.).

9. CLEANUP AND REPAIR

All areas affected by the construction shall be brought to an "As good as or better than" condition prior to completion of the project. Repairs shall include, but are not limited to:

A. Roadway Repairs

In addition to road reconstruction within the trench area, the permittee shall ensure the repair of any other pavement, base material or subgrade damaged as a result of project operations. This includes damage to shoulders and pavement edges caused by detouring traffic and equipment around the work area. In case of excessive damage, reconstruction or an asphaltic overlay may be required.

B. Replacement of Contaminated Gravel

All gravel surfaces contaminated with mud, dirt, oversize rock or other foreign material shall be removed and replaced with 3/4"-0 crushed rock meeting the requirements hereinabove set forth.

C. Slopes and Roadside Ditches

Slopes and roadside ditches shall be trimmed, smoothed and compacted to the original lines and grades.

D. Driveways, Culverts and Ditches

Driveways, culverts and ditches shall be replaced to the original lines and grades.

E. General Cleanup

The contractor shall at all times during the work keep the roadway clean and orderly. All broken pavement, concrete, excess excavation material or other objectionable material shall be promptly removed from the County road right-of-way.

10. MISCELLANEOUS CONDITIONS

A. Detours

All requests for detours shall be submitted well in advance with a detour plan showing traffic signing proposed. No detour will be permitted until approval of the plan by the County Roadmaster. When the plan is approved the permittee shall notify all emergency agencies, school districts and postal carriers concerning the location and duration of the detour.

B. Backfill Compaction by Water Settlement Method

The use of the water settlement method of compaction for certain granular materials, as noted on the typical section, may be allowed under the following conditions:

1. Permittee shall, prior to backfilling any significant portion of trench, demonstrate by approved testing methods that the specified compaction is obtainable. Excessive groundwater infiltration or retainage of water in the backfill material will not serve as sufficient reason for not achieving specified compaction.
2. Water settling (jetting or ponding) shall proceed within a short distance behind the backfilling operation. Lateral trenches, other new excavation or re-excavation which may occur at a later time shall be compacted separately and, if necessary, by mechanical means in order to achieve the specified compaction.
3. Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and at such elevations as shall be representative of the entire backfill. Final decision as to the adequacy and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

4. Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional water settlement, dewatering, other compactive methods or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.

C. Pavement Replacement

Immediately prior to patching the trench with asphaltic concrete, the existing pavement shall be neatly cut with a pavement saw or other approved breaker. All cracked or ravelled pavement shall be removed without creating abrupt jogs in the cut line. Pavement trimming, finishing of the gravel surface, tacking the edges and pavement replacement shall be performed only under the immediate supervision of the Roadmaster or his authorized representative. Unless otherwise approved by the Roadmaster, all trenches within a paved travelled way shall be resurfaced with asphaltic concrete within 10 calendar days after testing and approval of the backfill. The finished surface of the new pavement, when tested with a 10-foot straightedge, shall not vary from the testing edge by more than 1/4 inch at any point. The top course of asphalt shall be constructed only by workmen thoroughly familiar with asphalt finishing work.

An emulsified asphalt fog coat of the entire paved surface may be required after the asphaltic concrete patching has been completed on projects having numerous cross trenches or where there has been extensive damage to the surface. The fog coat shall be CQS-1h emulsified asphalt mixed at a 1 to 1 ratio with water according to the manufactures directions. Apply the fog coat at a rate of 0.11 gallons per square yard.

On longitudinal trenches, unless otherwise approved by the Roadmaster, the existing pavement shall be removed and replaced to full paving machine width (normally 10 feet). Drag boxes or other pull-type asphalt spreaders will not be permitted for longitudinal trench pavement replacement.

D. Manhole and Valve Box Adjustment

Manholes, valve boxes and similar structures shall be raised to finish grade after paving is completed. The structure surface shall be no greater than 1/4 inch higher or lower than the surrounding surface when tested with a 10-foot straightedge. Level 3, 1/2" dense HMA asphaltic concrete may be used to fill in the void around the structure unless otherwise directed by the Roadmaster. If the Roadmaster so requires, concrete collars shall be constructed in accordance with the department's standard drawings "CONCRETE COLLARS FOR MANHOLES" and/or, "CONCRETE COLLARS FOR MONUMENT/VALVE BOXES". Usually, concrete will only be required (a) when it is impractical to maintain adequate working temperature for asphaltic concrete and (b) where the

structure configuration fails to provide adequate support to prevent being displaced by traffic.

11. SPECIAL CONDITIONS FOR UNDERGROUND ELECTRIC POWER LINE INSTALLATION WITHIN COUNTY ROAD RIGHTS-OF-WAY

Longitudinal power line installations shall not be allowed within the roadbed section, including ditches, unless the conditions are such that installation outside the ditch line would present an extreme difficulty. The burden of proving "extreme difficulty" shall lie with the applicant.

When located outside the roadbed section, the cable shall be placed as near the right-of-way line as possible while maintaining a generally uniform distance from the road centerline.

Warning signs shall be placed at frequent intervals over the cable, including both sides of road crossings.

The minimum depth for power cables shall be not less than 36 inches below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 36 inch bury depth shall be measured from the existing ground surface. **Under no circumstances shall the depth of power cable be less than 36 inches unless contained in steel conduit pipe.**

12. NORMAL WORKING HOURS

Working hours for the permitted work shall be between 6:00 a.m. to 10:00 p.m. on weekdays. Work on weekends or holidays must be approved by the Roadmaster. The permittee may be required to reimburse the County for inspection costs for any work that is permitted outside of normal departmental working hours.

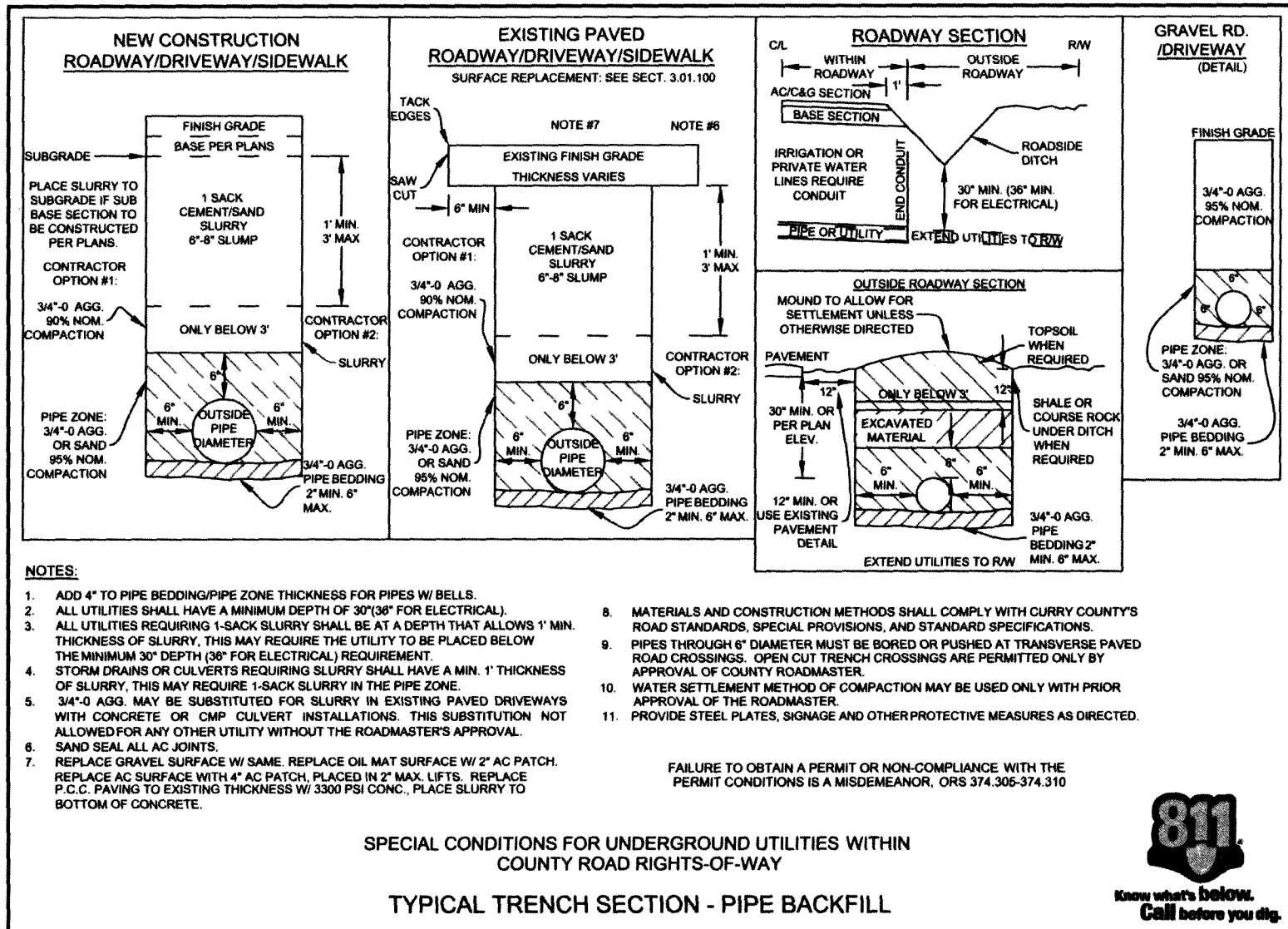
**REVOCATION OF PERMIT**

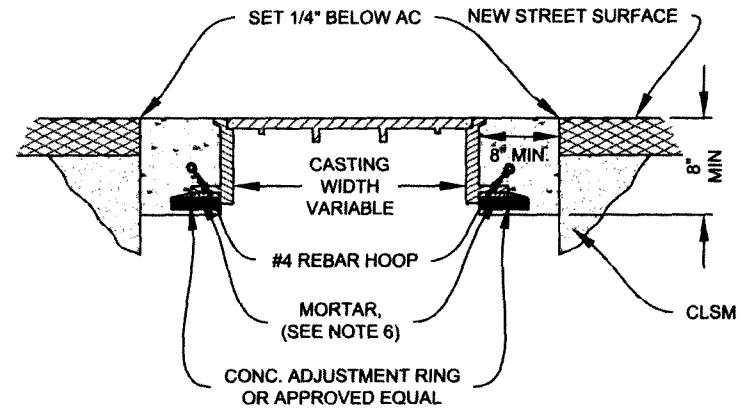
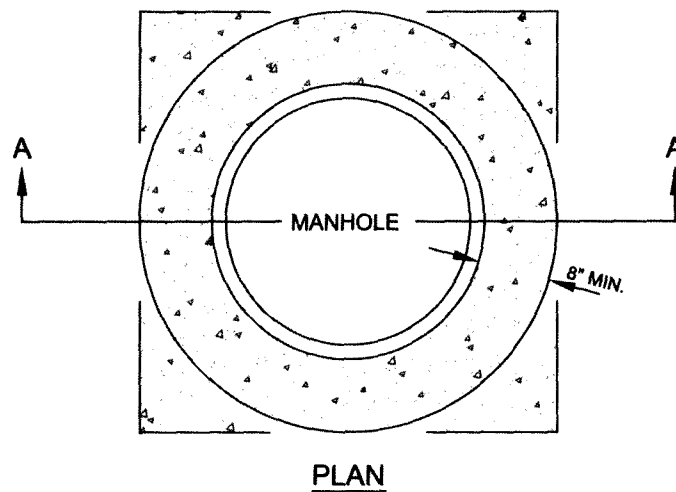
Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road rights-of-way.

Revocation of the permit will result in a "STOP WORK ORDER" on all or portions of the project.

Work performed within the County road right-of-way without a valid permit is a violation of Curry County Code and is enforceable pursuant to Article 10 of the Curry County Code. For any person who causes or maintains a condition in violation of Curry County Code, Article Three, every day during which such unlawful condition is thus maintained or continued after citation or notice of violation has been given may be charged as a separate offense.

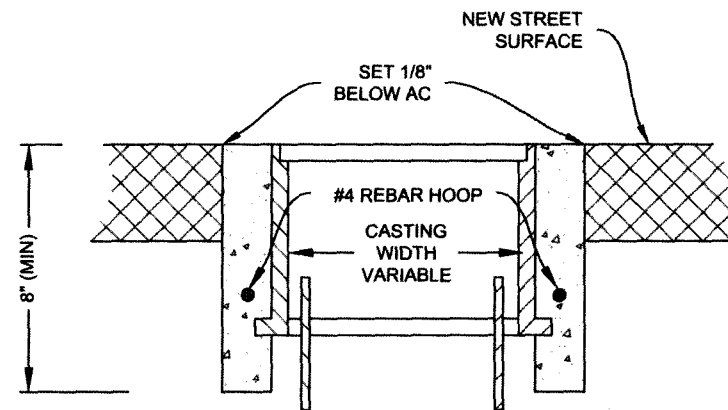
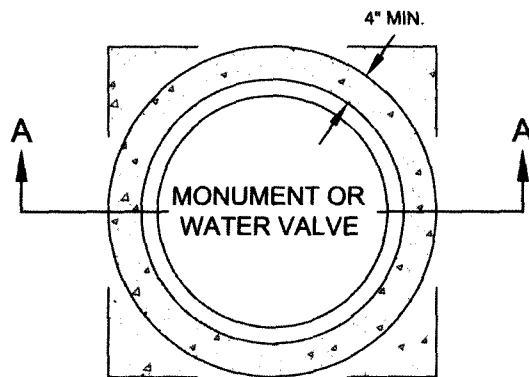




NOTES:

1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/4" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.
6. MORTAR TO BE 2" THICK MAX. USE EPOXY FOR SYNTHETIC GRADE RINGS.
7. NO MORE THAN ONE STEEL RISER MAY BE PLACED ON TOP OF FRAME IF REQUIRED.
8. RAISE MANHOLES TO GRADE AFTER PAVING UNLESS OTHERWISE APPROVED BY THE ROADMASTER.

## CONCRETE COLLARS FOR MANHOLES

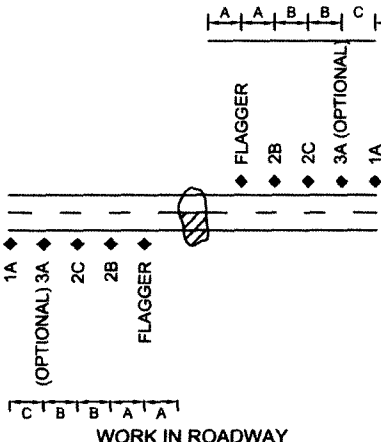


SECTION A - A

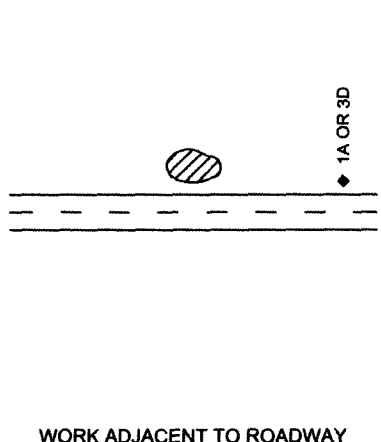
NOTES:

1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/8" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.

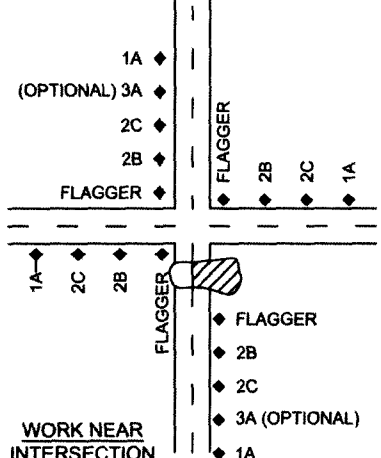
CONCRETE COLLARS FOR MONUMENT/ VALVE BOXES



**WORK IN ROADWAY**



**WORK ADJACENT TO ROADWAY**



**WORK NEAR INTERSECTION**

**SIGN SPACING AND BUFFER LENGTHS (FT)**

POSTED SPEED	SPACING BETWEEN SIGNS *			BUFFER SPACE
	A	B	C	
20				50
25	100	100	100	75
30				100
35	350	350	350	125
40				150
45				180
50	500	500	500	210
55				250

\*LENGTHS AS PER OREGON TEMPORARY TRAFFIC CONTROL HANDBOOK, 2011 EDITION

SEE OTTC FOR DISTANCES NOT SPECIFIED.

**NOTES:**

SINCE IT IS NOT PRACTICAL TO PRESCRIBE DETAILED STANDARDS OF APPLICATION FOR ALL SITUATIONS THAT MAY CONCEIVABLY ARISE, MINIMUM STANDARDS ARE PRESENTED HERE FOR THE MOST COMMON SITUATIONS. IT IS EMPHASIZED THAT ADDITIONAL PROTECTION MUST BE PROVIDED WHEN SPECIAL COMPLEXITIES AND HAZARDS PREVAIL. "BUMP" SIGNS MUST BE PLACED ON EITHER SIDE OF UTILITY TRENCHES WHEN JUMP PLATES ARE USED.

AS A "RULE OF THUMB" THE MINIMUM SIGNING REQUIRED SHOULD CONVEY "INFORMATIONAL", "INSTRUCTIONAL", AND "SPECIFIC WARNING" (SEE BELOW) MESSAGES TO MOTORISTS ON ALL APPROACHES TO A WORK SITE OR HAZARD AREA.

SIGNS ARE TO BE LOCATED NOT LESS THAN 250' IN ADVANCE OF HAZARDS AND STOP POINTS. MINIMUM SPACING BETWEEN SIGNS IS TO BE 100' UNLESS OTHERWISE DIRECTED.

SIGN STANDS ARE TO BE STABLE AND WEIGHTED TO PREVENT EASY TIPPING. SIGNS ARE TO BE SECURELY FASTENED TO STANDS.

SIGNS, STANDS, BARRICADES, ETC., AND THE PLACEMENT THEREOF, SHALL CONFORM TO THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (M.U.T.C.D.). WARNING SIGNS FOR CONSTRUCTION AREAS SHALL HAVE A BLACK LEGEND ON AN ORANGE BACKGROUND. THE MINIMUM DIMENSION FOR APPROACH SIGNING TO A WORK AREA SHALL BE 36" X 36". SIGNS WITHIN THE WORK AREA LIMITS MAY BE SMALLER (24" X 24" MINIMUM) IF APPROVED BY THE ROADMASTER OR HIS AUTHORIZED REPRESENTATIVE.

WHEN NOT PROTECTED BY FLAGGERS, ALL HAZARDOUS AREAS WITHIN THE TRAVELED WAY AND ROAD SHOULDER SHALL BE BARRICADED WITH LIGHT/REFLECTIVE BARRICADES IN ADDITION TO THE PRESCRIBED SIGNING. NON-APPROPRIATE SIGNS, SUCH AS "FLAGGERS" SHALL BE COVERED OR REMOVED WHEN NOT NEEDED.

NOTHING HEREIN SHALL PREVENT THE PERMITTEE FROM INSTALLING SUCH ADDITIONAL SIGNING, BARRICADING, ETC. AS HE MAY JUDGE NECESSARY; PROVIDED HOWEVER THAT ALL SUCH INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE M.U.T.C.D.

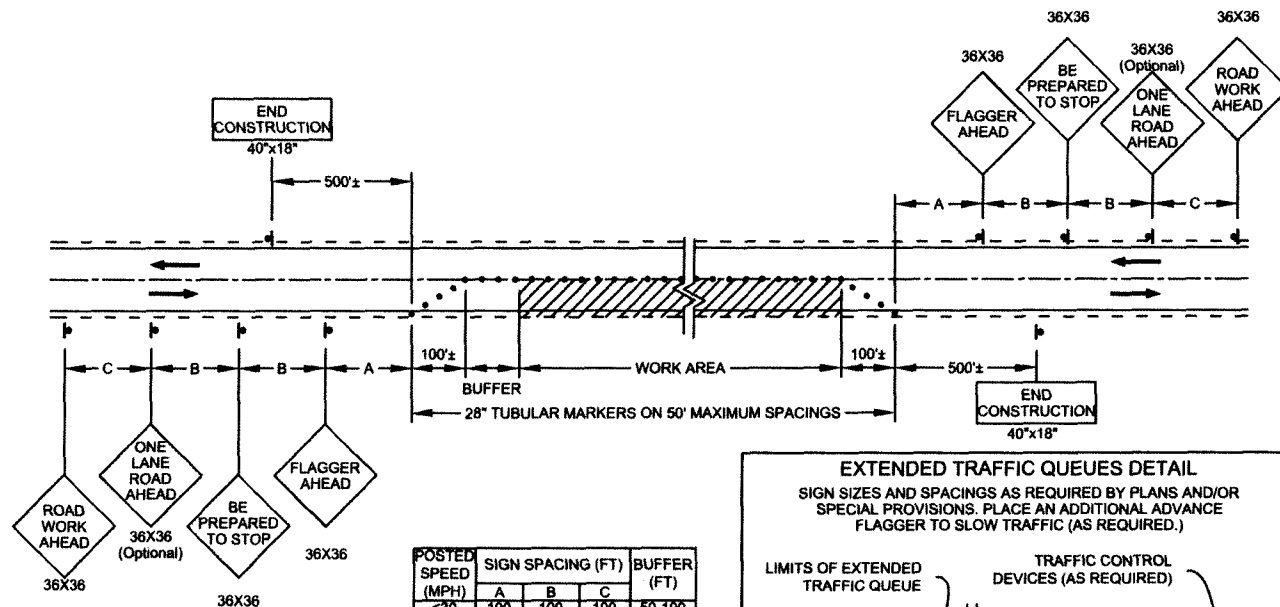
**SIGN EXAMPLES**

(USE SIGN(S) APPROPRIATE FOR CIRCUMSTANCES)

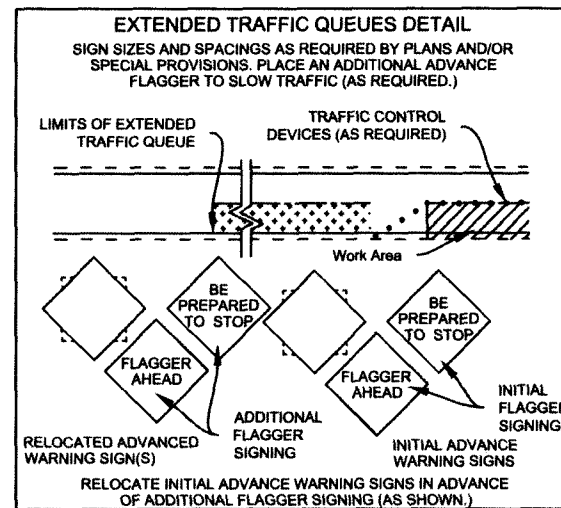
- INFORMATIONAL**
  - A. ROAD WORK/CONSTRUCTION AHEAD
  - B. WORKERS AHEAD
  - C. DETOUR AHEAD
  - D. OTHER - AS APPROPRIATE
- INSTRUCTIONAL**
  - A. SLOW
  - B. FLAGGER AHEAD
  - C. BE PREPARED TO STOP
  - D. OTHER - AS APPROPRIATE
- SPECIFIC WARNING**
  - A. ONE LANE ROAD AHEAD
  - B. DETOUR
  - C. ROUGH ROAD
  - D. SHOULDER WORK AHEAD
  - E. DIP
  - F. BUMP
  - G. OTHER - AS APPROPRIATE

**MINIMUM SIGNING REQUIREMENTS**

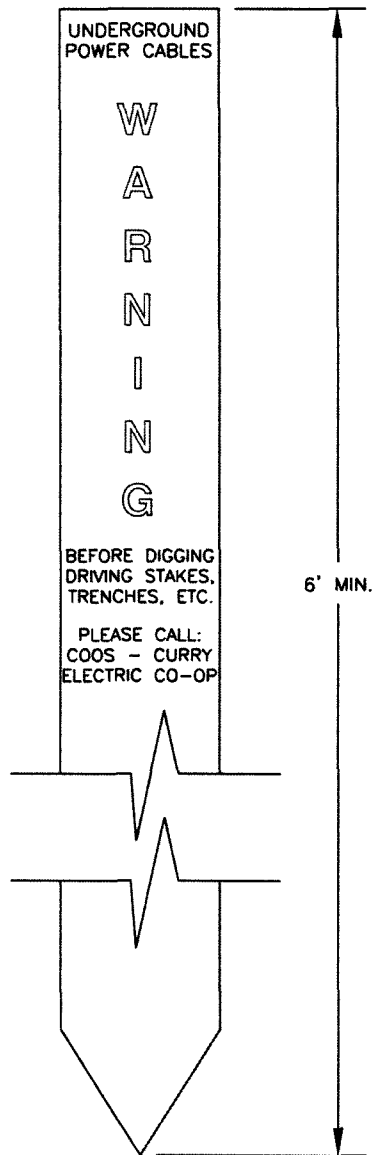
**CONSTRUCTION AND MAINTENANCE AREAS**

**NOTES:**

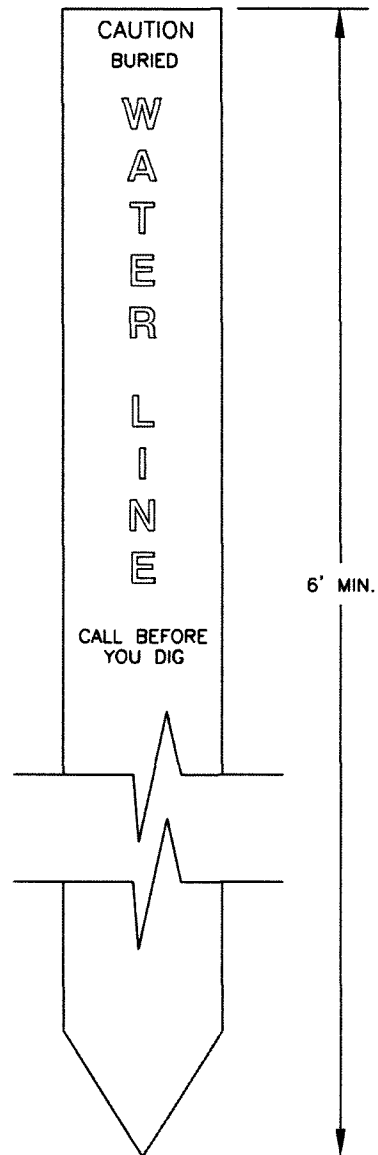
1. SIGNING AND OTHER TRAFFIC CONTROL DEVICES SHOWN TO BE INSTALLED IN CONJUNCTION WITH THE WORK AREA, SHALL MOVE WITH THE WORK AREA.
2. THE "BE PREPARED TO STOP" SIGN SHALL BE USED IN CONJUNCTION WITH THE "FLAGGER AHEAD" SIGN.
3. REMOVE EXISTING PAVEMENT MARKINGS AS DIRECTED.
4. TRAFFIC CONTROL UNDER CIRCUMSTANCES NOT COVERED BY THIS DRAWING SHALL BE PER THE MOST RECENTLY PUBLISHED VERSION OF "TRAFFIC CONTROL ON STATE HIGHWAYS FOR SHORT TERM WORK ZONES" AS PUBLISHED BY ODOT OR A JOB SPECIFIC TRAFFIC CONTROL PLAN APPROVED BY THE COUNTY.



**TEMPORARY PROTECTION AND DIRECTION OF TRAFFIC:  
2-LANE, 2-WAY ROADWAYS  
LANE CLOSURE W/ FLAGGING**

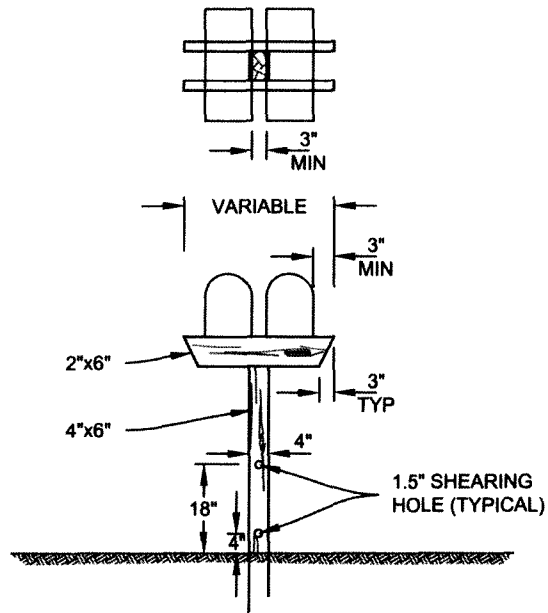


CALL YOUR LOCAL COOS-CURRY  
CO-OP OFFICE TO OBTAIN THIS  
POST AND INSTALLATION INSTRUCTIONS



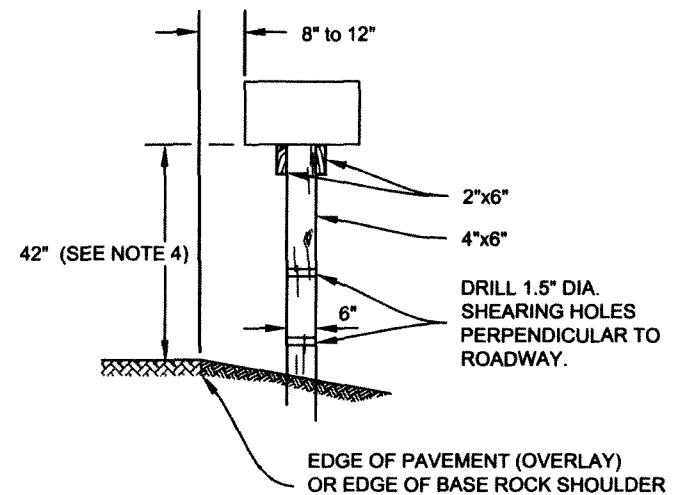
THIS IS A MINIMUM STANDARD FOR  
A BURIED WATER LINE MARKER. IT IS  
THE PERMITTEE'S RESPONSIBILITY TO  
TO PROVIDE THIS MARKER.

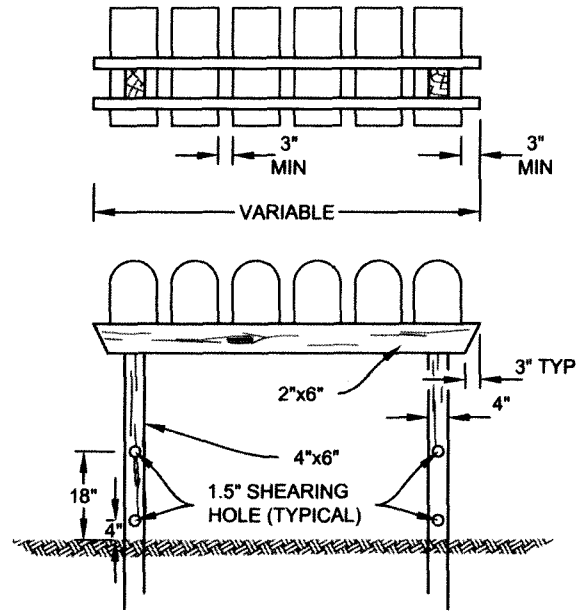
## UNDERGROUND CABLE AND WATER WARNING SIGNS

**NOTES:**

1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

**SINGLE UNIT**  
**1 POST - 3 BOXES MAX**

**MAILBOX STAND - SINGLE**

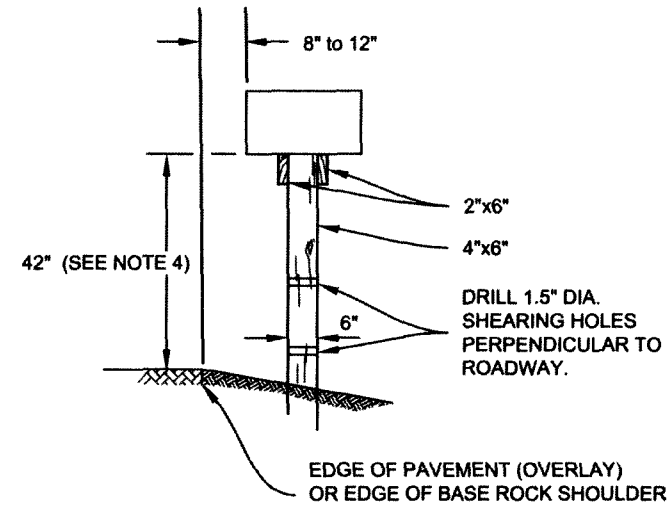


#### NOTES:

1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

#### MULTIPLE UNIT

##### 2 POSTS



#### MAILBOX STAND-MULTIPLE



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the repeal and replacement )  
Of Curry County Code Article 3 – Roads. )

ORDINANCE NO. 17-02

The Board of Curry County Commissioners ordains as follows:

**SECTION 1. TITLE**

This ordinance shall be known as Ordinance 17-02, an ordinance amending the Curry County Code.

**SECTION 2. AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035.

**SECTION 3. PURPOSE**

The purpose this ordinance is to repeal and replace Curry County Road Article 3 (last amended by Ordinance 02-06).

**SECTION 4. ADOPTION**

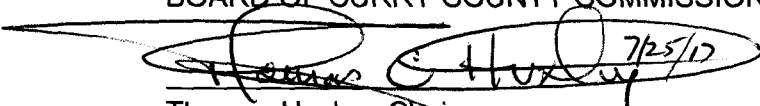
Exhibit "A" attached hereto and incorporated by reference, is adopted as Article 3 – Roads of the Curry County Code.

**SECTION 5 – SEVERANCE CLAUSE**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or unlawful, such decision shall not affect the validity of the remaining portions of this ordinance.

DATED this 21<sup>st</sup> day of June, 2017.

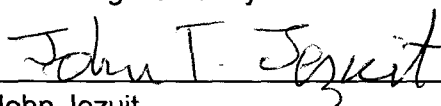
BOARD OF CURRY COUNTY COMMISSIONERS

  
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First Reading: June 21, 2017

Second Reading: July 5, 2017

Effective Date: October 3, 2017

Approved as to Form:

  
John Hutt  
Curry County Legal Counsel

**EXHIBIT "A"**

**CURRY COUNTY CODE  
ARTICLE 3 - ROADS**

# CURRY COUNTY CODE

## ARTICLE THREE - ROADS

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## **ARTICLE THREE – ROADS**

### **DIVISION ONE: CURRY COUNTY ROAD STANDARDS**

#### **CHAPTER ONE: INTRODUCTORY PROVISIONS**

##### **SECTION 3.01.010 RESERVED**

##### **SECTION 3.01.020 PURPOSES**

The several purposes of this division are: a) to establish specifications and standards for the construction and reconstruction of all roads, driveways and bridges in Curry County; b) to delineate responsibilities of individuals and Curry County as to the maintenance of roads; and c) to promote public health, safety, convenience and general welfare.

##### **SECTION 3.01.030 DEFINITIONS**

As used in this article, the masculine includes the feminine and neuter and the singular include the plural. The following words and phrases, unless the context otherwise requires, shall mean:

- (1) “AASHTO” – American Association of State Highway and Transportation Officials.
- (2) “ADT” – Average Daily Traffic on a given road.
- (3) “Alley” – A street or highway primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular traffic.
- (4) “Arterial Road” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement.
- (5) “Avenue” – A wide street or main thoroughfare. A means of approach to a given place, activity or goal. “Avenue” may be used in immediate vicinity of any municipality.
- (6) “AWDS” – All-weather Drivable Surface: A surface constructed of a minimum of two (2) inches of crushed aggregate placed on the required base aggregate to create a drivable surface. An AWDS may also be constructed of asphalt concrete or acceptable alternative surface treatments.
- (7) “Base Aggregate” – A course of specified aggregate of planned thickness placed on the subgrade.
- (8) “Board” or “Board of Commissioners” - The Curry County Board of Commissioners.

- (9) “CCZO” - Curry County Zoning Ordinance - An ordinance designed to provide and coordinate regulations in Curry County governing the development and use of lands and to implement the Curry County Comprehensive Plan.
- (10) “Collector Road” – A road supplementary to the arterial road system and used for both through traffic and access to abutting properties.
- (11) “County” – The County of Curry, State of Oregon.
- (12) “County Road” – A public road which has been accepted into the County road system by the County Board of Commissioners or designee by dedication or deed or grant of right-of-way and is maintained by the County.
- (13) “Drive” – A scenic road, especially for leisure driving.
- (14) “Driveway” – Means of egress and ingress from thoroughfare to structure. A short private road as regulated and administered by the County Community Development Department.
- (15) “Driveway/Road Approach Permit” - A permit allowing construction or alteration of a facility which provides ingress to or egress from a County road (i.e., a driveway, an intersecting road or street, a footpath, a bike path, widened vehicular access, etc.). The permit regulations apply to that portion of the facility which is or will be upon a County road right-of-way.
- (16) “Easement” – A grant of one or more property rights by a property owner to or for use by the public or another person or entity.
- (17) “Fog Coat” - An emulsified asphaltic surface treatment applied to existing asphalt concrete pavement surfaces to renew and seal the pavement surface. May be used with or without aggregate cover materials.
- (18) “High Density Residential Road” – A road within an urban growth boundary providing direct access to abutting property which has a lot size density sufficient to qualify for high density status based upon the standards established in the respective urban growth boundary agreements.
- (19) “HMAC” – Hot Mix Asphalt Concrete - A hot mixture of asphalt cement; well graded, high quality aggregate; mineral filler and additives as required; plant mixed into a uniformly coated mass, hot laid on a prepared foundation, and compacted to a specified density.
- (20) “Lane” – Designation for all private thoroughfares. A limited passageway of course designated for vehicles.
- (21) “Local Access Road” – A public road that is not a County road, State highway or Federal road. County has full jurisdiction, but no liability to maintain.



(22) “Local Road” – A public road that is not a city street, State highway or Federal road. A road connecting the local uses with the collector system. Property access is the main priority; through-traffic is not encouraged. All County roads not classified as arterials or collectors are the County’s local roads, including Resource/Industrial/Commercial, High density Residential and Residential.

County Road Examples: Townley Lane, Coy Creek Road, Eggers Road.

(23) “Loop” – Road whose beginning and ending points intersect on a common road.

(24) “Major Collector” – A road providing service to land uses that generate trips such as consolidated schools, shipping points, parks, mining and agricultural areas. This type of road links minor collectors with roads of higher classification.

County Road Examples: Airport Road, Cedar Valley Road, North Bank Chetco River Road.

(25) “Major Road Improvement” - An improvement or alteration for which detailed plans and adherence thereto are deemed necessary by the Roadmaster.

(26) “Minor Arterial” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement. Jerry’s Flat Road is the only minor arterial within the County.

(27) “Minor Collector” – A road providing service to small communities. This type of road links locally important land uses that generate trips with rural destinations.

County Road Examples: Floras Lake Road, Nesika Road, Oceanview Drive.

(28) “Minor Road Improvement” - An improvement or alteration for which detailed plans are not deemed necessary by the Roadmaster.

(29) “Monument” – A permanent and fixed survey marker conforming to the requirements established by the State law and the regulations of Curry County.

(30) “Manual on Uniform Traffic Control Devices” (MUTCD) - The MUTCD contains the national standards governing all traffic control devices.

(31) “ODOT” – Oregon Department of Transportation.

(32) “Place” – A public square or thoroughfare in a town. A short street, or court, a private residence terrace, or some similar variation from the ordinary street.

(33) “Prime Coat” – A penetration treatment to aggregate surfaces to coat and bind the material into a hard surface.

(34) “Principal Arterial” – Corridors with substantial interstate and statewide travel. Highway 101 is the only principal arterial within the County.

(35) “Private Driveway” – A roadway which traverses and serves one lot or parcel as regulated and administered by the County Community Development Department.

(36) “Private Road” – A road which is owned, controlled and maintained by the persons it serves, providing the principal means of access to the abutting property, and not intended for use by the general public. Private roads are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

(37) “Public Road” – A road over which the public has a right of use that is a matter of public record but which has not been accepted into the County road system per subsection (12) above.

(38) “Residential Road” – A road providing direct access to abutting property. Lot size and/or traffic volume indicate density of one or more lots per five acres, but less than four lots per acre.

(39) “Resource/Industrial/Commercial” – A road which primarily accesses adjacent land, carries significant volumes of timber, mining or agricultural products and/or provides service to a large industrial or commercial facility.

County Road Examples: McKenzie Road, Nesika Beach Dump Road, Boat Basin Road.

(40) “Right-of-Way” – Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility or other public purpose related to a transportation or public utility improvement.

(41) “Road” - The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. “Road” includes, but is not limited to:

- a. Ways described as streets, highways, throughways or alleys;
- b. Road related structures that are in a right-of-way, such as tunnels, culverts or similar structures; and
- c. Structures that provide for continuity of the right-of-way, such as bridges.

(42) “Road Encroachment Permit” - A permit allowing private facilities of a diverse nature, such as fences, structures, gates, stock guards, signs and landscaping, to be placed within a County road right-of-way. The permit shall state whether the permitted use is temporary or permanent.

(43) “Road Improvement Permit” - A permit allowing alterations or improvements, such as grading, surfacing or oiling, of a County road by a person not associated with the County Road Department.

- (44) “Roadmaster” - The person designated by the County Board of Commissioners as being responsible for administration of the road activities of the County.
- (45) “Roadway” - The portion of a road, including shoulders, for vehicular use.
- (46) “Rural Road” – A road subject to low traffic volume, used as access to a remote area having density less than one lot per five acres.
- (47) “Special Permit” - A permit allowing temporary use of a County road right-of-way for business operations or public events, such as log loading, an aircraft taxiway, scheduled public walks, runs and biking events.
- (48) “Street” – A paved public way or thoroughfare, as in a city or town.
- (49) “Subgrade” – That portion of the graded earthwork roadbed on which base course surfacing is to be placed.
- (50) “Tack Coat” – Application of liquid asphalt to an existing asphalt concrete to insure a thorough bond between courses.
- (51) “Turnaround” – A road over 150’ in length must be terminated by a turnaround. See Exhibit “A” following the text of Division Four of Article Three for typical turnaround designs. Standards for Turnarounds outside of an Urban Growth Boundary are listed in Section 3.01.050 subsection (7) of this division.
- (52) “Utility Permit” – A permit allowing the placement and routine maintenance of public facilities, such as water and sewer lines, gas lines and transmission lines, within a County road right-of-way.
- (53) “Variance” – An authorized deviation from specific requirement(s) set forth in this division.
- (54) “Way or Court” – A course, route, passage, track or path of any kind.

#### SECTION 3.01.040 COMPLIANCE WITH DIVISION PROVISIONS

No road shall hereafter be constructed, reconstructed, enlarged or altered contrary to the provisions of this division.

### **CHAPTER TWO: COUNTY ROADS**

#### SECTION 3.01.050 CONSTRUCTION SPECIFICATIONS OF COUNTY ROADS

- (1) RIGHT-OF-WAY – Right-of-ways shall be a minimum of 50 feet in width except that a lesser width not less than 40 feet is authorized when (a) specially permitted by the County Board of Commissioners and (b) the road meets the other standards set forth in this division as

otherwise provided. A wider than 50 foot right-of-way may be required, depending on variations or other engineering considerations. In no case shall the right-of-way be less than 40 feet.

(2) GRADES

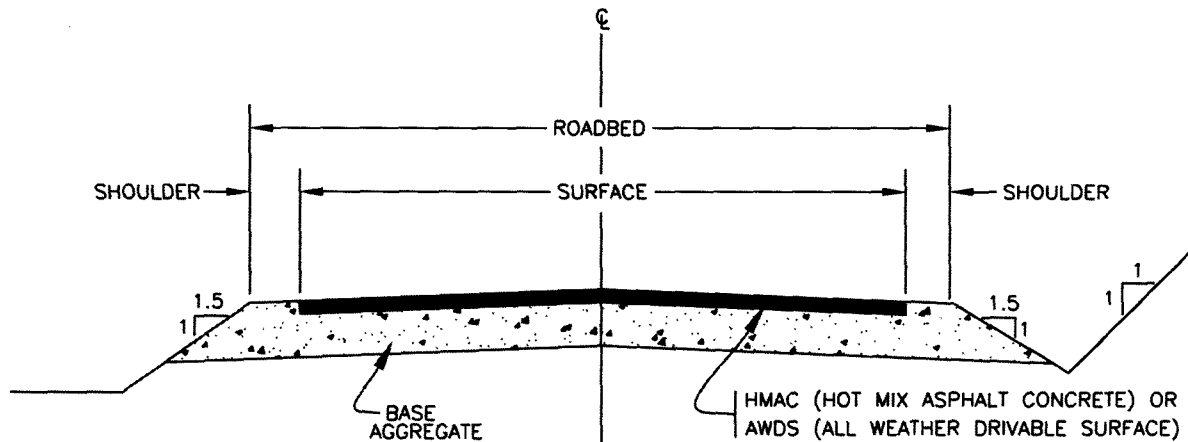
(a) Minor Arterial:		
8% to 10%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(b) Major Collector:		
8% to 12%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(c) Minor Collector:		
12% to 15%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 10% for the roads listed in (a), (b) and (c) above.

(d) Residential:		
18% to 20%	Maximum Length	400'
16% to less than 18%	Maximum Length	600'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit
(e) Resource/Industrial/Commercial		
16% to 18%	Maximum Length	500'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 13.5% for the roads listed in (d) and (e) above.

(3) RURAL ROAD STANDARDS CHART



Functional Class	Surface Type	Minimum Surface Depth	Minimum Surface Width	Minimum Shoulder Width	Base Aggregate	Maximum Grade
Minor Arterial	HMAC	4"	26'	6'	12"	10%
Major Collector	HMAC	4"	26'	4'	12"	12%
Minor Collector	HMAC	4"	24'	2'	12"	15%
Resource/ Industrial/ Commercial	HMAC	4"	24'	2'	12"	18%
Residential 11+ dwelling units	AWDS	2"	* 20'	2'	12"	20%
Residential 5 to 10 dwelling units	AWDS	2"	* 18'	0'	12"	20%
Residential 4 or less dwelling units	AWDS	2"	* 16'	0'	12"	20%
Driveway	AWDS	2"	* 16'	0'	6"	20%
Turnarounds	See subsection (7) TURNAROUNDS below					

\* Inter-visible opposing turnouts required. On roads where 16 foot, 18 foot or 20 foot surfaces are allowed, inter-visible opposing turnouts that result in an area of road surface at least 50' in length, not including entry and exit tapering, by 22' in width, exclusive of shoulders, are mandatory. Turn-outs shall be sited at least one every 500 feet, and opposing inter-visible where curves prohibit visibility.

Road Width with a Fire Hydrant: Adjacent to fire hydrants, roads shall have a minimum driving surface of not less than 26' in width, exclusive of shoulders, extending 20' in either direction from the fire hydrant.

Vertical Clearance: All roads shall have a minimum vertical height clearance of not less than fourteen feet.

Additional requirements, as stipulated by the rural fire protection district of the area in which the road is located, as well as the section entitled "Appendix D, Fire Apparatus Access Roads" of the Oregon Fire Code, may be required.

The standards for urban roads are as outlined in the Curry County Zoning Ordinance for the respective Urban Growth Boundary.

(4) DRIVEWAYS. Approaches shall be limited to a 60-90 degree intersection angle with the public road. There shall be enough room at the approach for a vehicle to be at a 90 degree angle to the road. See Exhibit "B" following the text of Division Four of Article Three for Typical Design.

Stopping sight distance shall be calculated for driveway entrances using the chart of Exhibit "C" following the text of Division Four of Article Three. The minimum stopping distance is calculated for wet road conditions using

$$D = \frac{V^2}{30(F+G)} \quad \text{where:}$$

V = Velocity

F = Coefficient of friction

G = Grade in percent

D = Total stopping distance in feet (reaction plus braking)

MINIMUM SIGHT DISTANCE  
LEVEL ROADWAY (Wet Pavement)

Design Speed MPH	Sight Distance (feet)		Corner Intersection
	Stopping	Passing	
20	125	800	210
25	150	950	
30	200	1100	310
35	225-250	1300	
40	275-325	1500	415
45	325-400	1650	
50	400-475	1800	515
55	450-550	1950	
60	525-650	2100	650
65	550-725	2300	
70	625-850	2500	

\*See Exhibit "C" following the text of Division Four of Article Three

(5) HORIZONTAL CURVES The minimum radius for horizontal curves shall be 60 feet on Local Roads. The following formula shall be used to determine minimum curve radius on all other functional classes.

$$R = \frac{V^2}{15(e+f)} \quad \text{where:}$$

R = minimum radius (feet)

V = design speed (MPH)

e = maximum super elevation (range 0.04 to 0.10)

f = maximum friction factor (range 0.10 to 0.17)

(6) **VERTICAL CURVES** Vertical curves shall be used at all grade changes where the difference in grades is 2% or greater. Minimum length of vertical curve shall be 100 feet.

(7) **TURNAROUNDS** In any area outside of an Urban Growth Boundary, turnarounds shall be provided for emergency vehicle maneuvering at the end of any road over 150' in length. Typical County turnarounds are shown in Exhibit "A" following the text of Division Four of Article Three.

(8) Minimum intersection spacing for roads of various functional classes shall be as noted in the following table:

<b>Functional Class Intersection Type</b>	<b>Public Road Type</b>	<b>Spacing*</b>	<b>Private Driveway Type</b>	<b>Spacing**</b>
Arterial Road/Hwy	At-grade	1/4 mile	L/R turns	500 ft.
Collector Road	At-grade	250 ft.	L/R turns	100 ft.
Local Road	At-grade	250 ft.	L/R turns	each lot
Alley	At-grade	250 ft.	L/R turns	each lot
* Between roads				
**Between driveways & intersections (measured from center to center)				

### **SECTION 3.01.060 FACILITY PERMITS**

(1) No person, partnership, association or corporation may place, build or construct on the right-of-way of any County maintained road any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance or change the manner of using any such approach road without first obtaining a permit from the County Roadmaster.

(2) The Curry County Road Department shall be given the power to investigate and issue the facility permit.

(3) The holder of a facility permit shall follow the regulations and rules set out in Article Three, Division Four of this code.

### SECTION 3.01.070 SIGNS

- (1) Curry County has jurisdiction concerning the type and location of all signs on County maintained roads and public ways.
- (2) The Roadmaster may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card, or poster placed in violation of ORS 368.942.
- (3) When in the Roadmaster's opinion there may be a need for a change in the speed limit for a road, he or she shall request the Oregon State Speed Control Board to study the road in question. If the Speed Control Board issues an order to post a speed limit on the road, Curry County will furnish and install the speed limit signs at the County's expense.
- (4) Name signs for all roads shall have a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices.
- (5) Signing will be paid for by the County as follows:
  - (a) Stop and name signs at intersections of two County maintained roads.
  - (b) Regulatory and warning signs along County maintained roads.
  - (c) The County may, at the Roadmaster's recommendation, install signs for non-County maintained roads. Cost of the sign, installation and maintenance will be paid for by the person(s) requesting the sign. This person may include the Board or its delegated authority.

### SECTION 3.01.075 DELINEATION OF UTILITY LOCATIONS WITHIN COUNTY ROAD RIGHTS-OF-WAY

- (1) Pole line locations shall have a minimum height above the traveled road surface of 18 feet. This 18-foot standard applies whether the pole lines cross the roadway or are located parallel to the roadway. Poles shall be located not less than 10 feet from the edge of pavement on paved-surfaced roads or the edge of gravel on gravel-surfaced roads. Wherever possible, poles shall be located along the tangent sections of roads and on the short radius side of curves. Poles to be located on the long radius side of curves will require additional approval by the Roadmaster and will be subject to special conditions.
- (2) Buried cable or pipe depth shall be not less than 30 inches (36 inches for electrical) below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 30 inch (36 inch for electrical) bury depth shall be measured from the existing ground surface.
- (3) Pedestals installed as part of a buried cable installation are to be located one foot from the right-of-way line unless permission is obtained from the Roadmaster to locate elsewhere. In no case shall the pedestals be located within the road maintenance operating area, including mowing



operations, or nearer the pavement edge than any official highway sign in the same general location.

See “Special Conditions for Underground Utilities Within County Road Rights-of-Way” in “Exhibit D, Permit Regulations & Classification”, following the text of Division Four of Article Three for additional requirements and details.

#### SECTION 3.01.080 ROAD HAZARDS, WEED CONTROL AND DRAINAGE

##### (1) ROAD HAZARDS.

(a) No person, landowner or occupant of land shall obstruct road drains or waterways or create road hazards as set forth in ORS 368.251 and ORS 368.256.

(b) The County Roadmaster may abate any road hazard following the procedures set forth in ORS 368.261 and ORS 368.271.

(c) The Board may assess and recover costs from the person, landowner and occupant of the land responsible for the road hazard or the owner of the land that is the source of the hazard pursuant to the procedures in ORS 368.276 and ORS 368.281.

(2) WEED CONTROL. The County Board of Commissioners through its Roadmaster shall endeavor to prevent the spread or seeding of any noxious weed as set forth in ORS Ch. 570 on any land owned by the County or constituting the right-of-way for any County road, drainage or irrigation ditch, power or transmission line, or other purposes under their jurisdiction.

##### (3) DRAINAGE

(a) The purpose of highway drainage design is to prevent the accumulation and retention of water on and by the highway. Culverts, ditches and other drainage features shall be installed as needed to effectively remove water from the drivable surface under all types of weather conditions. Culverts shall be capable of supporting a single axle load of 32,000 pounds (Highway Loading H-20). Prior to submitting a development application and its related access feature where a stream crossing will be required, the applicant shall submit an Oregon Department of Fish and Wildlife (ODFW) determination to the Building Official indicating whether the stream crossing location is a fish habitat as required by ORS 509.585. If the ODFW determines that there is a potential for fish habitat or there is fish habitat in the stream crossing that will be impacted, fish passage shall be required consistent with Division 412 of the Oregon Administrative Rules (635-412-0005 through 635-412-0040).

(b) Surface water shall be conveyed along rights-of-way by the most direct means considering ease of maintenance with minimum disturbance of natural conditions.

(c) All drainage structures shall be sized for the following design flood frequencies.

<u>Drainage Facility</u>	<u>Design Flood</u>
Bridge	100 year flood
Culvert	25 year flood
Low Water Bridges	Optional
Depressed Roadway	25 year flood
Channel Change	100 year flood
Storm Sewer	10 year flood
Ditches, Gutters, Inlets	10 year flood

The design should be reviewed to ensure that backwater from the 100 year flood will not cause extensive property damage or result in loss of a bridge.

(d) The design of any water carrying system shall meet or exceed the design criteria set by the current ODOT Highway Division Hydraulics Manual.

Cross culverts shall be a minimum of 18 inches in diameter except:

A 12 inch cross culvert may be used to convey water from a catch basin to the closest natural drain if a grated inlet is used.

Connections to existing roadside culverts shall be at the same or greater capacity and must not inhibit the existing discharge of flow in any way.

#### SECTION 3.01.090 ROADWAY MATERIAL STANDARD SPECIFICATIONS

All roadway excavation, fill construction, subgrade preparation, aggregate bases, surfacing, prime coats and paving shall be built in accordance with the current edition of the ODOT Oregon Standard Specifications for Construction. Whenever these specifications refer to the State or Agency, consider that to mean the County of Curry, the appropriate County Department, or appropriate County address.

In case of discrepancy or conflict in the plans, standard specifications, supplemental standards specifications and special provisions, they shall govern in the following manner:

1. Special Provisions
2. Plans Specifically Applicable to the Project
3. Standard or General Plans
4. Supplemental Standard Specifications
5. Standard Specifications

(1) Subgrade. All subgrade shall be compacted in accordance with the Earthwork Compaction Requirements, Section 00330.43 of the Oregon Standard Specifications for Construction.

(2) Aggregate Base. Aggregates for aggregate base shall be crushed rock or pit run rock. Pit run materials, when used in place of crushed rock, shall be placed at 1.25 times the required

depth of aggregate. Crushed rock shall meet the requirements of Section 02630 of the Oregon Standard Specifications for Construction. Pit run material shall meet the durability and sand equivalent requirements of Section 02630 of the Oregon Standard Specifications for Construction and shall have the gradation approved by the Curry County Road Department. See the following tables.

(3) Asphalt Concrete Pavement. Where asphalt concrete pavement is required it shall be hot mix asphalt concrete pavement done in accordance with Section 00744 of the Oregon Standard Specifications for Construction. The class and grade mix design shall be in the contract. See the following tables.

### SECTION 3.01.100 GRADATION CHARTS

#### (1) BASE AGGREGATES

<b>Table 02630-1</b>					
<b>Grading Requirements for Dense-Graded Aggregate</b>					
<b>Separated Sizes</b>					
<b>Sieve Size</b>	<b>2 1/2" - 0</b>	<b>2" - 0</b>	<b>1 1/2" - 0</b>	<b>1" - 0</b>	<b>3/4" - 0</b>
<b>Percent Passing (by Weight)</b>					
3"	100				
2 1/2"	95 - 100	100			
2"	—	95 - 100	100		
1 1/2"	—	—	95 - 100	100	
1 1/4"	55 - 75	—	—	—	
1"	—	55 - 75	—	90 - 100	100
3/4"	—	—	55 - 75	—	90 - 100
1/2"	—	—	—	55 - 75	—
3/8"	—	—	—	—	55 - 75
1/4"	30 - 45	30 - 45	35 - 50	40 - 55	40 - 60
No. 4 <sup>1</sup>	—	—	—	—	—
No. 10	2	2	2	2	2

<sup>1</sup> Report percent passing sieve when no grading requirements are listed

<sup>2</sup> Of the fraction passing the 1/4 inch sieve, 40 percent to 60 percent shall pass the No. 10 sieve

Fracture Of Base Aggregates - Fracture of base aggregates produced from rounded rock shall be determined according to AASHTO T 335. Provide at least one fractured face based on the following percentage of particles retained on the 1/4 inch sieve for the designated size:

<b>Minimum Percent of Fractured Particles (by Weight of Material)</b>	
Designated Size	Retained on 1/4 inch Sieve
1 1/2" - 0 and larger	50
Smaller than 1 1/2" - 0	70

Durability - Dense graded base aggregate shall meet the following durability requirement.

Test	Test Method	Requirements
Abrasion	AASHTO T 96	35.0% maximum
Degradation (coarse aggregate)		
Passing No. 20 sieve	ODOT TM 208	30.0% maximum
Sediment Height	ODOT TM 208	3.0" maximum

(2) ASPHALT CONCRETE AGGREGATES\*

Sieve Size	1/2" ACP Control Points (% passing by Weight)	
	Min.	Max.
3/4"	100	
1/2"	90	100
3/8"	-	90
No. 4	-	-
No. 8	28	58
No. 200	2.0	10.0
Asphalt Cement	5	6

\*Aggregate for flexible pavements shall conform with Section 00744 of the "Oregon Standard Specifications for Construction"

Durability – Provide aggregate not exceeding the following maximum values:

Test	Test Method		Aggregates Coarse
	ODOT	AASHTO	
Abrasion		T 96	30.0%
Degradation			
Passing No. 20 sieve	TM 208		30.0%
Sediment Height	TM 208		3.0"

Fractured Faces - Provide crushed aggregate with not less than the minimum number of fractured faces as determined by AASHTO T 335 as follows:

Type of Mix	Percent of Fracture (by Weight)	
	Material Retained on 1", 3/4", 1/2" and No. 4 Sieve (two fractured faces)	Material Retained on No. 8 sieve (one fractured face)
All ACP	75	75

### SECTION 3.01.110 MONUMENTATION

(1) The County and its agents shall monument County roads in accordance with the following standards:

- 5/8 inch rebar on both R/W lines at point of curvature and point of tangency of curve.
- 5/8 inch rebar along R/W lines at 500 foot intervals or property lines.
- Plastic caps branded "Curry Co. R/W" on rebar.
- Rebar along utilized property should be approximately 6 inches below ground level.
- Brass or aluminum caps shall be placed along R/W a minimum of once every mile. Two brass or aluminum caps shall be used as basis of bearing when other monuments are not available.
- Initial roadway point shall be marked by a brass or aluminum cap.
- All brass and aluminum caps shall be marked by a 4 inch by 4 inch by 4 foot treated white wooden post or a metal post.

(2) Roads within a subdivision must be monumented in accordance with current applicable state and local laws relating to the platting of subdivisions.

### DEDICATION OF ROADS TO COUNTY ROAD SYSTEM

#### SECTION 3.01.130 ACCEPTANCE BY COUNTY

##### (1) TENTATIVE APPROVAL PRIOR TO CONSTRUCTION

(a) The developer submits plans and letter to the Board of Commissioners of his intent to dedicate a road to the County. A complete set of Improvement Plans shall be submitted and approved, in writing, by the Board of Commissioners prior to the start of construction on any public, private or subdivision road which is to become a dedicated County road. The "Complete Set" refers to the following:

1. Plan view of the proposed roadway
2. Profile
3. Description
4. Typical cross-section

All plans shall be stamped by a registered engineer or surveyor licensed in the State of Oregon.

(b) A statement in writing must be obtained from the Chief of the Rural Fire Protection District of the area in which the road(s) is/are located, and submitted with the plans, verifying that the District's large fire-fighting equipment can safely negotiate the road and serve all new parcels or lots. The statement shall also include an assessment of whether or not the access route proposed to each boundary of the subject property is safely negotiable.

(c) The County Road Department reviews the Improvement Plans and makes recommendations to the Board of Commissioners. The recommendations shall include any special considerations which may be pertinent to acceptance or rejection of the road as a dedicated County road.

(d) The developer's project is put on the agenda of a regular Board meeting for consideration of his intent to dedicate the road to the County. Upon submission of the developer's plans and letter of intent to dedicate the road, the Board will, within 30 days, consider the application in a public meeting.

(e) The Board will give a letter of intent to accept or deny the dedication of the road project presented by the developer. If the dedication of the road is denied, and the plans and specifications adhere to the "Curry County Road Standards" herein, the Board must give its reasons for denial, in writing to the developer, within thirty (30) days from the date of the public meeting.

(2) INSPECTION OF PROPOSED COUNTY ROADS

(a) The inspection of the base and paving shall be coordinated in advance with the Curry County Road Department to avoid scheduling conflicts. The base is to be inspected prior to the placement of the pavement.

If proper notification for inspection has not been given, the Curry County Road Department will not recommend granting acceptance of the road to the Board of Commissioners for twelve (12) months. Any deficiencies that develop in the road shall be corrected before the Road Department will recommend granting acceptance to the Board.

(b) After acceptance by the Board of Commissioners, the contractor shall guarantee construction of the road built under his supervision for a period of one year. Any defects within that time period shall be corrected by the contractor, at his own expense.

(c) All testing except as herein noted will conform to methods prescribed by the Oregon Department of Transportation (ODOT) or the American Association of State Highway and Transportation Officials (AASHTO).

(3) FINAL ACCEPTANCE.

A County governing body may initiate proceedings to accept a public road as a County road:

(a) On its own action; or

(b) If a person files with the governing body:

i) A petition described in ORS 368.081; or

- ii) A written proposal to dedicate or donate land owned by that person for public road purposes.

(4) MAINTENANCE.

After acceptance the County shall maintain such highway, road or street as a County road.

**CHAPTER THREE**      **PUBLIC ROADS**

**SECTION 3.01.140 PUBLIC ROAD STANDARDS**

A public road will conform in all ways with the standards set for a County road, except for the following condition:

Roads shall be constructed with an all-weather drivable surface on residential roads. See the Road Standards Chart in Section 3.01.050, subsection (3) for construction requirements.

**SECTION 3.01.150 DEDICATION**

- (1) By presenting to the Board of Commissioners a good and sufficient deed or dedication properly executed forever dedicating the land and granting such public road easement, and the deed is accepted by the Board of Commissioners and placed of record.
- (2) Presenting to the Board of Commissioners, as provided by law, any map or plat of any town, addition or subdivision, dedicating to the use of the public for road purposes all streets, roads, and alleys shown thereon and the map or plat is approved and accepted by the Board and placed of record.

**SECTION 3.01.160 LIABILITY FOR MAINTENANCE**

- (1) All public roads shall be maintained pursuant to a maintenance agreement to be recorded with the final plat in the official records of Curry County. The recorded maintenance agreement shall include the following elements:

- (a) The maintenance agreement shall be binding on all owners of parcels within the plat or map, other properties served by the dedicated way, and all interests in such property thereafter acquired. The owners shall maintain the road according to the terms of the maintenance agreement.

- (b) Any person who is party to the agreement, or any interested public body who believes the dedicated way is impassable to emergency vehicles, may file a written complaint with the County Board of Commissioners. The Board shall direct the County Roadmaster to investigate the complaint and submit a report to the Board. This report shall contain an evaluation of the condition of the road and particularly whether the road's condition meets a

minimum standard for maintenance of such roads. The report shall also set forth an estimation of the costs, including all likely administrative costs, necessary to bring the road up to a passable condition. The Board shall hold a public hearing at which interested parties may appear. Notice of the hearing shall be given to the property owners benefitted by the road.

(c) When, in the opinion of the County Board of Commissioners, the road constitutes a hazard to public safety or is impassable to emergency vehicles, based upon the testimony at the hearing, the Board by its order may:

- i) Declare the owners in default of the maintenance agreement; and either
- ii) Direct the County Roadmaster to undertake the road work which, in the opinion of the Roadmaster, is necessary to bring the road up to a passable condition and allocate the costs as estimated by the Roadmaster pursuant to paragraph (b) above; or
- iii) Initiate proceedings to improve the road as provided in ORS 371.605 et. seq.

(d) The County may collect the assessed costs from the owners either prior to or upon completion of the maintenance work.

(2) In no event shall the duties or liabilities of Curry County be greater than those provided in ORS 368.031.

#### SECTION 3.01.170 LOCAL ACCESS ROAD MAINTENANCE POLICY

(1) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

- (a) The public use of the road justifies the expenditure;
- (b) There are County funds or resources available for the request; and

(c) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.

(2) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is not an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

(a) At least 60% of the property owners, representing at least 60% of the property frontage along the road proposed to be repaired or maintained, sign a petition requesting the work be done. The petition shall contain a clause that the property owners agree to pay for all the materials used in the repair or maintenance; the County will provide all labor and equipment; and



- (b) The County Roadmaster has recommended such an expenditure; and
  - (c) The public use of the road justifies the expenditure; and
  - (d) There are County funds or resources available for the request; and
  - (e) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.
- (3) The intent of these policies is to provide a vehicle by which local access roads may be repaired or maintained without obligating the County for future work on these roads.
- (4) If the Board authorizes County financial support for a non-emergency request, it shall enact an order or resolution authorizing the work to be a single project so as to minimize future obligations to the County and encourage the owners to seek alternate sources for maintenance, i.e., special road districts.

#### **CHAPTER FOUR**

#### **PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

##### **SECTION 3.01.180 DEFINITION REGARDING PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

A private road is any road in a privately owned and controlled right-of-way which is constructed, controlled, maintained and otherwise kept in a drivable condition by the efforts of the people it serves. A private road is not intended for use by the general public other than persons providing a public service to the lots or parcels served by the private road.

A private driveway is a roadway which traverses and serves one lot or parcel.

A private bridge is any bridge located on a private road or driveway.

##### **SECTION 3.01.185 APPLICABILITY OF PRIVATE ROAD, DRIVEWAY AND BRIDGE STANDARDS**

Private road, driveway and bridge standards are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

#### **CHAPTER FIVE**

#### **VARIANCE**

##### **SECTION 3.01.210 AUTHORIZATION FOR VARIANCES**

The Roadmaster may grant variances, (as described herein), from the provisions of this division where it has been shown that due to unusual topographic conditions, unusual conditions related to the shape of the property or the location of a building on the property, or other conditions over which the applicant has no control, the literal interpretation of this division

would cause an undue hardship upon the applicant. In granting a variance the Roadmaster may attach conditions which he or she finds necessary to protect the best interests of the County, surrounding property or neighborhood and to otherwise achieve the purposes of this division.

#### SECTION 3.01.220 CIRCUMSTANCES FOR GRANTING A VARIANCE

A variance may be granted only in the event that all the following circumstances exist.

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity and result from lot size, shape, topography, or other circumstances over which the owner of the property has no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the vicinity of the subject property.
- (3) The variance would not be materially detrimental to the purposes of this division, or to property in the vicinity of the subject property, or otherwise conflict with the objectives of any County plan or policy.
- (4) The variance requested is the minimum variance which would alleviate the hardship.
- (5) The applicant shall provide a written statement from the governing board of the fire protection district having responsibility for structural fire protection in the area where the new dwelling or structure is to be located which states that their fire-fighting vehicles and equipment can negotiate the proposed road and/or driveway.

#### SECTION 3.01.230 FEASIBILITY REPORT

The applicant shall provide the Roadmaster a feasibility report on all requested variances. The Roadmaster shall contact all property owners abutting and using the road for which the variance has been requested and shall consider their comments regarding the requested variance.

#### SECTION 3.01.240 APPEALS OF VARIANCES

The applicant shall have the right of appeal of a denied variance. An affected property owner who has commented to the Roadmaster shall have the right to appeal an approved variance. Appeals of variances under this division shall be to the Board of Commissioners.

### CHAPTER SIX

### GENERAL PROVISIONS

#### SECTION 3.01.260 PRE-EXISTING ROADS, DRIVEWAYS AND BRIDGES

- (1) Substandard roads, driveways and bridges in existence on the effective date of adoption of this division shall be considered as nonconforming roads, driveways and bridges.
- (2) Expansion of nonconforming roads, driveways and/or bridges shall be accomplished in

the following manner:

(a) Upgrade the road, driveway or bridge to the minimum standard required by this division; or

(b) Obtain an approved variance of the minimum standards as provided under Chapter Five of this division, except that a variance cannot be granted for the firefighting equipment access provisions of this division unless the agency providing fire protection concurs in the granting of the variance.

(c) Expansion of a nonconforming road or driveway includes the creation of additional parcels or lots by partitioning or subdivision of land accessed by the road and/or the construction of new habitable structures on land accessed by the road or driveway.

#### SECTION 3.01.270 INTERPRETATION

The provisions of this division shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this division are less restrictive than conditions imposed by any other provisions of this division or of any other ordinance, resolution, regulation or statute; the provisions which are more restrictive shall govern.

#### SECTION 3.01.280 ABATEMENT AND PENALTY

Violations of the provisions of this division are subject to the following forms of abatement or penalties.

(1) If a person builds or maintains a road, driveway or bridge in violation of this division or violates this ordinance in any way, the County, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the unlawful road, driveway or bridge.

(2) In addition to the provisions of subsection (1) above, any violation of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.

## **ARTICLE THREE – ROADS**

### **DIVISION TWO: NAMING OF ROADS WITHIN CURRY COUNTY**

#### **SECTION 3.02.010: RESERVED**

#### **SECTION 3.02.020: AUTHORITY**

The following procedures and requirements relating to the naming or renaming of roads in Curry County are hereby adopted pursuant to authority granted by ORS Chapter 215.

#### **SECTION 3.02.030: DEFINITIONS**

See Section 3.01.030 for definitions.

As used in this division the masculine includes the feminine and the singular includes the plural.

### **ROAD NAMING PROCESS**

#### **SECTION 3.02.040 ROAD NAMING**

Roads shall be named or renamed by the Community Development Director or her/his designee.

#### **SECTION 3.02.050 DUTIES**

The Community Development Director shall have the duty of naming or renaming roads within unincorporated Curry County. The Director shall select a name for the road in question and notify the Roadmaster and Sheriff of the proposed name. The Roadmaster and Sheriff, within 10 working days of receiving the proposed name, shall advise the Community Development Director of their concurrence with the name or any objections. Upon consideration of the Roadmaster's and Sheriff's comments and determination of the road name the Community Development Director shall notify the abutting property owners of record of the road under consideration advising of the new road name. Should any abutting property owner object to the road name, the Community Development Director may re-evaluate the name and choose another name utilizing the same process as noted herein.

#### **SECTION 3.02.060 NOTIFICATION OF PROPERTY OWNERS AND AGENCIES**

The Community Development Director will send notice of the proposed road name change to all affected agencies, including the Road Department, County Surveyor, Assessor, Sheriff, Clerk, appropriate fire districts and forest protection district, appropriate ambulance services, appropriate 911 call centers, Post Office, appropriate cities, and abutting property

owners of record. Such notice shall include a statement as to where and when any objections should be filed pursuant to Section 3.02.070 below.

#### SECTION 3.02.070 APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR DECISION

Upon receipt of the information regarding the road name, abutting property owners of record served by the road and agencies will have 10 working days to appeal the decision of the Community Development Director to the Board of Commissioners.

#### SECTION 3.02.080 FILING OF NEW ROAD NAME

Upon completion of the road naming process, the new road name shall be filed by the Community Development Director with the County Clerk, the County Assessor, the County Community Development Department, the County Roadmaster and the County Surveyor. The County Surveyor shall enter the new names of such roads or streets in red ink on any files, plats and tracings thereof which might be affected, together with the appropriate notations concerning the same.

#### SECTION 3.02.090 ROADS COVERED

Any County, public, or private street, road, highway or way visibly showing evidence of serving three or more existing residences, and a minimum of 500' in length is covered by this ordinance. Pursuant to ORS 227.120 those roads and streets within six (6) miles of the limits of any incorporated city shall not be renamed by the County.

#### SECTION 3.02.100 PREVIOUSLY NAMED ROADS

Requests to rename roads may be made through the Community Development Department by a majority of abutting property owners of record served by the road. Requests may be denied by the Community Development Director on the basis of length of the name, appropriateness of the name, disagreement among the property owners, confusion the name may cause, similarity to other road names or any other reasons the Community Development Director deems appropriate. No findings shall be required.

The Community Development Director may instigate renaming procedures on her/his own in order to bring roads into conformity with this division.

#### SECTION 3.02.110 LAMBERT GRID SYSTEM

The naming of roads under this system shall be done in such manner as to work compatibly with the Lambert Grid System which is utilized in Curry County.

- (1) Addresses will be assigned only to improved lots or parcels which include a driveway leading onto the named road.

- (2) Subsequent addressing of lots will be accomplished pursuant to Section 3.02.140 below.

#### SECTION 3.02.120 POSTING OF ROAD SIGNS

The Curry County Road Department may, at the Roadmaster's recommendation, install signs for non-County roads. Said signs shall be placed in a position to adequately indicate which road is being named. The signs may be placed upon public or private property for the protection of the health, safety, and welfare of the citizens of Curry County. The cost of the sign, installation and maintenance for non-County roads shall be borne by the person(s) requesting the sign. This person may include the Board or its delegated authority.

#### SECTION 3.02.130 ADDRESS NUMBER PLATES

The County Community Development Department shall assign addresses to new dwellings or developments when the owner is granted a building permit. At that time the Community Development Department will advise the Road Department of the address and the address number plate may be purchased from the County Road Department. If the address number plate is not purchased from the Road Department, it shall have a retroreflectorized green background with retroreflectorized white numbers. The numbers shall not be less than three inches in height. Upon completion of the dwelling or development the address number plate shall be posted by the property owner prior to the issuance of a certificate of occupancy. Said plates shall be conspicuously posted at all times by the resident in a manner to allow emergency vehicle drivers to immediately ascertain the address of each residence.

#### SECTION 3.02.140 PARTITIONS AND SUBDIVISIONS - ROAD NAMING AND POSTING

- (1) At the time a partition or subdivision is requested, an applicant shall name each road within said partition or subdivision subject to approval of the Community Development Director.
- (2) Upon completion of construction of the road(s), the applicant shall provide and install standard road name signs for each road in the partition or subdivision, said signs having a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices. Failure to provide and install standard road name signs can result in a disapproval of said partition or subdivision.

## **ARTICLE THREE – ROADS**

### **DIVISION THREE REMOVAL OF THE COUNTY BOARD OF COMMISSIONERS FROM JURISDICTION OVER STATUTORY WAYS OF NECESSITY**

#### **SECTION 3.03.010 AUTHORITY**

ORS 376.200 authorizes County Governing Bodies to remove themselves from jurisdiction over establishment of ways of necessity under ORS 376.150 to 376.200.

#### **SECTION 3.03.020 REMOVAL FROM JURISDICTION**

Because the Curry County Board of Commissioners feels that the Circuit Court is a preferable forum for litigating the establishment of statutory ways of necessity, it hereby removes the governing body of Curry County from jurisdiction over the establishment of ways of necessity under ORS 376.150 to 376.200.

## **ARTICLE THREE – ROADS**

### **DIVISION FOUR    USE OF ROAD RIGHTS-OF-WAY**

#### **SECTION 3.04.010    AUTHORITY**

This division is being adopted by the Board of Curry County Commissioners under authority of ORS 374.309.

#### **SECTION 3.04.020    DEFINITIONS**

See Section 3.01.030 for definitions.

#### **SECTION 3.04.030    WORK IN RIGHTS-OF-WAY; PERMIT REQUIRED; CONDITIONS; EQUITABLE REMEDIES**

(1) Except as otherwise provided in this division, no person shall place, build, construct, extend, enlarge or otherwise work on any facility, thing or appurtenance in the right-of-way of a County road without first obtaining a permit from the County Roadmaster. This requirement applies to all work, including but not limited to, the following:

(a) Constructing, grading, surfacing or providing drainage facilities under the access to private driveway or approach road;

(b) Pipelines, irrigation lines, sewer lines, underground cables, overhead wires and utility poles;

(c) Signs, billboards, symbols, notices, advertisements or directional guides;

(d) Sidewalks, curbs, gutters, retaining walls, meters, inlet basins, fences and ornamental objects;

(e) Planting of trees or other vegetation; and

(f) Mailboxes and supports other than those conforming to design standards provided by the Road Department.

(2) No person shall construct or maintain any facility, thing or appurtenance within any such right-of-way in violation of any of the conditions of a permit or any of the provisions of this division.

(3) No person shall use, occupy or maintain any facility or thing placed wholly or partly within the road right-of-way in violation of, or without first obtaining the permits required by, any law in effect at the time such thing or facility is so placed.



(4) Nothing in this section shall be construed to prevent the County from removing anything from a County road right-of-way, whether or not the same is installed under a permit or in compliance with this division, where the County Board of Commissioners finds that such removal has become necessary to the public's use or improvement of the road.

SECTION 3.04.040 EXCEPTIONS TO CERTAIN REQUIREMENTS; INTERPRETATION.

(1) A permit is not required for the following, providing the work does not involve excavation:

(a) Performing maintenance or minor improvement to existing facilities lawfully in place;

(b) Utilizing lawfully installed facilities as intended when installed, including the following:

(1) Inspection and cleaning of sewer and storm water facilities;

(2) Inserting cables in existing conduits or making service connections within a terminal structure; and

(3) Utilization that is expressly acknowledged by prior permit provisions; and

(c) Other miscellaneous minor activities as specifically approved in writing by the Roadmaster.

(2) Nothing in this section shall:

(a) Limit or affect any of the powers granted to, or duties imposed upon, the County Board of Commissioners, the Department of Transportation or the Public Utility Commissioner by ORS 758.010 and 758.020, or any rights granted or authorized under those statutes or any other statutes pertaining to powers, duties and rights of the aforesaid;

(b) Grant any right for the construction or placing of an approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance on the right-of-way of any County road; or

(c) Be deemed to affect any approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way of any County road prior to September 13, 1967, subject, however, to the authority reserved to the County Board of Commissioners in Section 3.04.030 (4).

#### SECTION 3.04.050 CHANGE IN USE OF APPROACH ROAD; PERMIT REQUIRED.

A change in the manner of using an approach road that connects to or intersects a County road requires a permit, as provided by ORS 374.305. A changed use includes, but is not limited to:

- (1) Any physical change requiring excavation, placing of an embankment, a culvert extension, construction of headwalls and repair or alteration of any existing lawfully installed facility pertinent to a driveway or approach road;
- (2) Any substantial change in the type or number of vehicles reasonably anticipated during the application for, and the review and approval of the latest existing permit on file for a driveway or approach road; and
- (3) Any other change in the approach road or its use which the Roadmaster finds may adversely affect the public's safety or the public's interest in the County road in the absence of limitations or conditions.

#### SECTION 3.04.060 REVIEW OF PERMIT APPLICATIONS.

From the date this division becomes effective the authority contained in ORS 374.305 through 374.325 relating to County roads applies to any facility, thing or appurtenance within a County road right-of-way. After a completed application with the required fee has been submitted, the Roadmaster, or his or her authorized representative, shall review the application and shall issue the permit if he or she determines that the proposal will comply with the provisions of this division and the applicable requirements imposed by State law. The Roadmaster may impose additional written conditions on a permit consistent with the provisions of this division if he or she finds such conditions to be necessary to the public interest in the safe use of the road and the preservation of the public improvements therein and on the property adjoining the same. The Roadmaster may also require the applicant to submit plans which, when approved, will become part of the conditions of the permit. The Roadmaster shall prepare appropriate forms to assist the applicant in providing the information necessary for the application review.

If the applicant disagrees with the Roadmaster's interpretation of the regulations or with the conditions imposed by the Roadmaster, or if the Roadmaster finds that the proposal raises problems of public safety or problems having to do with the public use or protection of the road, which problems are not addressed in the regulations, then either may refer the application to the County Board of Commissioners, which Board shall, within thirty days, afford them an opportunity to be publicly heard and make its final decision in the matter. If the Board finds that the proposal creates a problem to public interests in the road which cannot be solved by the application of the regulations or adequate conditions, the Board shall deny the application.

The Roadmaster shall arrange for whatever field study and inspection he or she deems to be appropriate to assure compliance with the requirements.

#### SECTION 3.04.070 PERMIT REGULATIONS AND CLASSIFICATION.

- (1) The regulations pertaining to each of the various permits issued by the Roadmaster, which are set forth in Exhibit D, "PERMIT REGULATIONS & CLASSIFICATION" following the text of this division, are hereby adopted and made a part of this division.
- (2) A permit fee shall be paid at the time the application for a permit is submitted to the Roadmaster. All permits issued by the Roadmaster shall be classified under one of the following headings on a general "Facility Permit" form.
  - (a) Driveway/road approach permit;
  - (b) Road encroachment permit;
  - (c) Road improvement permit;
  - (d) Special permit;
  - (e) Utility permit;
- (3) Copies of the regulations appropriate to the classification, as determined by the Roadmaster, shall be attached to, or referenced on, each permit issued.

#### SECTION 3.04.080 PERMIT FEES.

Fees for the various permits required by this division shall be set by Board resolution.

#### SECTION 3.04.090 EXEMPTIONS FROM FEE REQUIREMENT.

No fee shall be required for a permit in the following circumstances:

- (1) Where installation of public facilities by public or quasi-public entities is involved;
- (2) Where the Roadmaster finds that the organization which proposes the installation is engaged in a nonprofit activity and that the activity is for the benefit of the general public;
- (3) Where the permitted facility, thing or appurtenance in the right-of-way of the County road is in lawful existence as of the effective date of this division except that this exemption does not apply to work done after such effective date; and
- (4) In any instance where the Roadmaster deems it to be in the best interests of the County to waive the permit fee.

SECTION 3.04.100 VIOLATIONS; REMOVAL OR CORRECTION OF INSTALLATIONS;  
PROSECUTION.

(1) If any person fails to obtain a permit or to comply with the appropriate regulations or permit conditions, then the Roadmaster may take appropriate action to remove or correct the installation and recover the cost from the person responsible, all in accordance with the authority contained in ORS 374.307 and 374.320 as such statutes relate to County roads. However, such action shall not waive the County's right to prosecute the offender under Section 3.04.990.

(2) In addition to the remedies set forth in subsection (1) hereof or prescribed by ORS 374.307 or 374.320, any person who violates or fails to comply with any of the provisions of this chapter may be punished as provided in Section 3.04.990. A separate offense may be deemed committed each day during or on which such unlawful condition is maintained or continued after citation or notice of violation has been given. Offenses under this section may be charged under Article 10 of the Curry County Code.

SECTION 3.04.110 ALTERATION OR REMOVAL OF TREES AND VEGETATION IN  
COUNTY ROAD RIGHTS-OF-WAY.

(1) All trees within a County road right-of-way are subject to the County's control, and no tree may be altered or removed without a permit from the County. The permit requirement does not apply to public utilities exercising their rights within the right-of-way pursuant to State law or franchise. The authority to issue a permit under this section is delegated to the Roadmaster or his or her authorized representative. In issuing a permit, the County shall have the authority to impose such conditions as it deems necessary for public safety and convenience.

(2) The County has and claims the right to remove or alter any tree, or remove any other vegetation, situated entirely within the County road right-of-way if, in the judgement of the Roadmaster, such removal is necessary to the use or improvement of the road or related facilities or for public safety.

(3) If the Roadmaster finds that a tree to be removed may have marketable or ornamental value to the owner of the land abutting the half of the right-of-way on which the tree is situated, the County shall first send notice to the abutting owner, giving the owner thirty days within which to secure a permit and alter or remove the tree or vegetation. If within that period of time the tree or other vegetation is not removed or altered to the extent necessary to the public safety and convenience as found by the Roadmaster, the County may remove or alter the tree or vegetation and, if it is a merchantable tree, retain it to defray the cost of removal. For purposes of giving notice under this subsection, the owner according to the Assessor's records of the property abutting the half of the right-of-way within which the tree is situated shall be deemed the owner of the underlying tree. Notwithstanding the foregoing, if the Roadmaster or his or her authorized representative determines that an emergency exists which may affect the public safety, no notice shall be required prior to the removal of the tree or vegetation.

(4) The Roadmaster may define by written policy those criteria by which he or she determines that the removal or alteration of a tree or other vegetation within a County road right-

of-way is necessary for public safety or convenience; that a tree is marketable or has ornamental value to abutting property; or that an emergency exists which may affect the public safety. When such written policy is approved by the Board of Commissioners, any determination made by the Roadmaster pursuant to the policy is final.

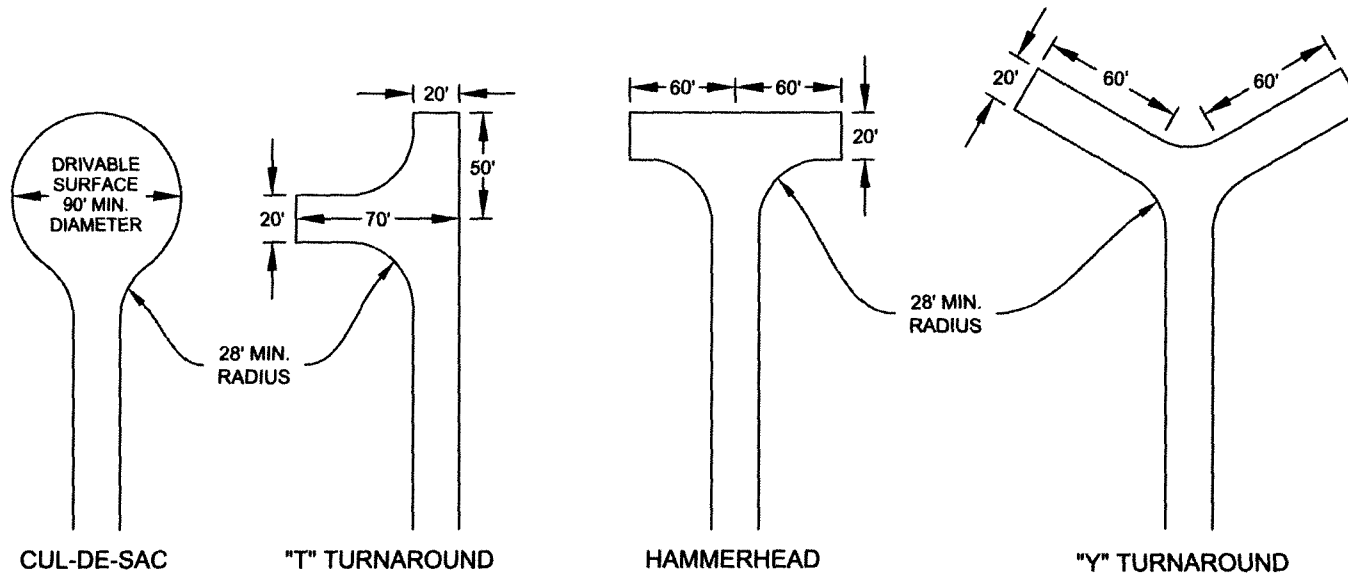
(5) Notwithstanding subsection (4) hereof, the Board of Commissioners may, on its own motion, within the said thirty days, review a proposal to remove a tree under this division and may determine, at its discretion, whether there is a public interest which outweighs the public safety issue raised by the presence or condition of the tree, or may determine at its discretion that the public safety and convenience can be adequately served without the removal of the subject tree considering its value or function.

#### SECTION 3.04.990 PENALTY.

Violations of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.

**EXHIBITS TO ARTICLE THREE**

## EXHIBIT "A"

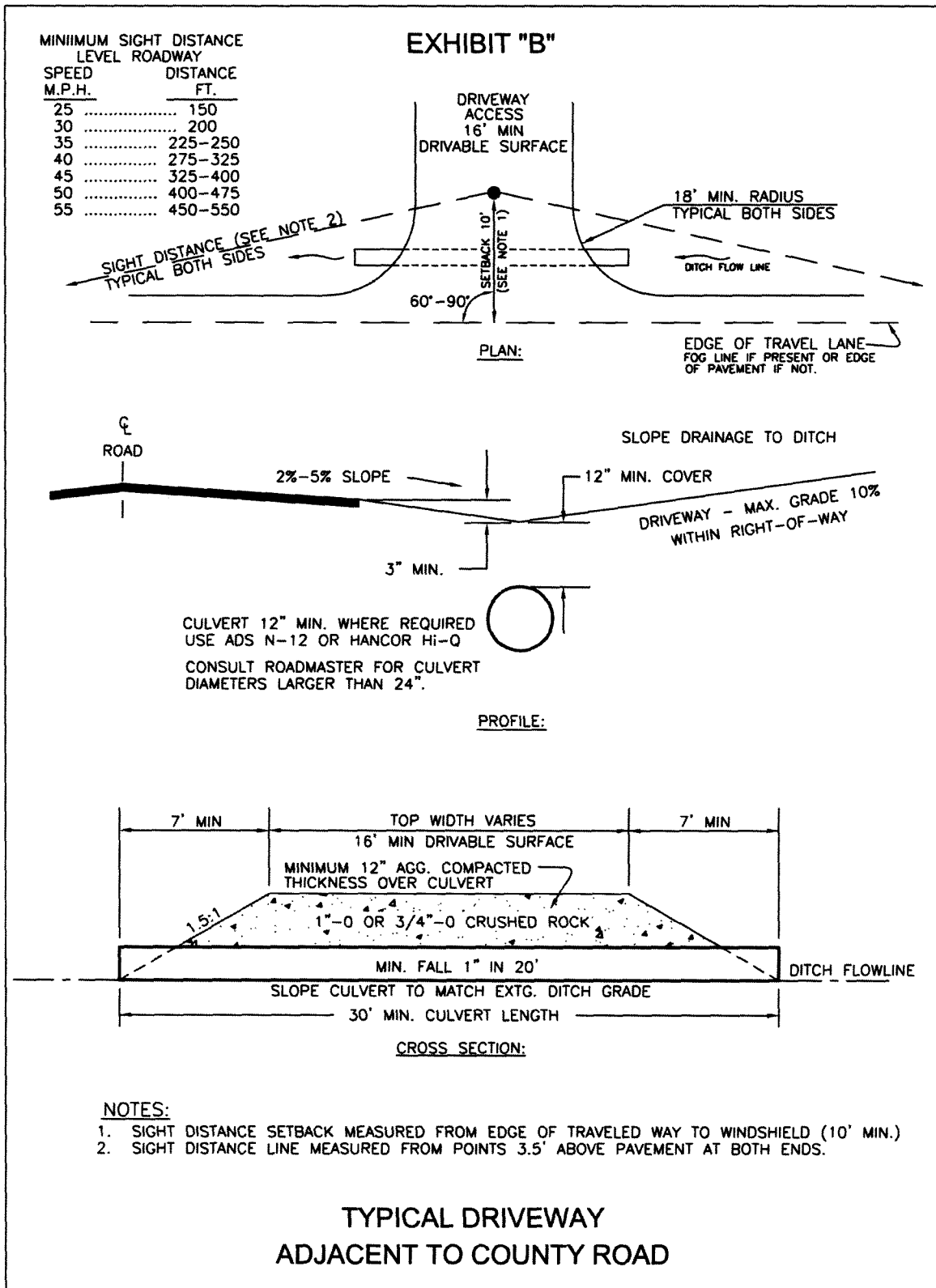
NOTES:

1. SLOPES: 1% MINIMUM, 4% MAXIMUM.
2. SURFACING: PAVED PER FUNCTIONAL CLASS.
3. TURNAROUNDS FOR FIRE ACCESS REQUIRE FIRE DEPARTMENT REVIEW/ APPROVAL (THEIR STANDARDS MAY BE GREATER).
4. ALL CONSTRUCTION SHALL COMPLY WITH CURRY COUNTY ROAD STANDARDS AND AN APPROVED PLAN.

MINIMUM TURNAROUND STANDARDS  
FOR RURAL ROADS

EXHIBIT "A" TO DIVISION ONE

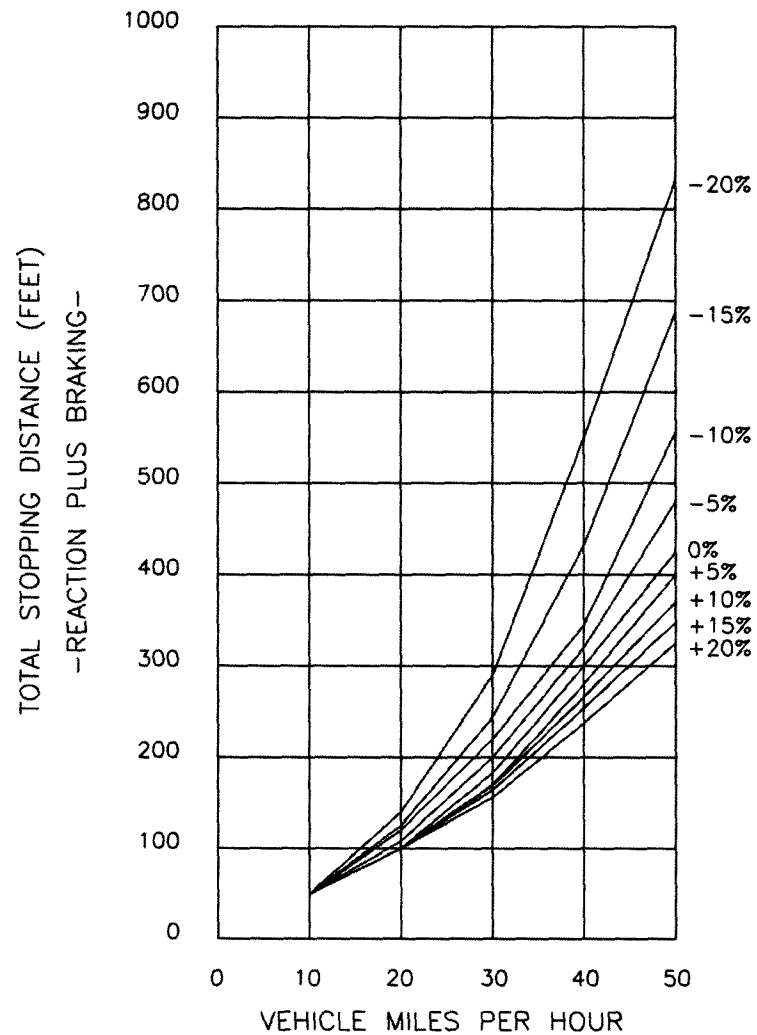
## EXHIBIT "B" TO DIVISION ONE





**EXHIBIT "C" TO DIVISION ONE**

**EXHIBIT "C"**



BASED ON:  $\frac{V^2}{30 (F+G)} = D$

**GRADE EFFECT ON STOPPING DISTANCE**

**EXHIBIT "D" TO DIVISION FOUR**

**PERMIT REGULATIONS & CLASSIFICATION**

## APPLICATION FOR FACILITY PERMIT - EXAMPLE



### APPLICATION FOR FACILITY PERMIT

(Subject to Conditions; Revocable)

### CURRY COUNTY ROAD DEPARTMENT

28425 Hunter Creek Road  
Gold Beach, OR 97444

PERMIT NO. \_\_\_\_\_

DATE: \_\_\_\_\_

TAX MAP \_\_\_\_\_

TAX LOT \_\_\_\_\_

#### PERMIT TYPE AND FEE COLLECTED:

\_\_\_\_\_ Driveway/Road Approach  
\_\_\_\_\_ Road Encroachment  
\_\_\_\_\_ Road Improvement  
\_\_\_\_\_ Major  
\_\_\_\_\_ Minor  
\_\_\_\_\_ Special  
\_\_\_\_\_ Utility

I, \_\_\_\_\_ hereby make application for a facility permit upon the right-of-way of  
(Applicant's Name)

\_\_\_\_\_ Milepost (s) \_\_\_\_\_ in strict conformity to the  
(Road Name-County Road Number)

exhibits attached hereto, subject to all terms, conditions, agreement stipulations, and provisions contained in the application and permit, and the rules and regulations regarding roads and rights-of-way, as set forth by the Curry County Code Article Three, and any other applicable regulations, law or ordinance.

#### DESCRIPTION OF FACILITY:

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

Signature \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email Address \_\_\_\_\_

#### FACILITY PERMIT

**SPECIAL PROVISIONS:** The terms and specifications which apply to this permit are as shown on the attachment herewith and the permit conditions listed on the reverse side of this application. Noncompliance with these terms, specifications and conditions will result in revocation of this permit.

#### ATTACHMENTS FOR:

\_\_\_\_\_ Driveway/Road Approach \_\_\_\_\_ Road Improvement \_\_\_\_\_ Utility  
\_\_\_\_\_ Road Encroachment \_\_\_\_\_ Special

#### ADDITIONAL REQUIREMENTS:

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

This permit shall be void unless the work herein contemplated shall have been completed before \_\_\_\_\_, 20\_\_\_\_.

#### APPROVED:

Issue Date \_\_\_\_\_ Approved \_\_\_\_\_

#### INSPECTED:

Date \_\_\_\_\_ Approved \_\_\_\_\_

Denied \_\_\_\_\_  
Douglas M. Robbins, Roadmaster

By \_\_\_\_\_ Denied \_\_\_\_\_

**RETURN** completed Permit Application to:

**Curry County Road Department, 28425 Hunter Creek Road, Gold Beach, OR 97444**

- A.** This permit covers public right-of-way and/or County property only.
- B.** It is the responsibility of the permit holder to re-establish any survey monument, moved, destroyed, etc. while working within County right-of-way. Re-establishment of survey monuments must be done by an approved registered surveyor and all costs will be borne by the permit holder.
- C.** Notification to the Curry County Road Department is required 24 hours before beginning work under this permit - (541) 247-7097. Prior approval for modifications to permit specifications is required.
- D.** Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Permits may be terminated or suspended when the permit holder is found to have obtained a permit through misrepresentation of the facts or when, in the judgment of the Roadmaster, terms of the permit are being violated or public safety is threatened. Permits shall remain in effect until a change in land use occurs. The permit holder shall be responsible for the cost of design, installation or construction of additional roadway improvements and traffic control devices at any time in the future when the traffic generated by the use for which the access permit is authorized necessitate such installation in the interest of the public safety.
- E. HOLD HARMLESS CLAUSE** - The permit holder agrees that their performance under this permit is at their own sole risk and that they shall indemnify Curry County, its agents and employees and hold them harmless from any and all liability for damages, costs, losses and expenses resulting from, arising out of, or in any way connected with this permit, or from the permit holder's failure to perform fully hereunder, and the permit holder further agrees to defend Curry County, its agents, and employees, against all suits, actions or proceedings brought by any third party against them for which the permit holder would be liable hereunder.
- F.** The permit holder guarantees all restoration work for a period of one year from the date of completing the installation, except non-cement/sand slurry backfills under pavements shall be warranted for two years from the date of completing the installation.
- G.** Any sight posts, sign posts, or mailboxes that are removed will be replaced immediately in like condition in the same location and the area around them will be restored to a like or better condition.
- H.** As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way and may order the location of such facility changed if deemed expedient.

## DRIVEWAY/ROAD APPROACH PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

Compliance with the standard drawings attached hereto is required.

### I. Materials

Culverts shall be double wall plastic (ADS N-12 or Hancor Hi-Q) pipe for diameters through 24". Consult with the Roadmaster for diameters larger than 24".

### II. Construction Regulations

1. Obtain permit from the Curry County Road Department. Permits are to be signed by the property owner unless the contractor has an authorized paper signed by the property owner to obtain permits for them.
2. Absolutely no work is to begin without having the permit in hand. **ALL WORK IS TO BE COMPLETED BEFORE THE EXPIRATION DATE.**
3. Culvert shall be installed on straight lines, both vertical and horizontal, and have a minimum fall of 1" in 20 feet. Bell ends of pipe shall be placed facing towards the inlet end of the culvert. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
4. Flow line of culvert shall match the flow line of the ditch and allow for a minimum of 12" of cover over the culvert. Cover materials shall maintain a 2% slope away from the roadway to the back of the ditch. Cover material shall be 1"-0 or ¾"-0 crushed rock. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
5. The driveway/road approach shall intersect the County road as near to a right angle as possible.

6. The maximum grade of the driveway/road approach in the County right-of-way should be ten (10) percent and constructed so that the low point in the grade is over the culvert or so that the slope is away from the road to prevent storm water and surfacing materials from encroaching on the road shoulder.
7. For road approaches in curb and gutter sections of road, the curb cut construction must conform to the Department's standard drawing. Behind the curb a standard concrete apron must be constructed or the portion of the driveway on the right-of-way must be paved with asphaltic concrete. The County must inspect the forms prior to the concrete pour.
8. Call for final inspection.

### III. General Provisions

1. The applicant declares that he or she is the owner or lessee of the real property abutting the above described County road and has the lawful authority to apply for this permit.
2. The County assumes no liability for any damage which may be caused to the approach due to routine road maintenance or road improvement. It shall be the responsibility of the holder of this permit to construct the approach to such lines and grades so as not to interfere with normal road maintenance operations.
3. A driveway/road approach permit may be denied when, in the opinion of the Roadmaster, lack of adequate sight distance would create a traffic safety hazard. The applicant may be required to remove brush, widen cut banks, relocate the proposed approach or otherwise satisfy sight distance requirements and to ensure that those distances are maintained. The minimum recommended sight distances for the estimated speed of the traffic are given below. The sight distance line shall be measured from points 42" above road surface at both ends.

Speed (mph)	Minimum Sight Distance (ft.)
25	150
30	200
35	225-250
40	275-325
45	325-400
50	400-475
55	450-550

4. Proper barricades and warning signs must be maintained at all times during construction by the holder of this permit so as to ensure the safety of the public.

5. The County road is to be restored to its original or to a better condition. All excess rock or dirt is to be removed from the traveled portion of the road by brooming or washing, as directed. Final clean-up is to be completed within one week after the approach is constructed.
6. Failure of the permit holder to construct the approach or approaches in strict conformance with all the provisions written herein, or with plans and standard drawings attached hereto, shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Removal of the partially constructed approach or approaches shall be done at the applicant's sole expense.

## ROAD ENCROACHMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

### General Conditions

This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

### Description of Installation

*Description goes here.*

### Location of Installation

\_\_\_\_\_(see attached sketch)

### Special Terms and Conditions

1. This permit is valid only for work within the scope and extent as described above.
2. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installations.
3. In the event that County maintenance and/or construction require additional utilization of the public right-of-way this permit may be revoked and the permit holder may be required, **at his/her own expense**, to relocate the facilities to accommodate the work contemplated by the County. Curry County will make reasonable effort to provide the permit holder prior notification of any such planned activity.



4. In the event that the above described installation, in the opinion of the Roadmaster, adversely affects public safety, the Roadmaster shall revoke this permit. In this event, the permit holder shall immediately, and **at his/her own expense**, provide for the elimination of said encroachment and other items associated with the above described installation.
5. Additional pertinent road encroachment permit terms and conditions will be issued with the permit as needed.

## ROAD IMPROVEMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

### General Conditions

This permit is for a major/minor road improvement. This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

### Description of Installation

*Description goes here.*

### Location of Installation

\_\_\_\_\_ (see attached sketch)

### Special Terms and Conditions

1. Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall follow the attached signing plan.
2. The holder of this permit shall be responsible for all damages caused by any operations associated with the road improvement. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the road improvement.
3. The holder of this permit guarantees all parts of the road construction for a period of two years from the date of completing the project.
4. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installation.

5. The County may order the work suspended as set forth in Section 180 of the Oregon Standard Specifications for Construction for any reason deemed to be in the public interest.
6. All work and materials shall conform to the Curry County Road Department specifications.
7. Each phase of construction (culverts, subgrade, base rock, etc.) shall be inspected and approved by the Road Department before proceeding with the next phase.
8. Detailed plans prepared and stamped by a professional engineer registered in Oregon shall be required for major improvements.
9. The contractor shall call the Road Department at (541) 247-7097 for subgrade and form inspections (24 hour notice).
10. Additional pertinent permit terms and conditions will be issued with the permit as needed.

SPECIAL PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_

Permit No. \_\_\_\_\_

Phone: \_\_\_\_\_

Road \_\_\_\_\_

Email: \_\_\_\_\_

Mile Post \_\_\_\_\_

Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_

Tax Lot(s) \_\_\_\_\_

Expiration Date \_\_\_\_\_

Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

Pertinent special permit conditions will be issued with the permit as needed.

## UTILITY PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

### General Conditions

1. This permit is granted for use only on roads under the jurisdiction of the Curry County Board of Commissioners and is not valid upon any federal highway, state highway, city or town street, or any road not in the County road system of Curry County.
2. As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way, and may order the location of such facility changed if deemed expedient.
3. Permittee shall be responsible for all damages caused by any operations associated with the utility installation. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the utility installation.
4. By acceptance of this permit, permittee agrees to be responsible for all permit conditions, including the attached special conditions, and said responsibility shall survive the suspension or termination of this permit.
5. Utility permit applications shall be accompanied by 2 sets of plans or a sketch that accurately depicts and locates the work to be done so that someone unfamiliar with the work can determine the location of the installation. Said plans shall be adhered to unless written permission to vary is granted by the Roadmaster.

### Special Conditions

Compliance with the applicable "Special Conditions for Underground Utilities Within County Road Rights-of-Way", "Special Conditions for Underground Electric Power Line Installation Within County Road Rights-of-Way" and/or "Minimum Signing Requirements for Construction and Maintenance Areas" is required.

SPECIAL CONDITIONS FOR UNDERGROUND UTILITIES WITHIN COUNTY ROAD  
RIGHTS-OF-WAY

1. MAXIMUM LENGTH OF OPEN TRENCH

Unless otherwise approved by the Roadmaster, backfilling of longitudinal trenches shall be accomplished so that no more than 200 feet of trench is left open at any time. No more than half the road may be closed at any time for either longitudinal or transverse trenches.

2. CEMENT/SAND SLURRY BACKFILL AND BACKFILL MAINTENANCE

All paved surface cuts shall be backfilled with 1 sack cement/sand slurry poured at a 6"-8" slump. Slurry shall extend from the pipe zone to finish grade and be plated with 1/2" minimum steel plates of sufficient width to overlap the trench by 6". "BUMP" signs must be placed on either side of the plates to warn traffic. The slurry backfill is to stand on the angle of repose or it may be vertical if the edges are formed first. The edge of the slurry shall extend one foot outside of the edge of pavement. Steel plates shall be left in place until slurry is set. Plywood may not be used for traffic to pass over.

The surface of backfilled trenches using an alternate backfill material on larger longitudinal trenches shall be watered and graded as often as necessary to keep the travel way smooth and dust free. If required by the Roadmaster, an approved dust palliative shall be applied.

3. TEMPORARY PAVEMENT REPLACEMENT

Cross trenches or other local pavement cuts shall be repaved immediately unless the contractor chooses to wait until all trenching and backfilling is completed. Temporary asphalt covering (cold mix) may be constructed. The temporary surfacing shall be removed in its entirety before placement of the permanent pavement.

4. COMPACTION TESTING

Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and elevations as will be representative of the entire backfill. Final decision as to the location and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional compactive effort, other compactive method or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.

## 5. ROAD RESTORATION REQUIREMENTS

Restoration is the process of bringing a roadway as near as possible to the life and structural section a road had prior to construction. It is also part of maintaining a safe surface for driving (i.e. consistent road surface types for braking and turning maneuvers). Typically the County has three (3) major types of restoration.

- Tee cut
- Grind and inlay
- Overlay

The restoration requirements on the permit/plans approved by the County should be considered as best case. They will be the standards used if the construction does not cause any extra damage, the trench walls do not cave in, no modifications to the alignment, and no conflicts are discovered.

The restoration requirements are based on several items including:

- Current condition of the road based on a pavement condition index (PCI) as determined on a regular basis (usually every 2 years) by the County
- Functional classification of the road
- Next regularly scheduled maintenance
- Site conditions (curves, road hazards, signage, and speed zone)
- Professional engineering judgement

When an open trench cut is proposed on a road which is scheduled to be surfaced within the next six (6) months, a tee cut shall be required.

When an open trench cut is proposed on a road which has a PCI greater than eighty (80), and it is not scheduled to be surfaced within the next six (6) months, a grind and inlay will be required.

When an open trench cut is proposed on a road which has site conditions such as sharp curves, road hazards, or in a school zone, an overlay may be required.

When an open trench cut is proposed on a road which has been surfaced within the last five (5) years, open cuts may not be allowed. At the County's discretion, tap and bores may be allowed with a grind and inlay for any bore pit.

## 6. PROSECUTION AND PROGRESS OF ROAD RESTORATION

Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall ensure that road restoration work is prosecuted diligently and completed as quickly as practicable after trench compaction and testing. On lengthy projects, complete road restoration may be required on one section prior to continuance of the excavation phase on another.

7. INSPECTION AND SUPERINTENDENCE

When required by the Roadmaster, permittee shall provide for a full time representative on the project. The representative shall be an experienced inspector or engineer who will be responsible to ensure compliance with the contract documents and the County's General and Special Conditions of the project permit.

In case of conflict between the project plans and contract documents and the "Terms and Conditions of this Permit", the latter shall prevail.

8. STANDARDS AND SPECIFICATIONS

Except as otherwise shown or referred to in these Special Conditions, or as otherwise approved by the Roadmaster, all work and materials affecting roads and road structures shall conform to the Curry County Road Standards. Said standards and specifications include, by reference, the Oregon Department of Transportation "Oregon Standard Specifications for Construction" and the Federal Highway Administration "Manual on Uniform Traffic Control Devices" (MUTCD.).

9. CLEANUP AND REPAIR

All areas affected by the construction shall be brought to an "As good as or better than" condition prior to completion of the project. Repairs shall include, but are not limited to:

A. Roadway Repairs

In addition to road reconstruction within the trench area, the permittee shall ensure the repair of any other pavement, base material or subgrade damaged as a result of project operations. This includes damage to shoulders and pavement edges caused by detouring traffic and equipment around the work area. In case of excessive damage, reconstruction or an asphaltic overlay may be required.

B. Replacement of Contaminated Gravel

All gravel surfaces contaminated with mud, dirt, oversize rock or other foreign material shall be removed and replaced with 3/4"-0 crushed rock meeting the requirements hereinabove set forth.

C. Slopes and Roadside Ditches

Slopes and roadside ditches shall be trimmed, smoothed and compacted to the original lines and grades.



D. Driveways, Culverts and Ditches

Driveways, culverts and ditches shall be replaced to the original lines and grades.

E. General Cleanup

The contractor shall at all times during the work keep the roadway clean and orderly. All broken pavement, concrete, excess excavation material or other objectionable material shall be promptly removed from the County road right-of-way.

10. MISCELLANEOUS CONDITIONS

A. Detours

All requests for detours shall be submitted well in advance with a detour plan showing traffic signing proposed. No detour will be permitted until approval of the plan by the County Roadmaster. When the plan is approved the permittee shall notify all emergency agencies, school districts and postal carriers concerning the location and duration of the detour.

B. Backfill Compaction by Water Settlement Method

The use of the water settlement method of compaction for certain granular materials, as noted on the typical section, may be allowed under the following conditions:

1. Permittee shall, prior to backfilling any significant portion of trench, demonstrate by approved testing methods that the specified compaction is obtainable. Excessive groundwater infiltration or retainage of water in the backfill material will not serve as sufficient reason for not achieving specified compaction.
2. Water settling (jetting or ponding) shall proceed within a short distance behind the backfilling operation. Lateral trenches, other new excavation or re-excavation which may occur at a later time shall be compacted separately and, if necessary, by mechanical means in order to achieve the specified compaction.
3. Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and at such elevations as shall be representative of the entire backfill. Final decision as to the adequacy and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

4. Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional water settlement, dewatering, other compactive methods or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.

C. Pavement Replacement

Immediately prior to patching the trench with asphaltic concrete, the existing pavement shall be neatly cut with a pavement saw or other approved breaker. All cracked or ravelled pavement shall be removed without creating abrupt jogs in the cut line. Pavement trimming, finishing of the gravel surface, tacking the edges and pavement replacement shall be performed only under the immediate supervision of the Roadmaster or his authorized representative. Unless otherwise approved by the Roadmaster, all trenches within a paved travelled way shall be resurfaced with asphaltic concrete within 10 calendar days after testing and approval of the backfill. The finished surface of the new pavement, when tested with a 10-foot straightedge, shall not vary from the testing edge by more than 1/4 inch at any point. The top course of asphalt shall be constructed only by workmen thoroughly familiar with asphalt finishing work.

An emulsified asphalt fog coat of the entire paved surface may be required after the asphaltic concrete patching has been completed on projects having numerous cross trenches or where there has been extensive damage to the surface. The fog coat shall be CQS-1h emulsified asphalt mixed at a 1 to 1 ratio with water according to the manufactures directions. Apply the fog coat at a rate of 0.11 gallons per square yard.

On longitudinal trenches, unless otherwise approved by the Roadmaster, the existing pavement shall be removed and replaced to full paving machine width (normally 10 feet). Drag boxes or other pull-type asphalt spreaders will not be permitted for longitudinal trench pavement replacement.

D. Manhole and Valve Box Adjustment

Manholes, valve boxes and similar structures shall be raised to finish grade after paving is completed. The structure surface shall be no greater than 1/4 inch higher or lower than the surrounding surface when tested with a 10-foot straightedge. Level 3, 1/2" dense HMAC asphaltic concrete may be used to fill in the void around the structure unless otherwise directed by the Roadmaster. If the Roadmaster so requires, concrete collars shall be constructed in accordance with the department's standard drawings "CONCRETE COLLARS FOR MANHOLES" and/or, "CONCRETE COLLARS FOR MONUMENT/VALVE BOXES". Usually, concrete will only be required (a) when it is impractical to maintain adequate working temperature for asphaltic concrete and (b) where the

structure configuration fails to provide adequate support to prevent being displaced by traffic.

11. SPECIAL CONDITIONS FOR UNDERGROUND ELECTRIC POWER LINE INSTALLATION WITHIN COUNTY ROAD RIGHTS-OF-WAY

Longitudinal power line installations shall not be allowed within the roadbed section, including ditches, unless the conditions are such that installation outside the ditch line would present an extreme difficulty. The burden of proving "extreme difficulty" shall lie with the applicant.

When located outside the roadbed section, the cable shall be placed as near the right-of-way line as possible while maintaining a generally uniform distance from the road centerline.

Warning signs shall be placed at frequent intervals over the cable, including both sides of road crossings.

The minimum depth for power cables shall be not less than 36 inches below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 36 inch bury depth shall be measured from the existing ground surface. **Under no circumstances shall the depth of power cable be less than 36 inches unless contained in steel conduit pipe.**

12. NORMAL WORKING HOURS

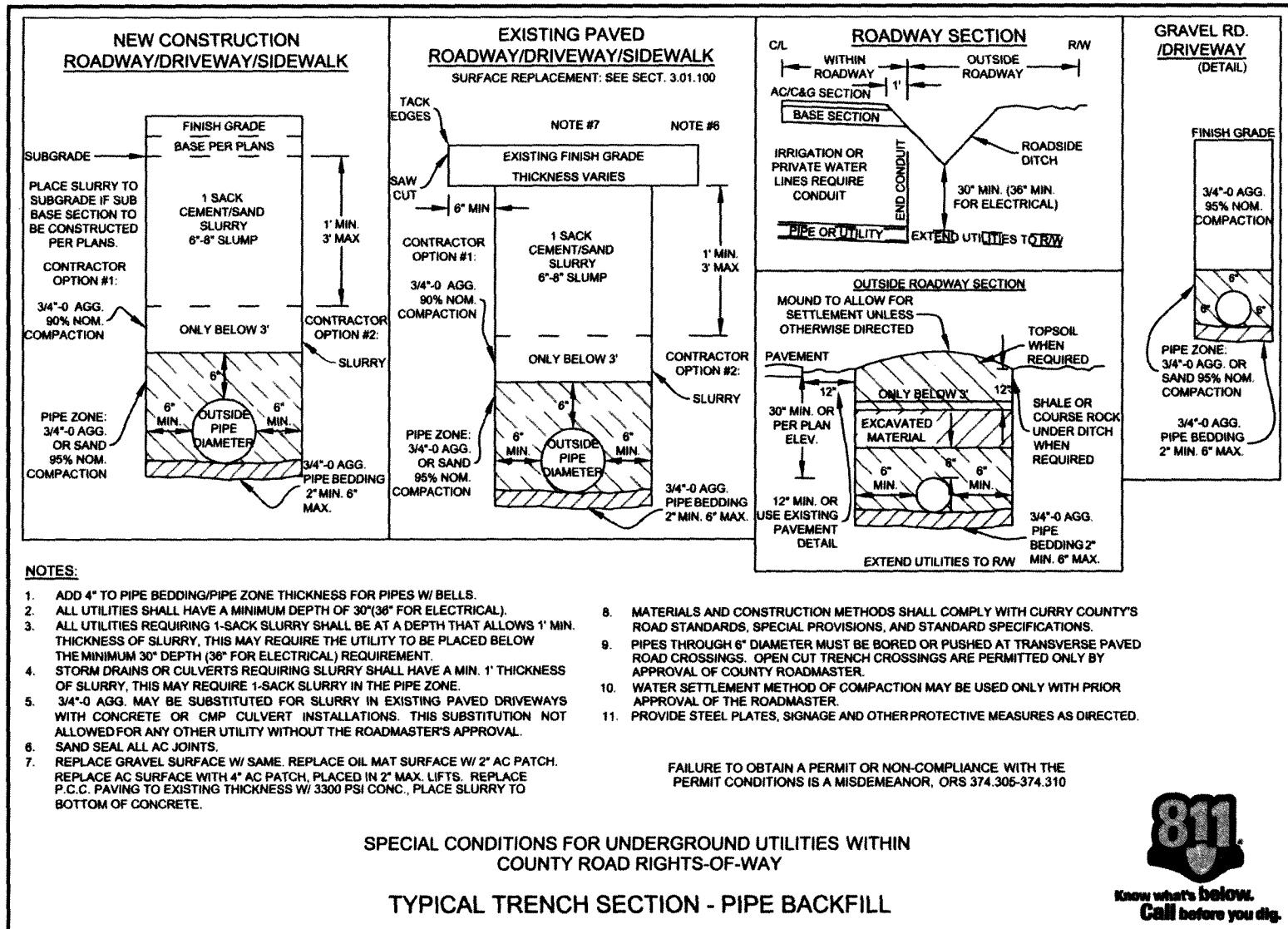
Working hours for the permitted work shall be between 6:00 a.m. to 10:00 p.m. on weekdays. Work on weekends or holidays must be approved by the Roadmaster. The permittee may be required to reimburse the County for inspection costs for any work that is permitted outside of normal departmental working hours.

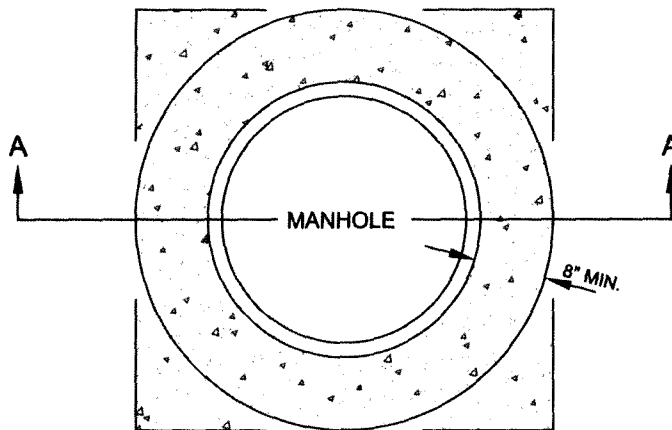
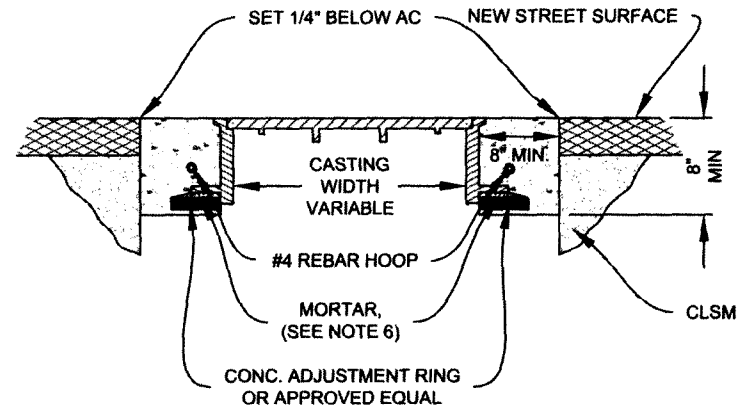
**REVOCATION OF PERMIT**

Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road rights-of-way.

Revocation of the permit will result in a "STOP WORK ORDER" on all or portions of the project.

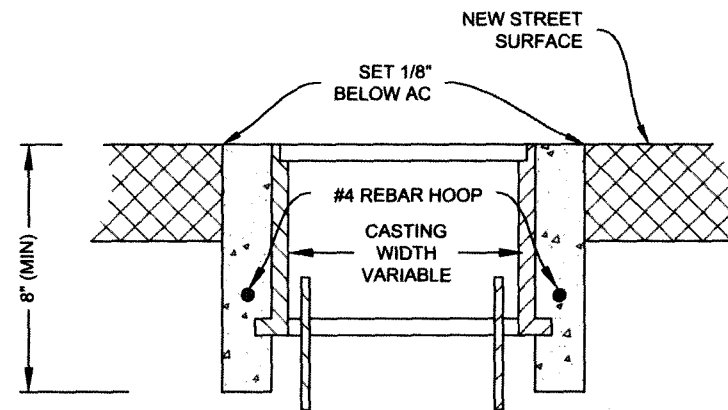
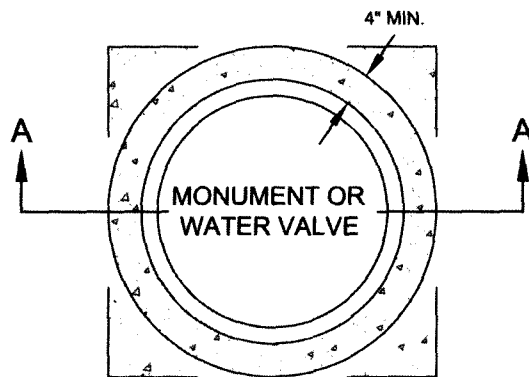
Work performed within the County road right-of-way without a valid permit is a violation of Curry County Code and is enforceable pursuant to Article 10 of the Curry County Code. For any person who causes or maintains a condition in violation of Curry County Code, Article Three, every day during which such unlawful condition is thus maintained or continued after citation or notice of violation has been given may be charged as a separate offense.



PLANSECTION A-ANOTES:

1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/4" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.
6. MORTAR TO BE 2" THICK MAX. USE EPOXY FOR SYNTHETIC GRADE RINGS.
7. NO MORE THAN ONE STEEL RISER MAY BE PLACED ON TOP OF FRAME IF REQUIRED.
8. RAISE MANHOLES TO GRADE AFTER PAVING UNLESS OTHERWISE APPROVED BY THE ROADMASTER.

## CONCRETE COLLARS FOR MANHOLES



SECTION A - A

NOTES:

1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/8" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.

CONCRETE COLLARS FOR MONUMENT/ VALVE BOXES

**WORK IN ROADWAY**

**WORK ADJACENT TO ROADWAY**

**NOTES:**

SINCE IT IS NOT PRACTICAL TO PRESCRIBE DETAILED STANDARDS OF APPLICATION FOR ALL SITUATIONS THAT MAY CONCEIVABLY ARISE, MINIMUM STANDARDS ARE PRESENTED HERE FOR THE MOST COMMON SITUATIONS. IT IS EMPHASIZED THAT ADDITIONAL PROTECTION MUST BE PROVIDED WHEN SPECIAL COMPLEXITIES AND HAZARDS PREVAIL. "BUMP" SIGNS MUST BE PLACED ON EITHER SIDE OF UTILITY TRENCHES WHEN JUMP PLATES ARE USED.

AS A "RULE OF THUMB" THE MINIMUM SIGNING REQUIRED SHOULD CONVEY "INFORMATIONAL", "INSTRUCTIONAL", AND "SPECIFIC WARNING" (SEE BELOW) MESSAGES TO MOTORISTS ON ALL APPROACHES TO A WORK SITE OR HAZARD AREA.

SIGNS ARE TO BE LOCATED NOT LESS THAN 250' IN ADVANCE OF HAZARDS AND STOP POINTS. MINIMUM SPACING BETWEEN SIGNS IS TO BE 100' UNLESS OTHERWISE DIRECTED.

SIGN STANDS ARE TO BE STABLE AND WEIGHTED TO PREVENT EASY TIPPING. SIGNS ARE TO BE SECURELY FASTENED TO STANDS.

SIGNS, STANDS, BARRICADES, ETC., AND THE PLACEMENT THEREOF, SHALL CONFORM TO THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (M.U.T.C.D.). WARNING SIGNS FOR CONSTRUCTION AREAS SHALL HAVE A BLACK LEGEND ON AN ORANGE BACKGROUND. THE MINIMUM DIMENSION FOR APPROACH SIGNING TO A WORK AREA SHALL BE 36" X 36". SIGNS WITHIN THE WORK AREA LIMITS MAY BE SMALLER (24" X 24" MINIMUM) IF APPROVED BY THE ROADMASTER OR HIS AUTHORIZED REPRESENTATIVE.

WHEN NOT PROTECTED BY FLAGGERS, ALL HAZARDOUS AREAS WITHIN THE TRAVELED WAY AND ROAD SHOULDER SHALL BE BARRICADED WITH LIGHT/REFLECTIVE BARRICADES IN ADDITION TO THE PRESCRIBED SIGNING. NON-APPROPRIATE SIGNS, SUCH AS "FLAGGERS" SHALL BE COVERED OR REMOVED WHEN NOT NEEDED.

NOTHING HEREIN SHALL PREVENT THE PERMITTEE FROM INSTALLING SUCH ADDITIONAL SIGNING, BARRICADING, ETC. AS HE MAY JUDGE NECESSARY; PROVIDED HOWEVER THAT ALL SUCH INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE M.U.T.C.D.

**WORK NEAR INTERSECTION**

**SIGN SPACING AND BUFFER LENGTHS (FT)**

POSTED SPEED	SPACING BETWEEN SIGNS *			BUFFER SPACE
	A	B	C	
20				50
25	100	100	100	75
30				100
35	350	350	350	125
40				150
45				180
50	500	500	500	210
55				250

\*LENGTHS AS PER OREGON TEMPORARY TRAFFIC CONTROL HANDBOOK, 2011 EDITION

SEE OTTC FOR DISTANCES NOT SPECIFIED.

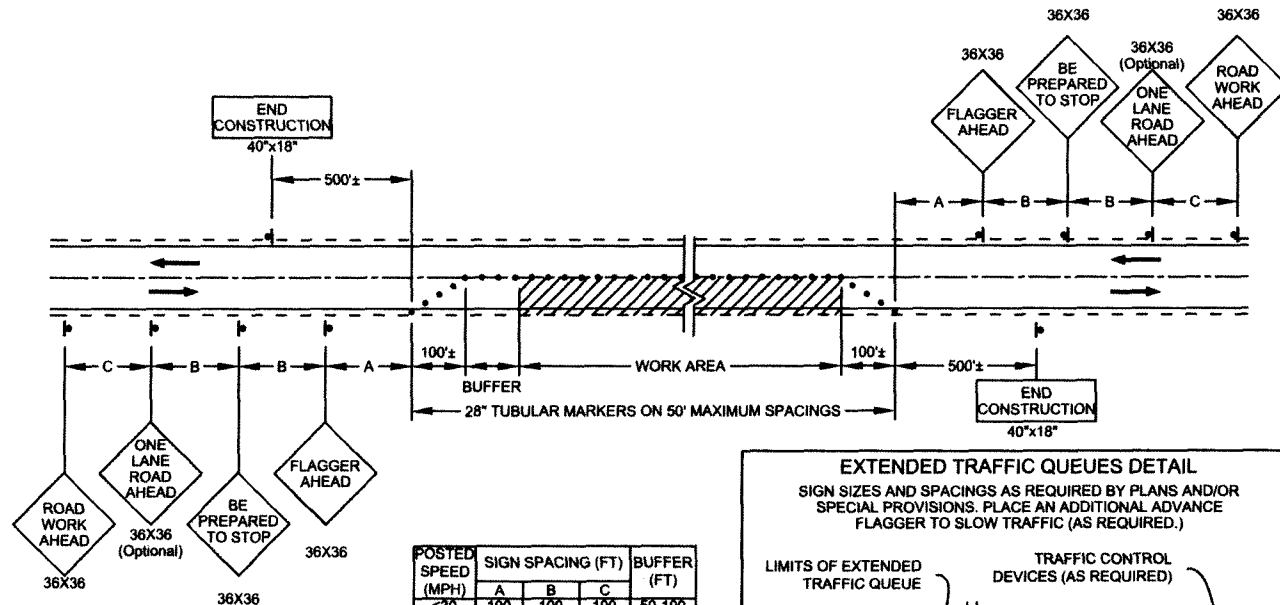
**MINIMUM SIGNING REQUIREMENTS**

**CONSTRUCTION AND MAINTENANCE AREAS**

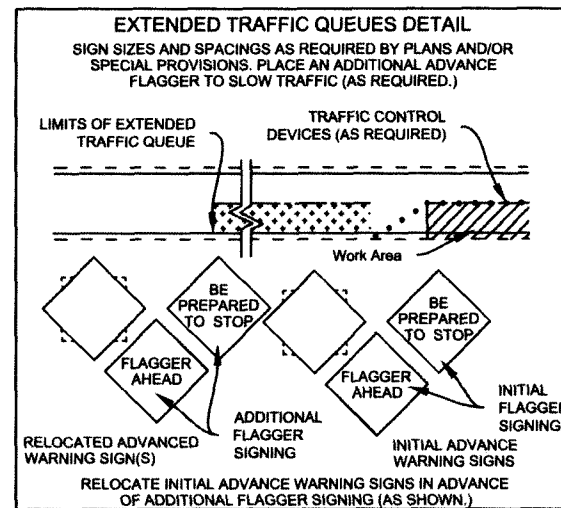
**SIGN EXAMPLES**

(USE SIGN(S) APPROPRIATE FOR CIRCUMSTANCES)

- INFORMATIONAL**
  - A. ROAD WORK/CONSTRUCTION AHEAD
  - B. WORKERS AHEAD
  - C. DETOUR AHEAD
  - D. OTHER - AS APPROPRIATE
- INSTRUCTIONAL**
  - A. SLOW
  - B. FLAGGER AHEAD
  - C. BE PREPARED TO STOP
  - D. OTHER - AS APPROPRIATE
- SPECIFIC WARNING**
  - A. ONE LANE ROAD AHEAD
  - B. DETOUR
  - C. ROUGH ROAD
  - D. SHOULDER WORK AHEAD
  - E. DIP
  - F. BUMP
  - G. OTHER - AS APPROPRIATE

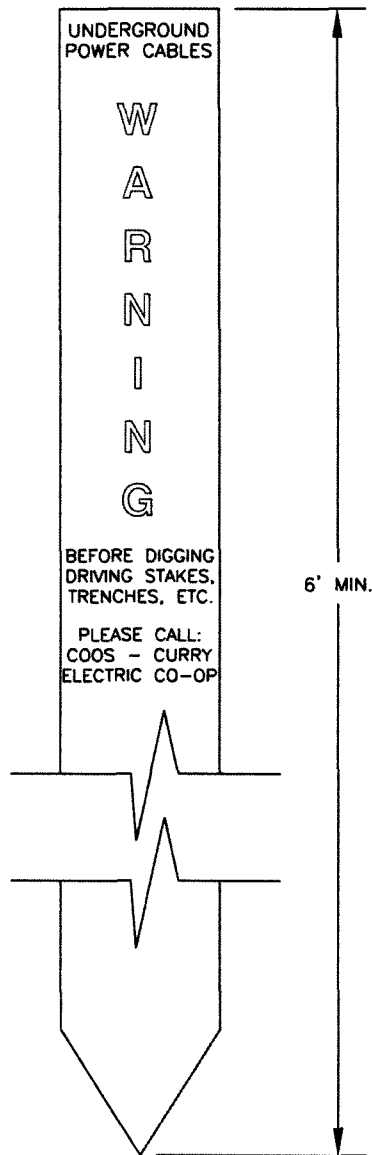
**NOTES:**

1. SIGNING AND OTHER TRAFFIC CONTROL DEVICES SHOWN TO BE INSTALLED IN CONJUNCTION WITH THE WORK AREA, SHALL MOVE WITH THE WORK AREA.
2. THE "BE PREPARED TO STOP" SIGN SHALL BE USED IN CONJUNCTION WITH THE "FLAGGER AHEAD" SIGN.
3. REMOVE EXISTING PAVEMENT MARKINGS AS DIRECTED.
4. TRAFFIC CONTROL UNDER CIRCUMSTANCES NOT COVERED BY THIS DRAWING SHALL BE PER THE MOST RECENTLY PUBLISHED VERSION OF "TRAFFIC CONTROL ON STATE HIGHWAYS FOR SHORT TERM WORK ZONES" AS PUBLISHED BY ODOT OR A JOB SPECIFIC TRAFFIC CONTROL PLAN APPROVED BY THE COUNTY.

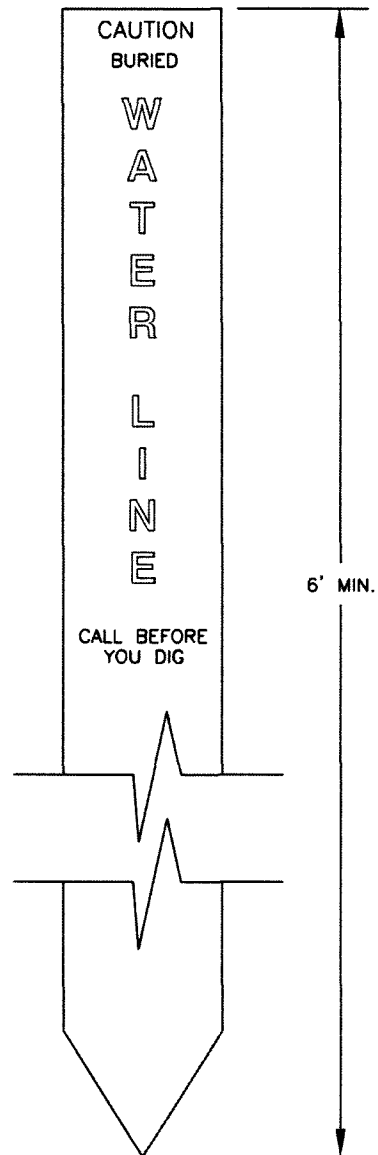


**TEMPORARY PROTECTION AND DIRECTION OF TRAFFIC:  
2-LANE, 2-WAY ROADWAYS  
LANE CLOSURE W/ FLAGGING**



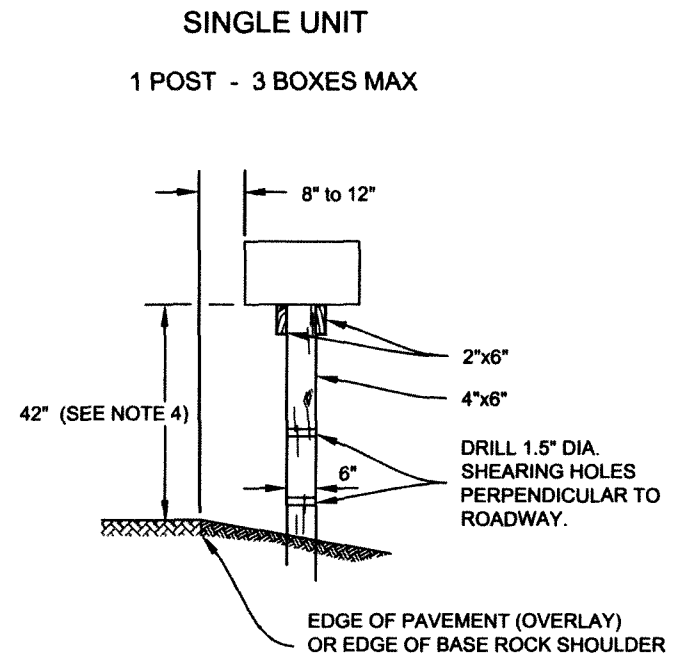


CALL YOUR LOCAL COOS-CURRY  
CO-OP OFFICE TO OBTAIN THIS  
POST AND INSTALLATION INSTRUCTIONS



THIS IS A MINIMUM STANDARD FOR  
A BURIED WATER LINE MARKER. IT IS  
THE PERMITTEE'S RESPONSIBILITY TO  
TO PROVIDE THIS MARKER.

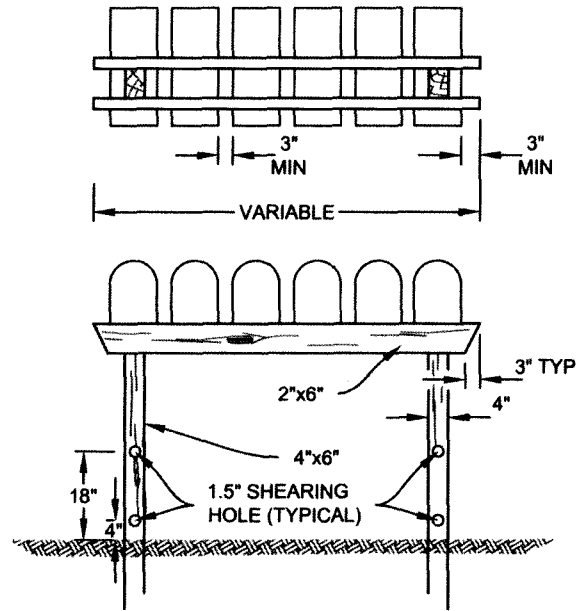
## UNDERGROUND CABLE AND WATER WARNING SIGNS



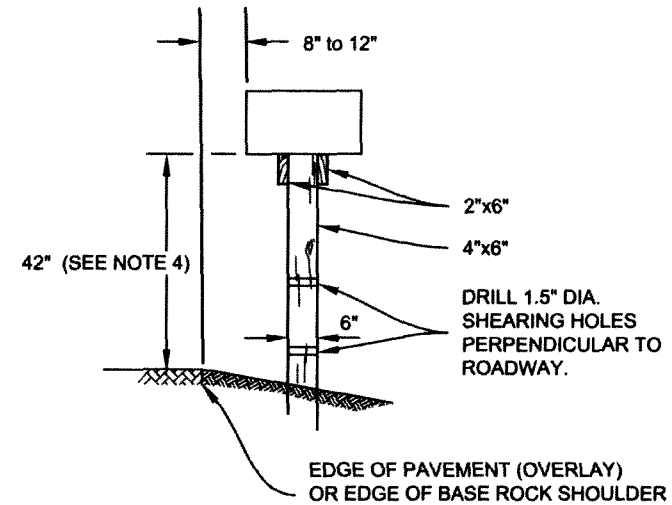
1 POST - 3 BOXES MAX

1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

## MAILBOX STAND - SINGLE

**NOTES:**

1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

**MULTIPLE UNIT****2 POSTS****MAILBOX STAND-MULTIPLE**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the repeal and replacement )  
Of Curry County Code Article 3 – Roads. )

ORDINANCE NO. 17-02

The Board of Curry County Commissioners ordains as follows:

**SECTION 1. TITLE**

This ordinance shall be known as Ordinance 17-02, an ordinance amending the Curry County Code.

**SECTION 2. AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035.

**SECTION 3. PURPOSE**

The purpose this ordinance is to repeal and replace Curry County Road Article 3 (last amended by Ordinance 02-06).

**SECTION 4. ADOPTION**

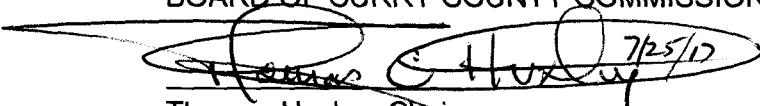
Exhibit "A" attached hereto and incorporated by reference, is adopted as Article 3 – Roads of the Curry County Code.

**SECTION 5 – SEVERANCE CLAUSE**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or unlawful, such decision shall not affect the validity of the remaining portions of this ordinance.

DATED this 21<sup>st</sup> day of June, 2017.

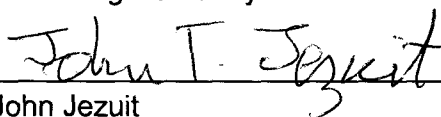
BOARD OF CURRY COUNTY COMMISSIONERS

  
Thomas Huxley, Chair

  
Sue Gold, Vice-Chair

  
Court Boice, Commissioner

Recording Secretary:


  
John Jezuit

First Reading: June 21, 2017

Second Reading: July 5, 2017

Effective Date: October 3, 2017

Approved as to Form:

  
John Hutt  
Curry County Legal Counsel

**EXHIBIT "A"**

**CURRY COUNTY CODE  
ARTICLE 3 - ROADS**

# CURRY COUNTY CODE

## ARTICLE THREE - ROADS

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## **ARTICLE THREE – ROADS**

### **DIVISION ONE: CURRY COUNTY ROAD STANDARDS**

#### **CHAPTER ONE: INTRODUCTORY PROVISIONS**

##### **SECTION 3.01.010 RESERVED**

##### **SECTION 3.01.020 PURPOSES**

The several purposes of this division are: a) to establish specifications and standards for the construction and reconstruction of all roads, driveways and bridges in Curry County; b) to delineate responsibilities of individuals and Curry County as to the maintenance of roads; and c) to promote public health, safety, convenience and general welfare.

##### **SECTION 3.01.030 DEFINITIONS**

As used in this article, the masculine includes the feminine and neuter and the singular include the plural. The following words and phrases, unless the context otherwise requires, shall mean:

- (1) “AASHTO” – American Association of State Highway and Transportation Officials.
- (2) “ADT” – Average Daily Traffic on a given road.
- (3) “Alley” – A street or highway primarily intended to provide access to the rear or side of lots or buildings in urban areas and not intended for through vehicular traffic.
- (4) “Arterial Road” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement.
- (5) “Avenue” – A wide street or main thoroughfare. A means of approach to a given place, activity or goal. “Avenue” may be used in immediate vicinity of any municipality.
- (6) “AWDS” – All-weather Drivable Surface: A surface constructed of a minimum of two (2) inches of crushed aggregate placed on the required base aggregate to create a drivable surface. An AWDS may also be constructed of asphalt concrete or acceptable alternative surface treatments.
- (7) “Base Aggregate” – A course of specified aggregate of planned thickness placed on the subgrade.
- (8) “Board” or “Board of Commissioners” - The Curry County Board of Commissioners.

- (9) “CCZO” - Curry County Zoning Ordinance - An ordinance designed to provide and coordinate regulations in Curry County governing the development and use of lands and to implement the Curry County Comprehensive Plan.
- (10) “Collector Road” – A road supplementary to the arterial road system and used for both through traffic and access to abutting properties.
- (11) “County” – The County of Curry, State of Oregon.
- (12) “County Road” – A public road which has been accepted into the County road system by the County Board of Commissioners or designee by dedication or deed or grant of right-of-way and is maintained by the County.
- (13) “Drive” – A scenic road, especially for leisure driving.
- (14) “Driveway” – Means of egress and ingress from thoroughfare to structure. A short private road as regulated and administered by the County Community Development Department.
- (15) “Driveway/Road Approach Permit” - A permit allowing construction or alteration of a facility which provides ingress to or egress from a County road (i.e., a driveway, an intersecting road or street, a footpath, a bike path, widened vehicular access, etc.). The permit regulations apply to that portion of the facility which is or will be upon a County road right-of-way.
- (16) “Easement” – A grant of one or more property rights by a property owner to or for use by the public or another person or entity.
- (17) “Fog Coat” - An emulsified asphaltic surface treatment applied to existing asphalt concrete pavement surfaces to renew and seal the pavement surface. May be used with or without aggregate cover materials.
- (18) “High Density Residential Road” – A road within an urban growth boundary providing direct access to abutting property which has a lot size density sufficient to qualify for high density status based upon the standards established in the respective urban growth boundary agreements.
- (19) “HMAC” – Hot Mix Asphalt Concrete - A hot mixture of asphalt cement; well graded, high quality aggregate; mineral filler and additives as required; plant mixed into a uniformly coated mass, hot laid on a prepared foundation, and compacted to a specified density.
- (20) “Lane” – Designation for all private thoroughfares. A limited passageway of course designated for vehicles.
- (21) “Local Access Road” – A public road that is not a County road, State highway or Federal road. County has full jurisdiction, but no liability to maintain.

(22) “Local Road” – A public road that is not a city street, State highway or Federal road. A road connecting the local uses with the collector system. Property access is the main priority; through-traffic is not encouraged. All County roads not classified as arterials or collectors are the County’s local roads, including Resource/Industrial/Commercial, High density Residential and Residential.

County Road Examples: Townley Lane, Coy Creek Road, Eggers Road.

(23) “Loop” – Road whose beginning and ending points intersect on a common road.

(24) “Major Collector” – A road providing service to land uses that generate trips such as consolidated schools, shipping points, parks, mining and agricultural areas. This type of road links minor collectors with roads of higher classification.

County Road Examples: Airport Road, Cedar Valley Road, North Bank Chetco River Road.

(25) “Major Road Improvement” - An improvement or alteration for which detailed plans and adherence thereto are deemed necessary by the Roadmaster.

(26) “Minor Arterial” – Roads that link cities or large traffic generators. Travel speeds will be relatively high with minimum interference to through movement. Jerry’s Flat Road is the only minor arterial within the County.

(27) “Minor Collector” – A road providing service to small communities. This type of road links locally important land uses that generate trips with rural destinations.

County Road Examples: Floras Lake Road, Nesika Road, Oceanview Drive.

(28) “Minor Road Improvement” - An improvement or alteration for which detailed plans are not deemed necessary by the Roadmaster.

(29) “Monument” – A permanent and fixed survey marker conforming to the requirements established by the State law and the regulations of Curry County.

(30) “Manual on Uniform Traffic Control Devices” (MUTCD) - The MUTCD contains the national standards governing all traffic control devices.

(31) “ODOT” – Oregon Department of Transportation.

(32) “Place” – A public square or thoroughfare in a town. A short street, or court, a private residence terrace, or some similar variation from the ordinary street.

(33) “Prime Coat” – A penetration treatment to aggregate surfaces to coat and bind the material into a hard surface.

(34) “Principal Arterial” – Corridors with substantial interstate and statewide travel. Highway 101 is the only principal arterial within the County.

(35) “Private Driveway” – A roadway which traverses and serves one lot or parcel as regulated and administered by the County Community Development Department.

(36) “Private Road” – A road which is owned, controlled and maintained by the persons it serves, providing the principal means of access to the abutting property, and not intended for use by the general public. Private roads are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

(37) “Public Road” – A road over which the public has a right of use that is a matter of public record but which has not been accepted into the County road system per subsection (12) above.

(38) “Residential Road” – A road providing direct access to abutting property. Lot size and/or traffic volume indicate density of one or more lots per five acres, but less than four lots per acre.

(39) “Resource/Industrial/Commercial” – A road which primarily accesses adjacent land, carries significant volumes of timber, mining or agricultural products and/or provides service to a large industrial or commercial facility.

County Road Examples: McKenzie Road, Nesika Beach Dump Road, Boat Basin Road.

(40) “Right-of-Way” – Land reserved, used, or to be used for a highway, street, alley, walkway, drainage facility or other public purpose related to a transportation or public utility improvement.

(41) “Road” - The entire right-of-way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. “Road” includes, but is not limited to:

- a. Ways described as streets, highways, throughways or alleys;
- b. Road related structures that are in a right-of-way, such as tunnels, culverts or similar structures; and
- c. Structures that provide for continuity of the right-of-way, such as bridges.

(42) “Road Encroachment Permit” - A permit allowing private facilities of a diverse nature, such as fences, structures, gates, stock guards, signs and landscaping, to be placed within a County road right-of-way. The permit shall state whether the permitted use is temporary or permanent.

(43) “Road Improvement Permit” - A permit allowing alterations or improvements, such as grading, surfacing or oiling, of a County road by a person not associated with the County Road Department.

- (44) “Roadmaster” - The person designated by the County Board of Commissioners as being responsible for administration of the road activities of the County.
- (45) “Roadway” - The portion of a road, including shoulders, for vehicular use.
- (46) “Rural Road” – A road subject to low traffic volume, used as access to a remote area having density less than one lot per five acres.
- (47) “Special Permit” - A permit allowing temporary use of a County road right-of-way for business operations or public events, such as log loading, an aircraft taxiway, scheduled public walks, runs and biking events.
- (48) “Street” – A paved public way or thoroughfare, as in a city or town.
- (49) “Subgrade” – That portion of the graded earthwork roadbed on which base course surfacing is to be placed.
- (50) “Tack Coat” – Application of liquid asphalt to an existing asphalt concrete to insure a thorough bond between courses.
- (51) “Turnaround” – A road over 150’ in length must be terminated by a turnaround. See Exhibit “A” following the text of Division Four of Article Three for typical turnaround designs. Standards for Turnarounds outside of an Urban Growth Boundary are listed in Section 3.01.050 subsection (7) of this division.
- (52) “Utility Permit” – A permit allowing the placement and routine maintenance of public facilities, such as water and sewer lines, gas lines and transmission lines, within a County road right-of-way.
- (53) “Variance” – An authorized deviation from specific requirement(s) set forth in this division.
- (54) “Way or Court” – A course, route, passage, track or path of any kind.

#### SECTION 3.01.040 COMPLIANCE WITH DIVISION PROVISIONS

No road shall hereafter be constructed, reconstructed, enlarged or altered contrary to the provisions of this division.

### **CHAPTER TWO: COUNTY ROADS**

#### SECTION 3.01.050 CONSTRUCTION SPECIFICATIONS OF COUNTY ROADS

- (1) RIGHT-OF-WAY – Right-of-ways shall be a minimum of 50 feet in width except that a lesser width not less than 40 feet is authorized when (a) specially permitted by the County Board of Commissioners and (b) the road meets the other standards set forth in this division as

otherwise provided. A wider than 50 foot right-of-way may be required, depending on variations or other engineering considerations. In no case shall the right-of-way be less than 40 feet.

(2) GRADES

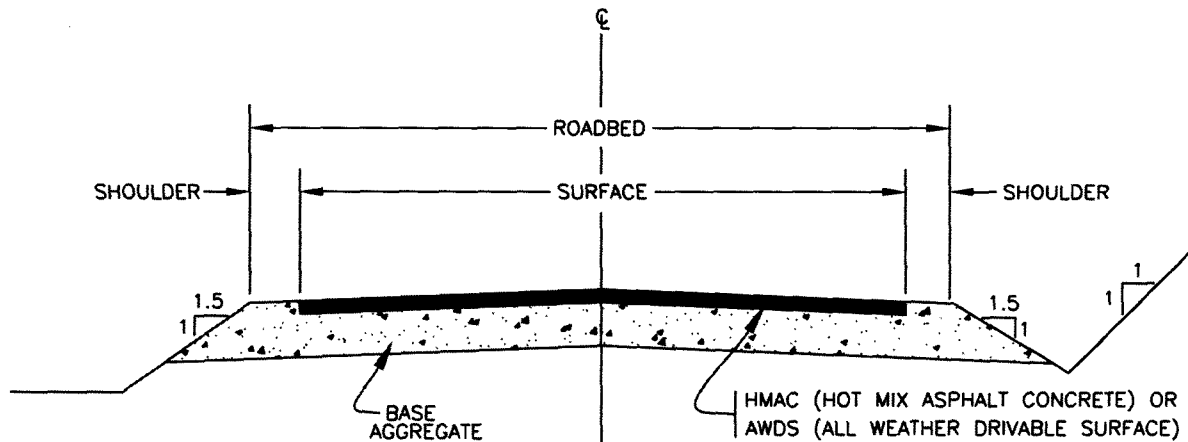
(a) Minor Arterial:		
8% to 10%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(b) Major Collector:		
8% to 12%	Maximum Length	1200'
Under 8%	Maximum Length	No Limit
(c) Minor Collector:		
12% to 15%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 10% for the roads listed in (a), (b) and (c) above.

(d) Residential:		
18% to 20%	Maximum Length	400'
16% to less than 18%	Maximum Length	600'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit
(e) Resource/Industrial/Commercial		
16% to 18%	Maximum Length	500'
12% to less than 16%	Maximum Length	800'
8% to less than 12%	Maximum Length	1500'
Under 8%	Maximum Length	No Limit

The average grade for any mile of road length and for the roads entire length shall not exceed 13.5% for the roads listed in (d) and (e) above.

(3) RURAL ROAD STANDARDS CHART



Functional Class	Surface Type	Minimum Surface Depth	Minimum Surface Width	Minimum Shoulder Width	Base Aggregate	Maximum Grade
Minor Arterial	HMAC	4"	26'	6'	12"	10%
Major Collector	HMAC	4"	26'	4'	12"	12%
Minor Collector	HMAC	4"	24'	2'	12"	15%
Resource/ Industrial/ Commercial	HMAC	4"	24'	2'	12"	18%
Residential 11+ dwelling units	AWDS	2"	* 20'	2'	12"	20%
Residential 5 to 10 dwelling units	AWDS	2"	* 18'	0'	12"	20%
Residential 4 or less dwelling units	AWDS	2"	* 16'	0'	12"	20%
Driveway	AWDS	2"	* 16'	0'	6"	20%
Turnarounds	See subsection (7) TURNAROUNDS below					

\* Inter-visible opposing turnouts required. On roads where 16 foot, 18 foot or 20 foot surfaces are allowed, inter-visible opposing turnouts that result in an area of road surface at least 50' in length, not including entry and exit tapering, by 22' in width, exclusive of shoulders, are mandatory. Turn-outs shall be sited at least one every 500 feet, and opposing inter-visible where curves prohibit visibility.

Road Width with a Fire Hydrant: Adjacent to fire hydrants, roads shall have a minimum driving surface of not less than 26' in width, exclusive of shoulders, extending 20' in either direction from the fire hydrant.

Vertical Clearance: All roads shall have a minimum vertical height clearance of not less than fourteen feet.



Additional requirements, as stipulated by the rural fire protection district of the area in which the road is located, as well as the section entitled "Appendix D, Fire Apparatus Access Roads" of the Oregon Fire Code, may be required.

The standards for urban roads are as outlined in the Curry County Zoning Ordinance for the respective Urban Growth Boundary.

(4) DRIVEWAYS. Approaches shall be limited to a 60-90 degree intersection angle with the public road. There shall be enough room at the approach for a vehicle to be at a 90 degree angle to the road. See Exhibit "B" following the text of Division Four of Article Three for Typical Design.

Stopping sight distance shall be calculated for driveway entrances using the chart of Exhibit "C" following the text of Division Four of Article Three. The minimum stopping distance is calculated for wet road conditions using

$$D = \frac{V^2}{30(F+G)} \quad \text{where:}$$

V = Velocity

F = Coefficient of friction

G = Grade in percent

D = Total stopping distance in feet (reaction plus braking)

MINIMUM SIGHT DISTANCE  
LEVEL ROADWAY (Wet Pavement)

Design Speed MPH	Sight Distance (feet)		Corner Intersection
	Stopping	Passing	
20	125	800	210
25	150	950	
30	200	1100	310
35	225-250	1300	
40	275-325	1500	415
45	325-400	1650	
50	400-475	1800	515
55	450-550	1950	
60	525-650	2100	650
65	550-725	2300	
70	625-850	2500	

\*See Exhibit "C" following the text of Division Four of Article Three

(5) HORIZONTAL CURVES The minimum radius for horizontal curves shall be 60 feet on Local Roads. The following formula shall be used to determine minimum curve radius on all other functional classes.

$$R = \frac{V^2}{15(e+f)} \quad \text{where:}$$

R = minimum radius (feet)

V = design speed (MPH)

e = maximum super elevation (range 0.04 to 0.10)

f = maximum friction factor (range 0.10 to 0.17)

(6) **VERTICAL CURVES** Vertical curves shall be used at all grade changes where the difference in grades is 2% or greater. Minimum length of vertical curve shall be 100 feet.

(7) **TURNAROUNDS** In any area outside of an Urban Growth Boundary, turnarounds shall be provided for emergency vehicle maneuvering at the end of any road over 150' in length. Typical County turnarounds are shown in Exhibit "A" following the text of Division Four of Article Three.

(8) Minimum intersection spacing for roads of various functional classes shall be as noted in the following table:

<b>Functional Class Intersection Type</b>	<b>Public Road Type</b>	<b>Spacing*</b>	<b>Private Driveway Type</b>	<b>Spacing**</b>
Arterial Road/Hwy	At-grade	1/4 mile	L/R turns	500 ft.
Collector Road	At-grade	250 ft.	L/R turns	100 ft.
Local Road	At-grade	250 ft.	L/R turns	each lot
Alley	At-grade	250 ft.	L/R turns	each lot
* Between roads				
**Between driveways & intersections (measured from center to center)				

### **SECTION 3.01.060 FACILITY PERMITS**

(1) No person, partnership, association or corporation may place, build or construct on the right-of-way of any County maintained road any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance or change the manner of using any such approach road without first obtaining a permit from the County Roadmaster.

(2) The Curry County Road Department shall be given the power to investigate and issue the facility permit.

(3) The holder of a facility permit shall follow the regulations and rules set out in Article Three, Division Four of this code.

### SECTION 3.01.070 SIGNS

- (1) Curry County has jurisdiction concerning the type and location of all signs on County maintained roads and public ways.
- (2) The Roadmaster may lawfully remove or destroy, without resort to legal proceedings, any advertisement, bill, notice, sign, picture, card, or poster placed in violation of ORS 368.942.
- (3) When in the Roadmaster's opinion there may be a need for a change in the speed limit for a road, he or she shall request the Oregon State Speed Control Board to study the road in question. If the Speed Control Board issues an order to post a speed limit on the road, Curry County will furnish and install the speed limit signs at the County's expense.
- (4) Name signs for all roads shall have a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices.
- (5) Signing will be paid for by the County as follows:
  - (a) Stop and name signs at intersections of two County maintained roads.
  - (b) Regulatory and warning signs along County maintained roads.
  - (c) The County may, at the Roadmaster's recommendation, install signs for non-County maintained roads. Cost of the sign, installation and maintenance will be paid for by the person(s) requesting the sign. This person may include the Board or its delegated authority.

### SECTION 3.01.075 DELINEATION OF UTILITY LOCATIONS WITHIN COUNTY ROAD RIGHTS-OF-WAY

- (1) Pole line locations shall have a minimum height above the traveled road surface of 18 feet. This 18-foot standard applies whether the pole lines cross the roadway or are located parallel to the roadway. Poles shall be located not less than 10 feet from the edge of pavement on paved-surfaced roads or the edge of gravel on gravel-surfaced roads. Wherever possible, poles shall be located along the tangent sections of roads and on the short radius side of curves. Poles to be located on the long radius side of curves will require additional approval by the Roadmaster and will be subject to special conditions.
- (2) Buried cable or pipe depth shall be not less than 30 inches (36 inches for electrical) below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 30 inch (36 inch for electrical) bury depth shall be measured from the existing ground surface.
- (3) Pedestals installed as part of a buried cable installation are to be located one foot from the right-of-way line unless permission is obtained from the Roadmaster to locate elsewhere. In no case shall the pedestals be located within the road maintenance operating area, including mowing

operations, or nearer the pavement edge than any official highway sign in the same general location.

See “Special Conditions for Underground Utilities Within County Road Rights-of-Way” in “Exhibit D, Permit Regulations & Classification”, following the text of Division Four of Article Three for additional requirements and details.

#### SECTION 3.01.080 ROAD HAZARDS, WEED CONTROL AND DRAINAGE

##### (1) ROAD HAZARDS.

(a) No person, landowner or occupant of land shall obstruct road drains or waterways or create road hazards as set forth in ORS 368.251 and ORS 368.256.

(b) The County Roadmaster may abate any road hazard following the procedures set forth in ORS 368.261 and ORS 368.271.

(c) The Board may assess and recover costs from the person, landowner and occupant of the land responsible for the road hazard or the owner of the land that is the source of the hazard pursuant to the procedures in ORS 368.276 and ORS 368.281.

(2) WEED CONTROL. The County Board of Commissioners through its Roadmaster shall endeavor to prevent the spread or seeding of any noxious weed as set forth in ORS Ch. 570 on any land owned by the County or constituting the right-of-way for any County road, drainage or irrigation ditch, power or transmission line, or other purposes under their jurisdiction.

##### (3) DRAINAGE

(a) The purpose of highway drainage design is to prevent the accumulation and retention of water on and by the highway. Culverts, ditches and other drainage features shall be installed as needed to effectively remove water from the drivable surface under all types of weather conditions. Culverts shall be capable of supporting a single axle load of 32,000 pounds (Highway Loading H-20). Prior to submitting a development application and its related access feature where a stream crossing will be required, the applicant shall submit an Oregon Department of Fish and Wildlife (ODFW) determination to the Building Official indicating whether the stream crossing location is a fish habitat as required by ORS 509.585. If the ODFW determines that there is a potential for fish habitat or there is fish habitat in the stream crossing that will be impacted, fish passage shall be required consistent with Division 412 of the Oregon Administrative Rules (635-412-0005 through 635-412-0040).

(b) Surface water shall be conveyed along rights-of-way by the most direct means considering ease of maintenance with minimum disturbance of natural conditions.

(c) All drainage structures shall be sized for the following design flood frequencies.

<u>Drainage Facility</u>	<u>Design Flood</u>
Bridge	100 year flood
Culvert	25 year flood
Low Water Bridges	Optional
Depressed Roadway	25 year flood
Channel Change	100 year flood
Storm Sewer	10 year flood
Ditches, Gutters, Inlets	10 year flood

The design should be reviewed to ensure that backwater from the 100 year flood will not cause extensive property damage or result in loss of a bridge.

(d) The design of any water carrying system shall meet or exceed the design criteria set by the current ODOT Highway Division Hydraulics Manual.

Cross culverts shall be a minimum of 18 inches in diameter except:

A 12 inch cross culvert may be used to convey water from a catch basin to the closest natural drain if a grated inlet is used.

Connections to existing roadside culverts shall be at the same or greater capacity and must not inhibit the existing discharge of flow in any way.

#### SECTION 3.01.090 ROADWAY MATERIAL STANDARD SPECIFICATIONS

All roadway excavation, fill construction, subgrade preparation, aggregate bases, surfacing, prime coats and paving shall be built in accordance with the current edition of the ODOT Oregon Standard Specifications for Construction. Whenever these specifications refer to the State or Agency, consider that to mean the County of Curry, the appropriate County Department, or appropriate County address.

In case of discrepancy or conflict in the plans, standard specifications, supplemental standards specifications and special provisions, they shall govern in the following manner:

1. Special Provisions
2. Plans Specifically Applicable to the Project
3. Standard or General Plans
4. Supplemental Standard Specifications
5. Standard Specifications

(1) Subgrade. All subgrade shall be compacted in accordance with the Earthwork Compaction Requirements, Section 00330.43 of the Oregon Standard Specifications for Construction.

(2) Aggregate Base. Aggregates for aggregate base shall be crushed rock or pit run rock. Pit run materials, when used in place of crushed rock, shall be placed at 1.25 times the required

depth of aggregate. Crushed rock shall meet the requirements of Section 02630 of the Oregon Standard Specifications for Construction. Pit run material shall meet the durability and sand equivalent requirements of Section 02630 of the Oregon Standard Specifications for Construction and shall have the gradation approved by the Curry County Road Department. See the following tables.

(3) Asphalt Concrete Pavement. Where asphalt concrete pavement is required it shall be hot mix asphalt concrete pavement done in accordance with Section 00744 of the Oregon Standard Specifications for Construction. The class and grade mix design shall be in the contract. See the following tables.

### SECTION 3.01.100 GRADATION CHARTS

#### (1) BASE AGGREGATES

<b>Table 02630-1</b>					
<b>Grading Requirements for Dense-Graded Aggregate</b>					
<b>Separated Sizes</b>					
<b>Sieve Size</b>	<b>2 1/2" - 0</b>	<b>2" - 0</b>	<b>1 1/2" - 0</b>	<b>1" - 0</b>	<b>3/4" - 0</b>
<b>Percent Passing (by Weight)</b>					
3"	100				
2 1/2"	95 - 100	100			
2"	—	95 - 100	100		
1 1/2"	—	—	95 - 100	100	
1 1/4"	55 - 75	—	—	—	
1"	—	55 - 75	—	90 - 100	100
3/4"	—	—	55 - 75	—	90 - 100
1/2"	—	—	—	55 - 75	—
3/8"	—	—	—	—	55 - 75
1/4"	30 - 45	30 - 45	35 - 50	40 - 55	40 - 60
No. 4 <sup>1</sup>	—	—	—	—	—
No. 10	2	2	2	2	2

<sup>1</sup> Report percent passing sieve when no grading requirements are listed

<sup>2</sup> Of the fraction passing the 1/4 inch sieve, 40 percent to 60 percent shall pass the No. 10 sieve

Fracture Of Base Aggregates - Fracture of base aggregates produced from rounded rock shall be determined according to AASHTO T 335. Provide at least one fractured face based on the following percentage of particles retained on the 1/4 inch sieve for the designated size:

<b>Minimum Percent of Fractured Particles (by Weight of Material)</b>	
Designated Size	Retained on 1/4 inch Sieve
1 1/2" - 0 and larger	50
Smaller than 1 1/2" - 0	70

Durability - Dense graded base aggregate shall meet the following durability requirement.

Test	Test Method	Requirements
Abrasion	AASHTO T 96	35.0% maximum
Degradation (coarse aggregate)		
Passing No. 20 sieve	ODOT TM 208	30.0% maximum
Sediment Height	ODOT TM 208	3.0" maximum

(2) ASPHALT CONCRETE AGGREGATES\*

Sieve Size	1/2" ACP Control Points (% passing by Weight)	
	Min.	Max.
3/4"	100	
1/2"	90	100
3/8"	-	90
No. 4	-	-
No. 8	28	58
No. 200	2.0	10.0
Asphalt Cement	5	6

\*Aggregate for flexible pavements shall conform with Section 00744 of the "Oregon Standard Specifications for Construction"

Durability – Provide aggregate not exceeding the following maximum values:

Test	Test Method		Aggregates Coarse
	ODOT	AASHTO	
Abrasion		T 96	30.0%
Degradation			
Passing No. 20 sieve	TM 208		30.0%
Sediment Height	TM 208		3.0"

Fractured Faces - Provide crushed aggregate with not less than the minimum number of fractured faces as determined by AASHTO T 335 as follows:

Type of Mix	Percent of Fracture (by Weight)	
	Material Retained on 1", 3/4", 1/2" and No. 4 Sieve (two fractured faces)	Material Retained on No. 8 sieve (one fractured face)
All ACP	75	75

### SECTION 3.01.110 MONUMENTATION

(1) The County and its agents shall monument County roads in accordance with the following standards:

- 5/8 inch rebar on both R/W lines at point of curvature and point of tangency of curve.
- 5/8 inch rebar along R/W lines at 500 foot intervals or property lines.
- Plastic caps branded "Curry Co. R/W" on rebar.
- Rebar along utilized property should be approximately 6 inches below ground level.
- Brass or aluminum caps shall be placed along R/W a minimum of once every mile. Two brass or aluminum caps shall be used as basis of bearing when other monuments are not available.
- Initial roadway point shall be marked by a brass or aluminum cap.
- All brass and aluminum caps shall be marked by a 4 inch by 4 inch by 4 foot treated white wooden post or a metal post.

(2) Roads within a subdivision must be monumented in accordance with current applicable state and local laws relating to the platting of subdivisions.

### DEDICATION OF ROADS TO COUNTY ROAD SYSTEM

#### SECTION 3.01.130 ACCEPTANCE BY COUNTY

##### (1) TENTATIVE APPROVAL PRIOR TO CONSTRUCTION

(a) The developer submits plans and letter to the Board of Commissioners of his intent to dedicate a road to the County. A complete set of Improvement Plans shall be submitted and approved, in writing, by the Board of Commissioners prior to the start of construction on any public, private or subdivision road which is to become a dedicated County road. The "Complete Set" refers to the following:

1. Plan view of the proposed roadway
2. Profile
3. Description
4. Typical cross-section

All plans shall be stamped by a registered engineer or surveyor licensed in the State of Oregon.

(b) A statement in writing must be obtained from the Chief of the Rural Fire Protection District of the area in which the road(s) is/are located, and submitted with the plans, verifying that the District's large fire-fighting equipment can safely negotiate the road and serve all new parcels or lots. The statement shall also include an assessment of whether or not the access route proposed to each boundary of the subject property is safely negotiable.



(c) The County Road Department reviews the Improvement Plans and makes recommendations to the Board of Commissioners. The recommendations shall include any special considerations which may be pertinent to acceptance or rejection of the road as a dedicated County road.

(d) The developer's project is put on the agenda of a regular Board meeting for consideration of his intent to dedicate the road to the County. Upon submission of the developer's plans and letter of intent to dedicate the road, the Board will, within 30 days, consider the application in a public meeting.

(e) The Board will give a letter of intent to accept or deny the dedication of the road project presented by the developer. If the dedication of the road is denied, and the plans and specifications adhere to the "Curry County Road Standards" herein, the Board must give its reasons for denial, in writing to the developer, within thirty (30) days from the date of the public meeting.

(2) INSPECTION OF PROPOSED COUNTY ROADS

(a) The inspection of the base and paving shall be coordinated in advance with the Curry County Road Department to avoid scheduling conflicts. The base is to be inspected prior to the placement of the pavement.

If proper notification for inspection has not been given, the Curry County Road Department will not recommend granting acceptance of the road to the Board of Commissioners for twelve (12) months. Any deficiencies that develop in the road shall be corrected before the Road Department will recommend granting acceptance to the Board.

(b) After acceptance by the Board of Commissioners, the contractor shall guarantee construction of the road built under his supervision for a period of one year. Any defects within that time period shall be corrected by the contractor, at his own expense.

(c) All testing except as herein noted will conform to methods prescribed by the Oregon Department of Transportation (ODOT) or the American Association of State Highway and Transportation Officials (AASHTO).

(3) FINAL ACCEPTANCE.

A County governing body may initiate proceedings to accept a public road as a County road:

(a) On its own action; or

(b) If a person files with the governing body:

i) A petition described in ORS 368.081; or

- ii) A written proposal to dedicate or donate land owned by that person for public road purposes.

(4) MAINTENANCE.

After acceptance the County shall maintain such highway, road or street as a County road.

**CHAPTER THREE**      **PUBLIC ROADS**

**SECTION 3.01.140 PUBLIC ROAD STANDARDS**

A public road will conform in all ways with the standards set for a County road, except for the following condition:

Roads shall be constructed with an all-weather drivable surface on residential roads. See the Road Standards Chart in Section 3.01.050, subsection (3) for construction requirements.

**SECTION 3.01.150 DEDICATION**

- (1) By presenting to the Board of Commissioners a good and sufficient deed or dedication properly executed forever dedicating the land and granting such public road easement, and the deed is accepted by the Board of Commissioners and placed of record.
- (2) Presenting to the Board of Commissioners, as provided by law, any map or plat of any town, addition or subdivision, dedicating to the use of the public for road purposes all streets, roads, and alleys shown thereon and the map or plat is approved and accepted by the Board and placed of record.

**SECTION 3.01.160 LIABILITY FOR MAINTENANCE**

- (1) All public roads shall be maintained pursuant to a maintenance agreement to be recorded with the final plat in the official records of Curry County. The recorded maintenance agreement shall include the following elements:

- (a) The maintenance agreement shall be binding on all owners of parcels within the plat or map, other properties served by the dedicated way, and all interests in such property thereafter acquired. The owners shall maintain the road according to the terms of the maintenance agreement.

- (b) Any person who is party to the agreement, or any interested public body who believes the dedicated way is impassable to emergency vehicles, may file a written complaint with the County Board of Commissioners. The Board shall direct the County Roadmaster to investigate the complaint and submit a report to the Board. This report shall contain an evaluation of the condition of the road and particularly whether the road's condition meets a

minimum standard for maintenance of such roads. The report shall also set forth an estimation of the costs, including all likely administrative costs, necessary to bring the road up to a passable condition. The Board shall hold a public hearing at which interested parties may appear. Notice of the hearing shall be given to the property owners benefitted by the road.

(c) When, in the opinion of the County Board of Commissioners, the road constitutes a hazard to public safety or is impassable to emergency vehicles, based upon the testimony at the hearing, the Board by its order may:

- i) Declare the owners in default of the maintenance agreement; and either
- ii) Direct the County Roadmaster to undertake the road work which, in the opinion of the Roadmaster, is necessary to bring the road up to a passable condition and allocate the costs as estimated by the Roadmaster pursuant to paragraph (b) above; or
- iii) Initiate proceedings to improve the road as provided in ORS 371.605 et. seq.

(d) The County may collect the assessed costs from the owners either prior to or upon completion of the maintenance work.

(2) In no event shall the duties or liabilities of Curry County be greater than those provided in ORS 368.031.

#### SECTION 3.01.170 LOCAL ACCESS ROAD MAINTENANCE POLICY

(1) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

- (a) The public use of the road justifies the expenditure;
- (b) There are County funds or resources available for the request; and

(c) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.

(2) If the County Board of Commissioners determines that a requested repair or maintenance project on a local access road is not an emergency, it may authorize the expenditure of County funds for such a project if it concludes that:

(a) At least 60% of the property owners, representing at least 60% of the property frontage along the road proposed to be repaired or maintained, sign a petition requesting the work be done. The petition shall contain a clause that the property owners agree to pay for all the materials used in the repair or maintenance; the County will provide all labor and equipment; and

- (b) The County Roadmaster has recommended such an expenditure; and
  - (c) The public use of the road justifies the expenditure; and
  - (d) There are County funds or resources available for the request; and
  - (e) The expenditure of such funds or resources on the requested project will not jeopardize the maintenance or repair of County roads, which are the County's first priority.
- (3) The intent of these policies is to provide a vehicle by which local access roads may be repaired or maintained without obligating the County for future work on these roads.
- (4) If the Board authorizes County financial support for a non-emergency request, it shall enact an order or resolution authorizing the work to be a single project so as to minimize future obligations to the County and encourage the owners to seek alternate sources for maintenance, i.e., special road districts.

#### **CHAPTER FOUR**

#### **PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

##### **SECTION 3.01.180 DEFINITION REGARDING PRIVATE ROADS, DRIVEWAYS AND BRIDGES**

A private road is any road in a privately owned and controlled right-of-way which is constructed, controlled, maintained and otherwise kept in a drivable condition by the efforts of the people it serves. A private road is not intended for use by the general public other than persons providing a public service to the lots or parcels served by the private road.

A private driveway is a roadway which traverses and serves one lot or parcel.

A private bridge is any bridge located on a private road or driveway.

##### **SECTION 3.01.185 APPLICABILITY OF PRIVATE ROAD, DRIVEWAY AND BRIDGE STANDARDS**

Private road, driveway and bridge standards are regulated by the Curry County Zoning Ordinance which is administered by the County Community Development Department.

#### **CHAPTER FIVE**

#### **VARIANCE**

##### **SECTION 3.01.210 AUTHORIZATION FOR VARIANCES**

The Roadmaster may grant variances, (as described herein), from the provisions of this division where it has been shown that due to unusual topographic conditions, unusual conditions related to the shape of the property or the location of a building on the property, or other conditions over which the applicant has no control, the literal interpretation of this division

would cause an undue hardship upon the applicant. In granting a variance the Roadmaster may attach conditions which he or she finds necessary to protect the best interests of the County, surrounding property or neighborhood and to otherwise achieve the purposes of this division.

#### SECTION 3.01.220 CIRCUMSTANCES FOR GRANTING A VARIANCE

A variance may be granted only in the event that all the following circumstances exist.

- (1) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same vicinity and result from lot size, shape, topography, or other circumstances over which the owner of the property has no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the vicinity of the subject property.
- (3) The variance would not be materially detrimental to the purposes of this division, or to property in the vicinity of the subject property, or otherwise conflict with the objectives of any County plan or policy.
- (4) The variance requested is the minimum variance which would alleviate the hardship.
- (5) The applicant shall provide a written statement from the governing board of the fire protection district having responsibility for structural fire protection in the area where the new dwelling or structure is to be located which states that their fire-fighting vehicles and equipment can negotiate the proposed road and/or driveway.

#### SECTION 3.01.230 FEASIBILITY REPORT

The applicant shall provide the Roadmaster a feasibility report on all requested variances. The Roadmaster shall contact all property owners abutting and using the road for which the variance has been requested and shall consider their comments regarding the requested variance.

#### SECTION 3.01.240 APPEALS OF VARIANCES

The applicant shall have the right of appeal of a denied variance. An affected property owner who has commented to the Roadmaster shall have the right to appeal an approved variance. Appeals of variances under this division shall be to the Board of Commissioners.

### CHAPTER SIX

### GENERAL PROVISIONS

#### SECTION 3.01.260 PRE-EXISTING ROADS, DRIVEWAYS AND BRIDGES

- (1) Substandard roads, driveways and bridges in existence on the effective date of adoption of this division shall be considered as nonconforming roads, driveways and bridges.
- (2) Expansion of nonconforming roads, driveways and/or bridges shall be accomplished in

the following manner:

(a) Upgrade the road, driveway or bridge to the minimum standard required by this division; or

(b) Obtain an approved variance of the minimum standards as provided under Chapter Five of this division, except that a variance cannot be granted for the firefighting equipment access provisions of this division unless the agency providing fire protection concurs in the granting of the variance.

(c) Expansion of a nonconforming road or driveway includes the creation of additional parcels or lots by partitioning or subdivision of land accessed by the road and/or the construction of new habitable structures on land accessed by the road or driveway.

#### SECTION 3.01.270 INTERPRETATION

The provisions of this division shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this division are less restrictive than conditions imposed by any other provisions of this division or of any other ordinance, resolution, regulation or statute; the provisions which are more restrictive shall govern.

#### SECTION 3.01.280 ABATEMENT AND PENALTY

Violations of the provisions of this division are subject to the following forms of abatement or penalties.

(1) If a person builds or maintains a road, driveway or bridge in violation of this division or violates this ordinance in any way, the County, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the unlawful road, driveway or bridge.

(2) In addition to the provisions of subsection (1) above, any violation of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.

## **ARTICLE THREE – ROADS**

### **DIVISION TWO: NAMING OF ROADS WITHIN CURRY COUNTY**

#### **SECTION 3.02.010: RESERVED**

#### **SECTION 3.02.020: AUTHORITY**

The following procedures and requirements relating to the naming or renaming of roads in Curry County are hereby adopted pursuant to authority granted by ORS Chapter 215.

#### **SECTION 3.02.030: DEFINITIONS**

See Section 3.01.030 for definitions.

As used in this division the masculine includes the feminine and the singular includes the plural.

### **ROAD NAMING PROCESS**

#### **SECTION 3.02.040 ROAD NAMING**

Roads shall be named or renamed by the Community Development Director or her/his designee.

#### **SECTION 3.02.050 DUTIES**

The Community Development Director shall have the duty of naming or renaming roads within unincorporated Curry County. The Director shall select a name for the road in question and notify the Roadmaster and Sheriff of the proposed name. The Roadmaster and Sheriff, within 10 working days of receiving the proposed name, shall advise the Community Development Director of their concurrence with the name or any objections. Upon consideration of the Roadmaster's and Sheriff's comments and determination of the road name the Community Development Director shall notify the abutting property owners of record of the road under consideration advising of the new road name. Should any abutting property owner object to the road name, the Community Development Director may re-evaluate the name and choose another name utilizing the same process as noted herein.

#### **SECTION 3.02.060 NOTIFICATION OF PROPERTY OWNERS AND AGENCIES**

The Community Development Director will send notice of the proposed road name change to all affected agencies, including the Road Department, County Surveyor, Assessor, Sheriff, Clerk, appropriate fire districts and forest protection district, appropriate ambulance services, appropriate 911 call centers, Post Office, appropriate cities, and abutting property

owners of record. Such notice shall include a statement as to where and when any objections should be filed pursuant to Section 3.02.070 below.

#### SECTION 3.02.070 APPEAL OF THE COMMUNITY DEVELOPMENT DIRECTOR DECISION

Upon receipt of the information regarding the road name, abutting property owners of record served by the road and agencies will have 10 working days to appeal the decision of the Community Development Director to the Board of Commissioners.

#### SECTION 3.02.080 FILING OF NEW ROAD NAME

Upon completion of the road naming process, the new road name shall be filed by the Community Development Director with the County Clerk, the County Assessor, the County Community Development Department, the County Roadmaster and the County Surveyor. The County Surveyor shall enter the new names of such roads or streets in red ink on any files, plats and tracings thereof which might be affected, together with the appropriate notations concerning the same.

#### SECTION 3.02.090 ROADS COVERED

Any County, public, or private street, road, highway or way visibly showing evidence of serving three or more existing residences, and a minimum of 500' in length is covered by this ordinance. Pursuant to ORS 227.120 those roads and streets within six (6) miles of the limits of any incorporated city shall not be renamed by the County.

#### SECTION 3.02.100 PREVIOUSLY NAMED ROADS

Requests to rename roads may be made through the Community Development Department by a majority of abutting property owners of record served by the road. Requests may be denied by the Community Development Director on the basis of length of the name, appropriateness of the name, disagreement among the property owners, confusion the name may cause, similarity to other road names or any other reasons the Community Development Director deems appropriate. No findings shall be required.

The Community Development Director may instigate renaming procedures on her/his own in order to bring roads into conformity with this division.

#### SECTION 3.02.110 LAMBERT GRID SYSTEM

The naming of roads under this system shall be done in such manner as to work compatibly with the Lambert Grid System which is utilized in Curry County.

- (1) Addresses will be assigned only to improved lots or parcels which include a driveway leading onto the named road.



- (2) Subsequent addressing of lots will be accomplished pursuant to Section 3.02.140 below.

#### SECTION 3.02.120 POSTING OF ROAD SIGNS

The Curry County Road Department may, at the Roadmaster's recommendation, install signs for non-County roads. Said signs shall be placed in a position to adequately indicate which road is being named. The signs may be placed upon public or private property for the protection of the health, safety, and welfare of the citizens of Curry County. The cost of the sign, installation and maintenance for non-County roads shall be borne by the person(s) requesting the sign. This person may include the Board or its delegated authority.

#### SECTION 3.02.130 ADDRESS NUMBER PLATES

The County Community Development Department shall assign addresses to new dwellings or developments when the owner is granted a building permit. At that time the Community Development Department will advise the Road Department of the address and the address number plate may be purchased from the County Road Department. If the address number plate is not purchased from the Road Department, it shall have a retroreflectorized green background with retroreflectorized white numbers. The numbers shall not be less than three inches in height. Upon completion of the dwelling or development the address number plate shall be posted by the property owner prior to the issuance of a certificate of occupancy. Said plates shall be conspicuously posted at all times by the resident in a manner to allow emergency vehicle drivers to immediately ascertain the address of each residence.

#### SECTION 3.02.140 PARTITIONS AND SUBDIVISIONS - ROAD NAMING AND POSTING

- (1) At the time a partition or subdivision is requested, an applicant shall name each road within said partition or subdivision subject to approval of the Community Development Director.
- (2) Upon completion of construction of the road(s), the applicant shall provide and install standard road name signs for each road in the partition or subdivision, said signs having a retroreflectorized green background with retroreflectorized white letters as specified in the Manual on Uniform Traffic Control Devices. Failure to provide and install standard road name signs can result in a disapproval of said partition or subdivision.

## **ARTICLE THREE – ROADS**

### **DIVISION THREE REMOVAL OF THE COUNTY BOARD OF COMMISSIONERS FROM JURISDICTION OVER STATUTORY WAYS OF NECESSITY**

#### **SECTION 3.03.010 AUTHORITY**

ORS 376.200 authorizes County Governing Bodies to remove themselves from jurisdiction over establishment of ways of necessity under ORS 376.150 to 376.200.

#### **SECTION 3.03.020 REMOVAL FROM JURISDICTION**

Because the Curry County Board of Commissioners feels that the Circuit Court is a preferable forum for litigating the establishment of statutory ways of necessity, it hereby removes the governing body of Curry County from jurisdiction over the establishment of ways of necessity under ORS 376.150 to 376.200.

## **ARTICLE THREE – ROADS**

### **DIVISION FOUR    USE OF ROAD RIGHTS-OF-WAY**

#### **SECTION 3.04.010    AUTHORITY**

This division is being adopted by the Board of Curry County Commissioners under authority of ORS 374.309.

#### **SECTION 3.04.020    DEFINITIONS**

See Section 3.01.030 for definitions.

#### **SECTION 3.04.030    WORK IN RIGHTS-OF-WAY; PERMIT REQUIRED; CONDITIONS; EQUITABLE REMEDIES**

(1) Except as otherwise provided in this division, no person shall place, build, construct, extend, enlarge or otherwise work on any facility, thing or appurtenance in the right-of-way of a County road without first obtaining a permit from the County Roadmaster. This requirement applies to all work, including but not limited to, the following:

(a) Constructing, grading, surfacing or providing drainage facilities under the access to private driveway or approach road;

(b) Pipelines, irrigation lines, sewer lines, underground cables, overhead wires and utility poles;

(c) Signs, billboards, symbols, notices, advertisements or directional guides;

(d) Sidewalks, curbs, gutters, retaining walls, meters, inlet basins, fences and ornamental objects;

(e) Planting of trees or other vegetation; and

(f) Mailboxes and supports other than those conforming to design standards provided by the Road Department.

(2) No person shall construct or maintain any facility, thing or appurtenance within any such right-of-way in violation of any of the conditions of a permit or any of the provisions of this division.

(3) No person shall use, occupy or maintain any facility or thing placed wholly or partly within the road right-of-way in violation of, or without first obtaining the permits required by, any law in effect at the time such thing or facility is so placed.

(4) Nothing in this section shall be construed to prevent the County from removing anything from a County road right-of-way, whether or not the same is installed under a permit or in compliance with this division, where the County Board of Commissioners finds that such removal has become necessary to the public's use or improvement of the road.

SECTION 3.04.040 EXCEPTIONS TO CERTAIN REQUIREMENTS; INTERPRETATION.

(1) A permit is not required for the following, providing the work does not involve excavation:

(a) Performing maintenance or minor improvement to existing facilities lawfully in place;

(b) Utilizing lawfully installed facilities as intended when installed, including the following:

(1) Inspection and cleaning of sewer and storm water facilities;

(2) Inserting cables in existing conduits or making service connections within a terminal structure; and

(3) Utilization that is expressly acknowledged by prior permit provisions; and

(c) Other miscellaneous minor activities as specifically approved in writing by the Roadmaster.

(2) Nothing in this section shall:

(a) Limit or affect any of the powers granted to, or duties imposed upon, the County Board of Commissioners, the Department of Transportation or the Public Utility Commissioner by ORS 758.010 and 758.020, or any rights granted or authorized under those statutes or any other statutes pertaining to powers, duties and rights of the aforesaid;

(b) Grant any right for the construction or placing of an approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance on the right-of-way of any County road; or

(c) Be deemed to affect any approach road, structure, pipeline, ditch, cable, wire or other facility, thing or appurtenance lawfully placed or constructed upon the right-of-way of any County road prior to September 13, 1967, subject, however, to the authority reserved to the County Board of Commissioners in Section 3.04.030 (4).

#### SECTION 3.04.050 CHANGE IN USE OF APPROACH ROAD; PERMIT REQUIRED.

A change in the manner of using an approach road that connects to or intersects a County road requires a permit, as provided by ORS 374.305. A changed use includes, but is not limited to:

- (1) Any physical change requiring excavation, placing of an embankment, a culvert extension, construction of headwalls and repair or alteration of any existing lawfully installed facility pertinent to a driveway or approach road;
- (2) Any substantial change in the type or number of vehicles reasonably anticipated during the application for, and the review and approval of the latest existing permit on file for a driveway or approach road; and
- (3) Any other change in the approach road or its use which the Roadmaster finds may adversely affect the public's safety or the public's interest in the County road in the absence of limitations or conditions.

#### SECTION 3.04.060 REVIEW OF PERMIT APPLICATIONS.

From the date this division becomes effective the authority contained in ORS 374.305 through 374.325 relating to County roads applies to any facility, thing or appurtenance within a County road right-of-way. After a completed application with the required fee has been submitted, the Roadmaster, or his or her authorized representative, shall review the application and shall issue the permit if he or she determines that the proposal will comply with the provisions of this division and the applicable requirements imposed by State law. The Roadmaster may impose additional written conditions on a permit consistent with the provisions of this division if he or she finds such conditions to be necessary to the public interest in the safe use of the road and the preservation of the public improvements therein and on the property adjoining the same. The Roadmaster may also require the applicant to submit plans which, when approved, will become part of the conditions of the permit. The Roadmaster shall prepare appropriate forms to assist the applicant in providing the information necessary for the application review.

If the applicant disagrees with the Roadmaster's interpretation of the regulations or with the conditions imposed by the Roadmaster, or if the Roadmaster finds that the proposal raises problems of public safety or problems having to do with the public use or protection of the road, which problems are not addressed in the regulations, then either may refer the application to the County Board of Commissioners, which Board shall, within thirty days, afford them an opportunity to be publicly heard and make its final decision in the matter. If the Board finds that the proposal creates a problem to public interests in the road which cannot be solved by the application of the regulations or adequate conditions, the Board shall deny the application.

The Roadmaster shall arrange for whatever field study and inspection he or she deems to be appropriate to assure compliance with the requirements.

SECTION 3.04.070 PERMIT REGULATIONS AND CLASSIFICATION.

- (1) The regulations pertaining to each of the various permits issued by the Roadmaster, which are set forth in Exhibit D, "PERMIT REGULATIONS & CLASSIFICATION" following the text of this division, are hereby adopted and made a part of this division.
- (2) A permit fee shall be paid at the time the application for a permit is submitted to the Roadmaster. All permits issued by the Roadmaster shall be classified under one of the following headings on a general "Facility Permit" form.
  - (a) Driveway/road approach permit;
  - (b) Road encroachment permit;
  - (c) Road improvement permit;
  - (d) Special permit;
  - (e) Utility permit;
- (3) Copies of the regulations appropriate to the classification, as determined by the Roadmaster, shall be attached to, or referenced on, each permit issued.

SECTION 3.04.080 PERMIT FEES.

Fees for the various permits required by this division shall be set by Board resolution.

SECTION 3.04.090 EXEMPTIONS FROM FEE REQUIREMENT.

No fee shall be required for a permit in the following circumstances:

- (1) Where installation of public facilities by public or quasi-public entities is involved;
- (2) Where the Roadmaster finds that the organization which proposes the installation is engaged in a nonprofit activity and that the activity is for the benefit of the general public;
- (3) Where the permitted facility, thing or appurtenance in the right-of-way of the County road is in lawful existence as of the effective date of this division except that this exemption does not apply to work done after such effective date; and
- (4) In any instance where the Roadmaster deems it to be in the best interests of the County to waive the permit fee.

SECTION 3.04.100 VIOLATIONS; REMOVAL OR CORRECTION OF INSTALLATIONS;  
PROSECUTION.

(1) If any person fails to obtain a permit or to comply with the appropriate regulations or permit conditions, then the Roadmaster may take appropriate action to remove or correct the installation and recover the cost from the person responsible, all in accordance with the authority contained in ORS 374.307 and 374.320 as such statutes relate to County roads. However, such action shall not waive the County's right to prosecute the offender under Section 3.04.990.

(2) In addition to the remedies set forth in subsection (1) hereof or prescribed by ORS 374.307 or 374.320, any person who violates or fails to comply with any of the provisions of this chapter may be punished as provided in Section 3.04.990. A separate offense may be deemed committed each day during or on which such unlawful condition is maintained or continued after citation or notice of violation has been given. Offenses under this section may be charged under Article 10 of the Curry County Code.

SECTION 3.04.110 ALTERATION OR REMOVAL OF TREES AND VEGETATION IN  
COUNTY ROAD RIGHTS-OF-WAY.

(1) All trees within a County road right-of-way are subject to the County's control, and no tree may be altered or removed without a permit from the County. The permit requirement does not apply to public utilities exercising their rights within the right-of-way pursuant to State law or franchise. The authority to issue a permit under this section is delegated to the Roadmaster or his or her authorized representative. In issuing a permit, the County shall have the authority to impose such conditions as it deems necessary for public safety and convenience.

(2) The County has and claims the right to remove or alter any tree, or remove any other vegetation, situated entirely within the County road right-of-way if, in the judgement of the Roadmaster, such removal is necessary to the use or improvement of the road or related facilities or for public safety.

(3) If the Roadmaster finds that a tree to be removed may have marketable or ornamental value to the owner of the land abutting the half of the right-of-way on which the tree is situated, the County shall first send notice to the abutting owner, giving the owner thirty days within which to secure a permit and alter or remove the tree or vegetation. If within that period of time the tree or other vegetation is not removed or altered to the extent necessary to the public safety and convenience as found by the Roadmaster, the County may remove or alter the tree or vegetation and, if it is a merchantable tree, retain it to defray the cost of removal. For purposes of giving notice under this subsection, the owner according to the Assessor's records of the property abutting the half of the right-of-way within which the tree is situated shall be deemed the owner of the underlying tree. Notwithstanding the foregoing, if the Roadmaster or his or her authorized representative determines that an emergency exists which may affect the public safety, no notice shall be required prior to the removal of the tree or vegetation.

(4) The Roadmaster may define by written policy those criteria by which he or she determines that the removal or alteration of a tree or other vegetation within a County road right-

of-way is necessary for public safety or convenience; that a tree is marketable or has ornamental value to abutting property; or that an emergency exists which may affect the public safety. When such written policy is approved by the Board of Commissioners, any determination made by the Roadmaster pursuant to the policy is final.

(5) Notwithstanding subsection (4) hereof, the Board of Commissioners may, on its own motion, within the said thirty days, review a proposal to remove a tree under this division and may determine, at its discretion, whether there is a public interest which outweighs the public safety issue raised by the presence or condition of the tree, or may determine at its discretion that the public safety and convenience can be adequately served without the removal of the subject tree considering its value or function.

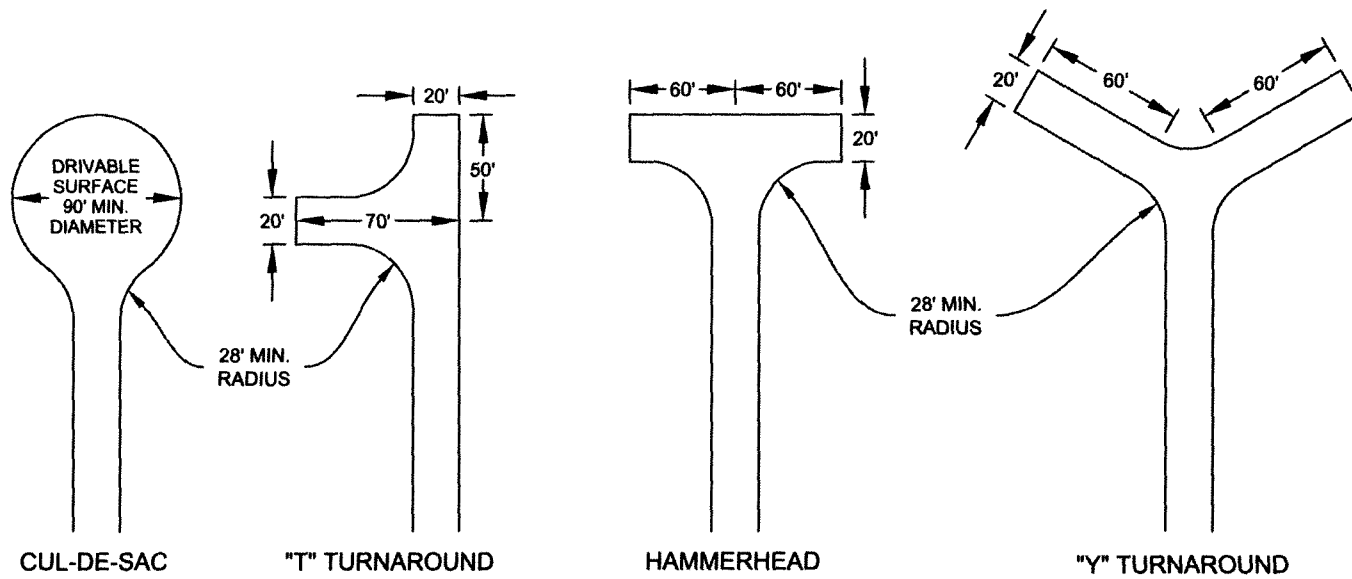
#### SECTION 3.04.990 PENALTY.

Violations of this division may be punishable by citation under appropriate provisions of Article 10 of this ordinance.



**EXHIBITS TO ARTICLE THREE**

## EXHIBIT "A"

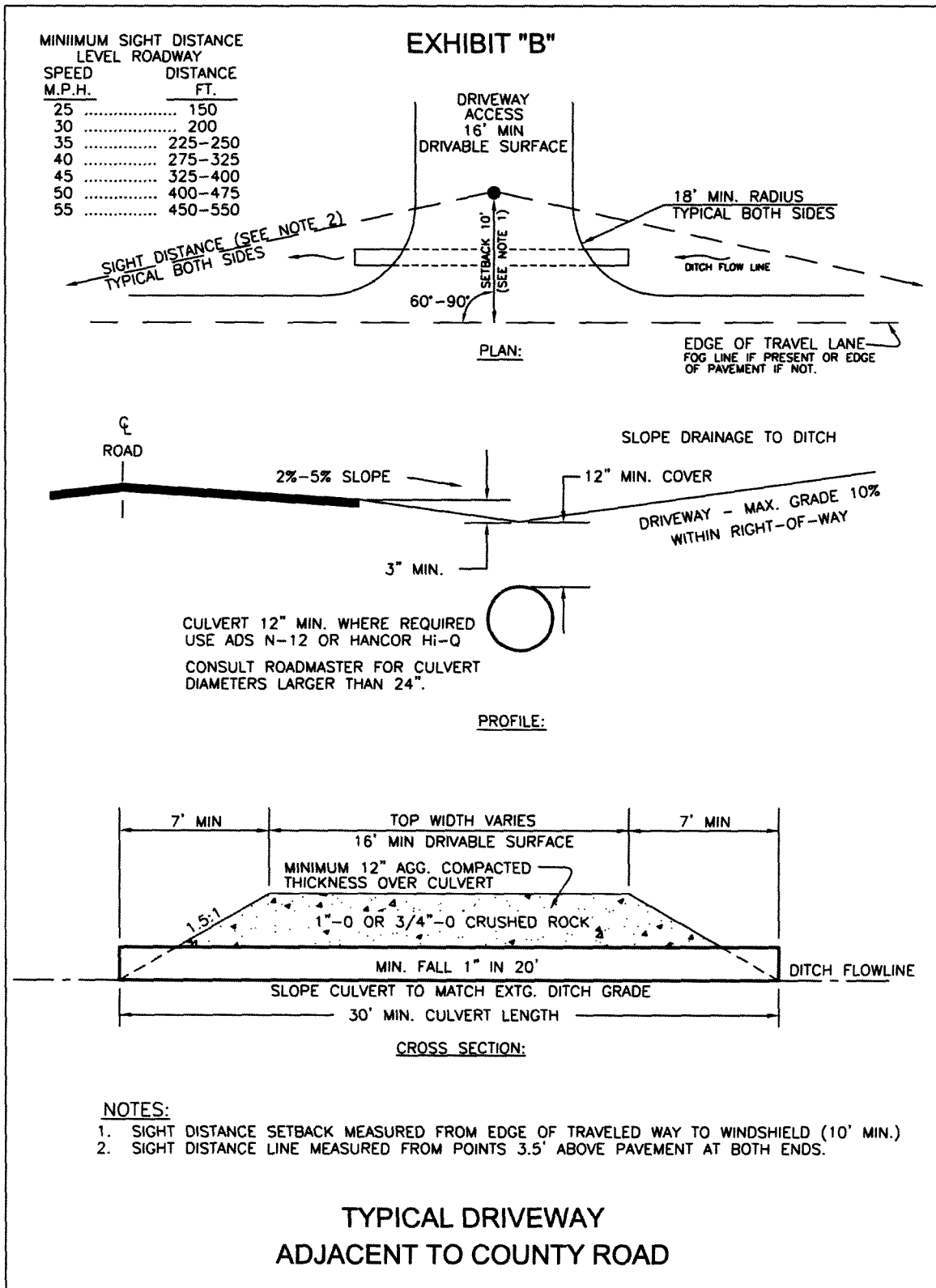
NOTES:

1. SLOPES: 1% MINIMUM, 4% MAXIMUM.
2. SURFACING: PAVED PER FUNCTIONAL CLASS.
3. TURNAROUNDS FOR FIRE ACCESS REQUIRE FIRE DEPARTMENT REVIEW/ APPROVAL (THEIR STANDARDS MAY BE GREATER).
4. ALL CONSTRUCTION SHALL COMPLY WITH CURRY COUNTY ROAD STANDARDS AND AN APPROVED PLAN.

MINIMUM TURNAROUND STANDARDS  
FOR RURAL ROADS

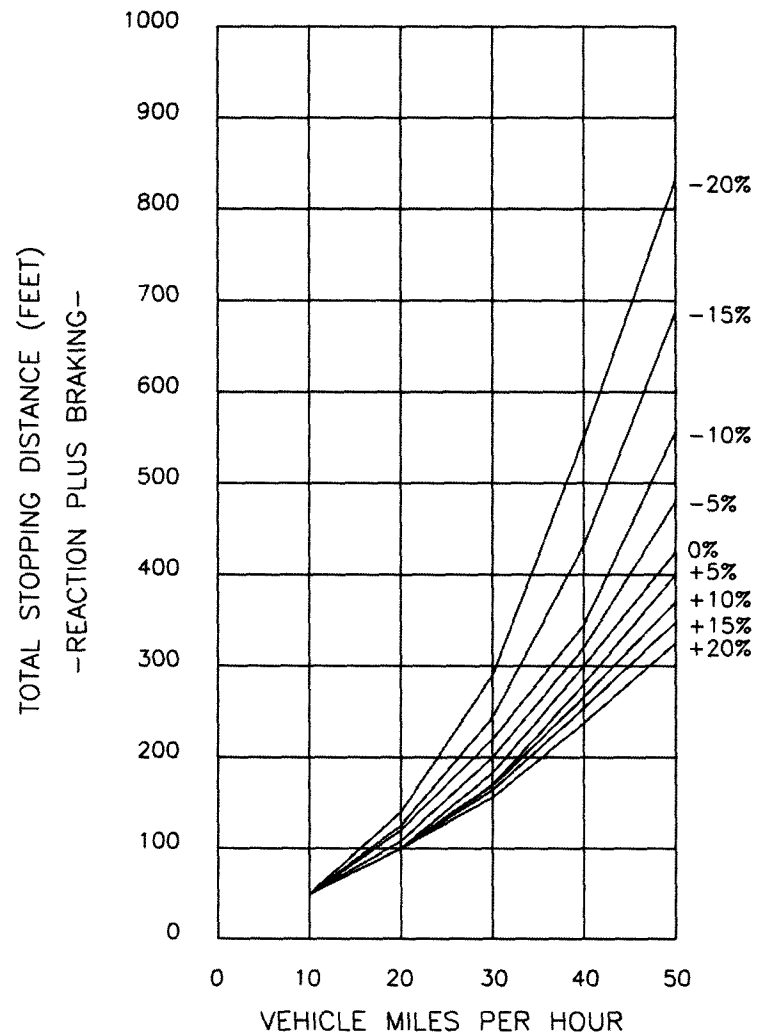
EXHIBIT "A" TO DIVISION ONE

## EXHIBIT "B" TO DIVISION ONE



**EXHIBIT "C" TO DIVISION ONE**

**EXHIBIT "C"**



BASED ON:  $\frac{V^2}{30 (F+G)} = D$

**GRADE EFFECT ON STOPPING DISTANCE**

**EXHIBIT "D" TO DIVISION FOUR**

**PERMIT REGULATIONS & CLASSIFICATION**

## APPLICATION FOR FACILITY PERMIT - EXAMPLE



### APPLICATION FOR FACILITY PERMIT

(Subject to Conditions; Revocable)

### CURRY COUNTY ROAD DEPARTMENT

28425 Hunter Creek Road  
Gold Beach, OR 97444

PERMIT NO. \_\_\_\_\_

DATE: \_\_\_\_\_

TAX MAP \_\_\_\_\_

TAX LOT \_\_\_\_\_

#### PERMIT TYPE AND FEE COLLECTED:

\_\_\_\_\_ Driveway/Road Approach  
\_\_\_\_\_ Road Encroachment  
\_\_\_\_\_ Road Improvement  
\_\_\_\_\_ Major  
\_\_\_\_\_ Minor  
\_\_\_\_\_ Special  
\_\_\_\_\_ Utility

I, \_\_\_\_\_ hereby make application for a facility permit upon the right-of-way of  
(Applicant's Name)

\_\_\_\_\_ Milepost (s) \_\_\_\_\_ in strict conformity to the  
(Road Name-County Road Number)

exhibits attached hereto, subject to all terms, conditions, agreement stipulations, and provisions contained in the application and permit, and the rules and regulations regarding roads and rights-of-way, as set forth by the Curry County Code Article Three, and any other applicable regulations, law or ordinance.

#### DESCRIPTION OF FACILITY:

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

Signature \_\_\_\_\_

Mailing Address \_\_\_\_\_

Phone Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email Address \_\_\_\_\_

#### FACILITY PERMIT

**SPECIAL PROVISIONS:** The terms and specifications which apply to this permit are as shown on the attachment herewith and the permit conditions listed on the reverse side of this application. Noncompliance with these terms, specifications and conditions will result in revocation of this permit.

#### ATTACHMENTS FOR:

\_\_\_\_\_ Driveway/Road Approach \_\_\_\_\_ Road Improvement \_\_\_\_\_ Utility  
\_\_\_\_\_ Road Encroachment \_\_\_\_\_ Special

#### ADDITIONAL REQUIREMENTS:

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

This permit shall be void unless the work herein contemplated shall have been completed before \_\_\_\_\_, 20\_\_\_\_.

#### APPROVED:

Issue Date \_\_\_\_\_ Approved \_\_\_\_\_

#### INSPECTED:

Date \_\_\_\_\_ Approved \_\_\_\_\_

Denied \_\_\_\_\_  
Douglas M. Robbins, Roadmaster

By \_\_\_\_\_ Denied \_\_\_\_\_

**RETURN** completed Permit Application to:

**Curry County Road Department, 28425 Hunter Creek Road, Gold Beach, OR 97444**

- A.** This permit covers public right-of-way and/or County property only.
- B.** It is the responsibility of the permit holder to re-establish any survey monument, moved, destroyed, etc. while working within County right-of-way. Re-establishment of survey monuments must be done by an approved registered surveyor and all costs will be borne by the permit holder.
- C.** Notification to the Curry County Road Department is required 24 hours before beginning work under this permit - (541) 247-7097. Prior approval for modifications to permit specifications is required.
- D.** Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Permits may be terminated or suspended when the permit holder is found to have obtained a permit through misrepresentation of the facts or when, in the judgment of the Roadmaster, terms of the permit are being violated or public safety is threatened. Permits shall remain in effect until a change in land use occurs. The permit holder shall be responsible for the cost of design, installation or construction of additional roadway improvements and traffic control devices at any time in the future when the traffic generated by the use for which the access permit is authorized necessitate such installation in the interest of the public safety.
- E. HOLD HARMLESS CLAUSE** - The permit holder agrees that their performance under this permit is at their own sole risk and that they shall indemnify Curry County, its agents and employees and hold them harmless from any and all liability for damages, costs, losses and expenses resulting from, arising out of, or in any way connected with this permit, or from the permit holder's failure to perform fully hereunder, and the permit holder further agrees to defend Curry County, its agents, and employees, against all suits, actions or proceedings brought by any third party against them for which the permit holder would be liable hereunder.
- F.** The permit holder guarantees all restoration work for a period of one year from the date of completing the installation, except non-cement/sand slurry backfills under pavements shall be warranted for two years from the date of completing the installation.
- G.** Any sight posts, sign posts, or mailboxes that are removed will be replaced immediately in like condition in the same location and the area around them will be restored to a like or better condition.
- H.** As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way and may order the location of such facility changed if deemed expedient.

## DRIVEWAY/ROAD APPROACH PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

Compliance with the standard drawings attached hereto is required.

### I. Materials

Culverts shall be double wall plastic (ADS N-12 or Hancor Hi-Q) pipe for diameters through 24". Consult with the Roadmaster for diameters larger than 24".

### II. Construction Regulations

1. Obtain permit from the Curry County Road Department. Permits are to be signed by the property owner unless the contractor has an authorized paper signed by the property owner to obtain permits for them.
2. Absolutely no work is to begin without having the permit in hand. **ALL WORK IS TO BE COMPLETED BEFORE THE EXPIRATION DATE.**
3. Culvert shall be installed on straight lines, both vertical and horizontal, and have a minimum fall of 1" in 20 feet. Bell ends of pipe shall be placed facing towards the inlet end of the culvert. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
4. Flow line of culvert shall match the flow line of the ditch and allow for a minimum of 12" of cover over the culvert. Cover materials shall maintain a 2% slope away from the roadway to the back of the ditch. Cover material shall be 1"-0 or ¾"-0 crushed rock. Any questions or problems regarding this paragraph shall be resolved **prior to proceeding with any further work.**
5. The driveway/road approach shall intersect the County road as near to a right angle as possible.



6. The maximum grade of the driveway/road approach in the County right-of-way should be ten (10) percent and constructed so that the low point in the grade is over the culvert or so that the slope is away from the road to prevent storm water and surfacing materials from encroaching on the road shoulder.
7. For road approaches in curb and gutter sections of road, the curb cut construction must conform to the Department's standard drawing. Behind the curb a standard concrete apron must be constructed or the portion of the driveway on the right-of-way must be paved with asphaltic concrete. The County must inspect the forms prior to the concrete pour.
8. Call for final inspection.

### III. General Provisions

1. The applicant declares that he or she is the owner or lessee of the real property abutting the above described County road and has the lawful authority to apply for this permit.
2. The County assumes no liability for any damage which may be caused to the approach due to routine road maintenance or road improvement. It shall be the responsibility of the holder of this permit to construct the approach to such lines and grades so as not to interfere with normal road maintenance operations.
3. A driveway/road approach permit may be denied when, in the opinion of the Roadmaster, lack of adequate sight distance would create a traffic safety hazard. The applicant may be required to remove brush, widen cut banks, relocate the proposed approach or otherwise satisfy sight distance requirements and to ensure that those distances are maintained. The minimum recommended sight distances for the estimated speed of the traffic are given below. The sight distance line shall be measured from points 42" above road surface at both ends.

Speed (mph)	Minimum Sight Distance (ft.)
25	150
30	200
35	225-250
40	275-325
45	325-400
50	400-475
55	450-550

4. Proper barricades and warning signs must be maintained at all times during construction by the holder of this permit so as to ensure the safety of the public.

5. The County road is to be restored to its original or to a better condition. All excess rock or dirt is to be removed from the traveled portion of the road by brooming or washing, as directed. Final clean-up is to be completed within one week after the approach is constructed.
6. Failure of the permit holder to construct the approach or approaches in strict conformance with all the provisions written herein, or with plans and standard drawings attached hereto, shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way. Removal of the partially constructed approach or approaches shall be done at the applicant's sole expense.

ROAD ENCROACHMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: _____	Permit No. _____
Phone: _____	Road _____
Email: _____	Mile Post _____
	Twp. _____ Rng. _____ Sec. _____
	Tax Lot(s) _____
	Expiration Date _____

General Conditions

This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

Description of Installation

*Description goes here.*

Location of Installation

\_\_\_\_\_(see attached sketch)

Special Terms and Conditions

1. This permit is valid only for work within the scope and extent as described above.
2. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installations.
3. In the event that County maintenance and/or construction require additional utilization of the public right-of-way this permit may be revoked and the permit holder may be required, **at his/her own expense**, to relocate the facilities to accommodate the work contemplated by the County. Curry County will make reasonable effort to provide the permit holder prior notification of any such planned activity.

4. In the event that the above described installation, in the opinion of the Roadmaster, adversely affects public safety, the Roadmaster shall revoke this permit. In this event, the permit holder shall immediately, and **at his/her own expense**, provide for the elimination of said encroachment and other items associated with the above described installation.
5. Additional pertinent road encroachment permit terms and conditions will be issued with the permit as needed.

## ROAD IMPROVEMENT PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_ Permit No. \_\_\_\_\_  
Phone: \_\_\_\_\_ Road \_\_\_\_\_  
Email: \_\_\_\_\_ Mile Post \_\_\_\_\_  
Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_  
Tax Lot(s) \_\_\_\_\_  
Expiration Date \_\_\_\_\_

### General Conditions

This permit is for a major/minor road improvement. This permit is subject to the below listed terms and conditions. Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

### Description of Installation

*Description goes here.*

### Location of Installation

\_\_\_\_\_ (see attached sketch)

### Special Terms and Conditions

1. Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall follow the attached signing plan.
2. The holder of this permit shall be responsible for all damages caused by any operations associated with the road improvement. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the road improvement.
3. The holder of this permit guarantees all parts of the road construction for a period of two years from the date of completing the project.
4. The holder of this permit shall indemnify and hold the County of Curry harmless and blameless from damages that may be caused or contributed by the above described installation.

5. The County may order the work suspended as set forth in Section 180 of the Oregon Standard Specifications for Construction for any reason deemed to be in the public interest.
6. All work and materials shall conform to the Curry County Road Department specifications.
7. Each phase of construction (culverts, subgrade, base rock, etc.) shall be inspected and approved by the Road Department before proceeding with the next phase.
8. Detailed plans prepared and stamped by a professional engineer registered in Oregon shall be required for major improvements.
9. The contractor shall call the Road Department at (541) 247-7097 for subgrade and form inspections (24 hour notice).
10. Additional pertinent permit terms and conditions will be issued with the permit as needed.

SPECIAL PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

Name: \_\_\_\_\_

Permit No. \_\_\_\_\_

Phone: \_\_\_\_\_

Road \_\_\_\_\_

Email: \_\_\_\_\_

Mile Post \_\_\_\_\_

Twp. \_\_\_\_\_ Rng. \_\_\_\_\_ Sec. \_\_\_\_\_

Tax Lot(s) \_\_\_\_\_

Expiration Date \_\_\_\_\_

Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road right-of-way.

Pertinent special permit conditions will be issued with the permit as needed.

## UTILITY PERMIT REGULATIONS - EXAMPLE

(Subject to Conditions; Revocable)

### General Conditions

1. This permit is granted for use only on roads under the jurisdiction of the Curry County Board of Commissioners and is not valid upon any federal highway, state highway, city or town street, or any road not in the County road system of Curry County.
2. As provided in O.R.S. 758.010 the Road Department, acting on behalf of the County Board of Commissioners, may designate where utilities may be located within a County road right-of-way, and may order the location of such facility changed if deemed expedient.
3. Permittee shall be responsible for all damages caused by any operations associated with the utility installation. All damaged areas shall be restored to an "as good as, or better than" condition as existed prior to the utility installation.
4. By acceptance of this permit, permittee agrees to be responsible for all permit conditions, including the attached special conditions, and said responsibility shall survive the suspension or termination of this permit.
5. Utility permit applications shall be accompanied by 2 sets of plans or a sketch that accurately depicts and locates the work to be done so that someone unfamiliar with the work can determine the location of the installation. Said plans shall be adhered to unless written permission to vary is granted by the Roadmaster.

### Special Conditions

Compliance with the applicable "Special Conditions for Underground Utilities Within County Road Rights-of-Way", "Special Conditions for Underground Electric Power Line Installation Within County Road Rights-of-Way" and/or "Minimum Signing Requirements for Construction and Maintenance Areas" is required.



SPECIAL CONDITIONS FOR UNDERGROUND UTILITIES WITHIN COUNTY ROAD  
RIGHTS-OF-WAY

1. MAXIMUM LENGTH OF OPEN TRENCH

Unless otherwise approved by the Roadmaster, backfilling of longitudinal trenches shall be accomplished so that no more than 200 feet of trench is left open at any time. No more than half the road may be closed at any time for either longitudinal or transverse trenches.

2. CEMENT/SAND SLURRY BACKFILL AND BACKFILL MAINTENANCE

All paved surface cuts shall be backfilled with 1 sack cement/sand slurry poured at a 6"-8" slump. Slurry shall extend from the pipe zone to finish grade and be plated with 1/2" minimum steel plates of sufficient width to overlap the trench by 6". "BUMP" signs must be placed on either side of the plates to warn traffic. The slurry backfill is to stand on the angle of repose or it may be vertical if the edges are formed first. The edge of the slurry shall extend one foot outside of the edge of pavement. Steel plates shall be left in place until slurry is set. Plywood may not be used for traffic to pass over.

The surface of backfilled trenches using an alternate backfill material on larger longitudinal trenches shall be watered and graded as often as necessary to keep the travel way smooth and dust free. If required by the Roadmaster, an approved dust palliative shall be applied.

3. TEMPORARY PAVEMENT REPLACEMENT

Cross trenches or other local pavement cuts shall be repaved immediately unless the contractor chooses to wait until all trenching and backfilling is completed. Temporary asphalt covering (cold mix) may be constructed. The temporary surfacing shall be removed in its entirety before placement of the permanent pavement.

4. COMPACTION TESTING

Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and elevations as will be representative of the entire backfill. Final decision as to the location and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional compactive effort, other compactive method or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.

## 5. ROAD RESTORATION REQUIREMENTS

Restoration is the process of bringing a roadway as near as possible to the life and structural section a road had prior to construction. It is also part of maintaining a safe surface for driving (i.e. consistent road surface types for braking and turning maneuvers). Typically the County has three (3) major types of restoration.

- Tee cut
- Grind and inlay
- Overlay

The restoration requirements on the permit/plans approved by the County should be considered as best case. They will be the standards used if the construction does not cause any extra damage, the trench walls do not cave in, no modifications to the alignment, and no conflicts are discovered.

The restoration requirements are based on several items including:

- Current condition of the road based on a pavement condition index (PCI) as determined on a regular basis (usually every 2 years) by the County
- Functional classification of the road
- Next regularly scheduled maintenance
- Site conditions (curves, road hazards, signage, and speed zone)
- Professional engineering judgement

When an open trench cut is proposed on a road which is scheduled to be surfaced within the next six (6) months, a tee cut shall be required.

When an open trench cut is proposed on a road which has a PCI greater than eighty (80), and it is not scheduled to be surfaced within the next six (6) months, a grind and inlay will be required.

When an open trench cut is proposed on a road which has site conditions such as sharp curves, road hazards, or in a school zone, an overlay may be required.

When an open trench cut is proposed on a road which has been surfaced within the last five (5) years, open cuts may not be allowed. At the County's discretion, tap and bores may be allowed with a grind and inlay for any bore pit.

## 6. PROSECUTION AND PROGRESS OF ROAD RESTORATION

Traffic safety and convenience shall receive utmost consideration at all times. Permittee shall ensure that road restoration work is prosecuted diligently and completed as quickly as practicable after trench compaction and testing. On lengthy projects, complete road restoration may be required on one section prior to continuance of the excavation phase on another.

7. INSPECTION AND SUPERINTENDENCE

When required by the Roadmaster, permittee shall provide for a full time representative on the project. The representative shall be an experienced inspector or engineer who will be responsible to ensure compliance with the contract documents and the County's General and Special Conditions of the project permit.

In case of conflict between the project plans and contract documents and the "Terms and Conditions of this Permit", the latter shall prevail.

8. STANDARDS AND SPECIFICATIONS

Except as otherwise shown or referred to in these Special Conditions, or as otherwise approved by the Roadmaster, all work and materials affecting roads and road structures shall conform to the Curry County Road Standards. Said standards and specifications include, by reference, the Oregon Department of Transportation "Oregon Standard Specifications for Construction" and the Federal Highway Administration "Manual on Uniform Traffic Control Devices" (MUTCD.).

9. CLEANUP AND REPAIR

All areas affected by the construction shall be brought to an "As good as or better than" condition prior to completion of the project. Repairs shall include, but are not limited to:

A. Roadway Repairs

In addition to road reconstruction within the trench area, the permittee shall ensure the repair of any other pavement, base material or subgrade damaged as a result of project operations. This includes damage to shoulders and pavement edges caused by detouring traffic and equipment around the work area. In case of excessive damage, reconstruction or an asphaltic overlay may be required.

B. Replacement of Contaminated Gravel

All gravel surfaces contaminated with mud, dirt, oversize rock or other foreign material shall be removed and replaced with 3/4"-0 crushed rock meeting the requirements hereinabove set forth.

C. Slopes and Roadside Ditches

Slopes and roadside ditches shall be trimmed, smoothed and compacted to the original lines and grades.

D. Driveways, Culverts and Ditches

Driveways, culverts and ditches shall be replaced to the original lines and grades.

E. General Cleanup

The contractor shall at all times during the work keep the roadway clean and orderly. All broken pavement, concrete, excess excavation material or other objectionable material shall be promptly removed from the County road right-of-way.

10. MISCELLANEOUS CONDITIONS

A. Detours

All requests for detours shall be submitted well in advance with a detour plan showing traffic signing proposed. No detour will be permitted until approval of the plan by the County Roadmaster. When the plan is approved the permittee shall notify all emergency agencies, school districts and postal carriers concerning the location and duration of the detour.

B. Backfill Compaction by Water Settlement Method

The use of the water settlement method of compaction for certain granular materials, as noted on the typical section, may be allowed under the following conditions:

1. Permittee shall, prior to backfilling any significant portion of trench, demonstrate by approved testing methods that the specified compaction is obtainable. Excessive groundwater infiltration or retainage of water in the backfill material will not serve as sufficient reason for not achieving specified compaction.
2. Water settling (jetting or ponding) shall proceed within a short distance behind the backfilling operation. Lateral trenches, other new excavation or re-excavation which may occur at a later time shall be compacted separately and, if necessary, by mechanical means in order to achieve the specified compaction.
3. Compaction testing shall proceed within a short distance behind the compaction phase. Permittee shall perform the testing at such locations and at such elevations as shall be representative of the entire backfill. Final decision as to the adequacy and frequency of testing shall reside entirely with the County Roadmaster or his authorized representative.

4. Areas showing failing compaction tests shall receive further attention without undue delay. Further attention may involve additional water settlement, dewatering, other compactive methods or removal of the backfill material. In no case shall the main excavation phase proceed until the failing section has been corrected unless otherwise approved by the County Roadmaster.

C. Pavement Replacement

Immediately prior to patching the trench with asphaltic concrete, the existing pavement shall be neatly cut with a pavement saw or other approved breaker. All cracked or ravelled pavement shall be removed without creating abrupt jogs in the cut line. Pavement trimming, finishing of the gravel surface, tacking the edges and pavement replacement shall be performed only under the immediate supervision of the Roadmaster or his authorized representative. Unless otherwise approved by the Roadmaster, all trenches within a paved travelled way shall be resurfaced with asphaltic concrete within 10 calendar days after testing and approval of the backfill. The finished surface of the new pavement, when tested with a 10-foot straightedge, shall not vary from the testing edge by more than 1/4 inch at any point. The top course of asphalt shall be constructed only by workmen thoroughly familiar with asphalt finishing work.

An emulsified asphalt fog coat of the entire paved surface may be required after the asphaltic concrete patching has been completed on projects having numerous cross trenches or where there has been extensive damage to the surface. The fog coat shall be CQS-1h emulsified asphalt mixed at a 1 to 1 ratio with water according to the manufactures directions. Apply the fog coat at a rate of 0.11 gallons per square yard.

On longitudinal trenches, unless otherwise approved by the Roadmaster, the existing pavement shall be removed and replaced to full paving machine width (normally 10 feet). Drag boxes or other pull-type asphalt spreaders will not be permitted for longitudinal trench pavement replacement.

D. Manhole and Valve Box Adjustment

Manholes, valve boxes and similar structures shall be raised to finish grade after paving is completed. The structure surface shall be no greater than 1/4 inch higher or lower than the surrounding surface when tested with a 10-foot straightedge. Level 3, 1/2" dense HMAc asphaltic concrete may be used to fill in the void around the structure unless otherwise directed by the Roadmaster. If the Roadmaster so requires, concrete collars shall be constructed in accordance with the department's standard drawings "CONCRETE COLLARS FOR MANHOLES" and/or, "CONCRETE COLLARS FOR MONUMENT/VALVE BOXES". Usually, concrete will only be required (a) when it is impractical to maintain adequate working temperature for asphaltic concrete and (b) where the

structure configuration fails to provide adequate support to prevent being displaced by traffic.

11. SPECIAL CONDITIONS FOR UNDERGROUND ELECTRIC POWER LINE INSTALLATION WITHIN COUNTY ROAD RIGHTS-OF-WAY

Longitudinal power line installations shall not be allowed within the roadbed section, including ditches, unless the conditions are such that installation outside the ditch line would present an extreme difficulty. The burden of proving "extreme difficulty" shall lie with the applicant.

When located outside the roadbed section, the cable shall be placed as near the right-of-way line as possible while maintaining a generally uniform distance from the road centerline.

Warning signs shall be placed at frequent intervals over the cable, including both sides of road crossings.

The minimum depth for power cables shall be not less than 36 inches below the flow line of the roadside ditch. Where no ditch is present or where the proposed utility will be located a minimum of 5 feet from the ditch, the 36 inch bury depth shall be measured from the existing ground surface. **Under no circumstances shall the depth of power cable be less than 36 inches unless contained in steel conduit pipe.**

12. NORMAL WORKING HOURS

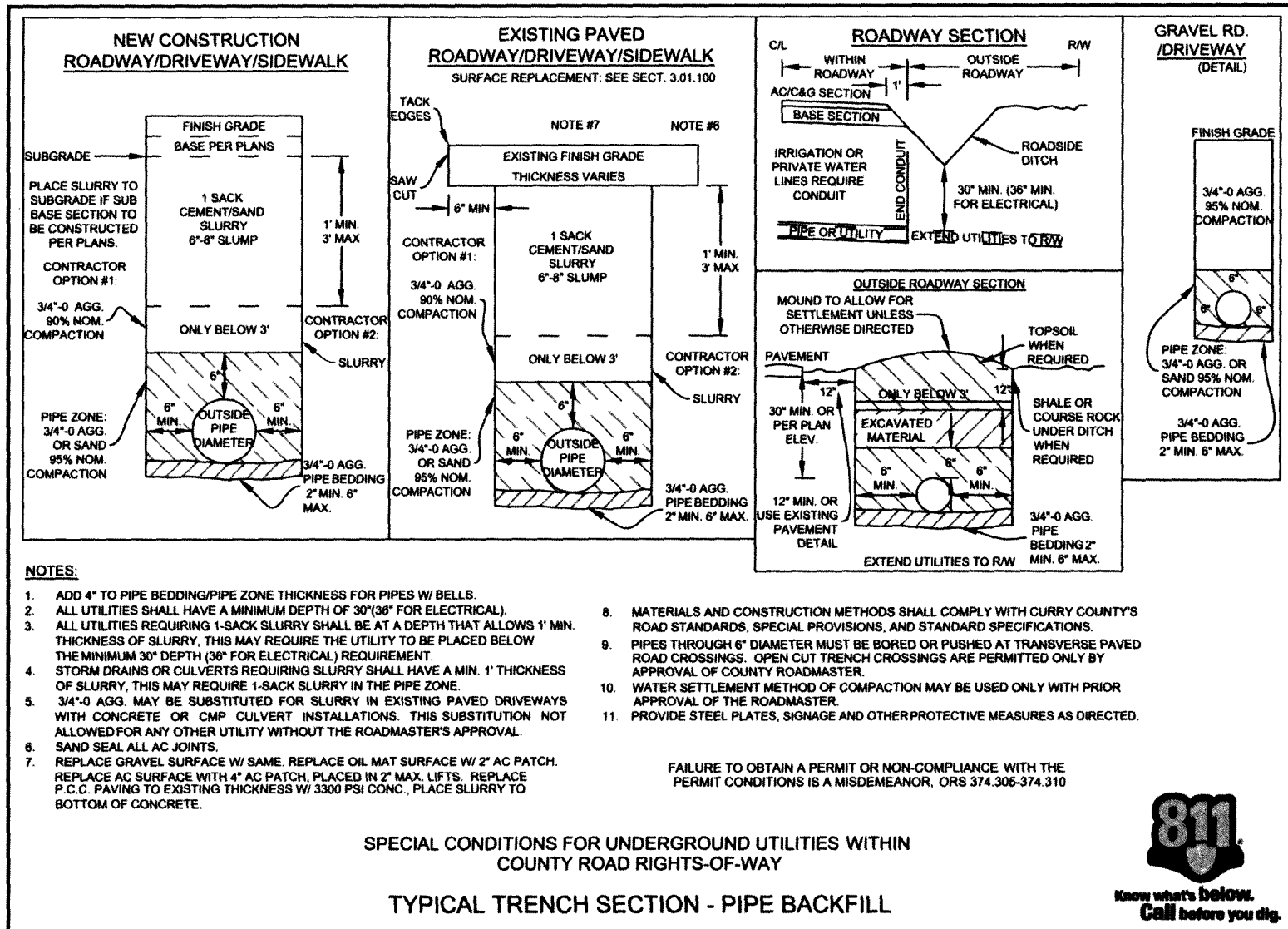
Working hours for the permitted work shall be between 6:00 a.m. to 10:00 p.m. on weekdays. Work on weekends or holidays must be approved by the Roadmaster. The permittee may be required to reimburse the County for inspection costs for any work that is permitted outside of normal departmental working hours.

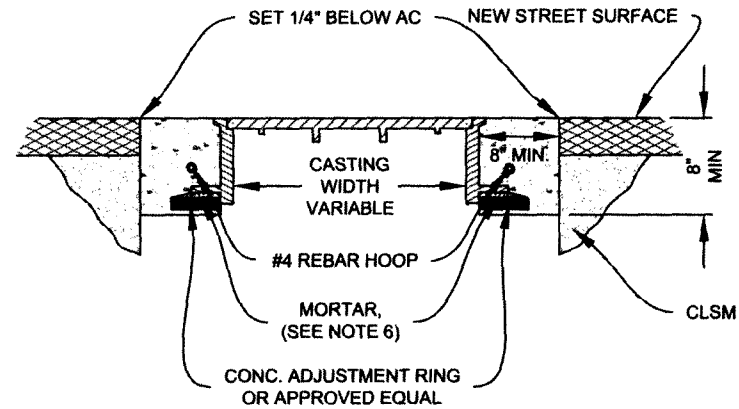
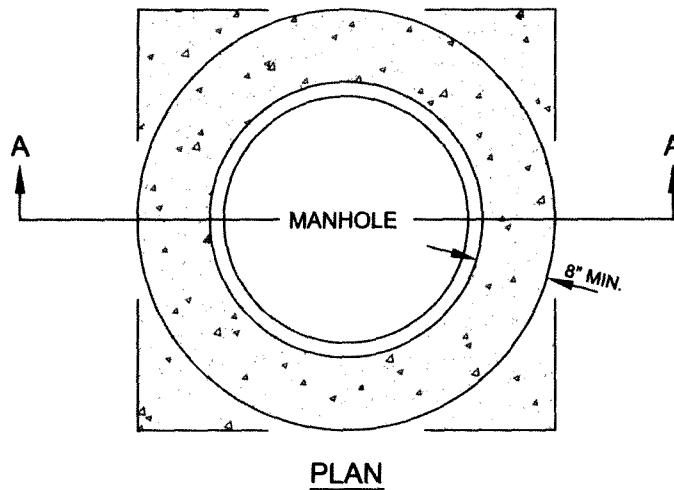
**REVOCATION OF PERMIT**

Failure of the permit holder to ensure strict conformance with all permit conditions shall be considered good and sufficient cause for revocation of the permit allowing work within the County road rights-of-way.

Revocation of the permit will result in a "STOP WORK ORDER" on all or portions of the project.

Work performed within the County road right-of-way without a valid permit is a violation of Curry County Code and is enforceable pursuant to Article 10 of the Curry County Code. For any person who causes or maintains a condition in violation of Curry County Code, Article Three, every day during which such unlawful condition is thus maintained or continued after citation or notice of violation has been given may be charged as a separate offense.

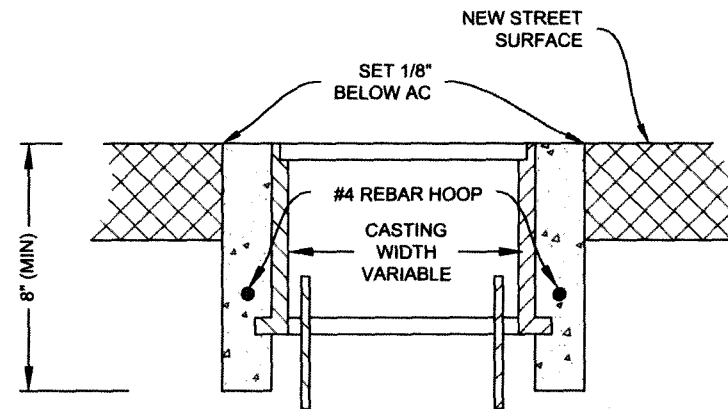
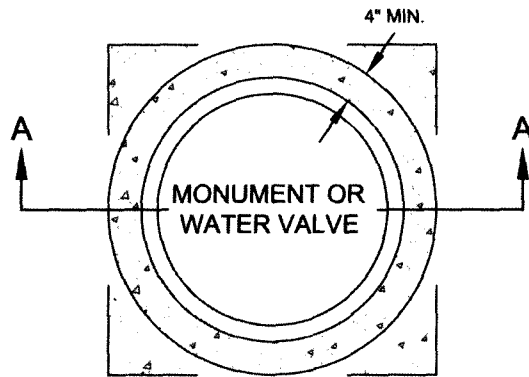


**NOTES:**

1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/4" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.
6. MORTAR TO BE 2" THICK MAX. USE EPOXY FOR SYNTHETIC GRADE RINGS.
7. NO MORE THAN ONE STEEL RISER MAY BE PLACED ON TOP OF FRAME IF REQUIRED.
8. RAISE MANHOLES TO GRADE AFTER PAVING UNLESS OTHERWISE APPROVED BY THE ROADMASTER.

**CONCRETE COLLARS FOR MANHOLES**



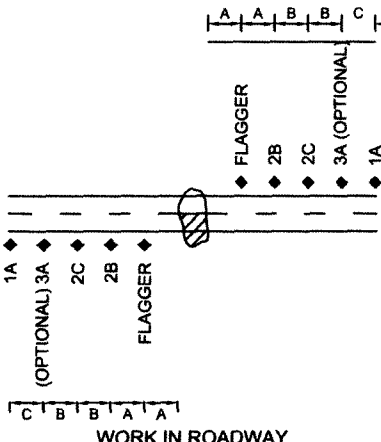


SECTION A - A

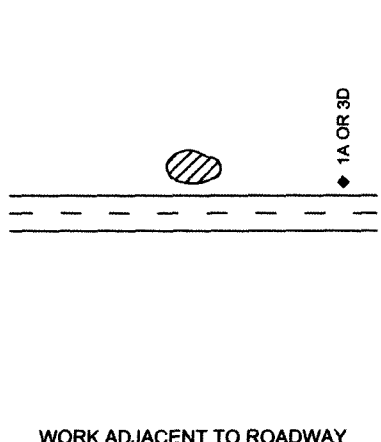
NOTES:

1. SEE MISCELLANEOUS CONDITIONS, SECTION 10D, TO DETERMINE WHEN CONCRETE COLLARS ARE REQUIRED.
2. MAY BE CIRCULAR OR SQUARE. JOINT TO BE SMOOTH AND UNIFORM CLASS 3300-3/4" CONCRETE, 4-6% ENTRAINED AIR.
3. ALL REINFORCING STEEL SHALL BE ASTM A615.
4. SET CONCRETE 1/8" LOW FROM A.C. FINISH GRADE.
5. PLACE CLSM BACKFILL IN EXCAVATION AREAS AS DIRECTED.

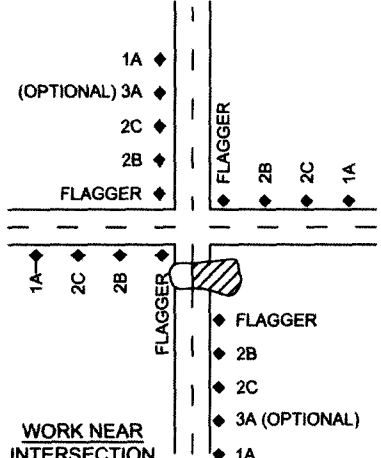
CONCRETE COLLARS FOR MONUMENT/ VALVE BOXES



**WORK IN ROADWAY**



**WORK ADJACENT TO ROADWAY**



**WORK NEAR INTERSECTION**

**SIGN SPACING AND BUFFER LENGTHS (FT)**

POSTED SPEED	SPACING BETWEEN SIGNS *			BUFFER SPACE
	A	B	C	
20				50
25	100	100	100	75
30				100
35	350	350	350	125
40				150
45				180
50	500	500	500	210
55				250

\*LENGTHS AS PER OREGON TEMPORARY TRAFFIC CONTROL HANDBOOK, 2011 EDITION

SEE OTTC FOR DISTANCES NOT SPECIFIED.

**NOTES:**

SINCE IT IS NOT PRACTICAL TO PRESCRIBE DETAILED STANDARDS OF APPLICATION FOR ALL SITUATIONS THAT MAY CONCEIVABLY ARISE, MINIMUM STANDARDS ARE PRESENTED HERE FOR THE MOST COMMON SITUATIONS. IT IS EMPHASIZED THAT ADDITIONAL PROTECTION MUST BE PROVIDED WHEN SPECIAL COMPLEXITIES AND HAZARDS PREVAIL. "BUMP" SIGNS MUST BE PLACED ON EITHER SIDE OF UTILITY TRENCHES WHEN JUMP PLATES ARE USED.

AS A "RULE OF THUMB" THE MINIMUM SIGNING REQUIRED SHOULD CONVEY "INFORMATIONAL", "INSTRUCTIONAL", AND "SPECIFIC WARNING" (SEE BELOW) MESSAGES TO MOTORISTS ON ALL APPROACHES TO A WORK SITE OR HAZARD AREA.

SIGNS ARE TO BE LOCATED NOT LESS THAN 250' IN ADVANCE OF HAZARDS AND STOP POINTS. MINIMUM SPACING BETWEEN SIGNS IS TO BE 100' UNLESS OTHERWISE DIRECTED.

SIGN STANDS ARE TO BE STABLE AND WEIGHTED TO PREVENT EASY TIPPING. SIGNS ARE TO BE SECURELY FASTENED TO STANDS.

SIGNS, STANDS, BARRICADES, ETC., AND THE PLACEMENT THEREOF, SHALL CONFORM TO THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" (M.U.T.C.D.). WARNING SIGNS FOR CONSTRUCTION AREAS SHALL HAVE A BLACK LEGEND ON AN ORANGE BACKGROUND. THE MINIMUM DIMENSION FOR APPROACH SIGNING TO A WORK AREA SHALL BE 36" X 36". SIGNS WITHIN THE WORK AREA LIMITS MAY BE SMALLER (24" X 24" MINIMUM) IF APPROVED BY THE ROADMASTER OR HIS AUTHORIZED REPRESENTATIVE.

WHEN NOT PROTECTED BY FLAGGERS, ALL HAZARDOUS AREAS WITHIN THE TRAVELED WAY AND ROAD SHOULDER SHALL BE BARRICADED WITH LIGHT/REFLECTIVE BARRICADES IN ADDITION TO THE PRESCRIBED SIGNING. NON-APPROPRIATE SIGNS, SUCH AS "FLAGGERS" SHALL BE COVERED OR REMOVED WHEN NOT NEEDED.

NOTHING HEREIN SHALL PREVENT THE PERMITTEE FROM INSTALLING SUCH ADDITIONAL SIGNING, BARRICADING, ETC. AS HE MAY JUDGE NECESSARY; PROVIDED HOWEVER THAT ALL SUCH INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE M.U.T.C.D.

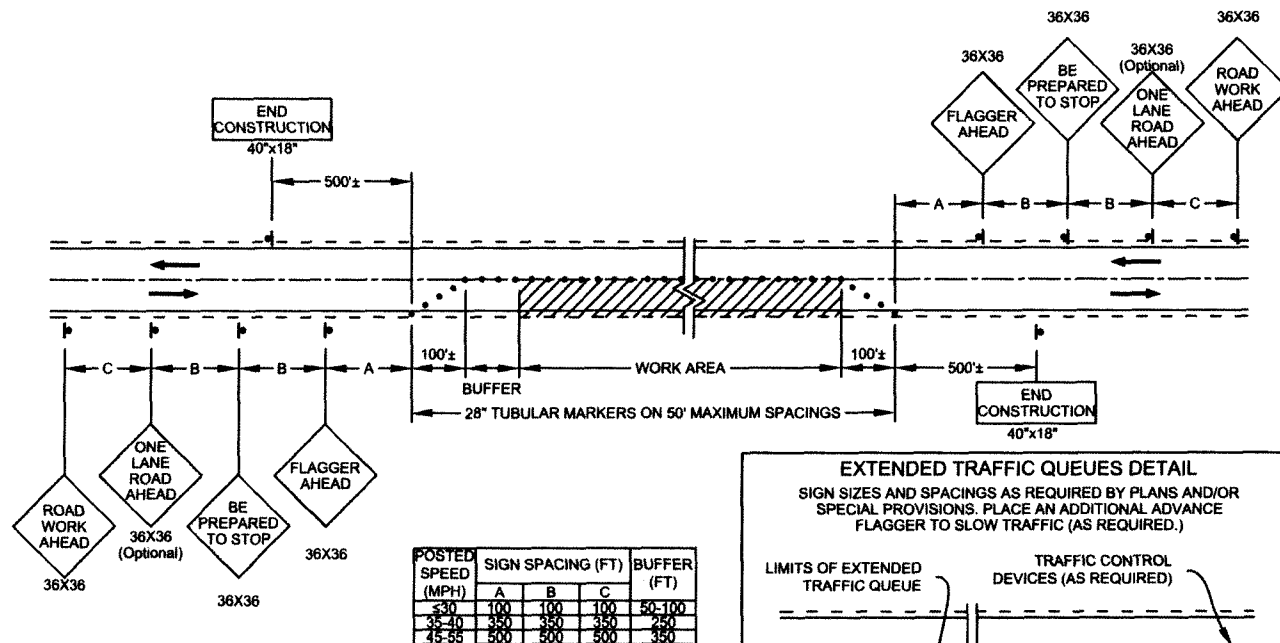
**SIGN EXAMPLES**

(USE SIGN(S) APPROPRIATE FOR CIRCUMSTANCES)

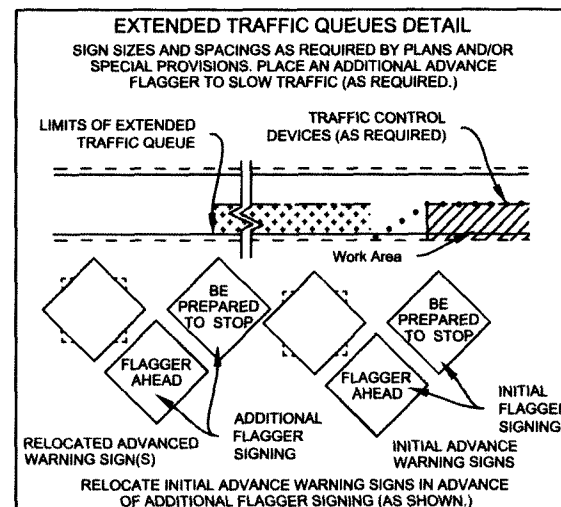
- INFORMATIONAL**
  - A. ROAD WORK/CONSTRUCTION AHEAD
  - B. WORKERS AHEAD
  - C. DETOUR AHEAD
  - D. OTHER - AS APPROPRIATE
- INSTRUCTIONAL**
  - A. SLOW
  - B. FLAGGER AHEAD
  - C. BE PREPARED TO STOP
  - D. OTHER - AS APPROPRIATE
- SPECIFIC WARNING**
  - A. ONE LANE ROAD AHEAD
  - B. DETOUR
  - C. ROUGH ROAD
  - D. SHOULDER WORK AHEAD
  - E. DIP
  - F. BUMP
  - G. OTHER - AS APPROPRIATE

**MINIMUM SIGNING REQUIREMENTS**

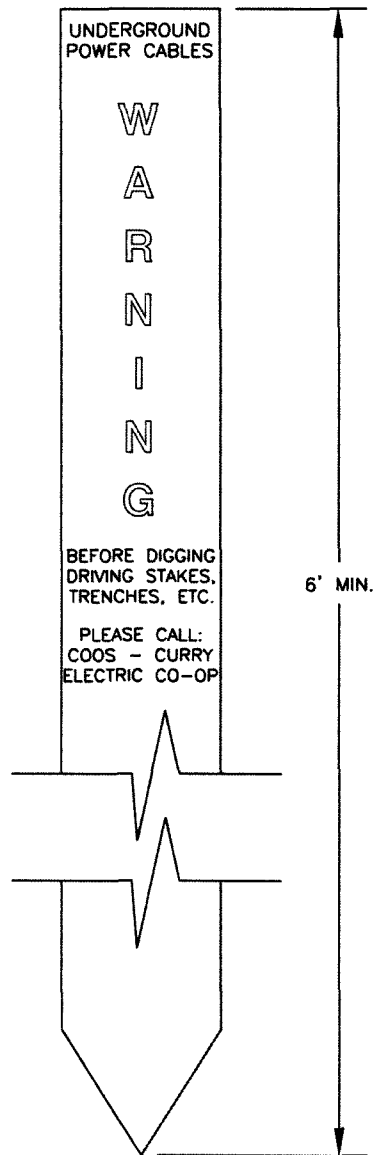
**CONSTRUCTION AND MAINTENANCE AREAS**

**NOTES:**

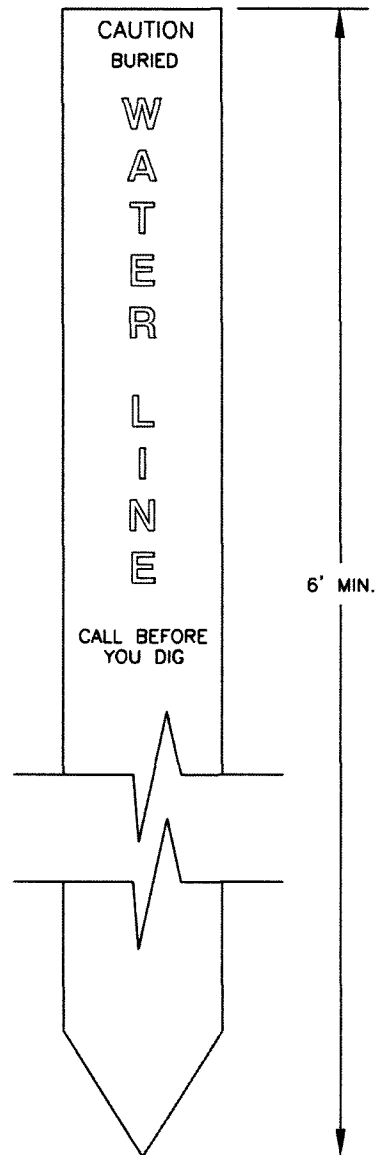
1. SIGNING AND OTHER TRAFFIC CONTROL DEVICES SHOWN TO BE INSTALLED IN CONJUNCTION WITH THE WORK AREA, SHALL MOVE WITH THE WORK AREA.
2. THE "BE PREPARED TO STOP" SIGN SHALL BE USED IN CONJUNCTION WITH THE "FLAGGER AHEAD" SIGN.
3. REMOVE EXISTING PAVEMENT MARKINGS AS DIRECTED.
4. TRAFFIC CONTROL UNDER CIRCUMSTANCES NOT COVERED BY THIS DRAWING SHALL BE PER THE MOST RECENTLY PUBLISHED VERSION OF "TRAFFIC CONTROL ON STATE HIGHWAYS FOR SHORT TERM WORK ZONES" AS PUBLISHED BY ODOT OR A JOB SPECIFIC TRAFFIC CONTROL PLAN APPROVED BY THE COUNTY.



**TEMPORARY PROTECTION AND DIRECTION OF TRAFFIC:  
2-LANE, 2-WAY ROADWAYS  
LANE CLOSURE W/ FLAGGING**

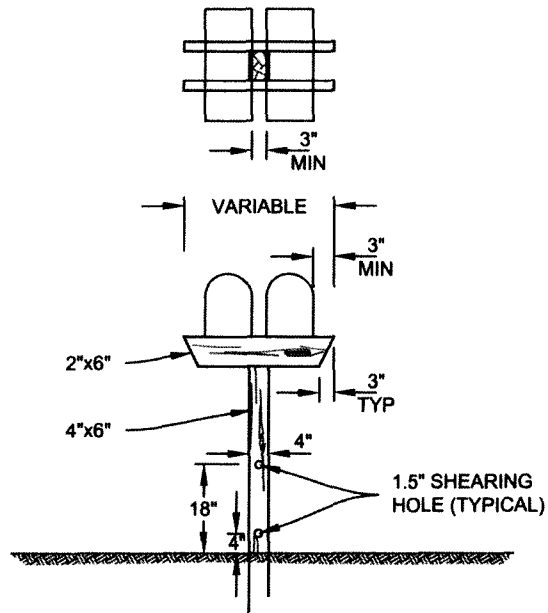


CALL YOUR LOCAL COOS-CURRY  
CO-OP OFFICE TO OBTAIN THIS  
POST AND INSTALLATION INSTRUCTIONS



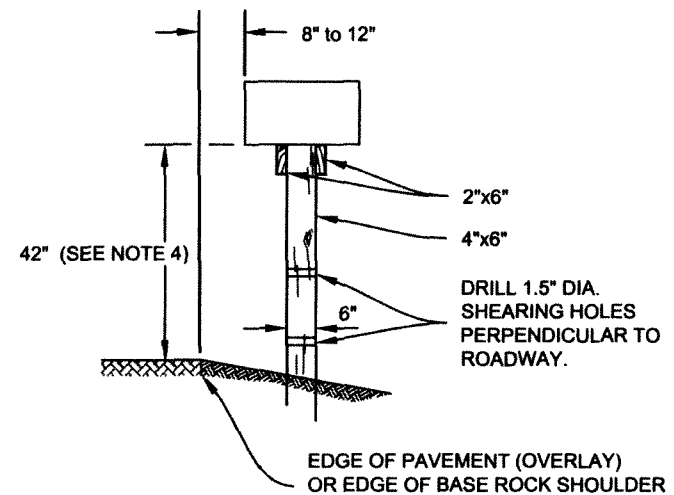
THIS IS A MINIMUM STANDARD FOR  
A BURIED WATER LINE MARKER. IT IS  
THE PERMITTEE'S RESPONSIBILITY TO  
TO PROVIDE THIS MARKER.

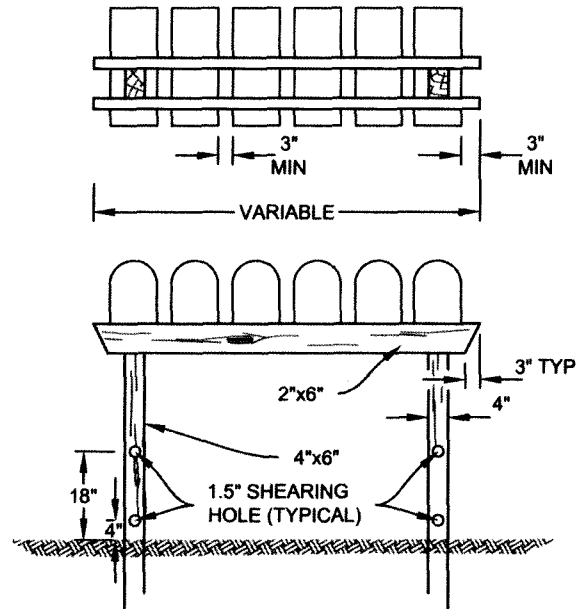
## UNDERGROUND CABLE AND WATER WARNING SIGNS

**NOTES:**

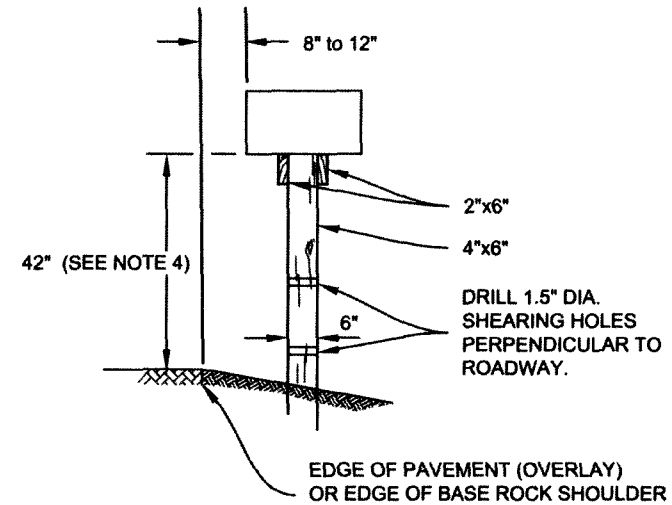
1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

**SINGLE UNIT**  
**1 POST - 3 BOXES MAX**

**MAILBOX STAND - SINGLE**

**NOTES:**

1. ALL LUMBER SHALL BE PRESSURE TREATED DOUGLAS FIR OR WESTERN HEMLOCK.
2. ALL POSTS TO BE SET AT A MINIMUM OF 24" BELOW SURFACE OF THE GROUND.
3. REINSTALL NEWSPAPER BOXES ON NEW MAILBOX POST OR AS DIRECTED.
4. VERIFY BOX HEIGHT ABOVE ROAD SURFACE WITH POSTMASTER.

**MULTIPLE UNIT****2 POSTS****MAILBOX STAND-MULTIPLE**

## ARTICLE FOUR - ANIMAL CONTROL AND PROTECTION

### DIVISION ONE      DOG CONTROL REGULATIONS

#### SECTION 4.01.010      RESERVED

#### SECTION 4.01.020      RESERVED

#### SECTION 4.01.030      PURPOSE STATEMENT

The purpose of this division shall be as follows:

- (1) To ensure that all dogs within Curry County are properly licensed; and
- (2) To make certain that all such dogs are vaccinated against rabies; and
- (3) To ensure that dogs shall not become a nuisance to the people within Curry County; and
- (4) To protect livestock from predatory dogs.

#### SECTION 4.01.040      JURISDICTION

- (1) The provisions of this division dealing with the licensing of dogs, and the prohibiting of dogs from running at large shall apply to all areas of Curry County.
- (2) All other provisions of this division apply only to the unincorporated areas of Curry County.

#### SECTION 4.01.050      DOG LICENSING

- (1) All dogs which have a set of permanent canine teeth or are six (6) months old, whichever comes first, are required to be duly licensed in accordance with this division by Curry County.
- (2) An owner or keeper who acquires an unlicensed dog must license said dog within thirty (30) days after becoming owner or keeper of the dog.
- (3) An owner who acquires a dog already licensed in Curry County must notify the licensing authority of the change of ownership within ten (10) days after the transfer of ownership. The license shall remain valid until the expiration date, if proper notice was given.
- (4) The license shall be valid for one (1) year from the date of issuance.

SECTION 4.01.060      PUBLIC NUISANCE

The owner or keeper of any dog shall not allow his/her dog to be a public nuisance.

SECTION 4.01.070      DEFINITIONS OF PUBLIC NUISANCE

Except as provided in Section 4.01.080, a dog is deemed to be a public nuisance if it:

- (1) Bites a person.
- (2) Chases any person or vehicle.
- (3) Damages or destroys property of persons other than the dog's owner.
- (4) Scatters garbage.
- (5) Trespasses on private property of persons other than the dog's owner.
- (6) Disturbs any person by frequent or prolonged noises.
- (7) Is a female in heat and running at large

SECTION 4.01.080      EXCLUSIONS TO PUBLIC NUISANCE

A dog shall not be considered a public nuisance under Section 4.01.070 if it bites a person who is wrongfully assaulting the dog or the dog's owner, or if it bites a person unlawfully trespassing upon premises owned or occupied by the dog's owner after being provoked by that person.

SECTION 4.01.090      PUBLIC NUISANCE PROCEDURE

(1) Any person who has cause to believe a dog is being maintained as a public nuisance may make a complaint either orally or in writing to the County. The complaint shall be considered sufficient cause for the County to investigate the matter and determine if the owner or keeper of this dog is in violation of Section 4.01.070.

(2) When a dog is found to be a public nuisance in accordance with Section 4.01.070, it may be impounded by the Sheriff's Deputy or Animal Control Officer, and the owner or keeper may be cited into court. Should a citation to appear in court be issued to the owner or keeper for keeping a dog which is a public nuisance, that person cited shall be allowed the option of forfeiture of bail in lieu of appearance in court in accordance with ORS. 609.092.

(3) If a dog has been impounded as a public nuisance for killing or injuring a person, it may be killed in a humane manner.

(4) Notwithstanding the provisions of this section, any dog impounded for biting a person shall be held for not less than ten (10) days before redemption



or destruction to determine if the dog is rabid.

(5) Except as provided in Section 4.01.090 (3) and (4), all dogs taken up and impounded as a nuisance shall be kept for at least three (3) days if the dog is without a license or identification tag and for at least five (5) days if it has a license or identification tag or unless sooner redeemed by the owner. If no owner redeems the dog within the allotted time, the dog may be released to a responsible person upon receiving assurance that the person will properly care for the dog and not allow it to become a nuisance, and upon payment of sum established by the Board of County Commissioners, and purchase of a license if required. Should no person redeem or request the dog within the three or five days, whichever applies, the dog may be disposed of in a humane manner.

(6) If an owner redeems his dog, he shall pay a fee set by the Board of County Commissioners. The owner shall also pay the expense of keeping the dog during its confinement. If the dog is unlicensed, the owner shall purchase a license and pay the applicable penalty, if any, for failure to have a license.

(7) If a dog has been repeatedly found to be a public nuisance under Section 4.01.070, the court may order such disposition of the dog as the court considers necessary for the safety or health of the public.

#### SECTION 4.01.100      DOG RUNNING AT LARGE

In accordance with that election held by the citizens of Curry County in 1964, Curry County has been declared to be a Dog Control District. No dog is allowed to run at large within the confines of Curry County

#### SECTION 4.01.110      EXCLUSIONS TO DOG RUNNING AT LARGE

As used in this Section, running at large does not include:

- (1) Use of a dog under supervision of a person in order to legally hunt, chase or tree wildlife.
- (2) Use to control or protect livestock.
- (3) Use in any other related agricultural activities.

#### SECTION 4.01.120      DOG RUNNING AT LARGE PROCEDURE

(1) A reasonable effort shall be made to notify the dog's owner before it is removed from impoundment.

(2) If no owner appears to redeem his/her dog within the allotted time (as outlined in Section 4.01.090 (5)), the dog may be released to a responsible person upon receiving assurance from that person that they will properly license and care for the dog and not allow the dog to become a nuisance, and upon payment of a sum set by the Board of Commissioners which will cover the cost of keeping the dog during its impoundment. The person shall

thereafter be liable as owner of the dog as provided by this section.

(3) Should no person redeem or request the dog within three or five days, whichever applies, the dog may be disposed of in a humane manner.

(4) It is the policy of Curry County that all dogs found running at large shall be returned to the owner or keeper, if at all possible. The Animal Control Officer shall have total discretion in exercising this policy.

(5) If the owner redeems his/her dog, he/she shall pay a fee set by the Board of County Commissioners. The owner shall also pay the expense of keeping the dog during its confinement. If the dog is unlicensed the owner shall purchase a license and pay the applicable penalty, if any, for failure to have a license.

#### SECTION 4.01.130      ADDITIONAL PROHIBITED ACTIVITY

No person shall own, harbor, or keep any dog with knowledge that, while the dog was off the premises owned or under the control of its owner or keeper and while not acting under the direction of its master or the agents or employees of such master, the dog kills or seriously injures any person.

#### SECTION 4.01.140      RESERVED

#### SECTION 4.01.150      DOG INJURING LIVESTOCK

No owner or keeper shall allow or permit his/her dog(s) to kill, wound, injure, worry harass or chase livestock in Curry County.

#### SECTION 4.01.160      DEFINITIONS

For purposes of Sections 4.01.150-4.01.170, the following definitions apply unless the context otherwise indicates:

(1) "Livestock": Livestock means horses, mules, jackasses, cattle, sheep, goats, swine, domesticated fowl and any fur-bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches.

(2) "Owner": Owner means the person assuming the care and welfare of the dog at the time of the damage.

(3) "Keeper": Keeper means any person assuming the care and welfare of the dog at the time of the damage.

#### SECTION 4.01.170      DOG INJURING LIVESTOCK PROCEDURE

(1) Any dog whether licensed or not, which while off the premises owned or under the control of its owner or keeper, that kills, wounds or injures any livestock not belonging to the master of such dog is a public nuisance and may be killed immediately by any person, with the following exception: no person shall kill any dog for killing, wounding or chasing chickens upon a public place,

highway or within the corporate limits of any city.

(2) Any dog not immediately killed in the act of killing, wounding or causing injury to livestock shall be bound over to the County Animal Control Officer or other Law Enforcement Officers and impounded in a shelter to be established under the County General Fund or Dog Licensing Fund.

(3) Any dog impounded under Section 4.01.170 (2) shall not be released until a determination is made by the County Governing Body.

(4) If any dog not under the control of its owner or keeper is found chasing livestock or feeding upon the warm carcass of livestock not the property of such owner or keeper, this shall be deemed Prima Facie evidence that the dog has engaged in killing, wounding or causing injury to livestock.

(5) If there is reason to believe that reasonable testing of the dog is required, the dog will be impounded.

(6) It shall be within the discretion of the County Animal Control Officer to determine if a fecal examination or examination of the teeth of the dog will provide substantial evidence as to whether the dog has been engaged in killing, wounding or chasing livestock. Such examination shall be done by a licensed veterinarian.

(7) The County Governing Body shall determine whether the dog has been engaged in killing, wounding, chasing or causing injury to livestock. If the County Governing Body determines that the dog has been so engaged, the dog shall be killed in a humane manner, and the cost of keeping and testing of the dog during impoundment shall be paid by the owner of the dog.

(8) If the County Governing Body determines that the dog has not been so engaged, the dog shall be released to its owner and no costs assessed against the owner.

(9) If the dog had been impounded upon receipt of evidence from a complainant, and the Governing Body determines that the dog has not been so engaged, the complainant may be ordered to pay the cost of keeping and testing of the dog during impoundment.

(10) There is a disputable presumption that a dog kills, wounds or causes injury to livestock if:

(a) The dog is found chasing livestock not the property of the owner of the dog in an area where freshly killed or damaged livestock are found;

(b) The dog is found feeding upon a warm carcass of a livestock animal;

(c) An examination of the dog's feces indicated ingestion of portions of the anatomy or covering of the anatomy of livestock; or

(d) An examination of the dog's teeth indicate ingestion of the anatomy or covering of the anatomy of the livestock, unless the dog is regularly used for the purpose of herding livestock.

SECTION 4.01.180

KEEPING A DOG WITH KNOWLEDGE IT HAS  
KILLED OR INJURED LIVESTOCK

(1) No person shall own, harbor, or keep any dog with knowledge that it has killed or injured any livestock.

(2) However no person shall be liable for harboring or keeping such dog with knowledge that it has killed or injured chickens unless the owner fails to pay full damages within three (3) days after receipt of demand for such damages from the owner.

SECTION 4.01.190

CLAIMS BY OWNERS OF LIVESTOCK

(1) The owner of any livestock killed, chased or injured by any dog may, within ten (10) days after the killing, chasing or injuring occurred or, became known to him, present to the County Governing Body a verified statement containing a full account of the incident stating in detail the amount of damage claimed on account thereof, and the name and address of the owner or keeper of the dog, if known. The claim shall be supported by the affidavit of at least one (1) disinterested person as to all material facts contained in it.

(2) It shall be the livestock owner's responsibility to notify the Curry County Sheriff's Department of the incident as soon as he/she becomes aware of it. The owner shall leave all slain livestock where found until the investigation has been completed.

(3) Upon being contacted by the livestock owner pursuing a claim, the Animal Control Officer shall investigate the claim and submit a written report to the Board.

(4) No claims shall be heard by the County Governing Board until all of the following has been completed:

(a) The livestock owner has submitted to the Board a written claim on the form adopted by the County.

(b) The livestock owner has notified the Curry County Sheriff's Department of the incident.

(c) The Sheriff's Department has completed the investigation and submitted a written report to the board.

(5) All claims presented to the County Governing Board shall be heard at the first regular session after their presentation, or as soon thereafter as may be practicable.

(6) If the Board determines that any livestock has been damaged by being

injured, chased, wounded or killed, it shall file and enter a record of the value of the livestock and order a warrant drawn for the amount of damages thus found or any portion thereof that is considered just, to be paid by the County Treasurer out of the Dog Fund. If it considers the claim unjust, it shall disallow it and enter that fact upon its record.

(7) No claim shall be allowed where it appears that the injury or damage complained of was caused by a dog owned or controlled by the claimant or the agent of the claimant.

(8) The rate of payment shall be up to the following amounts: Sheep - \$25.00 each; Lambs - \$15.00 each; and all other livestock to be determined by the County Governing Board, but not to exceed \$50.00 each.

(9) In each case where a claim against the Dog Fund of Curry County has been paid by the County Governing Board the County shall be subrogated to all the rights of the owner of the livestock killed, wounded, chased or injured against the owner of the dog for damages. The District Attorney or County Counsel shall proceed properly in a lawful way to collect the damages. Any money so collected shall be paid over immediately to the County Treasurer and credited to the Dog Fund.

#### SECTION 4.01.200      FEES

The Board of Curry County Commissioners, may by appropriate Order, establish such fees (not previously referenced by this division) which are necessary or expedient for the dog control program. Such fees may include, but shall not be limited to, charges for euthanasia and the renting of live traps.

## ARTICLE FOUR

### DIVISION TWO

### HARMING OR INTERFERING WITH POLICE DOGS

#### SECTION 4.02.010

#### DEFINITIONS

As used in Article 4, Division 2, "police dog" means a dog used in police work under the control of a peace officer as defined in ORS 161.015.

#### SECTION 4.02.020

#### HARMING A POLICE DOG

A person commits the offense of harming a police dog if the person intentionally kills, disables, tortures or injures any police dog, knowing the dog to be a police dog while the dog is being caged, kenneled, transported, exhibited, exercised or used in discharging or attempting to discharge any lawful duty of function as a police dog.

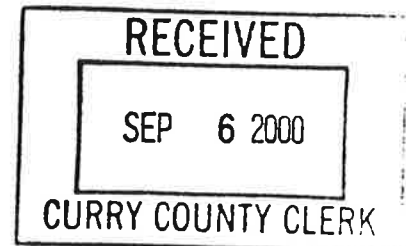
#### SECTION 4.02.030

#### INTERFERING WITH A POLICE DOG

(1) A person commits the offense of interfering with a police dog if the person intentionally torments, kicks, strikes, chokes, throws an object at or in any other way tampers or interferes with any police dog, knowing the dog to be a police dog, while the dog is being caged, kenneled, transported, exhibited, exercised and used in discharging or attempting to discharge any lawful duty or function as a police dog.

(2) The offense of interfering with a police dog is a lesser included offense of harming a police dog.

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON



5

In the Matter of An Amendment to the )  
Curry County Code Repealing and )  
Replacing Article Five Division One )  
Regarding Parks )

ORDINANCE NO. 00-06

The Board of Commissioners for the County of Curry Ordains as follows:

SECTION 1 TITLE

This Ordinance shall be known as Ordinance 00-06, an ordinance amending the Curry County Code.

SECTION 2 PURPOSE

The purpose of this Ordinance is to amend Article Five Division One of Ordinance 96-7 which is in need of revision.

SECTION 3 REPEALER

Article Five Division One of the current Code is hereby repealed in its entirety.

SECTION 4 ADOPTION

Exhibit "A", attached hereto and incorporated herein by this reference, is adopted as an amendment to the Curry County Code.

SECTION 5 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

J. file  
C. Justice

ADOPTED this 5<sup>th</sup> day of September, 2000.

BOARD OF CURRY COUNTY COMMISSIONERS



Cheryl Thorp, Chair



Bill Robertts, Vice Chair



Lloyd Olds, Commissioner

Attest:



Recording Secretary

Approved as to Form:



M. Gerard Herbage  
Curry County Counsel

First Reading: 8-21-00  
Second Reading: 9-5-00  
Emergency Adoption: N/A  
Effective Date: 12-4-00



## EXHIBIT "A"

### ARTICLE FIVE - PARKS

#### DIVISION ONE

#### PARK REGULATIONS

##### SECTION 5.01.010 DEFINITIONS

As used in this division, unless the context requires otherwise:

- (1) "Board" means Board of Curry County Commissioners.
- (2) "Camp Host" means a county appointed volunteer designated to host a county recreation area.
- (3) "County Park Employee" means any County employee designated by the Community Justice Department to work in a County recreation area.
- (4) "Peace Officer" means state police, city police and county sheriff and deputies.
- (5) "Recreation Area" includes all county parks and county owned land used as recreation areas.

##### SECTION 5.01.020 GENERAL RULES AND REGULATIONS

The following rules apply to activities within recreation areas:

- (1) In order to maintain a sanitary and orderly appearance in recreation areas, county park employees and camp hosts are vested with the authority to require all persons using recreation areas to abide by the rules and regulations, as well as the authority to determine the size, type, use and arrangement of individual camping facilities.

##### HE OR SHE MAY EJECT ANYONE FROM THE PREMISES WHO WILL NOT CONFORM TO REGULATIONS.

- (2) No person shall obstruct, harass or interfere with the official duties of a county park employee or camp host in enforcement of recreation area rules.
- (3) Users shall comply with all special fire regulations:
  - (a) Fires shall be confined to campstoves or fireplaces provided for such purposes, or portable stoves in established campsites, park picnic areas and designated beaches where fires are permitted.
  - (b) Notwithstanding section (3) (a), at the discretion of a county park employee or camp host, fires normally permitted may be restricted or prohibited due to

high fire hazard conditions.

(c) No fire shall be left unattended and every fire shall be extinguished before its user leaves the recreation area.

(4) No person shall:

(a) Hunt, pursue, trap, kill, injure or molest any wildlife or disturb their habitats. Nothing herein shall prohibit fishing in accordance with applicable State laws.

(b) Discharge any firearm, pellet gun, bow and arrow, slingshot or other weapon capable of injuring any person.

(c) Possess any loaded firearm.

(5) No person shall pick, cut, mutilate or remove shrubs and trees from any recreation area.

(6) No person shall mutilate, deface, damage, or remove any table, bench, building, sign, marker, monument, fence, barrier, foundation, structure or facility of any kind.

(7) No person shall without first obtaining written permission from the Board or a county park employee:

(a) Operate a concession, either fixed or mobile.

(b) Solicit sell or offer for sale, peddle, hawk or vend, any goods, wares, merchandise, food, foods, liquids or services.

(c) Advertise any goods or services by any means whatsoever.

(d) Distribute any circulars, notices, leaflets, pamphlets, or written or printed material of any kind.

(8) No person shall place a sign, marker, or inscription of any kind within a recreation area without written permission from a county park employee or camp host.

(9) Motor vehicles shall be operated only on roads and in parking areas constructed or designated for motor vehicle use.

(10) No person shall operate any motor vehicles at a speed in excess of 5 miles per hour, unless otherwise posted.

(11) No person shall operate any motor vehicles, or use any other noise producing machine, device or instrument in such a manner that creates a disturbance to other recreation area visitors.

(12) Any animal of any kind brought into a recreation area shall be kept under control at all times. Animal owners shall comply with posted animal control signs. Any peace officer, county park employee, or camp host may require the owner to remove any animal from a recreational area when such action is necessary to prevent the animal from

interfering with the safety, comfort and general enjoyment of the recreation area.

(13) No bottles, cans, ashes, waste, paper, garbage, sewage or refuse shall be left in a recreation area except in the receptacles designated for that purpose.

(14) Waste containers are solely for the benefit of the recreation area user and shall not be used for the deposit of waste or refuse generated in the home, business or by commercial activities.

(15) No person shall set up or use a public address system without written permission of a county park employee.

(16) Campers shall maintain quiet within reason between the period of dusk and dawn.

(17) Boaters must comply with recreation area regulations posted in boat launching areas.

(18) Boats moored shall be secured in a manner that will not cause personal injury or damage to private property or park resources.

(19) Public nudity is strictly prohibited.

(20) All articles found in a recreation area shall be turned over to a county park employee or camp host or in his or her absence to the nearest peace officer, for disposition according to law.

#### SECTION 5.01.030 PENALTIES

Fines for violations of Section 5.01.020 shall be in accordance with Article Ten of this code.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance Creating )  
The Parks and Recreation Advisory Committee )  
For Curry County )

ORDINANCE 18-02

The Board of Commissioners for the County of Curry Ordains as follows:

Section 1: Title

This Ordinance shall be known as Ordinance 18-02, an ordinance amending the Curry County Code Article Five "Parks" and creating a new Code section Article Five Division Two, entitled: "Curry County Parks and Recreation Advisory Committee."

Section 2: Adoption

Exhibit A, attached hereto and incorporated by reference, is adopted as an amendment and new Section to the Curry County Code.

Section 3: Severance Clause

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

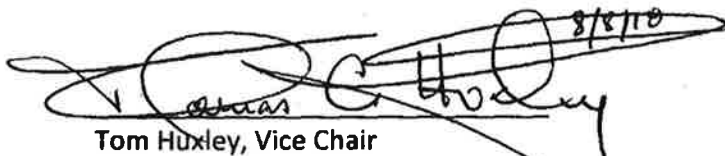
Section 4: Emergency Clause

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be in full force and effect on its passage.

DATED this 18 day of July, 2018

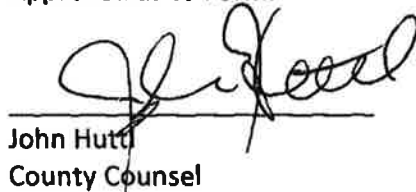
BOARD OF CURRY COUNTY COMMISSIONERS

  
Sue Gold, Chair

  
Tom Huxley, Vice Chair

  
Court Boice, Commissioner 8-8-18

Approved as to Form:

  
John Hutto  
County Counsel

First Reading: MAY 30, 2018

Second Reading: JULY 18, 2018

Emergency Adoption: NO

Effective Date: OCTOBER 16, 2018

## ARTICLE SIX - ENVIRONMENT AND HEALTH

### DIVISION ONE

### SOLID WASTE NUISANCE

#### SECTION 6.01.010

#### RESERVED

#### SECTION 6.01.020

#### PROHIBITION

The deposit, accumulation, storage, collection, maintenance or display on private property outside the limits of cities of waste or solid waste that is hazardous to the health and safety of the public, or which creates offensive odors or a condition of unsightliness, is hereby prohibited as a public nuisance.

#### SECTION 6.01.030

#### DEFINITIONS

(1) The following conditions shall be deemed solid wastes that are hazardous to health and safety or a condition which creates offensive odors:

(a) Putrescible wastes not stored in fly-tight and rodent-proof containers and not removed from the premises at least every seven days.

(b) Accumulation of solid waste material conducive to rodent propagation.

(c) Where permitted, a burning barrel not receiving regular maintenance which has rusted and deteriorated to the extent that the contents are allowed to leak out.

(d) Accumulation of solid waste material conducive to mosquito production.

(e) An abandoned, unattended or discarded ice box, refrigerator, or other container which has an airtight door or lid, snaplock or other locking device which may not be opened from the inside when said door or lid, snaplock or other locking device has not been removed.

(f) Solid waste that may, by itself, or in combination with other solid wastes, be infectious, explosive, poisonous, caustic, toxic or otherwise dangerous or injurious to human, plant, or animal life.

(g) Buildings or structures in such a condition that they have become useless or dangerous for the purpose of habitation, shelter, storage or any other purpose.

(2) When exposed to view from public street or public highway the following shall be deemed solid wastes, creating a condition of unsightliness:

(a) Discarded, useless, abandoned or inoperable household appliances such as washers, dryers, refrigerators, dishwashers, water heaters, stoves and

similar items.

(b) Abandoned, discarded, useless household furniture such as sofas, beds, chairs, mattresses, tables and similar items.

(c) Abandoned, discarded, useless, or inoperable motor vehicles or parts thereof such as automobiles, trucks, farm machinery, motors, tires, chassis and similar items. For purposes of this subsection, the definition of "motor vehicle" as found in ORS 801.360 applies.

(d) Accumulation of rubble or used building material such as lumber, wire, plumbing fixtures, lighting fixtures, used stone or brick and similar items.

(3) The prohibition does not include:

Materials used for fertilizer or for other productive purposes or which are salvageable when such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

#### SECTION 6.01.040      INVESTIGATIONS

To determine whether there is reasonable cause to believe that a public nuisance exists on private property outside the limits of any city, the Board, or whomever it designates, may conduct an investigation for that purpose. In conducting such an investigation, the Board, or whomever it designates, may administer oaths, subpoenas and require the attendance of witnesses at public hearings, require the production of relevant documents, and take the testimony of any person.

#### SECTION 6.01.050      NOTICE

(1) Whenever it appears that there is reasonable cause believe that a public nuisance exists, the Board may order that a notice be issued and served upon the owner, tenant, occupant or person in possession of the premises where the nuisance is alleged or claimed to exist, requiring such person to appear before the board at the time and place stated in the notice to show cause why a nuisance should not be declared to be existing on the premises.

(2) Notice with regard to abandoned, discarded, useless or inoperable motor vehicles shall be given as provided in ORS. 819.170 to 819.200.

#### SECTION 6.01.060      HEARINGS AND FINDINGS

(1) At the time and place described in said notice, the Board shall conduct a public hearing on the question of the existence of the alleged nuisance, and if the Board finds that a nuisance exists, it shall declare the existence of the nuisance by order entered in its journal, and may order a suit to be brought in the name of the County to institute injunction, abatement or any other proceeding provided by law to prevent temporarily or permanently the existence of the nuisance.

(2) A hearing with regard to abandoned, discarded, useless or inoperable motor vehicles shall be conducted as set forth in ORS. 819.190 to 819.200.

SECTION 6.01.070      ALTERNATIVE ABATEMENT PROCEDURE

In lieu of and not in addition to the remedies provided above where the Board finds that a nuisance exists and declares the existence of a nuisance by order, if the owner or occupant of the property fails to abate the nuisance within 30 days after the entry of the order, the Board may cause the nuisance to be abated. Where such removal is performed by the County, or its agent, neither the County nor its agent shall be liable for any trespass or conversion as to any real or personal property and the costs may be collected from the person served with the notice provided in this division, or may be collected as a lien against such property.

SECTION 6.01.080      CUMULATIVE REMEDIES

The remedies provided for above are in addition to and not in lieu of other remedies provided by law.

SECTION 6.01.090      COMPUTATION OF OFFENSES

Each day the public nuisance exists, after the day it is declared a public nuisance by this Board under this ordinance, shall be deemed a separate and distinct offense under this division.

SECTION 6.01.100      DELEGATION

Any County employee or any body responsible to this Board may, when authorized by this Board, carry out any of the functions vested in this Board by this division. The actions of such person or body are subject to reversal or modification by this Board within 10 days of the action.

SECTION 6.01.110      LIBERAL CONSTRUCTION

The provisions of this division are to be liberally construed to achieve their object: the prevention, abatement, and punishment of the public nuisance created by solid wastes.

SECTION 6.01.120      APPLICATION

This division does not apply to:

(a) Disposal sites operated in compliance with regulations promulgated by the State Environmental Quality Commission or other ordinances or regulations of the County.

(b) Agricultural operations and growing or harvesting of crops and the raising of fowls or animals.



## ARTICLE SIX

### DIVISION TWO

### OFFENSIVE ODOR NUISANCE

#### SECTION 6.02.010

#### PROHIBITION

The creation or maintenance of obnoxious or offensive odors is hereby declared a nuisance and prohibited.

#### SECTION 6.02.020

#### DEFENSES

It shall be an affirmative defense for the alleged violator to show that:

- (1) The odor is detectable only from on the property of the person allegedly responsible for the odor, or;
- (2) The odor is actually necessary to a use of the land (from which the odor emanates), providing such use is permitted by applicable zoning or other land-use law. These affirmative defenses must be proved by the alleged violator.

#### SECTION 6.02.030

#### NOTICE TO OFFENDER

Where it appears to this Board that a nuisance exists, the Board may order a notice be issued and served upon the owner and the occupant of the property where the nuisance is alleged to be maintained, requiring the owner and occupant to appear before the Board at a time and place named in the notice, to show cause why a nuisance should not be declared to exist. The time for appearance shall be not less than 10 days after the service of the notice.

The notice shall be served in the manner provided by law for the service of summons.

#### SECTION 6.02.040

#### HEARING

At the time and place fixed in the notice, the Board of County Commissioners shall hold a hearing on the question of the existence of the nuisance and shall have power to subpoena witnesses and to compel their attendance.

SECTION 6.02.050      ABATEMENT

If, after the hearing, the Board of County Commissioners finds that a nuisance exists it shall declare the existence of a nuisance by order entered in its journal and shall order the nuisance abated. If the owner or occupant of the property fails to abate the nuisance within 30 days after the entry of the order, the Board of County Commissioners may cause the nuisance abated and charge the costs thereof to the owner of the property.

SECTION 6.02.060      ADDITIONAL PENALTY

In addition to abatement, the County may seek civil penalties against the violator under Section 10 of this division.

SECTION 6.02.070      OTHER REMEDIES

The remedies herein provided are in addition to and not in substitution for any other remedies provided by law.

SECTION 6.02.080      DELEGATION

This Board may, by order, authorize any county employee to carry out any of this Board's functions under this division. If this is done, however, this Board retains authority to reverse or modify any action of such authorized agent.

SECTION 6.02.090      LIBERAL CONSTRUCTION

This division shall be liberally construed to effect its object; the prevention, abatement and punishment of nuisances.

## ARTICLE SIX

### DIVISION THREE      LITTERING

#### SECTION 6.03.010      AUTHORITY

This Division is adopted under the authority granted by ORS 203.035, 459.085, and 459.108.

#### SECTION 6.03.020      INCORPORATION OF STATUTES

ORS 164.775, 164.785, and 164.805 are incorporated herein as though the same were spelled out here in their entirety. Any action conducted or prohibited by those statutes are also prohibited within this county by this Division.

#### SECTION 6.03.030      CIVIL PENALTY ESTABLISHED

Section 6.03.020 above may be enforced by, and violators thereof are subject to the penalties provided in Article 10 of this Ordinance. Violation thereof is declared to be an infraction. In addition to the maximum civil penalty allowed by Article 10, the total amount of penalty may be increased to include all the costs incurred by the County in removing the refuse or offensive substance unlawfully placed on property and in eliminating the effects of such unlawful placement. The civil penalties established in the Civil Infraction Procedure Ordinance, and in this section, are an alternative to criminal enforcement proceedings. When the County maintains a civil action against any person to collect the penalties provided in Article 10 of this Ordinance and in this section, it shall not cause a criminal prosecution to be commenced or maintained against that person for the same actions.

#### SECTION 6.03.040      REBUTTABLE PRESUMPTION ESTABLISHED

A name found on various items in a deposit of rubbish or other solid waste placed on land or in water in violation of ORS 164.775, 164.785 or 164.805, incorporated herein by Section 6.03.020 above, constitutes rebuttable evidence that the person whose name appears on the items has violated this Division. However, the rebuttable presumption created by this section exists only when a name on items denotes ownership of the items, such as the name of an addressee on an envelope.

## ARTICLE SIX

### DIVISION FOUR

### TRANSPORTATION OF REFUSE IN CLOSED CONTAINERS

#### SECTION 6.04.010

#### BOARD FINDINGS

(1) The Board finds that the health, safety, welfare, morals, and aesthetic sensibilities of the residents of this county are adversely affected by garbage, trash, and refuse which falls out of vehicles transporting such materials.

(2) The Board finds that garbage, trash, and refuse transported by vehicle is more likely to fall out of the vehicle if such garbage, trash, or refuse is not enclosed in a covered container.

#### SECTION 6.04.020

#### PROHIBITION

It is unlawful for a person transporting garbage, trash, or refuse in a vehicle to fail to enclose all such trash, garbage, or refuse in a compartment of the vehicle or in containers, which compartment or containers are closed securely to prevent any garbage, trash, or refuse from falling out of the vehicle.

#### SECTION 6.04.030

#### "TRIP" DEFINED

Each trip during which a violation of this division occurs shall be deemed a separate and distinct violation. A "trip" consists of continuous travel between two points, when some part of such travel is within this county, and the violation of this division occurs during that part of the trip which occurs within this county.

#### SECTION 6.04.040

#### PENALTIES NOT EXCLUSIVE

The penalty for violation of this division is as provided for in Article Ten, which is not intended to be exclusive, and is in addition to, and not in lieu of, any other penalty provided by law for the same act.

#### SECTION 6.04.050

#### LIBERAL CONSTRUCTION

This division shall be liberally construed to effect its object, the prevention of trash, garbage and other refuse from falling onto property within this county.

## ARTICLE SIX

### DIVISION FIVE

### INDECENT EXPOSURE

#### SECTION 6.05.010

#### PROHIBITION OF INDECENT EXPOSURE

No person shall expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance   )  
Repealing Article Six, Division   )   ORDINANCE NO. 14-07  
Five of the Curry County Code   )

The Board of Commissioners for the County of Curry ordains as follows:

SECTION ONE   TITLE

This ordinance shall be known as Ordinance 14-07, an ordinance amending the Curry County Code.

SECTION TWO   FINDINGS

- 1) The current Article Six, Division Five of the Curry County Code is entitled "Indecent Exposure" and provides that: "No person shall expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex."
- 2) Upon challenge, it is likely that Article Six, Division Five would be found to be unconstitutionally broad and preempted by State law.
- 3) ORS 163.465 covers Public Indecency and imposes a criminal penalty as a matter of State law.
- 4) It is more appropriate that public indecency cases be handled by the District Attorney as crimes, rather than by Curry County as violations.
- 5) It is in the best interests of the County that the Board of Curry County Commissioners repeal Article Six, Division Five of the Curry County Code.

SECTION THREE   REPEALER

Article Six, Division Five of the Curry County Code concerning "Indecent Exposure" is repealed in its entirety.

Dated this 18<sup>th</sup> day of June, 2014.

BOARD OF CURRY COUNTY COMMISSIONERS

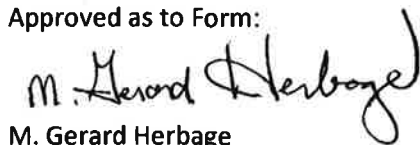
  
Susan Brown, Chair

  
David Brock Smith, Vice Chair

  
David G. Itzen

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: June 6, 2014

Second Reading: June 18, 2014

Emergency Adoption: No

Effective Date: September 16, 2014

## ARTICLE SIX

### DIVISION SIX

### EMERGENCY MANAGEMENT

#### SECTION 6.06.010

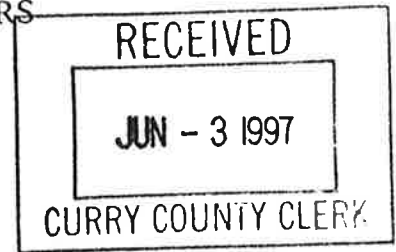
#### ESTABLISHMENT OF CURRY COUNTY EMERGENCY MANAGEMENT

Curry County establishes a Curry County Emergency Management Agency under the supervision of the Emergency Manager with all duties and authority set forth by law.



COPY

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY



In the Matter of Amending Article Six )  
of the Curry County Code )  
(Ordinance 96-7) by Adding Division )  
Seven Relating to Formation of an )  
Intergovernmental Entity to be Called )  
Jefferson Behavioral Health )

ORDINANCE NO. 97-3

The Board of Curry County Commissioners Ordains as follows:

SECTION 1      TITLE

This Ordinance shall be know as the Jefferson Behavioral Health Ordinance, an ordinance amending the Curry County Code.

SECTION 2      AUTHORITY

This Ordinance is enacted pursuant to ORS 203.035 and ORS 190.085.

SECTION 3      PURPOSE

The purpose of this Ordinance is to amend Article 6 of the Curry County Code (Ordinance 96-7) by adding a division relating to the formation of an intergovernmental entity to be called Jefferson Behavioral Health.

SECTION 4      ADOPTION

Exhibit "A" attached hereto and incorporated herein by this reference, is adopted as an amendment to the Curry County Code.

SECTION 5      SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional

or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

SECTION 6      EMERGENCY CLAUSE

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this Ordinance shall be in full force and effect on its passage.


ADOPTED this 2<sup>nd</sup> day of June, 1997.

Attest:

BOARD OF CURRY COUNTY COMMISSIONERS

Diane M. Speers  
Recording Secretary

  
Bill Roberts, Chairman

  
T. V. Skinner, Vice Chairman

Approved as to Form:

  
Lloyd Olds, Commissioner

M. Gerard Herbage  
M. Gerard Herbage  
Curry County Counsel

First Reading: MAY 19, 1997

Second Reading: JUNE 2, 1997

Emergency Adoption: \_\_\_\_\_

Effective Date: JUNE 2, 1997

## ARTICLE SIX

### DIVISION SEVEN

### JEFFERSON BEHAVIORAL HEALTH

#### SECTION 6.07.010

#### DEFINITIONS

- (1) "Entity" means Jefferson Behavioral Health.
- (2) "Services" means the provision and administration of mental health services together with ancillary services, including labor, goods, personal services and incidentals.
- (3) "Service Area" means the geographical area of the participating counties.

#### SECTION 6.07.020

#### FORMATION OF JEFFERSON BEHAVIORAL HEALTH, AN INTERGOVERNMENTAL ENTITY

The Curry County Board of Commissioners hereby ratifies the formation of an intergovernmental entity pursuant to the terms of ORS Chapter 190. The newly formed entity is to be called Jefferson Behavioral Health. It is the intention of the Curry County Board of Commissioners to enter into an intergovernmental agreement with Coos, Douglas, Jackson, Josephine and Klamath Counties which will provide for the formation of the Jefferson Behavioral Health and set out the duties, powers and functions of the entity.

#### SECTION 6.07.030

#### EFFECTIVE DATE OF INTERGOVERNMENTAL AGREEMENT

The effective date of the intergovernmental agreement for formation of Jefferson Behavioral Health is JUNE 15, 1997.

#### SECTION 6.07.040

#### PUBLIC PURPOSES FOR WHICH THE INTERGOVERNMENTAL ENTITY IS FORMED

The public purposes for which the intergovernmental entity is formed are as follows:

- (1) To create an intergovernmental entity that will administer and provide mental health services on behalf of the parties to the agreement;

- (2) To provide and promote accessibility to mental health benefits and continuity of care for all consumers through comprehensive community mental health programs;
- (3) To preserve the integrity of community mental health programs while obtaining the economic benefits of cooperation among counties, the Mental Health and Developmental Disabilities Services Division of Oregon Department of Human Resources ("Division") and the Office of Medical Assistance Programs of the Oregon Department of Human Resources ("OMAP");
- (4) To connect the Oregon Health Plan and community mental health programs in a manner that gives full force and effect to ORS 414.705 to 414.750 and ORS 430.610 to 430.685;
- (5) To administer regional Medicaid funds in ways that preserve and enhance local management and operation of community mental programs;
- (6) To coordinate and integrate mental health services with physical health care services in the Service Area;
- (7) To promote accountability, continuity and efficiency in the use, allocation and investment of public funds for mental health services;
- (8) To provide a regional management information system for planning and developing mental health services in the Service Area; and
- (9) To promote the involvement of county commissioners, local mental health advisory committees, consumers and advocates in development and delivery of mental health services.

#### SECTION 6.07.050

#### POWERS, DUTIES AND FUNCTIONS OF JEFFERSON BEHAVIORAL HEALTH

Jefferson Behavioral Health shall have the following powers, functions and duties:

- (1) The provisions and administration of mental health services together with ancillary services, including labor, goods, personal services and incidentals within the Service Area. Each party to the intergovernmental agreement forming the Jefferson Behavioral Health, reserves exclusive control over these Services provided by its community mental health program within its county boundary

other than Oregon Health Plan Services. However, Jefferson Behavioral Health may provide such Services pursuant to an agreement with a particular party.

- (2) The power to enter into and administer the Oregon Health Plan Service Agreement, other contracts and subcontracts for Services, and employment contracts.
- (3) Performance of any functions and activities that any party to the intergovernmental agreement forming Jefferson Behavioral Health has the authority to perform with respect to the provision of Services.
- (4) Performance of all lawful acts that are necessary to fulfill the purposes set above.

In the Board of County Commissioners  
In and For the County of Curry, Oregon

RECEIVED

DEC - 4 2000

CURRY COUNTY CLERK

In the Matter of An Amendment )  
to the Curry County Code By )  
Adding Article Six Division )  
Eight )

Ordinance No 00-07

The Board of Commissioners for the County of Curry Ordains as follows:

SECTION 1 TITLE

This ordinance shall be known as Ordinance 00-07, an ordinance amending the Curry County Code.

SECTION 2 AUTHORITY

This ordinance is enacted pursuant to ORS 203.035.

SECTION 3 FINDINGS

The Board makes the following findings:

- A) Tobacco use is the leading preventable cause of death in Curry County.
- B) Each day in Oregon, the equivalent of a classroom full of children begins smoking. In Curry County, 22% of students begin smoking before age 13, 28% of high school students smoke and 6% chew tobacco.
- C) More than half the tobacco retail outlets in Curry County have self-service tobacco displays where customers, including young people, have access to cigarettes, spit tobacco, and cigars without the assistance of a store employee.
- D) Cigarettes are the item most frequently taken by shoplifters.

SECTION 4 ADOPTION

Exhibit "A", attached hereto and incorporated herein by this reference, is adopted as an amendment to the Curry County Code.

SECTION 5 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

Adopted this 4<sup>th</sup> day of ~~November~~, 2000.  
December

Board of Curry County Commissioners

  
Cheryl Thorp, Chair

Absent

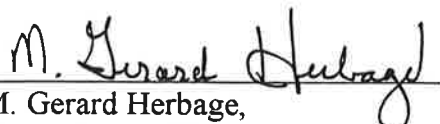
Bill Roberts, Vice Chair

  
Lloyd Olds, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage,  
Curry County Counsel

First Reading:	<u>11-20-00</u>
Second Reading:	<u>12-4-00</u>
Emergency Adoption:	<u>NA</u>
Effective Date:	<u>3-4-01</u>

## EXHIBIT "A"

### ARTICLE SIX - ENVIRONMENT AND HEALTH

#### DIVISION EIGHT - Regulation of the Sale and Distribution of Tobacco and Tobacco Products

##### Section 6.08.010      Definitions

The following words and phrases mean:

- 1) "Minor" - Any person under eighteen years of age.
- 2) "Self Service Displays" Open display of tobacco products to which the public has access without the assistance of a store employee.
- 3) "Tobacco product" - Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or other means of ingestion.
- 4) "Tobacco Retail Store" - A retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- 5) "Vendor" - Assisted - Only a store employee has access to the tobacco product and assists the customer by supplying the tobacco product; the customer does not take possession of the tobacco product until after it is purchased.

##### Section 6.08.020      Vendor Assisted Sales

Vendor Assisted Sales. Except as provided in Section 6.08.030, no person or business may sell, permit to be sold, or offer for sale any tobacco product by means of self service displays or any means other than Vendor-Assisted Sales.

##### Section 6.08.030      Scope of Division

This division shall not apply to Tobacco Vending Machines regulated by Oregon State Law, Tobacco Retail Stores, or to any business, retailer or establishment which is licensed by the Oregon Liquor Control Commission for a dispensing license and required to be posted preventing any minors from access to the premises.

##### Section 6.08.040      Non-retaliation

No person or employer may discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to prosecute any violation of this division.

##### Section 6.08.050      Penalties

- 1) Violation of this division shall be punishable by a fine not to exceed two hundred and fifty dollars.
- 2) Violations of this division may be pursued pursuant to Article Ten of the Curry County Code.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment                     )  
To the Curry County Code Regarding            )  
The Acceleration of Redemption for            )  
Waste or Abandonment                            )  
ORDINANCE NO. 13-04

The Board of Curry County Commissioners ordains as follows:

SECTION 1      TITLE

This ordinance shall be known as Ordinance \_\_\_\_\_, and ordinance amending the Curry County Code regarding the acceleration of redemption for waste or abandonment.

SECTION 2      AUTHORITY

This ordinance is enacted pursuant ORS 203.035 and ORS 312.122.

SECTION 3      PURPOSE

The Curry County Board of Commissioners has determined that Curry County is in need of a remedy to prevent the hazards, detrimental effects, and devaluation of property sold to Curry County in tax foreclosure actions when such property is subjected to waste and abandonment. This ordinance is enacted under the authority of ORS 312.122 to provide such a remedy by accelerating the tax foreclosure redemption process and imposing fines for waste of such properties.

SECTION 4      ADOPTION

Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment to the Curry County Code, Ordinance 96-7, as amended.

SECTION 5      SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of the Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

ADOPTED this 5th day of December, 2013

BOARD OF CURRY COUNTY COMMISSIONERS

  
David Brock Smith, Chair

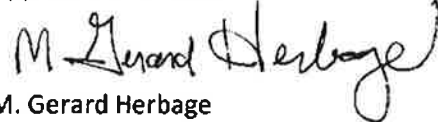
Absent  
Susan Brown, Vice Chair

  
David G. Itzen, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 11/07/2013  
Second Reading: 12/05/2013  
Emergency Adoption: No  
Effective Date: 3/05/14

**EXHIBIT "A"**

**ARTICLE SIX – ENVIRONMENT AND HEALTH**

**DIVISION NINE- The Acceleration of Redemption for Waste or Abandonment**

**SECTION 6.09.010**

**DEFINITIONS**

The following words and phrases mean:

- (1) "Abandonment": It occurs when, for a period of six consecutive months, property is not occupied by the former owner or any person or entity appearing in the records of the County to have a lien or other interest in the property, and the property has suffered a substantial depreciation in value or will suffer a substantial depreciation in value if not occupied.
- (2) "Board": Means the Curry County Board of Commissioners
- (3) "Former Owner": Means any person or entity whose interest in property located within Curry County has been foreclosed by a judgment of foreclosure for delinquent taxes under the authority of ORS Chapter 312. "Former owner" includes any person or entity claiming the right to possession of the property, and any person or entity acting as agent for or by permission of and under the permission or control of such "former owner".
- (4) "Owner": Means Curry County, with respect to all properties shown in a judgment issued by the Circuit Court of the State of Oregon for Curry County in a proceeding to foreclose delinquent taxes under the authority of ORS Chapter 312.
- (5) "Party": When used in the context of the public hearing provided for in this ordinance, means Curry County and any person or entity entitled to notice of that public hearing.
- (6) "Property": Means any property listed in a judgment issued by the Circuit Court of the State of Oregon for Curry County in a proceeding to foreclose delinquent taxes under the authority of ORS Chapter 312.
- (7) "Record of the County": Has the meaning given that term by the provisions of ORS 312.125(7).
- (8) "Tax Collector": Means the Curry County Tax Collector.

- (9) "Waste": Means any act or omission with the potential to affect adversely the value or condition of the "property", whether caused by the "former owner" or by any person or entity acting as an agent for, with permission of, or under the direction or control of such "former owner". Waste includes, but is not limited to, deterioration, destruction or material alteration of land or improvements, removal of agricultural or mineral assets, violation of any applicable state or local zoning codes, or violation of any state or local building codes.

**SECTION 6.09.020**      **FORFEITURE FOR WASTE: PENALTY**

Any waste of property, as defined by this ordinance, shall constitute an immediate forfeiture to the County of the former owner's right to possession during the period of redemption. In addition, the former owner is subject to a fine in an amount no less than twice the monetary value of the waste committed upon the property, as determined by the Board.

**SECTION 6.09.030**      **ACCELERATION OF REDEMPTION PERIOD AUTHORIZED**

If the Board finds that there is reason to believe that waste is being committed upon property or that property has been abandoned, the Board shall conduct a public hearing as provided for in this ordinance. If the Board finds, after such hearing, that the property has been subjected to waste or abandonment, the Board shall:

- (1) Order that the former owner's right to possession during the redemption period is forfeited to the County.
- (2) Order that the redemption period shall end thirty (30) days after the date of the Board's Order, and
- (3) Order that upon the expiration of the accelerated redemption period, the Tax Collector shall deed the property to the County unless the former owner or any other person having a right to redeem the property under ORS Chapter 312 has actually redeemed it.

**SECTION 6.09.040**      **HEARING REQUIRED**

- (1) Whenever the Board finds that there is a reason to believe that the property may be subject to waste or abandonment resulting in a forfeiture to the County of the former owner's right to possession of the property during the redemption period, the Board shall set a date, time and place within the County for a hearing to determine whether the property should be deeded to the County as described in Section 6.09.030 of this ordinance.
- (2) At the hearing described in Section 6.09.040(1), the former owner and any other person or entity that appears, from the records of the County, to have a lien or other valid interest in the property shall be given an opportunity to be heard.

**SECTION 6.09.050**

**NOTICE OF HEARING**

- (1) Not less than thirty (30) days prior to the date of the hearing described in Section 6.09.040 the County shall direct notice of the hearing to the former owner, the current occupants, and any other person or entity that appears, from the records of the County, to have a lien or other valid interest in the property. The notice of the hearing shall contain the following information:
  - (a) The date, time and place of the hearing.
  - (b) The date of the judgment issued under authority of ORS 312.100.
  - (c) The normal date of expiration of the period of redemption under ORS 312.120
  - (d) The legal description and tax account number of the property.
  - (e) The name of the former owner as it appears on the latest tax roll.
  - (f) A warning that if the Board determines that the property is subject to waste or abandonment, the redemption period normally associated with tax foreclosure will be shortened to thirty (30) days from the date of the Board's decision and that if the property is not redeemed before the end of the accelerated redemption period, the property shall be deeded to the County by the Tax Collector and every right or interest of any person in the property shall be forfeited forever to the County.
  - (g) A warning that if the Board determines that the former owner or persons acting under the former owner's permission or control have committed waste on the property, the former owner is subject to a fine of not less than twice the monetary value of the waste committed.
  - (h) A warning that any persons or entities remaining on the property after the property is deeded to the County may be subject to civil or criminal prosecution for trespass or to any other lawful action that would remove the persons or entities from the property.
  - (i) A statement that interested parties having a valid claim to an interest in the property have a right to be represented by an attorney at the hearing, but that such representation shall be at the party's own option and expense.
- (2) The required notice shall be given in any manner reasonably calculated, under all existing circumstances, to apprise the former owner and other interested persons of the existence and the pendency of the action and to afford them a reasonable opportunity to appear and

be heard. The notice must be mailed to the last known address of any interested persons using both certified mail and regular first class mail. The required notice shall be directed to interested parties using the following guidelines:

- (a) Notice to Former Owners: Notice sent to a former owner shall be addressed to the former owner at the address appearing in the records of the County as the true and correct address of such former owner.
- (b) Notice to Other Interested Persons: Notice sent to persons or entities other than the former owner who appear to have a valid interest in the property shall be addressed to the person or entity at the address which, after reasonable inquiry, appears to be the address at which such person or entity is most likely to receive the notice.
- (c) Notice to Corporations or Limited Partnerships: If a person or entity with a right to receive notice is a corporation or limited partnership the notice shall be mailed to the registered agent or last registered office of the corporation or limited partnership as shown by the records of the Corporation Division of the office of the Oregon Secretary of State. If the corporation or limited partnership is not registered with the Corporation Division, the notice shall be mailed to the principal office or place of business of such corporation or limited partnership, if known.
- (d) Notice to Occupants: Notice to the occupants of the property shall be addressed to "Occupants" and mailed to the address of the property. If reasonably possible, notice shall also be posted on the property itself.

**SECTION 6.09.060**      **CONDUCT OF THE HEARING**

The Board shall open the public hearing by informing the parties as to the following matters:

- (1) A general description of the hearing procedure, including the order of the presentation of evidence, what kinds of evidence are admissible, and a brief explanation of the burden of proof and the burden of production of evidence.
- (2) That the proceedings shall be recorded and a description of the manner of the recording , as well as a statement that the record will be made available to any party at that party's own expense.
- (3) That the Board's decision may be appealed pursuant to the provisions of ORS Chapter 34 and that any appellant shall pay all costs on such appeal, including the costs of preparing a transcript of the proceedings.

**SECTION 6.09.070**

**HEARING PROCEDURE**

- (1) Witnesses, testimony and representation. At any hearing conducted pursuant to the provisions of this ordinance, the County shall be represented by County Legal Counsel.
- (a) After the Board opens the hearing, the Tax Collector or the Tax Collector's designee shall present evidence or testimony to explain the County's position on the following matters: what information indicates that the property is subject to waste or abandonment and should therefore be deeded to the County; and if the property is subject to waste, how should the value of the waste be quantified, and if appropriate, what is the anticipated cost to the County in cleaning up the property.
  - (b) Adverse parties shall have the right to ask questions of the Tax Collector or the Tax Collector's designee, on the questions outlined in Section 6.09.070(1)(a) above.
  - (c) If there are additional witnesses present to testify in support of the County's position, they shall present evidence or testimony relevant to the questions listed in Section 6.09.070(1)(a) above. Adverse parties shall have the right to ask questions of the witnesses on the relevant evidence as well.
  - (d) Following the presentation of evidence by all witnesses testifying in support of the County's position in the matter, the Board shall allow any person or entity entitled to notice to present evidence or testimony. Any such evidence or testimony shall be on the questions outlined in Section 6.09.070(1)(a).
  - (e) The County's Legal Counsel or the Tax Collector or the Tax Collector's designee shall have the right to ask questions of any witnesses who testify or present evidence on behalf of any other party.
  - (f) The Board shall have the right to question any witness at any time.
  - (g) The Board may set reasonable time limits for testimony and evidence and may exclude or limit cumulative or repetitious or immaterial evidence and testimony.
  - (h) After all the parties have been given the opportunity to present evidence and to respond and reply to the evidence of other parties, the Board shall close the hearing and deliberate and decide the matter.

(2) Evidence and Proof

- (a) In hearings held pursuant to the provisions of this ordinance, the County has the burden to prove the allegations by a preponderance of admissible evidence.
- (b) The Board members presiding over the hearing shall place on the record a statement declaring whether there have been any ex parte communications of information relating to any fact in issue during the pendency of the proceedings. If there has been any such ex parte communication, the Board member shall place in the record the substance of any such communication and shall inform the parties of their right to ask questions or make statements regarding the communication.
- (c) All evidence not excluded shall be received and considered by the Board in its decision and shall be made part of the record of the proceedings.
- (d) The Board may take official notice of judicially recognizable facts and the Board may take official notice of general, technical or scientific facts within the specialized knowledge of County employees. Parties shall be notified before the close of the hearing of any facts officially noticed by the Board and shall have an opportunity to contest the facts so noticed.

(3) Record of the Proceeding

- (a) The hearing shall be recorded electronically. The recording shall be retained for a period of six (6) years from the date of the Board's order.
- (b) The record of the hearing shall include the following, if applicable:
  - i. The electronic recording of the proceedings, and a transcript if one is ordered by any party.
  - ii. Proof that notice was adequately given in accordance with the requirements of Section 6.09.050 of this ordinance.
  - iii. Documents filed by any party.
  - iv. All evidence received by the Board.
  - v. Information regarding any ex parte communications of the Board.
  - vi. The findings, conclusions and order of the Board issued pursuant to the provisions of Section 6.09.080 of this ordinance.

**SECTION 6.09.080**

**BOARD ORDER; FINDINGS AND CONCLUSIONS**

- (1) The Board's order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the



findings as to each contested issue of the fact. If the Board concludes that the property is subject to waste or abandonment and should be deeded to the County, the Board shall adopt an order so finding. The order shall state:

- (a) That any rights of possession the former owner may have in the property are forfeited to the County.
  - (b) That the former owner, or any person or entity that then appears in the records of the County to have a lien or other interest in the property, may redeem the property; and
  - (c) That if the property is not redeemed before the expiration of thirty (30) days from the date of the order, the Tax Collector shall deed the property to the County, and all rights of redemption shall terminate upon execution of that deed to the County.
- (2) If the Board concludes that the former owner, or those under the former owner's permission or control, have committed waste as described in ORS 312.180 on the property, the Board shall adopt an order so finding. The order shall state:
- (a) That a fine of not less than twice the value so wasted may be imposed under ORS 312.990.
  - (b) That the fine is intended, in part, to reimburse the County for the expenses associated with notice and hearing under this ordinance.
  - (c) What method is being used to quantify the value so wasted, and what evidence was presented to support the value relied upon by the Board.
  - (d) That if the property is redeemed before the expiration of the accelerated redemption period, a lien in the amount of the fine shall attach to the property, unless and until the fine is paid.
  - (e) That if the former owner owns any other real property within the County, a lien in the amount of the fine shall also attach to those other parcels, unless and until the fine is paid.
- (3) The Board shall notify the parties of the final order by personal delivery or regular mailing of the order to the parties, or, if applicable, the parties' attorneys. A final order shall be issued by the Board not later than fourteen (14) days after conclusion of the hearing. A final order shall become effective when signed by a majority of the Board members.

**SECTION 6.09.090**

**JUDICIAL REVIEW**

Review of the Board's decision shall be by writ of review, pursuant to ORS Chapter 34.

**SECTION 6.09.100**      **TAX COLLECTOR'S DEED**

Upon failure of any party having the right of redemption to redeem the subject property within thirty (30) days after adoption of the Board order, the Tax Collector shall issue a deed to the County, which shall terminate all redemption rights and cancel all taxes and special assessments.

**SECTION 6.09.110**      **REMOVAL OF OCCUPANTS**

After issuance of a deed pursuant to this ordinance, the County may remove in any manner provided by law any persons still in possession of the property.

**SECTION 6.09.120**      **PENALTIES**

The commission of waste by the former owner, or anyone under the permission or control of the former owner, on property sold to the County pursuant to ORS Chapter 312 is punishable, upon the Board's finding that waste exists, by a fine of not less than twice the value so wasted.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance )  
Regarding Unlawful Transfer )  
On a Highway, Road or Street )

ORDINANCE NO. 14-04

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1 TITLE

This ordinance shall be known as Ordinance 14-04, an ordinance amending the Curry County Code.

SECTION 2 AUTHORITY AND PURPOSE

- A. This ordinance is being adopted pursuant to the Board's legislative authority under ORS 203.035 to, by ordinance, "exercise authority within the county over matters of county concern, to the fullest extent allowed by the Constitutions and Laws of the United States and of this state", and that this power "shall be liberally construed, to the end that counties have all powers over matters of county concern that is possible for them to have under the Constitutions and laws of the United States and of this state."
- B. The purpose of this ordinance is to enhance public safety on the County's highways, roads and streets.

SECTION 3 ADOPTION

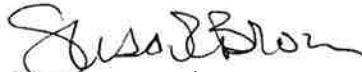
Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment and a new division of the Curry County Code, to wit: Article Six, Division Ten.

SECTION 4 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

ADOPTED this 4th day of June, 2014.

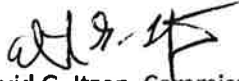
BOARD OF CURRY COUNTY COMMISSIONERS



Susan Brown, Chair



David Brock Smith, Vice Chair



David G. Itzen, Commissioner

Attest:



Recording Secretary

First Reading: May 7, 2014

Second Reading: May 21, 2014

Third Reading: June 4, 2014

Emergency Adoption: No

Effective Date: September 3, 2014

**EXHIBIT "A"**

**ARTICLE SIX**

**DIVISION TEN UNLAWFUL TRANSFER ON A HIGHWAY, ROAD OR STREET**

**SECTION 6.10.010      CONDUCT PROHIBITED**

A person commits the offense of unlawful transfer on a highway, road or street if the person:

- (1) While a driver or passenger in a vehicle on a highway, road or street within the unincorporated area of Curry County, gives or relinquishes possession or control of, or allows another in the vehicle to give or relinquish possession or control of any item of property or money to a pedestrian; or
- (2) While a pedestrian, accepts, or receives or retains possession or control of any item of property or money from a person (driver or passenger) in a vehicle on a highway, road or street within the unincorporated area of Curry County.

**SECTION 6.10.020      EXCEPTIONS TO SECTION 6.01.020**

Section 6.01.010 shall not apply if the vehicle is legally parked outside of the traffic lane. This section also does not apply to persons participating in a "Pedestrian Activity" as defined in OAR 734 Division 58, for which a permit has been issued by the Oregon Department of Transportation, or to persons participating in pedestrian activity based upon a special permit issued by the Curry County Road Department, so long as all terms of such permits are being met.

**SECTION 6.01.030      PENALTIES**

Any person found violating Section 6.01.010 shall be subject to the enforcement section (Article Ten) of the Curry County Code with a maximum penalty not to exceed \$250.00.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance     )  
Correcting Scrivener's Errors     )     ORDINANCE NO. 14-08  
In Ordinance No. 14-04             )

The Board of Commissioners for the County of Curry ordains as follows:

**SECTION 1**     **TITLE**

This ordinance shall be known as Ordinance No. 14-08, an ordinance amending Ordinance No. 14-04 in the Curry County Code.

**SECTION II**     **FINDINGS**

- A. On June 4, 2014, the Board of Curry County Commissioners adopted Ordinance No. 14-04, an ordinance amending the Curry County Code by adopting a new division regarding the unlawful transfer on a highway, road or street.
- B. Exhibit "A" to Ordinance No. 14-04 contains scrivener's errors which should be corrected, but which do not change the substantive provisions of that ordinance.
- C. Ordinance No. 14-04 was adopted to enhance the "public safety on the County's highways, roads and streets."
- D. It is appropriate and necessary to adopt this ordinance correcting the scrivener's errors as an emergency, so that it can have the same effective date as Ordinance No. 14-04, which is September 3, 2014.

**SECTION III**     **CORRECTION OF SCRIVENER'S ERRORS**

The following scrivener's errors are corrected in Ordinance No. 14-04:

- (1) The heading in Section 6.10.020 is amended to read: "Exceptions to Section 6.10.010" [instead of "Exceptions to Section 6.01.020"].
- (2) The first sentence in Section 6.10.020 is amended to read: "Section 6.10.010 [instead of Section 6.01.010] shall not apply if the vehicle is legally parked outside in the traffic lane."
- (3) The heading "Section 6.01.030" is amended to read "Section 6.10.030."

- (4) The language in Section 6.10.030 is amended to read: "Any person found violating Section 6.10.010 [instead of Section 6.01.010"] shall be subject to the enforcement section (Article Ten) of the Curry County Code with a maximum penalty not to exceed \$250.00."

A new corrected Exhibit "A" amending Ordinance No. 14-04 is attached hereto and incorporated by reference.

SECTION IV     EMERGENCY CLAUSE; EFFECTIVE DATE

This Ordinance, being necessary for the preservation and protection of the public peace, health, safety and general welfare of Curry County, and an emergency having been unanimously declared to exist, this ordinance shall take effect on September 3, 2014, to coincide with the effective date of Ordinance 14-04.

Adopted this \_\_6th\_\_ day of August, 2014.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Susan Brown, Chair

  
David Brock Smith, Vice Chair

  
David G. Itzen, Commissioner

Attest:

  
Recording Secretary

First Reading: \_\_7-24-2014\_\_

Second Reading: \_\_08-06-2014\_\_

Emergency Adoption: Yes

Effective Date: 9-03-2014

## **AMENDED EXHIBIT "A"**

### **ARTICLE SIX**

#### **DIVISION TEN UNLAWFUL TRANSFER ON A HIGHWAY, ROAD OR STREET**

##### **SECTION 6.10.010 CONDUCT PROHIBITED**

A person commits the offense of unlawful transfer on a highway, road or street if the person:

- (1) While a driver or passenger in a vehicle on a highway, road or street within the unincorporated area of Curry County, gives or relinquishes possession or control of, or allows another in the vehicle to give or relinquish possession or control of any item of property or money to a pedestrian; or
- (2) While a pedestrian, accepts, or receives or retains possession or control of any item of property or money from a person (driver or passenger) in a vehicle on a highway, road or street within the unincorporated area of Curry County.

##### **SECTION 6.10.020 EXCEPTIONS TO SECTION 6.10.010**

Section 6.10.010 shall not apply if the vehicle is legally parked outside of the traffic lane. This section also does not apply to persons participating in a "Pedestrian Activity" as defined in OAR 734 Division 58, for which a permit has been issued by the Oregon Department of Transportation, or to persons participating in pedestrian activity based upon a special permit issued by the Curry County Road Department, so long as all terms of such permits are being met.

##### **SECTION 6.10.030 PENALTIES**

Any person found violating Section 6.10.010 shall be subject to the enforcement section (Article Ten) of the Curry County Code with a maximum penalty not to exceed \$250.00.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment                   )  
To the Curry County Code Regarding        )  
The Establishment of a Review               )  
Procedure for Public Health Decisions      )

ORDINANCE NO. 14-10

The Board of Curry County Commissioners ordains as follows:

**SECTION 1**      **TITLE**

This ordinance shall be known as Ordinance 14-10, an ordinance amending the Curry County Code regarding the establishment of a review procedure for public health decisions.

**SECTION 2**      **AUTHORITY**

This ordinance is enacted under the authority of ORS 203.035.

**SECTION 3**      **PURPOSE**

The purpose of this ordinance is to establish a review procedure to address concerns and complaints of individuals or entities affected by the acts or omissions of the Local Public Health Authority.

**SECTION 4**      **HISTORY**

ORS 431.375(2) designates counties, or health districts established under ORS 431.414, as the local public health authority responsible for management of local public health services within their boundaries. ORS 431.375(2) further provides for counties to contract with a non-profit corporation to act as the local public health authority. The County has established community public health programs for the residents of Curry County in the past, and desires to continue such programming. The County contracted with Curry Community Health (CCH) effective February 1, 2013, through June 30, 2015, with renewals available, to provide the services and perform the duties of the Local Public Health Authority. As a condition of funding public health services in the County, the State of Oregon requires that the County establish a review procedure by which individuals or entities affected by actions or omissions of the Local Public Health Authority may, in appropriate circumstances, bring matters to the attention of

the County for review and relief, where appropriate. The second amendment to the Transfer Agreement between the County and CCH provides that the County will appoint a public health administrator, and that the person in that position shall make initial decisions on complaints from service decisions of CCH. However, the second amendment does not provide a detailed procedure for handling complaints including appeals. This ordinance is designed to provide such a procedure.

**SECTION 5      ADOPTION**


Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment to the Curry County Code, Ordinance 96-7, as amended.

**SECTION 6      SEVERANCE CLAUSE**

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

DATED this 15 day of Oct, 2014.

**BOARD OF CURRY COUNTY COMMISSIONERS**

  
Susan Brown, Chair

  
David Brock Smith, Vice Chair

  
David G. Itzen, Commissioner

Attest:

By:   
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: Oct 1, 2014

Second Reading: Oct 15, 2014

Emergency Adoption: No

Effective Date: Jan 13, 2015

## **EXHIBIT "A"**

### **ARTICLE SIX- ENVIRONMENT AND HEALTH**

#### **DIVISION ELEVEN-ESTABLISHMENT OF A REVIEW PROCEDURE FOR PUBLIC HEALTH DECISIONS**

##### **SECTION 6.11.010      DEFINITIONS**

The following words and phrases mean:

- (1) "Appellant" means a person or entity affected by a Public Health Decision.
- (2) "Local Public Health Administrator" means the person appointed by the County to act as the Local Public Health Administrator in accordance with ORS 431.418 and OAR 333-014-0070(1).
- (3) "Public Health Decision" means a final written decision of the Local Public Health Authority addressing a complaint or concern of individuals or entities affected by the acts or omissions of the Local Public Health Authority. A Public Health Decision does not include:
  - (a) A policy decision of the Local Public Health Authority regarding the services provided to the public in compliance with state or federal public health laws or otherwise.
  - (b) Decisions related to Local Public Health Authority Personnel.
  - (c) Enforcement proceedings in State, or Federal Courts.

##### **SECTION 6.11.020      APPEAL PROCEDURES**

- (1) The Local Public Health Administrator shall make Public Health Decision(s) in writing on complaints of individuals or entities affected by the acts or omissions of the Public Health Authority.
- (2) A Public Health Decision shall be final at the end of seven (7) calendar days following the date notice of the decision is mailed to the Appellant unless prior thereto a notice appeal of the Public Health Decision is filed with the Board of County Commissioners. A copy of the notice of appeal must also be filed with the Local Public Health Authority. The notice of appeal shall be in the form which is attached hereto and incorporated herein by this reference, or its equivalent. The notice of appeal shall contain;
  - (a) The name, address and telephone number of the person filing the notice;

- (b) An identification of the decision sought to be reviewed, including the date the decision was made; and
  - (c) The specific reason why the decision should be modified or reversed.
  - (d) HIPAA compliant waiver/release for County review of protected health information.
- (3) Appeals of the Local Public Authority shall be made to the Board of County Commissioners.
- (4) Any person or entity affected by a Public Health Decision may appeal the decision to the Curry County Board of Commissioners according to the following procedure:
  - (a) Upon receipt of a Notice of Appeal a hearing shall be scheduled before the Board of County Commissioners at the earliest reasonable opportunity.
  - (b) The Local Public Health Administrator shall notify Appellant of the date and time set for the hearing at least ten days in advance of the hearing.
  - (c) The Local Public Health Administrator shall forward to the Board of County Commissioners copies of all evidence and testimony relevant to the Public Health Decision at least one week prior to the hearing.
- (5) Hearing Procedure
  - (a) The hearing will be held during a regular public meeting.
  - (b) A hearing will begin with a staff report from the Local Public Health Administrator and any necessary staff from the Local Public Health Authority. The Appellant may then address the Board with evidence and testimony supporting Appellant's position. The Board of County Commissioners may ask Appellant and/or the Local Public Health Administrator clarifying questions at any time during the proceedings.
  - (c) At the conclusion of the hearing the Board of County Commissioners may carry over the matter for consideration at a later date.
  - (d) Final Decision. The Board of County Commissioners will issue a written decision upholding or dismissing the Appeal. The decision will not be final until signed. The decision shall be promptly mailed to the Appellant at the address provided and to the Local Public Health Administrator.
  - (e) A hearing shall be conducted as a quasi-judicial hearing. Review of a Final Decision shall be solely and exclusively by Writ of Review as provided in ORS 34.010 through 34.100 in the Circuit Court of the State of Oregon for Curry County.

ARTICLE SIX – DIVISION TWELVE RESERVED FOR EXCESSIVE NOISE NUISANCE ORDINANCE

## ARTICLE SEVEN - DISTRICTS AND ELECTIONS

### DIVISION ONE

### PUBLIC SERVICE DISTRICT ASSISTANCE

#### SECTION 7.01.010

#### RESERVED

#### SECTION 7.01.020

#### RESERVED

#### SECTION 7.01.030

#### PURPOSE STATEMENT

The purpose of this division is to allow the County to provide assistance to Public Service Districts within Curry County through the lending of funds, thereby promoting public health, safety, convenience and general welfare.

#### SECTION 7.01.040

#### DEFINITIONS

The following words and phrases shall mean:

(1) Public Service Districts. As used in this ordinance except as otherwise provided, "Public Service District" means:

- (a) A people's utility district organized under ORS Chapter 261;
- 264; (b) A domestic water supply district organized under ORS Chapter
- 265; (c) A cemetery maintenance district organized under ORS Chapter
- (d) A park and recreation district organized under ORS Chapter 266;
- (e) A mass transit district organized under ORS 267.010 to 267.390;
- 268; (f) A metropolitan service district organized under ORS Chapter
- (g) A special road district organized under ORS 371.305 to 371.380;
- 371.555; (h) A road assessment district organized under ORS 371.405 to
- (i) A highway lighting district organized under ORS Chapter 372;
- (j) A health district organized under ORS 440.305 to 440.410;
- (k) A sanitary district organized under ORS 450.005 to 450.245;
- (l) A sanitary authority organized under ORS 450.600 to 450.989;

- (m) A vector control district organized under ORS 452.020 to 452.170;
- (n) A rural fire protection district organized under ORS Chapter 478;
- (o) An irrigation district organized under ORS Chapter 545;
- (p) A drainage district organized under ORS Chapter 547;
- (q) A water improvement district organized under ORS Chapter 552;
- (r) A water control district organized under ORS Chapter 553;
- (s) A weather modification district organized under ORS 558.200 to 558.440;
- (t) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953;
- (u) A geothermal heating district organized under ORS Chapter 523;
- (v) An incorporated city;
- (w) A transportation district organized under ORS 267.510 to 267.650;
- (x) A urban district organized under ORS 357.216 to 357.286;
- (y) A 9-1-1 communications district organized under ORS 401.807 to 401.857.

#### SECTION 7.01.050          APPLICATION FOR ASSISTANCE

A Public Service District may, through its governing body, make application to the Board for assistance by filing with the Board an application for assistance in writing. Such application shall contain the following:

- (1) Name of the Public Service District;
- (2) The amount of assistance sought;
- (3) The specific reason or reasons for which the funds are being sought;
- (4) The specific manner in which the funds will be repaid.

#### SECTION 7.01.060          FILING    APPLICATION    AND    SETTING HEARING DATE

Upon receiving an application for assistance, and upon determining that it meets the requirements of SECTION 7.01.050, the Board shall file the

application and set a date for a public hearing. The hearing shall be set not less than 15 nor more than 60 days from the date of filing, but may be continued by the Board for good cause shown for an additional 60 days.

#### SECTION 7.01.070      NOTICE OF HEARING

The Board shall give notice by posting the time, place and reason for the hearing in the County Courthouse; by publishing once in a newspaper of general circulation in the Public Service District area and by letter to the Public Service District.

#### SECTION 7.01.080      PUBLIC HEARING

On the date set a public hearing shall be held. The hearing shall be held in an orderly manner with all interested persons being given an opportunity to be heard. The Board Chairman or a person he/she designates shall preside over the hearing. All relevant testimony and evidence shall be received and considered by the Board.

#### SECTION 7.01.090      DECISION ON APPLICATION

Within 30 days of the hearing the Board shall either deny the application, grant the application in whole or in part, or continue the hearing to a later date if the Board is of the opinion that additional relevant information may become available. Any continuance shall not be for more than 30 days. The Board shall not continue the hearing more than twice.

#### SECTION 7.01.100      DENIAL OF APPLICATION

If the Board is of the opinion that the granting of the assistance requested would not be in the public interest or that the assistance is not available, the Board shall deny the application and notify the Public Service District of its decision in writing immediately.

When an application for assistance has been denied, the Public Service District shall not be allowed to make another application until the expiration of six (6) months from the date the notification of denial is mailed.

#### SECTION 7.01.110      GRANTING AN APPLICATION

If the Board is of the opinion that the granting of the application for assistance would be in the public interest and that the assistance requested is available from O and C funds the Board may grant the application for assistance in whole or in part.

When the application is so granted the Board and the governing body of the Public Service District shall enter into a written agreement providing among other things for the disbursement and repayment of the assistance and the use or uses for which the funds are authorized.



SECTION 7.01.120

PUBLIC SERVICE DISTRICT ASSISTANCE  
FUND

There shall be created a Public Service District Assistance Fund for the purpose of implementing this ordinance. The fund shall consist of monies appropriated by the Curry County Budget Committee at their regular annual sessions; monies appropriated by the Board of Curry County Commissioners at supplemental budget hearings; and monies repaid to the County by Public Service Districts as provided in the respective written agreements. The amount of monies in this fund shall determine the amount of assistance available to grant applications.

## ARTICLE SEVEN

### DIVISION TWO

### LOCAL WATER DISTRIBUTION SYSTEM IMPROVEMENT DISTRICT

#### SECTION 7.02.010

#### RESERVED

#### SECTION 7.02.020

#### RESERVED

#### SECTION 7.02.030

#### PURPOSE STATEMENT

It is the purpose of this division to permit establishment of local improvement districts to provide a mechanism for construction of water distribution systems. This division shall provide a procedure for constructing a water distribution system(s), financed wholly or in part by special assessment against benefited property and to provide a procedure for levying, collecting and enforcing the payment of such special assessments, all in accordance with the authority granted by the State of Oregon under ORS 371.610(3) and ORS 203.035. Each district formed hereunder is for the purpose of completing it's designated project and shall have no force and effect upon completion of the project and payment of all assessments.

#### SECTION 7.02.040

#### DEFINITIONS

As used in this division, unless the context requires otherwise:

- (1) "Benefited property" means property that would be served by the proposed water distribution system.
- (2) "Board" means the Board of County Commissioners for the County.
- (3) "Local Improvement District" means local water distribution system improvement district.
- (4) "Owner" means the owner of the title to real property, or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of the department of assessment and taxation or a more current recorded deed or land sales contract.
- (5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any legal entity whatsoever.
- (6) "Petition" is a citizen request to construct water distribution systems in conjunction with the terms of this division. A petition shall be in the same form as shown in Exhibit A attached hereto and shall contain all information required by Section 7.02.090(2) of this division.

(7) "Public improvement" means:

(a) The construction of a water distribution system.

(b) The installation, construction, reconstruction, alteration or repair of electrical, water, sanitary and storm sewers, communications roads or other such facilities only to the extent that such work is incidental to the public improvements described herein and the cost of such work is insignificant in comparison to the total LID cost as determined by the Board.

(c) Administrative and legal costs, including those incurred in anticipation of formation such as: staff time, meeting with property owners to explain the LID process, and processing the petition. These costs also shall include those incurred subsequent to formation but prior to abandonment such as site visits, hearings, and meetings.

(8) "Value" means the worth of property or improvements as shown on the most recent assessment roll. The County may use a professional appraisal to establish value if the County determines that it is appropriate and is a more accurate reflection of current conditions.

#### SECTION 7.02.050      DESIGNATION

The properties which are to be assessed for part or all of the cost of a public improvement as provided herein shall be included within the boundaries of, and known together as a local improvement district. Only "Benefited property" may be included within the boundaries of a local improvement district.

#### SECTION 7.02.060      ASSESSMENT

Assessments may be levied against benefited property for the purpose of defraying the cost of public improvements which involve purchase, construction, reconstruction or repairs beyond the scope of routine maintenance as determined by the Board.

The method of assessment may be by appraised value, area, front foot of abutting property, per each lot or parcel or any other means complying with Oregon law.

The method of assessment may be requested by the petitioners subject to the provisions of Section 7.02.090(2) (d) of this division.

#### SECTION 7.02.070      CITIZENS ADVISORY COMMITTEE

The Board shall appoint a citizens advisory committee consisting of five persons to perform duties as directed by the Commissioners for a proposed or existing local improvement district. Its members shall serve for the terms specified by the Board or if no terms are specified, until further order of the Board.

#### SECTION 7.02.080

#### ANNUAL BUDGET ADOPTION

The Board shall adopt a budget for the district which shall contain the cost of proposed construction. The budget shall contain anticipated revenue from assessments and generated by the improvements. All levies of assessments and expenditures shall correspond as nearly as possible to adopted budgets. However, the Board may amend such budgets from time to time as it deems necessary.

#### SECTION 7.02.090

#### INITIATION OF PROCEEDINGS

(1) Upon receipt by the Board of a petition from sixty percent of the property owners owning sixty percent of the property, as determined by area, within a proposed local improvement district the Board shall initiate proceedings toward the formation of the district.

(2) The petition shall contain the following:

(a) A map or plat showing the general nature, location and extent of the proposed improvement and of the proposed local improvement district;

(b) A description of the work to be done;

(c) The type of assessment proposal described in Section 7.02.060;

(d) The description of each lot, parcel of land, or portion thereof to be specially benefited by the improvement with the names of the owners or reputed owners thereof and the estimated assessment or assessments against each such lot or parcel.

#### SECTION 7.02.100

#### RESERVED

#### SECTION 7.02.110

#### BOARD ACTION ON PETITION

After the petition described in Section 7.02.090 has been filed with the Board, the Board may approve the petition, require additional or different information or abandon the improvement.

#### SECTION 7.02.120

#### HEARING - DATE

(1) If the Board approves a petition it shall enact an order setting a public hearing on the formation of the local improvement district not less than thirty days from the date of the order to hear objections and directing that notice be given of the proposed improvement and of the public hearing.

(2) Notwithstanding the above, if the petition is signed by 100% of the landowners representing 100% of the property, the Board may dispense with the hearing and establish the district.

#### SECTION 7.02.130

#### HEARING - NOTICE CONTENTS

The notice shall contain the following matters:

- (1) A general description of the public improvement and of the local improvement district. The description of the district need not be by metes and bounds and shall be such that an average person can determine from it the general location of the property. The description of the district shall include a listing of the affected tax lots;
- (2) A statement that the petition approved by the Board concerning the public improvement is on file and subject to public examination;
- (3) The time and place of a public hearing on the improvement to hear objections;
- (4) The estimated cost of the project provided by a civil engineer registered in the State of Oregon and retained by the Petitioners;
- (5) A statement that written objections to the improvement will be received by the Board at any time prior to the conclusion of the public hearing and that if written objections are received from more than one-third of the property owners representing more than one-third of the total amount of the assessment for the proposed improvement of the specially benefited property, the improvement will be suspended for not less than six months or abandoned.

#### SECTION 7.02.140

#### HEARING - NOTICE METHODS

Hearing notice shall be given by mail to the property of record within the district. In addition, notice shall be given by one or more of the following methods: By publication in a newspaper of general circulation within the local improvement district, by posting at the courthouse and within the district, or by any combination of these methods reasonably calculated to provide actual notice to interested persons. Notice shall be mailed and published not less than ten days nor more than twenty days prior to the public hearing.

#### SECTION 7.02.150

#### HEARING - IMPROVEMENT SUSPENSION ORDER

- (1) At the time of the public hearing on the proposed improvement, if written remonstrances are properly received from more than one-third of the property owners representing more than one-third of the total amount of the assessment for the proposed improvement of the specially benefited property, the Board shall order that the improvement be suspended for not less than six months as provided below or abandoned. Otherwise, the Board shall hear testimony on the proposed improvement and may continue the hearing as it deems necessary. If the Board determines that the improvement shall be made, it shall so order at the conclusion of the hearing or within sixty days thereafter by an order authorizing the improvement. The order shall contain such direction as is necessary regarding the manner and method of making the improvement. The Board may, on its own motion at any time prior to the

initiation of work on the improvement or letting of contracts for the improvement, order that the improvement be abandoned. Failure of the Board to act within the sixty-day period shall constitute abandonment.

(2) Abandonment shall bar further actions toward completion of the proposed improvement in conjunction with the proposed local improvement district. The local improvement district shall continue for purposes of assessing properties within the district for costs previously incurred and for collecting said assessments. A new local improvement district may be initiated by petition at any time.

(3) An order suspending the improvement shall be for a stated time not less than six months. The order shall specify what may occur during the suspension period and provide for setting a public hearing after the suspension period to determine whether to proceed with the improvement or to abandon. Objections to proceeding shall be heard at such hearing but remonstrances shall not be binding on the Board.

(4) In the event that the bid amount and final project cost estimate exceed the preliminary estimate by more than fifteen percent, the Board shall notify all property owners within the proposed district, in the manner set forth in Section 7.02.140, and shall receive written objections for a period of not less than twenty one days after the date of the notice.

If written objections are properly received from more than one third of the property owners, representing more than one third of the property in the proposed district the Board shall order that the improvement be suspended for a period of not less than six months or abandoned.

#### SECTION 7.02.160      MANNER OF DOING WORK

The making and administration of contracts for public improvements shall be governed by state law and shall be the responsibility of the local improvement district.

#### SECTION 7.02.170      FINANCING COUNTY PARTICIPATION

The county may enter into any interim funding of public improvement projects as allowed by law. All costs of interim funding of any public improvement projects shall be assessed against the benefited properties.

#### SECTION 7.02.180      ASSESSMENT - FILING

When the estimated cost of an authorized public improvement has been ascertained on the basis of the award of a contract, or engineer's estimate, or after the work has been done and the actual cost thereof has been determined, the appropriate department shall prepare the assessment to the respective lots or parcels of property in the local improvement district and file it with the Board at the cost of the local improvement district.



#### SECTION 7.02.190

#### ASSESSMENT - COLLECTION

Upon receipt of an assessment roll for construction the Board shall charge the assessments immediately against the property owners. The Board shall direct that notice be mailed to the owners or reputed owners of the property containing the following information:

- (1) The name of the owner or reputed owner, the description of the property assessed, the total project cost assessed against benefited property and the amount of assessment against the described property;
- (2) A date by which time written objections to the proposed assessment stating the grounds for objection must be received and the date of a hearing at which time the Board will consider any objections;
- (3) A statement that the assessment in the notice or as it may be modified by the Board will be levied by the Board after the hearing and thereafter will be charged against the property and be immediately payable in full or in installments if applicable.

#### SECTION 7.02.200

#### RESERVED

#### SECTION 7.02.210

#### ASSESSMENT - PAYMENT ORDERS

The Board shall hold the hearing described in the notice to consider those objections filed in writing. After the hearing the Board may adopt, correct or revise the assessment roll and in doing so shall determine the amount of assessment to be charged against each lot or parcel within the local improvement district according to the special benefits accruing to each and shall levy such assessments by order. The order shall specify whether payments may be made in installments and the date that payments or applications for installment payments are due. The County Treasurer shall notify each property owner or reputed owner by registered mail of the following information:

- (1) The date of the order levying the assessment, the amount of the specified assessment and a description of the property assessed;
- (2) If the Board has so ordered and if the assessment is for one hundred dollars or more, application may be filed by the date specified by the Board to pay all or any portion of not less than one hundred dollars in installments according to the Bancroft Act (ORS 223.205 to 223.300) as modified by this division. An explanation of procedures for installment payments shall be included;
- (3) The entire amount of the assessment, less any part for which application to pay in installments is made, is due on the date specified by the Board and if unpaid on that date, will accrue interest, become a lien on the property, and subject the property to foreclosure.

## SECTION 7.02.220

## ASSESSMENT - INSTALLMENT PAYMENTS

The provisions of the Bancroft Bonding Act (ORS 223.205 to 223.300) may apply to all assessments, except maximum annual assessments, if the Board so provides in its order levying assessments. The provisions of the Bancroft Bonding Act are considered modified as necessary to avoid conflict with this Division and are specifically modified as follows:

(1) No assessment or unpaid balance of an assessment of less than one hundred dollars may be paid in installments except for a final installment.

(2) In lieu of the method of payment specified in the Bancroft Bonding Act, assessments by the Board may be made payable in annual installments plus accrued interest.

(3) Interest shall accrue on all unpaid assessments charged immediately against property from the date for payment or application for installment payment as specified by the Board in the order levying the assessment. The rate of interest shall be established by the Board at the time of the order levying the assessment and in consideration of then existing bond market conditions. Such rate shall include a stated amount above the net effective rate for which the bonds are sold or expected to be sold to cover the county's bond administration costs.

(4) The annual interest rate on unpaid assessments, as set forth in Section 7.02.220 (3) and Section 7.02.230 herein, may be adjusted by the Board. Any adjustment must be accomplished by Board resolution and order and in consideration of then existing bond market conditions.

(5) The Board may modify, by resolution and order, that portion of the Bancroft Bonding Act pertaining to the acceptance of the application for payment of assessments by installment (ORS 223.220).

(6) Assessments for which the property owner has requested installment payments, and for which Bancroft Bonds have been sold, shall be subject to a prepayment charge. This charge shall be a reasonable estimate of the amount necessary to close the account and to protect the citizens of Curry County from risk of shortfall in the funds available to make bond payments. The Curry County Treasurer shall compute said charge. In so doing, he/she shall use generally accepted financial practices to estimate the net present value of the Bancroft Bonds as of the date of the payment of the assessment. The prepayment charge shall be based on the difference between the net present value of the bonds and the prepayment received, plus County costs. The specific terms and conditions of the prepayment charge shall be set forth in the application for installment payments.

## SECTION 7.02.230

## DELINQUENCY

(1) An assessment or an installment thereof is delinquent from the date it is due as ordered by the Board. If bonded, one year from the date an assessment or an installment thereof is delinquent, or, if not bonded, 60 days from the



date of delinquency, the Board may prepare a delinquent list of all such assessments not wholly paid. The list shall contain a description of the property, the name of the person to whom assessed and the unpaid amount of the assessment together with accrued interest and costs.

(2) The Treasurer shall transmit the list to the County Clerk who shall issue a writ of execution thereon, directed to the Board.

(3) The Board shall proceed to collect the unpaid assessments, interest and costs named in the list by advertising and selling each parcel of land in the manner provided by law for the sale of real property on execution, but no parcel shall be sold for a sum less than the amount of the unpaid assessment, interest, costs and the cost of advertising and sale.

(4) The County may, at its option, enter a bid for the property being offered at the foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem such property.

#### SECTION 7.02.240      ERRORS IN ASSESSMENT CALCULATION

Claimed errors in the calculation of assessment shall be called to the attention of County Treasurer, who shall determine whether there has been an error in fact. If the Treasurer should find that there has been an error, he/she shall recommend to the Board an amendment to the order levying assessments to correct such errors; and upon enactment of such amendment, the Treasurer shall make the necessary correction in the docket of county liens and send a correct notice of assessment by mail.

#### SECTION 7.02.250      DEFICIT ASSESSMENT

In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the Board may, by motion, declare such deficit and declare a proposed deficit assessment. The Board shall set a time for hearing of objections to such deficit assessment and shall mail notice of the hearing to owners of the affected property. After such hearing, the Board shall make a just and equitable deficit assessment, by order, which shall be entered in the docket of county liens as provided by this division; and notices of the deficit assessment shall be mailed and the collection of the assessment shall be made in accordance with this division and consistent with the form of collection of the original assessment.

#### SECTION 7.02.260      REBATES

If, upon completion of the improvement, it is found that the assessment previously levied on any property is more than sufficient to pay the cost of such improvement, then the Board must ascertain and declare the same by order; and when so declared, the excess amounts must be entered on the lien docket as a credit on the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his/her legal

representative, shall be entitled to the repayment of such rebate credit, or portion thereof, which exceeds the amount unpaid on the original assessment.

#### SECTION 7.02.270      CURATIVE PROVISIONS

No improvement assessment shall be rendered invalid by reason of a failure of the petition to contain all of the information required by this division; or by reason of a failure to have all of the information required to be in the order authorizing improvement, the order levying assessments, the lien docket or notices required to be published and mailed; nor by the failure to list the name or tax lot of, or mail notice to, the owner of any property as required by this division; or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the Board shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

#### SECTION 7.02.280      REMEDIES

Except as provided in Section 7.02.240, review of an order of the Board levying any assessment may be commenced only by a property owner who has filed a written objection to the proposed assessment in accordance with Section 7.02.190.

EXHIBIT "A"

PETITION FOR THE IMPROVEMENT OF

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The Honorable Board of  
Curry County Commissioners  
Curry County Courthouse  
Gold Beach, Oregon 97444

We petition for formation of a local water distribution system improvement district and for an order and all other acts and proceedings, for the construction of that certain water distribution system located in Curry County, Oregon. The description of the proposed district is as follows:

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In support of this petition, we represent and allege:

(1) That the proposed district lies entirely in the unincorporated area of Curry County.

(2) That the signers of this petition constitute not less than 60 percent of the owners of the property lying within the limits of the proposed local improvement district and that their ownership collectively represents not less than 60 percent of said property as shown on the attached assessor tax maps reflecting the district boundaries.

(3) That this petition is made pursuant to the Section 7, Division 2 of Curry County Code \_\_\_\_\_, each signer of the petition agrees to comply with and be bound by all provisions, terms, and conditions of that code, consents to the assessment against his or her respective property and ownership, subject to the right to make timely objections to such assessment as may be fixed by the Board, and, after final determination of the amount of such assessment against each parcel of property and certification thereof to the County Treasurer, does agree that each assessment shall be a valid and enforceable lien against the representative properties whether or not said code be hereafter held invalid in whole or in part, by any Court, or whether same be repealed by subsequent act of the State Legislature.

Note: The petitioner is urged to thoroughly understand the importance of this petition before signing, and if he or she intends to sign the petition, is further urged to fill out completely and accurately all the information requested. The signing of this petition means that, if the improvement is authorized, the work will be done. The cost will be assessed and

may be paid in a lump sum after completion of the work or semian-  
nually, in accordance with the statutes.

We desire the assessment method to be:

- ☐ (1) Per individual lot
- ☐ (2) Per abutting foot
- ☐ (3) Per acre
- ☐ (4) Other (specify)

I, \_\_\_\_\_, certify that I circulated this peti-  
tion and attached signature sheets, and verify to the best of my  
knowledge that all information and signatures obtained are true  
and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State      Zip      PHONE

_____	_____	( ) Husband and Wife
(Owner's Name)	(City, State, Zip)	( ) Sole Owner
		( ) Partnership
		(indicate % of
_____	_____	ownership of
(Owner's Name)	(City, State, Zip)	each partner)

\_\_\_\_\_  
(Legal Owner's Signature)

_____	_____	( ) Husband and Wife
(Owner's Name)	(City, State, Zip)	( ) Sole Owner
		( ) Partnership
		(indicate % of
_____	_____	each partner)
(Owner's Name)	(City, State, Zip)	

\_\_\_\_\_  
(Legal Owner's Signature)

_____	_____	( ) Husband and Wife
(Owner's Name)	(City, State, Zip)	( ) Sole Owner
		( ) Partnership
		(indicate % of
_____	_____	each partner)
(Owner's Name)	(City, State, Zip)	

\_\_\_\_\_  
(Legal Owner's Signature)

_____	_____	( ) Husband and Wife
(Owner's Name)	(City, State, Zip)	( ) Partnership
		(indicate % of
		each partner)
_____	_____	
(Owner's Name)	(City, State, Zip)	

\_\_\_\_\_  
(Legal Owner's Signature)

## ARTICLE SEVEN

### DIVISION THREE

### LOCAL ROAD IMPROVEMENT DISTRICTS

#### SECTION 7.03.010

#### RESERVED

#### SECTION 7.03.020

#### RESERVED

#### SECTION 7.03.030

#### PURPOSE STATEMENT

It is the purpose of this division to bring roads up to county standards and where it is appropriate to city standards in urban growth boundaries for inclusion into county road systems. It is also the purpose of this division to provide a procedure for constructing and improving public roads of the county which are to be financed wholly or in part by special assessment against benefitted property and to provide a procedure for levying, collecting and enforcing the payment of such special assessments, all in accordance with the authority granted by the State of Oregon under 371.610(3). Each district formed hereunder is for the purpose of completing its designated project and shall have no force and effect upon completion of the project and payment of all assessments.

#### SECTION 7.03.040

#### DEFINITIONS

As used in this division, unless the context requires otherwise:

- (1) "Benefitted property" means property that abuts the road improvement or would be served by the improved road as its only reasonable access.
- (2) "Board" means the Board of County Commissioners for the county.
- (3) "Owner" means the owner of the title to real property, or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of the department of assessment and taxation or a more current recorded deed or land sales contract.
- (4) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any legal entity whatsoever.
- (5) "Petition" is a citizen request to construct or improve public roads to county or urban standards in conjunction with the terms of this division. A petition shall be in the same form as shown in Exhibit A attached hereto and shall contain all information required by Section 7.03.090(2).
- (6) "Public improvement" means:

(a) The grading, graveling, paving or other surfacing of any street, or opening, laying out, widening, extending, altering, changing the grade of or constructing any street excluding routine maintenance.

(b) The installation, construction, reconstruction, alteration or repair of electrical, water, sanitary and storm sewers, communications or other such facilities only to the extent that such work is incidental to the public improvements described herein and the cost of such work is insignificant in comparison to the total LID cost as determined by the Board.

(c) Administrative and legal costs, including those incurred in anticipation of formation such as: staff time, meeting with property owners to explain the LID process, processing the petition and preparation of the feasibility report including necessary preliminary engineering. These costs also shall include those incurred subsequent to formation but prior to abandonment such as design, engineering, site visits, hearings, meetings and bid costs.

(7) "Public Road" is a road or street dedicated by deed or plat to the public and accepted by the county.

(8) "Value" means the worth of property or improvements as shown on the most recent assessment roll. The County may use a professional appraisal to establish value if the County determines that it is appropriate and is a more accurate reflection of current conditions.

#### SECTION 7.03.050      DESIGNATION

The properties which are to be assessed for part or all of the cost of a public improvement as provided herein shall be included within the boundaries of, and known together as a local road improvement district. Only "Benefited property" may be included within the boundaries of a local improvement district.

#### SECTION 7.03.060      ASSESSMENT

Assessments may be levied against benefited property for the purpose of defraying the cost of public improvements which involve purchase, construction, reconstruction or repairs beyond the scope of routine maintenance as determined by the Board.

The method of assessment may be by appraised value, area, front foot of abutting property, per each lot or parcel or any other means complying with Oregon law.

The method of assessment may be requested by the petitioners subject to the provisions of Section 7.03.090(2)(d).

#### SECTION 7.03.070      CITIZENS ADVISORY COMMITTEE

The Board shall appoint a citizens advisory committee consisting of five persons to perform duties as directed by the Commissioners for a proposed or

existing local road improvement district. Its members shall serve for the terms specified by the Board or if no terms are specified, until further order of the Board.

#### SECTION 7.03.080      ANNUAL BUDGET ADOPTION

The Board shall adopt a budget for the district which shall contain the cost of proposed construction. The budget shall contain anticipated revenue from assessments and generated by the improvements. All levies of assessments and expenditures shall correspond as nearly as possible to adopted budgets. However, the Board may amend such budgets from time to time as it deems necessary.

#### SECTION 7.03.090      INITIATION OF PROCEEDINGS

(1) Upon receipt by the Board of a petition from eighty percent of the property owners owning eighty percent of the property, as determined by area, within a proposed local road improvement district the Board shall initiate proceedings toward the formation of the district.

(2) The petition shall contain the following:

(a) A map or plat showing the general nature, location and extent of the proposed improvement and of the proposed local road improvement district;

(b) A description of the work to be done;

(c) The type of assessment proposal described in Section 7.03.060.

(d) The description of each lot, parcel of land, or portion thereof to be specially benefited by the improvement with the names of the owners or reputed owners thereof and the estimated assessment or assessments against each such lot or parcel.

#### SECTION 7.03.100      RESERVED

#### SECTION 7.03.110      BOARD ACTION ON PETITION

After the petition described in Section 7.03.090 has been filed with the Board, the Board may authorize a hearing on the petition, require additional or different information or abandon the improvement.

#### SECTION 7.03.120      HEARING -- DATE

If the Board authorizes a hearing on the petition, it shall enact an order describing the proposed local improvement district, declaring its intention to make the proposed public improvement should the petition be approved, providing the manner and method of carrying out the proposed improvement, setting a public hearing on the proposed district and improvement not less than thirty days from the date of the order to hear objections and directing



that notice be given to the formation of the proposed district and the proposed improvement and of the public hearing.

SECTION 7.03.130      HEARING -- NOTICE CONTENTS

The notice shall contain the following matters:

- (1) A general description of the proposed public improvement and of the proposed local road improvement district. The description of the proposed district need not be by metes and bounds and shall be such that an average person can determine from it the general location of the property. The description of the proposed district shall include a listing of the affected tax lots;
- (2) A statement that the petition submitted to the Board concerning the proposed district and public improvement is on file and subject to public examination;
- (3) The time and place of a public hearing on the improvement to hear objections;
- (4) The estimated cost of the project provided by the County Road Master;
- (5) A statement that written objections to the proposed district and improvement will be received by the Board at any time prior to the conclusion of the public hearing and that if written objections are received from 15% of the property owners representing 15% of the total amount of the assessment for the proposed improvement of the specially benefited property, the district will not be formed and the proposed improvement will be abandoned.

SECTION 7.03.140      HEARING -- NOTICE METHODS

Hearing notice shall be given by mail to the owners of the property of record within the proposed district. In addition, notice shall be given by one or more of the following methods: By publication in a newspaper of general circulation within the local road improvement district, by posting at the courthouse and within the district, or by any combination of these methods reasonably calculated to provide actual notice to interested persons. Notice shall be mailed and published not less than ten days nor more than twenty days prior to the public hearing.

SECTION 7.03.150      HEARING    IMPROVEMENT    SUSPENSION  
ORDER

- (1) At the time of the public hearing on the proposed district and improvement, if written remonstrances are properly received from 15% of the property owners representing 15% of the total amount of the assessment for the proposed improvement of the specially benefited property, the Board shall order that the district not be formed and the improvement be abandoned. Otherwise, the Board shall hear testimony on the proposed district and improvement and may continue the hearing as it deems necessary. The Board

shall determine whether the district shall be formed and improvement made, and it shall so order at the conclusion of the hearing or within 60 days thereafter. If the district is to be formed and the improvement made, the order shall contain such directions as is necessary regarding the manner and method of making the improvement. Failure of the Board to act within the sixty day period shall constitute abandonment.

(2) Abandonment or a Board determination that the proposed district shall not be formed shall bar further action on the proposal. A new LID may be initiated by petition at any time.

(3) In the event that the bid amount and final project cost estimate exceed the preliminary estimate by more than fifteen percent, the Board shall notify all property owners within the proposed district, in the manner set forth in Section 7.03.130 and shall receive written objections for a period of not less than twenty one days after the date of the notice.

If written objections are properly received from 15% of the property owners, representing 15% of the property in the proposed district the Board shall order that the improvement be abandoned.

#### SECTION 7.03.160      MANNER OF DOING WORK

Public improvements may be constructed, purchased or reconstructed, by the county, by another governmental agency, by contract or by any combination thereof. The making and administration of contracts for public improvements shall be governed by state law.

#### SECTION 7.03.170      FINANCING COUNTY PARTICIPATION

(1) The County may enter into any interim funding of public improvement projects as allowed by law. All costs of interim funding of any public improvement projects shall be assessed against the benefited properties.

(2) The County may, depending upon the availability of funds, participate in development costs of existing roads in an amount of twenty five percent of such costs. Participation may be by actual monetary funding, administration or engineering costs or labor, equipment and/or materials.

#### SECTION 7.03.180      ASSESSMENT FILING

When the estimated cost of an authorized public improvement has been ascertained on the basis of the award of a contract, county departmental estimate cost or engineer's or architect's estimate, or after the work has been done and the actual cost thereof has been determined, the appropriate department shall prepare the assessment to the respective lots or parcels of property in the local improvement district and file it with the Board at the cost of the local improvement district.

#### SECTION 7.03.190

#### ASSESSMENT -- COLLECTION

Upon the receipt of an assessment roll for construction the Board shall charge the assessments immediately against the property owners. The Board shall direct that notice be mailed to the owners or reputed owners of the property containing the following information:

- (1) The name of the owner or reputed owner, the description of the property assessed, the total project cost assessed against benefited property and the amount of assessment against the described property;
- (2) A date by which time written objections to the proposed assessment stating the grounds for objection must be received and the date of a hearing at which time the Board will consider any objections;
- (3) A statement that the assessment in the notice or as it may be modified by the Board will be levied by the Board after the hearing and thereafter will be charged against the property and be immediately payable in full or in installments if applicable.

#### SECTION 7.03.200

#### RESERVED

#### SECTION 7.03.210

#### ASSESSMENT -- PAYMENT ORDERS

The Board shall hold the hearing described in the notice to consider those objections filed in writing. After the hearing the Board may adopt, correct or revise the assessment roll and in doing so shall determine the amount of assessment to be charged against each lot or parcel within the local improvement district according to the special benefits accruing to each and shall levy such assessments by order. The order shall specify whether payments may be made in installments and the date that payments or applications for installment payments are due. The County Treasurer shall notify each property owner or reputed owner by registered mail of the following information:

- (1) The date of the order levying the assessment, the amount of the specified assessment and a description of the property assessed;
- (2) If the Board has so ordered and if the assessment is for one hundred dollars or more, application may be filed by the date specified by the Board to pay all or any portion of not less than one hundred dollars in installments according to the Bancroft Act (ORS 223.205 to 223.300) as modified by this division. An explanation of procedures for installment payments shall be included;
- (3) The entire amount of the assessment, less any part for which application to pay in installments is due on the date specified by the Board and if unpaid on that date, will accrue interest, become a lien on the property, and subject the property to foreclosure.

#### SECTION 7.03.220

#### ASSESSMENT INSTALLMENT PAYMENT

The provisions of the Bancroft Bonding Act (ORS 223.205 to 223.300) may apply to all assessments, except maximum annual assessments, if the Board so provides in its order levying assessments. The provisions of the Bancroft Bonding Act are considered modified as necessary to avoid conflict with this division and are specifically modified as follows:

(1) No assessment or unpaid balance of an assessment of less than one hundred dollars may be paid in installments except for a final installment.

(2) In lieu of the method of payment specified in the Bancroft Bonding Act, assessments by the Board may be made payable in annual installments plus accrued interest.

(3) Interest shall accrue on all unpaid assessments charged immediately against property from the date for payment or application for installment payment as specified by the Board in the order levying the assessment. The rate of interest shall be established by the Board at the time of the order levying the assessment and in consideration of then existing bond market conditions. Such rate shall include a stated amount above the net effective rate for which the bonds are sold or expected to be sold to cover the county's bond administration costs.

(4) The annual interest rate on unpaid assessments, as set forth in Section 7.03.220(3) and Section 7.03.230 herein, may be adjusted by the Board. Any adjustment must be accomplished by Board resolution and order and in consideration of then existing bond market conditions.

(5) The Board may modify, by resolution and order, that portion of the Bancroft Bonding Act pertaining to the acceptance of the application for payment of assessments by installment (ORS 223.220).

(6) Assessments for which the property owner has requested installment payments, and for which Bancroft Bonds have been sold, shall be subject to a prepayment charge. This charge shall be a reasonable estimate of the amount necessary to close the account and to protect the citizens of Curry County from risk of shortfall in the funds available to make bond payments. The Curry County Treasurer shall compute said charge. In so doing, it shall use generally accepted financial practices to estimate the net present value of the Bancroft Bonds as of the date of the payment of assessment. The prepayment charge shall be based on the difference between the net present value of the bonds and the prepayment received, plus County costs. The specific terms and conditions of the prepayment charge shall be set forth in the application for installment payments.

#### SECTION 7.03.230

#### DELINQUENCY

(1) An assessment or an installment thereof is delinquent from the date it is due as ordered by the Board. If bonded, one year from the date an assessment or an installment thereof is delinquent, or, if not bonded, 60 days from the

date of delinquency, the Board may prepare a delinquent list of all such assessments not wholly paid. The list shall contain a description of the property, the name of the person to whom assessed and the unpaid amount of the assessment together with accrued interest and costs.

(2) The Treasurer shall transmit the list to the County Clerk who shall issue a writ of execution thereon, directed to the Board.

(3) The Board shall proceed to collect the unpaid assessments, interests and costs named in the list by advertising and selling each parcel of land in the manner provided by law for the sale of real property on execution, but no parcel shall be sold for a sum less than the amount of the unpaid assessment, interest, costs and the cost of advertising and sale.

(4) The county may, at its option, enter a bid for the property being offered at the foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem such property.

#### SECTION 7.03.240

#### ERRORS IN ASSESSMENT CALCULATION

Claimed errors in the calculation of assessment shall be called to the attention of County Treasurer, who shall determine whether there has been an error in fact. If the Treasurer should find that there has been an error, he/she shall recommend to the Board an amendment to the order levying assessments to correct such errors; and upon enactment of such amendment, the Treasurer shall make the necessary correction in the docket of county liens and send a correct notice of assessment by mail.

#### SECTION 7.03.250

#### DEFICIT ASSESSMENT

In the event that an assessment shall be made before the total cost of the improvement is ascertained, and if it is found that the amount of the assessment is insufficient to defray the expenses of the improvement, the Board may, by motion, declare such deficit and declare a proposed deficit assessment. The Board shall set a time for hearing of objections to such deficit assessment and shall mail notice of the hearing to owners of the affected property. After such hearing, the Board shall make a just and equitable deficit assessment, by order, which shall be entered in the docket of county liens as provided by this division; and notices of the deficit assessment shall be mailed and the collection of the assessment shall be made in accordance with this division and consistent with the form of collection of the original assessment.

#### SECTION 7.03.260

#### REBATES

If, upon completion of the improvement, it is found that the assessment previously levied on any property is more than sufficient to pay the cost of such improvement, then the Board must ascertain and declare the same by order; and when so declared, the excess amounts must be entered on the lien docket as a credit on the appropriate assessment. In the event that any assessment has been paid, the person who paid the same, or his/her legal



representative, shall be entitled to the repayment of such rebate credit, or portion thereof, which exceeds the amount unpaid on the original assessment.

SECTION 7.03.270      CURATIVE PROVISIONS

No improvement assessment shall be rendered invalid by reason of a failure of the petition to contain all of the information required by this division; or by reason of a failure to have all of the information required to be in the order authorizing improvement, the order levying assessments, the lien docket or notices required to be published and mailed; nor by the failure to list the name or tax lot of, or mail notice to, the owner of any property as required by this division; or by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the Board shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

SECTION 7.03.280      REMEDIES

Except as provided in Section 7.03.240, review of an order of the Board levying any assessment may be commenced only by a property owner who has filed a written objection to the proposed assessment in accordance with Section 7.03.190.

EXHIBIT "A"

PETITION FOR THE IMPROVEMENT OF

---

The Honorable Board of  
Curry County Commissioners  
Curry County Courthouse  
Gold Beach, Oregon 97444

We petition for formation of a local road improvement district and for an order and all other acts and proceedings, for the improvement of that certain public road located in Curry County, Oregon, to-wit:

---

(Full description of street or road)

In support of this petition, we represent and allege:

(1) That said road lies entirely in the unincorporated area of Curry County.

(2) That said road is a platted street or is a dedicated public road, see volume \_\_\_\_\_, page \_\_\_\_\_, Curry County Record of Town Plats or Deeds.

(3) That the signers of this petition constitute not less than 80 percent of the owners of the property lying within the limits of the proposed local improvement district and that their ownership collectively represents not less than 80 percent of said property as shown on the attached assessor tax maps reflecting the district boundaries.

(4) That this petition is made pursuant to the Section 7, Division 3 of Curry County Code \_\_\_\_\_, each signer of the petition agrees to comply with and be bound by all provisions, terms, and conditions of that division, consents to the assessment against his or her respective property and ownership, subject to the right to make timely objections to such assessment as may be fixed by the Board, and, after final determination of the amount of such assessment against each parcel of property and certification thereof to the County Treasurer, does agree that each assessment shall be a valid and enforceable lien against the representative properties whether or not said code be hereafter held invalid in whole or in part, by any Court, or whether same be repealed by subsequent act of the State Legislature.

Note: The petitioner is urged to thoroughly understand the importance of this petition before signing, and if he or she intends to sign the petition, is further urged to fill out

completely and accurately all the information requested. The signing of this petition means that, if the improvement is authorized, the work will be done. The cost will be assessed and may be paid in a lump sum after completion of the work or semiannually, in accordance with the statutes.

We desire the improvement to be:

☐ (1) A 34-foot wide ASPHALT CONCRETE PAVEMENT with curbs and storm sewer drainage.

☐ (2) \_\_\_\_\_

(Variance from item (1) above)

☐ (3) Concrete sidewalks (may be added to item (1), if desired).

☐ (4) A standard 24-foot Asphalt Concrete section

☐ (5) A standard 20-foot Asphalt Concrete section

☐ (6) A standard 20-foot Asphalt Penetration (0-11) macadam section.

We desire the assessment method to be:

☐ (1) Per individual lot

☐ (2) Per abutting foot

☐ (3) Per acre

☐ (4) Other (specify)

I, \_\_\_\_\_, certify that I circulated this petition and attached signature sheets, and verify to the best of my knowledge that all information and signatures obtained are true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State      Zip      PHONE

\_\_\_\_\_  
(Owner's Name)

\_\_\_\_\_  
(City, State, Zip)

- ☐ Husband and Wife  
☐ Sole Owner  
☐ Partnership





**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Ordinance Imposing	)	
A Transient Lodging Tax (TLT) within	)	
Curry County; Creating a Promotion and	)	ORDINANCE NO. 15-05
Tourism Fund; Providing for Collection and	)	
Enforcement; and Establishing Penalties,	)	
And, Referring It to the People	)	

The Board of Curry County Commissioners hereby ordains as follows:

**SECTION I**      **TITLE**

This Ordinance shall be known as the Curry County TLT Authorizing Ordinance, Ordinance No. 15-05.

**SECTION II**      **AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035 through ORS 203.055, and ORS 320.300 to 320.302 and ORS 320.345 to 320.350.

**SECTION III**      **PURPOSE**

The purpose of this ordinance is to provide revenue for tourism promotion and tourism-related facilities and other purposes.

**SECTION IV**      **ADOPTION AND REFERRAL**

This Ordinance, including Exhibit "A", the text of this ordinance, which is attached hereto and incorporated by reference, is hereby adopted, subject to and effective on approval by a majority of Curry County voters at an election on November 3, 2015.

**SECTION V**      **SEVERANCE CLAUSE**

If any section, subsection, provision, clause or paragraph of the Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every

other section, subsection, provision, clause or paragraph of the Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

SECTION VI    EFFECTIVE DATE

This ordinance, if approved by the voters at the November 3, 2015, election, shall become effective at 12:01 A.M. on the 1<sup>st</sup> day of January, 2016.

DATED this 5 day of August, 2015.

BOARD OF CURRY COUNTY COMMISSIONERS

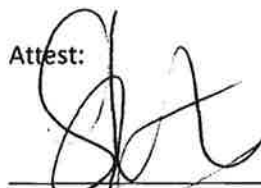
  
Susan Brown, Chair

*OPPOSED*

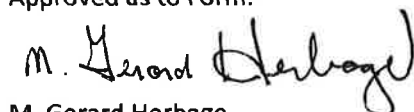
Thomas Huxley, Vice Chair

  
David Brock Smith, Commissioner

Attest:

  
\_\_\_\_\_  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: July 22, 2015  
Second Reading and Adoption: August 5, 2015

Exhibit "A"

ARTICLE EIGHT

DIVISION ONE- IMPOSING TRANSIENT LODGING TAX

Section 8.01.010 Title

This ordinance shall be known as the Curry County TLT Authorizing Ordinance, and as Ordinance No. 15-05.

Section 8.02.020 Definitions

Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

- (1) "Board" means the Board of County Commissioners of Curry County.
- (2) "Collection reimbursement charge" means the amount a transient lodging tax collector may retain as reimbursement for the costs incurred by the transient lodging tax collector in collecting and reporting a transient lodging tax and in maintaining transient lodging tax records.
- (3) "Conference center" means a facility that:
  - (A) Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and
  - (B) Meets the current membership criteria of the International Association of Conference Centers.
- (4) "Convention center" means a new or improved facility that:
  - (A) Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including without limitation banquet facilities, loading areas and lobby and registration areas;
  - (B) Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;
  - (C) Generates a majority of its business income from tourists;
  - (D) Has a room-block relationship with the local lodging industry; and

- (E) Is owned by a unit of local government, a governmental agency or a nonprofit organization.
- (5) "County transient lodging tax" means the tax imposed under this Ordinance.
- (6) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group, or combination acting as a unit, or other organization or entity.
- (7) "Tax Administrator" means the Board of County Commissioners of Curry County, or the person it so designates.
- (8) "Tourism" means economic activity resulting from tourists.
- (9) "Tourism promotion" means any of the following activities:
- (A) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;
  - (B) Conducting strategic planning and research necessary to stimulate future tourism development;
  - (C) Operating tourism promotion agencies; and
  - (D) Marketing special events and festivals designed to attract tourists.
- (10) "Tourism promotion agency" includes:
- (A) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.
  - (B) A nonprofit entity that manages tourism-related economic development plans, programs and projects.
  - (C) A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.
- (11) "Tourism-related facility" means:
- (A) A conference center, convention center or visitor information center; and
  - (B) Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities
- (12) "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip:
- (A) Requires the person to travel more than 50 miles from the community of residence; or
  - (B) Includes an overnight stay.

- (13) "Transient lodging" means:
  - (A) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;
  - (B) Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or
  - (C) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.
- (14) "Transient lodging intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging.
- (15) "Transient lodging provider" means a person that furnishes transient lodging.
- (16) "Transient lodging tax collector" means a transient lodging provider or a transient lodging intermediary.
- (17) "Visitor information center" means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.

Section 8.01.030 Implementing Ordinance Authorization

The Board may by separate ordinance promulgate additional definitions, rules and regulations necessary or convenient for the administration, collection, refund, and enforcement of this Ordinance.

Section 8.01.040 Imposition of Tax: Rate of Tax: Credit; Transient Lodging Tax Collector Reimbursement; Applicability

- (1) A tax of six percent (6%) is imposed on any rent or consideration rendered for the sale, service or furnishing of transient lodging.
  - (A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.
  - (B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.
  - (C) The tax shall be collected by the transient lodging tax collector that receives the rent or consideration rendered for occupancy of the transient lodging.
- (2) The transient lodging tax collector may withhold a collection reimbursement charge of five percent (5%) of the amount collected under subsection (1) of this section.
- (3) The tax imposed by this Ordinance shall apply to all transient lodging in The unincorporated area of Curry County; it shall not apply to transient

lodging within incorporated cities.

#### Section 8.01.050 Exemptions

The following are exempt from the county transient lodging tax:

- (1) A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certified by the Department of Human Services or the Oregon Health Authority;
- (2) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- (3) A dwelling unit that is used by members of the general public for a temporary human occupancy for fewer than 30 days per year;
- (4) A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter;
- (5) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility; or
- (6) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:
  - (A) All dwelling units occupied are within the same facility; and
  - (B) The person paying consideration for the transient lodging is the same person throughout the consecutive period.

#### Section 8.01.060 Records and Statements

Every transient lodging tax collector shall keep records, render statements and comply with rules adopted by the Board with respect to the tax imposed by Section 8.01.040 of this Ordinance. The records and statements required by this section must be sufficient to show whether there is a tax liability under Section 8.01.040.

#### Section 8.01.070 Due Date and Form of Returns

- (1) Every transient lodging tax collector is responsible for collecting the tax imposed under Section 8.01.040 of this Ordinance and shall file a return with the Tax Administrator, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter. The Board or its designee shall prescribe the form of the return required by this section, and the Board shall adopt rules by ordinance regarding the preparation and filing of the return and the payment of the tax, including rules requiring that returns be made under penalties for false swearing.
- (2) A transient lodging tax collector that rents privately owned camping or

recreational vehicle spaces shall not be required to file a return or pay the tax collected until the amount of money held equals or exceeds \$100.

- (3) Once the amount held by a transient lodging tax collector described in subsection (2) equals or exceeds \$100, or by December 31 of each year if the \$100 threshold is not met, the transient lodging tax collector shall remit the tax collected at the next following reporting period as determined in subsection (1) above.

#### Section 8.01.080 Payment of Tax

When a return is required under this Ordinance, the transient lodging tax collector required to make the return shall remit the tax due to the Tax Administrator at the time fixed for filing the return.

#### Section 8.01.090 Amounts Held in Trust

Every transient lodging tax collector required to collect the tax imposed by Section 8.01.040 of this Ordinance shall be deemed to hold the amount collected in trust for Curry County and for payment to the Tax Administrator in the manner and at the time provided by Section 8.01.080.

#### Section 8.01.100 Enforcement

At any time the transient lodging tax collector required to collect the tax fails to remit any amount deemed to be held in trust for the County of Curry, the County may enforce collection by rules and regulations enacted under the Implementing Ordinance described in Section 8.01.030 of this ordinance.

#### Section 8.01.110 Distribution of monies received

All monies received by the Tax Administrator pursuant to this Ordinance, and interest thereon, shall be paid to the County Treasurer to be held in a designated fund to be known as the Transient Lodging Tax Fund and distributed as directed by the Board in a manner consistent with Section 8.01.120.

#### Section 8.01.120. Use of Revenue

- (1) As modified by Subsection (2) below, seventy percent (70%) of the net revenue generated from the tax imposed by this Ordinance following reductions attributed to collection reimbursement charges, shall be used in the manner determined by the Board to:
  - (A) Fund tourism promotion or tourism-related facilities;
  - (B) Finance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing.
- (2) Twenty-Five percent of the 70% referenced above shall be distributed to the Convention Center(s)..



- (3) The balance of the net revenue shall be used first to reimburse the Curry County General Fund for its costs and expenses incurred in the collection, enforcement and administration of the transient lodging tax; and thereafter the remaining balance is to be deposited in the Curry County Road fund until the amount of money taken by the General Fund from the Road Fund, pursuant to HB 5175 and its progeny is repaid at which time the remaining balance after costs and expenses shall go to the General Fund.

Section 8.01.130      Penalties

Violation of any of the provisions of this Ordinance shall be a Class A violation. Enforcement shall be pursuant to Article Ten of the Curry County Code.

Section 8.01.140      Effective Date

This ordinance shall become effective at 12:01 a.m. on the 1<sup>st</sup> day of January, 2016, if it is approved by voters at the November, 2015 Election.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Ordinance Implementing	)	
The Transient Lodging Tax (TLT) within Curry	)	
County; Providing Administrative Procedures	)	
For Collection, Refunds and Enforcement;	)	ORDINANCE NO. 15-06
Establishing Penalties; Creating a Transient	)	
Lodging Tax Review Committee; And	)	
Providing for an Allocation of the Funds	)	
Dedicated to Tourism Promotion and Tourism-	)	
Related Facilities	)	

The Board of Curry County Commissioners hereby ordains as follows:

**SECTION I      TITLE**

This Ordinance shall be known as the Curry County TLT Implementing Ordinance, Ordinance No. 15-06.

**SECTION II      AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035 through ORS 203.055, and ORS 320.300 to 320.302 and ORS 320.345 to 320.350.

**SECTION III      PURPOSE**

The purpose of this ordinance is to implement Ordinance No. 15-05, and to provide for certain administrative procedures to carry out its purposes.

**SECTION IV      ADOPTION AND REFERRAL**

This Ordinance, including Exhibit "A", the text of this ordinance, which is attached hereto and incorporated by reference, is hereby adopted, subject to and effective on approval by a majority of Curry County voters of Ordinance No. 15-05 at an election on November 3, 2015.

**SECTION V      SEVERANCE CLAUSE**

If any section, subsection, provision, clause or paragraph of the Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of the Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

SECTION VI      EFFECTIVE DATE

This ordinance, if approved by the voters at the November 3, 2015 election, shall become effective at 12:01 A.M. on the 1<sup>st</sup> day of January, 2016.

DATED this 5 day of August, 2015.

BOARD OF CURRY COUNTY COMMISSIONERS

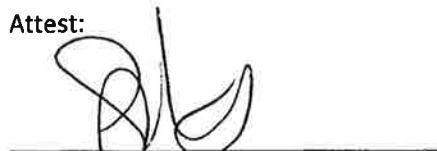
  
Susan Brown, Chair

*opposed*

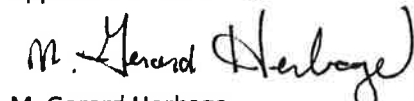
Thomas Huxley, Vice Chair

  
David Brock Smith, Commissioner

Attest:

  
\_\_\_\_\_  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: July 22, 2015

Second Reading and Adoption: August 5, 2015

**Exhibit "A"**  
**ARTICLE EIGHT**

**DIVISION TWO- IMPLEMENTATION OF TRANSIENT LODGING TAX**

**Section 8.02.010 Title**

This ordinance shall be known as the Curry County TLT Implementing Ordinance, and as Ordinance No. 15-06.

**Section 8.02.020 Definitions**

Except where the context otherwise requires, the definitions established in Curry County Ordinance No. 15-05 and given in this section govern the construction of this ordinance.

- (1) "Board" means the Board of County Commissioners.
- (2) "County" means Curry County, Oregon.
- (3) "Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any transient lodging.
- (4) "Tax" means either the tax payable by the transient, or the aggregate amount of taxes due from a transient lodging tax collector during the period for which he is required to report his collections.
- (5) "Tax Administrator" means the Curry County Board of Commissioners, or its designee.
- (6) "Transient" means any individual who exercises occupancy or is entitled to occupancy in a transient lodging for a period of less than thirty consecutive days, counting portions of calendar days as full days. The day the transient checks out of the transient lodging shall not be included in determining the thirty day period if the transient is not charged rent for that day by the transient lodging tax collector. Any such person so occupying space in a transient lodging shall be deemed to be a transient until the period of twenty-nine days has expired unless there is an agreement in writing between the transient lodging tax collector and the occupant providing for a longer period of occupancy,

or the tenancy actually extends more than twenty-nine consecutive days. In determining whether a person is a transient, uninterrupted periods of occupancy extending both prior and subsequent to the effective date of this Ordinance may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

- (7) "Transient Lodging Tax Review Committee" means a committee composed of an accountant, an attorney, a transient lodging tax collector, and two other persons appointed by the Board and may be owners or operators of transient lodging.

#### Section 8.02.030 Tax Collection

For the privilege of occupancy in any transient lodging after the effective date of this ordinance, each transient shall pay a tax in the amount required by Curry County Ordinance No. 15-05. The tax constitutes a debt owed by the transient to the County, which is extinguished only by payment by the transient lodging tax collector to the County. The transient shall pay the tax to the transient lodging tax collector of the transient lodging at the time the rent is paid. The transient lodging tax collector shall enter the tax on his/her records when rent is collected if the transient lodging tax collector keeps his records on the cash accounting basis and when earned if the transient lodging tax collector keeps his/her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the transient lodging tax collector with each installment.

#### Section 8.02.040 Collection of Tax by Transient Lodging Tax Collector; Rules for Collection

- (1) Every transient lodging tax collector renting transient lodging in the unincorporated areas of this county, the occupancy of which is not exempted under the terms of this ordinance or Ordinance No. 15-05, shall collect a tax from the occupant. The tax collected or accrued by the transient lodging tax collector constitutes a debt owing by the transient lodging tax collector to the County.
- (2) In all cases of credit or deferred payment of rent, the payment of tax to the transient lodging tax collector may be deferred until the rent is paid and the transient lodging tax collector shall not be liable for the tax until credits are paid and deferred payments are made. Adjustments may be made for uncollectables.
- (3) The Tax Administrator shall enforce the provisions of this Ordinance.
- (4) For rent collected on portions of a dollar, fractions of a penny shall not be remitted.

#### Section 8.02.050 Transient Lodging Tax Collector's Duties

Each transient lodging tax collector shall collect the tax imposed by this Ordinance at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the transient lodging tax collector's records, and any receipt rendered by the transient lodging tax collector. No transient lodging tax collector of a transient lodging shall advertise that the tax or any part of the tax will be assumed or absorbed by the transient lodging tax collector, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this Ordinance.

#### Section 8.02.060 Registration of Transient Lodging Provider: Form and Contents: Execution: Certificate of Authority

- (1) Every person engaging or about to engage in business as a provider of transient lodging in the county shall register with the Tax Administrator within 15 days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall be on a form provided by the Tax Administrator and shall set forth the name under which the provider transacts or intends to transact business, the location of his/her place or places of business and such other information to facilitate collection of the tax as the Tax Administrator may require. The registration shall be signed by the provider. The Tax Administrator shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. The certificate shall include the following:
  - (A) The name of the provider;
  - (B) The address of the transient lodging; and
  - (C) The date upon which the certificate was issued;
- (2) "This Transient Occupancy Registration Certificate" signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Regulations, by registration with the Tax Administrator for the purpose of collection from transients the lodging tax imposed by said County and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a transient lodging without strictly complying with all local applicable laws, including, but not limited to those requiring a permit from any board, commission, department, or office of the County. This certificate does not constitute a permit."

#### Section 8.02.070 Due Date: Returns and Payments

- (1) The tax imposed by this Ordinance shall be paid by the transient to the transient lodging tax collector at the time rent is paid. All amounts of such taxes collected by any transient lodging tax collector are due and payable to the Tax Administrator on a quarterly basis on the last day of the following month for the preceding three months; and, are delinquent on the first day following the month in which they are due. The Tax Administrator has authority to classify or district the transient lodging tax collector for determination of applicable tax periods, and shall notify each transient lodging tax collector of the due and delinquent dates for the transient lodging tax collector's returns. The initial return under this Ordinance may be for less than the three months preceding the due date; thereafter returns shall be made for the applicable quarterly period.
- (2) On or before the last day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every transient lodging tax collector liable for payment of tax. A return must be filed with the Tax Administrator even if no taxes have been collected.
- (3) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, the number of rooms or spaces available during that period, gross receipts of the transient lodging tax collector for such period, and an explanation in detail of any discrepancy between such amounts and the amount of rents exempt, if any.
- (4) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Tax Administrator's office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- (5) For good cause, the Tax Administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted except by the Transient Lodging Tax Review Committee. Any transient lodging tax collector to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this Ordinance.

#### Section 8.02.080 Penalties and Interest

- (1) **Penalty-Original Delinquency.** Any transient lodging tax collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Ordinance prior to delinquency shall pay the greater of ten percent (10%) of the amount of the tax due or \$100 in addition to

the amount of the tax.

- (2) **Penalty-Continued Delinquency.** Any transient lodging tax collector who has not been granted an extension of time for remittance of tax due, and who failed to pay a delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the tax and the ten percent (10%) penalty first imposed.
- (3) **Penalty-Fraud.** If the Tax Administrator determines that the nonpayment of any remittance due under this Ordinance is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (1) and (2) of this Section.
- (4) **Interest.** In addition to the penalties imposed, any transient lodging tax collector who fails to remit any tax imposed by this Ordinance shall pay interest at the rate of one percent (1%) per month or fraction thereof without prorations for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (5) **Penalties and Interest Merged With Tax.** Every penalty imposed and such interest as accrues under the provisions of this Section shall be merged with and become a part of the tax herein required to be paid.
- (6) **Petition for Waiver.** Any transient lodging tax collector who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated; provided however, the transient lodging tax collector may petition the Transient Lodging Tax Review Committee for waiver and refund of the penalty or any portion thereof and the Transient Lodging Tax Review Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

Section 8.02.090 Deficiency Determinations: Evasion; Transient Lodging Tax Collector Delay

- (1) **Deficiency Determinations.** If the Tax Administrator determines that the returns are incorrect, the amount required may be computed and determined upon the basis of the facts contained in the return or returns or upon the basis of any information in the possession of the Tax Administrator, or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 8.02.080.
  - (A) In making a determination, the Tax Administrator may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods,



or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 8.02.080.

- (B) The Tax Administrator shall give to the transient lodging tax collector or occupant a written notice of the determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the transient lodging tax collector at the address as it appears on the records of the Tax Administrator. In case of service by mail of any notice required by this Ordinance, it shall be served by mailing such notice by certified mail, postage prepaid, return receipt requested.
  - (C) Except in the case of fraud or intent to evade this Ordinance or authorized rules or regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period expires the later.
  - (D) Any determination shall become due and payable immediately upon receipt of notice and shall become final within twenty days after the Tax Administrator has given notice thereof; provided, however, the transient lodging tax collector may petition for a redemption and refund if petition is filed before the determination becomes final as herein provided.
- (2) **Fraud; Refusal to Collect; Evasion.** If any transient lodging tax collector shall fail or refuse to collect the tax or to make, within the time provided in this Ordinance, any report or remittance of the tax or any portion thereof required by this Ordinance, or makes a fraudulent return or otherwise willfully attempts to evade this Ordinance, the Tax Administrator shall proceed in such manner deemed best to obtain the facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this Ordinance from any transient lodging tax collector that has failed or refused to collect the same and to report and remit the tax, the Tax Administrator shall proceed to determine and assess against such transient lodging tax collector the tax, interest and penalties provided by this Ordinance. When determination is made, notice shall be given as provided in subsection (1) (B) of this section of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery of any fraud, intent to evade, or failure or refusal to collect the tax or failure to file a return. Any determination shall become due and payable upon receipt of notice and shall become final within twenty days after the Tax Administrator has given notice thereof; provided, however, the transient lodging tax collector may petition for a redemption or refund if the petition is filed before the determination becomes final as herein provided.
- (3) **Delay.** If the Tax Administrator believes that the collection of any tax or any amount of any tax required to be collected and paid to the County will be jeopardized by delay, or if any determination will be jeopardized by delay, the Tax Administrator shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and

payable and the transient lodging tax collector may petition, after payment has been made, for a redemption and refund of such determination, if a petition is filed within twenty days from the date of service of notice by the Tax Administrator.

#### Section 8.02.100 Redeterminations

- (1) Any person against whom a determination is made under Section 8.02.090, or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 8.02.090. If a petition for redetermination and refund is not filed within the time required in Section 8.02.090, the determination becomes final at the expiration of the allowable time.
- (2) If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person a public hearing and shall give him/her twenty days' notice of the time and place of hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.
- (3) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined each increase shall be payable immediately after the hearing.
- (4) The order or decision of the Tax Administrator upon a petition for redetermination of a redemption and refund becomes final twenty days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Transient Lodging Tax Review Committee within twenty days after the service of such notice.
- (5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the transient lodging tax collector has first complied with the payment provisions of this Ordinance.

#### Section 8.02.110. Security for Collection of Tax

- (1) To ensure compliance with this Ordinance, the Tax Administrator may require a transient lodging tax collector to deposit with the County security in a form and amount determined by the Tax Administrator. The amount of security shall not be greater than twice the transient lodging tax collector's estimated quarterly liability for the period for which he/she files returns, or five thousand dollars (\$5,000.00) whichever amount is lesser. The amount of security may be increased or decreased by the Tax Administrator subject to limitations herein provided.
- (2) At any time within three years after any tax, or any amount of tax required to be collected, becomes due and payable, or at any time within three years after a determination becomes final, the Tax Administrator may bring an action in the courts of this state, any other state, or of the United States in the name of the

County to collect the amount delinquent plus penalties and interest, reasonable attorneys' fees determined by the court, and court costs.

Section 8.02.120 Lien

- (1) The tax imposed by this Ordinance together with the interest and penalties, reasonable attorneys' fees, filing fees, and advertising costs shall be and, until paid, remain a lien from the date of its recording with the county clerk, and superior to all subsequent recorded liens on all tangible personal property used in the transient lodging of a transient lodging tax collector within the county, and may be foreclosed on and sold as may be necessary to discharge said lien. Upon the recording of the lien with the county clerk, notice of the lien shall be issued by the Tax Administrator whenever the transient lodging tax collector is in default in the payment of the tax, interest, and/or penalty. A copy of the notice shall be sent by certified mail to the transient lodging tax collector. The Tax Administrator may send notice of the lien to condominium owners affected by the lien. The personal property subject to a lien seized by any deputy or employee of the Tax Administrator may be sold at public auction after 10 days' notice by one publication in a newspaper of general circulation published in the county. Any lien for taxes shown on the records of the proper County official shall, upon payment of all taxes, penalties, and interest thereon, be released by the Tax Administrator when the full amount determined to be due has been paid to the County and the transient lodging tax collector or person making such payment shall have a receipt stating thereon that the full amount of taxes, penalties, and interest have been paid and that the lien is hereby released and the record of lien is satisfied.
- (2) The lien or liens created by this section attach to all tangible personal property referenced herein. The lien or liens created shall also attach to the proceeds of the sale of tangible personal property subject to the lien or liens if:
  - (A) Subsequent to the recording of the lien or liens, tangible personal property, or any part thereof, is sold or delivered to an agent, broker, cooperative agency, or other person to be sold or otherwise disposed of; and
  - (B) The purchaser, agent, broker, cooperative agency, or other person has actual or constructive notice of the filing of the lien or liens, and the proceeds that were received or will be received from the sale or other disposal of the tangible personal property have not been delivered to the owner of the tangible personal property.
- (3) When a lien created by this section attaches to the proceeds of a sale of tangible personal property under subsection (2)(A) and (B) of this section, a purchaser, agent, broker, cooperative agency, or other person shall not deliver the proceeds or that portion of the proceeds equal to the amount of the lien claim to the owner until:
  - (A) A time specified by Section 8.02.110(2) of this Ordinance during which a suit to foreclose the lien must be commenced elapses;
  - (B) A court orders delivery of the proceeds; or
  - (C) The Tax Administrator issues a receipt stating that the full amount of taxes, interest, penalties, and costs thereon have been paid and that the lien is

released and the record of lien is satisfied.

- (4) Any person to whom a notice of lien has been given as provided by this section, who dismantles, removes from the county, misdelivers, or conceals tangible personal property or the proceeds of the sale of tangible personal property upon which there is a valid lien without the written consent of the lien claimant shall be liable to the lien claimant for damages proximately resulting therefrom which sum may be recovered according to the provisions of Section 8.02.110 (2) of this Ordinance.

#### Section 8.02.130 Refunds

- (1) Refunds by County to the Transient Lodging Tax Collector. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Ordinance, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the transient lodging tax collector from whom it was collected or by whom paid and the balance may be refunded to such transient lodging tax collector, his/her administrators, executors, or assigns.
- (2) Refunds by County to Transient. Whenever the tax required by this Ordinance has been collected by a transient lodging tax collector, and deposited by the transient lodging tax collector with the Tax Administrator, and it is later determined that the tax was erroneously paid or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient, provided a verified claim in writing, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment.
- (3) Refunds by Transient Lodging Tax Collector to Tenant. Whenever the tax required by this Ordinance has been collected by the transient lodging tax collector and it is later determined that the tenant occupies the transient lodging for a period exceeding twenty-nine days without interruption, the transient lodging tax collector shall refund to such tenant the tax previously collected by the transient lodging tax collector from the tenant as a transient. The transient lodging tax collector shall account for such collection and refund to the Tax Administrator. If the transient lodging tax collector has remitted the tax prior to the refund or credit to the tenant, he/she shall be entitled to a corresponding refund under this section.

#### Section 8.02.140 Administration

- (1) Records Required From Transient Lodging Tax Collector. Every transient lodging tax collector shall keep guest records of transient lodging sales and

accounting books and records of transient lodging sales. All records shall be retained by the transient lodging tax collector for a period of three years and six months after they come into being.

- (2) Examination of Records; Investigations. The Tax Administrator, or any person authorized in writing by the Tax Administrator, may examine during business hours the books, papers, and accounting records relating to transient lodging sales of any transient lodging tax collector, after notification to the transient lodging tax collector liable for the tax, and may investigate the business of the transient lodging tax collector in order to verify the accuracy of any return made, or if no return is made by the transient lodging tax collector, to ascertain and determine the amount required to be paid.
- (3) Confidential Character of Information Obtained; Disclosure Unlawful. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this Ordinance to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate, or pay a transient lodging tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement, or to permit any statement or application, or copy thereof, or any book containing an abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this subsection shall be construed to prevent:
  - (A) The disclosure or examination of records and equipment by another County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this Ordinance, or collection of taxes;
  - (B) The disclosure, after the filing of a written request to that effect, to the taxpayer himself/herself, receivers, trustees, executors, administrators, assigns and guarantors, if directly interested, of information as to any paid tax, any unpaid tax, or amount of tax required to be collected, or interest and penalties; further provided, however, that the County attorney approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to under this paragraph when in his opinion the public interest would suffer thereby;
  - (C) The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued;
  - (D) The disclosure of general statistics regarding taxes collected or business done in the county.
  - (E) Disclosure consistent with ORS 192.502(18).

Section 8.02.150 Allocation of Funds for Tourism Promotion and Tourism Related Facilities

The portion of monies contained in the Transient Lodging Tax Fund that are dedicated by

Curry County Ordinance No. 15-05 for tourism promotion and tourism-related facilities (hereinafter "TLT Funds"), shall be distributed and administered in accordance with this Section:

- (1) The Board may, but is not required to contract with a Tourism-Promotion Agency (hereinafter "Contracting Entity") to allocate and distribute TLT Funds. The County may also perform the functions outlined below in house and appoint its own committee.
- (2) The Contracting Entity or the County shall:
  - (A) Annually conduct a county-wide needs assessment of tourism related facilities within unincorporated areas.
  - (B) Develop and amend as necessary county-wide/regional strategies for tourism promotion.
  - (C) At least twice annually convene a committee comprised of transient lodging providers, citizens, local government representatives, members of tourism promotion agencies and, if desired, independent consultants from the tourism promotion industry. The specific make-up and terms of the committee members will be determined in the contract with the Contracting Entity or by the County.
  - (D) In the first year of a contract, prepare and present to the Board for its approval, a written report with findings on its needs assessment for Tourism Related Facilities; county-wide/regional strategies for tourism promotion; its recommendation on the proposed percentage allocations for Tourism Promotion and Tourism Related Facilities with each of the latter expressed as a percentage range with both a minimum and maximum; and its proposed budget for administration and overhead for the Contracting Entity or by the County.
  - (E) In subsequent years the Contracting Entity or County will prepare and present to the Board for approval, an annual report that contains, in addition to the matters described in subsection (2)(D) of this section, the details concerning the allocations, amounts and uses of TLT funds during the prior year, an accounting of the Contracting Entity's or County's expenditures of TLT funds for administration and overhead and the unexpended balance of TLT funds in the possession of the Contracting Entity or County.
- (3) The purpose of the committee described in subsection (2)(C)(1) of this section is to advise the Contracting Entity or County on: the policies for the uses of TLT funds; the strategies for tourism promotions and the needs assessment for tourism related facilities.
- (4) Following receipt of a written report described in subsection (2)(D) or (2)(E) of this section, the Board will conduct a public hearing concerning the report, the proposed percentage allocations for TLT funds, the proposed strategies for tourism promotion and the Contracting Entity's performance under the contract, if there is one.

- (5) The Board will annually retain the TLT funds for Tourism Promotion and Tourism Related Facilities until it has approved the performance of the Contracting Entity under the contract and the Contracting Entity's written report for that year, or the created written report for that year. Once such approval has been given, the retained TLT funds will be released to the Contracting Entity or the County with the balance due for that year to be released by the County Treasurer before the end of each calendar quarter for the amounts collected in the prior calendar quarter.
- (6) The allocation, use and disbursement of TLT funds shall be consistent with ORS 320.300 to 320.350, Curry County Ordinance No. 15-05, Curry County Ordinance No. 15-06 and any amendments thereto.
- (7) In allocating TLT funds for Tourism Promotion, the Contracting Entity or County shall give preference to collaborative proposals that are consistent with the approved strategies and involve broad participation within the hospitality and tourism industry or other promotional proposals that embrace county- wide themes.
- (8) The Board may provide for limits on the amount of TLT Funds that the Contracting Entity or County may retain for the overhead, administration and amounts of unallocated TLT funds without coming back to the Board for approval to exceed those limits.
- (9) The Board shall not require specific allocations or create earmarks as part of the contract described in subsection (1) of this Section.

#### Section 8.02.160 Transient Lodging Tax Review Committee

The Board is authorized to create a Transient Lodging Tax Review Committee composed of an attorney, who may be county legal counsel; an accountant; a transient lodging tax collector; and two lay members. The Committee shall select from its members a chairman who shall serve at its pleasure. Three members of the Committee shall constitute a quorum. The Committee shall keep a record of its transactions. The Committee shall be deemed to be in the office of the Tax Administrator and shall keep its files in that office. The members of the Committee shall not, at any time, receive any compensation as such members or acting members for their services on the Committee. The Committee shall be appointed by the Board and shall serve 4-year terms, except that, the accountant, the attorney, and the transient lodging tax collector appointed to the first Committee shall serve three year terms only.

#### Section 8.02.170 Duties and Powers of Transient Lodging Tax Review Committee

The Committee shall have power and its duty shall be:

- (1) To hear and determine appeals of orders or decisions of the Tax Administrator made upon petitions for redetermination of tax. The Committee may affirm, modify or reverse such orders or decisions, or dismiss the appeals, as may be

just, and shall prescribe such forms, rules and regulations relating to appeals as may be deemed necessary. In review of the Tax Administrator decision or order, the Committee may take such evidence and make such investigation as is deemed necessary. It shall give notice of its determinations in the manner set forth in Section 8.02.090(1)(B) and shall file a copy of such determination with the Tax

Administrator with certification thereon of the date of service thereof. Such determination shall become final twenty days thereafter and shall thereupon become due and payable, subject to interest and penalties and enforceable by the Tax Administrator in a like manner as an order or decision of the Tax Administrator.

- (2) To approve, modify or disapprove all forms and policies, prescribed by the Tax Administrator in the administration and enforcement of this Ordinance.
- (3) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form or policy approved or prescribed by the Committee.
- (4) To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax, and to prescribe rules therefor.
- (5) To make such investigations as are deemed advisable regarding the imposition and administration of the transient lodging tax and report the findings to the Board; to act in an advisory capacity to the Board on matters pertaining to the transient lodging tax and enforcement problems and to recommend to the Board the adoption, amendment, or repeal of regulations pertaining thereto.

#### Section 8.02.180 Appeal to Transient Lodging Tax Review Committee

Any person aggrieved by any decision of the Tax Administrator may appeal to the Transient Lodging Tax Review Committee by filing notice of appeal with the Tax Administrator within twenty days of the serving or mailing of the tax notice or a decision given by the Tax Administrator. The Tax Administrator shall fix a time and place for hearing such appeal and shall give the appellant not less than twenty days written notice of the time and place of hearing.

#### Section 8.02.190 Appeal to Board of Commissioners

Any person aggrieved by any decision of the Transient Lodging Tax Review Committee may appeal to the Board by filing notice of appeal with the Tax Administrator within twenty days of the serving or mailing of the notice of the decision given by the Transient Lodging Tax Review Committee. The Tax Administrator shall transmit said notice of appeal together with the file of said appealed matter to the Board, who shall fix a time and place for hearing such appeal from the decision of the Transient Lodging Tax Review Committee. The Board shall give the appellant not less than twenty days written notice of the time and place of hearing of said appealed matter. Action by the Board on appeals shall be decided by a majority of the



members present at the meeting where such appeal is considered.

Section 8.02.200 Violations

It is unlawful for any transient lodging tax collector or other person so required, to fail or refuse to register, furnish any required return, furnish a supplemental return, or other data required by the Tax Administrator, or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due under this Ordinance.

Section 8.02.210. Penalties

Violation of any of the provisions of this Ordinance shall be a Class A violation, with a maximum penalty of \$2,000 in fines. Penalties may be enforced in accordance with Article Ten of the Curry County Code.

Section 8.02.220 Effective Date

This ordinance shall become effective at 12:01 a.m. on the 1st day of January, 2016, if Ordinance No. 15-05 is approved by voters at the November 2015 election.

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance )  
Repealing Article Eight Division )  
One of the Curry County Code )

ORDINANCE NO. 02-02

The Board of Commissioners for the County of Curry ordains as follows:

SECTION 1 TITLE

This ordinance shall be known as Ordinance 0202 an ordinance amending the Curry County Code;

SECTION 2 FINDINGS

On May 15, 2002, at a Board of Commissioners workshop, the Board unanimously recommended that Article Eight Division One of the Curry County Code regarding the Economic Improvement Board be repealed.

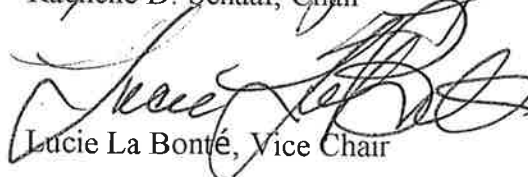
SECTION 3 REPEALER

Article Eight Division One of the Curry County Code (Ordinance 96-7 as amended) is hereby repealed in its entirety.

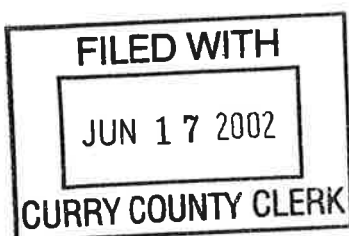
DATED this 17 day of June, 2002.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Rachelle D. Schaaf, Chair

  
Lucie La Bonté, Vice Chair

  
Marlyn Schafer, Commissioner



2nd

Brenda Starke  
Recording Secretary

Reviewed as to Form:

M. Gerard Herbage  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading 6.3.02  
Second Reading 6/17/02  
Emergency Adoption  
Effective Date 9/15/02

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Ordinance )  
Amending Article Nine )  
of the Curry County Code )

ORDINANCE NO. 05-13

The Board of Curry County Commissioners ordains as follows:

SECTION 1: TITLE

This ordinance shall be known as Ordinance 05-13, an ordinance amending the Curry County Code.

SECTION 2: AUTHORITY

This ordinance is enacted pursuant to ORS 203.035.

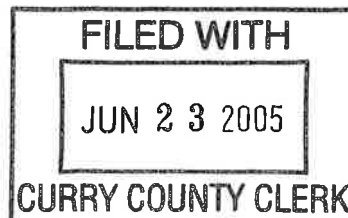
SECTION 3: PURPOSE

The purpose of this ordinance is to amend Article Nine- Fees of the Curry County Code, to clarify that fees for Curry County will be set by Resolution or Ordinance, not by Order. This is consistent with ORS 294.160(1).

SECTION 4: AMENDMENTS TO ARTICLE NINE OF THE CURRY COUNTY CODE

The following amendments are made to Article Nine of the Curry County Code (Ordinance 96-7 as amended):

- A. The former language of Section 9.01.030(1) that reads "All fees shall be established or amended by an order or ordinance approved by the majority of the Board is stricken. New language that reads "All fees shall be established or amended by a resolution or ordinance approved by the majority of the Board" is adopted in its place.
- B. The former language of the first clause of Section 9.01.030(2) that reads "Before adopting an order or ordinance establishing or amending fees, ..." is stricken. New language that reads "Before adopting a resolution or ordinance establishing or amending fees, ..." is adopted in its place.



- C. The former language of Section 9.02.010(2) that reads "The amount of the fee shall be set by County Order" is stricken. New language that reads "The amount of the fee shall be set by County resolution or ordinance" is adopted in its place."
- D. The former language of Section 9.030.010(2) that reads "The amount of the fee shall be set by County order" is stricken. New language that reads "The amount of the fee shall be set by County resolution or ordinance" is adopted in its place.
- E. The former language of Section 9.05.040 that reads "A public land corner preservation fund recording fee shall be set by Board order" is stricken. New language that reads "A public land corner preservation fund recording fee shall be set by Board resolution or ordinance" is adopted in its place.
- F. The former first two sentences of Section 9.06.010(1) are stricken. This former language stated "That the County shall adopt by order appropriate fees for the regulation of food service facilities, tourist facilities, and swimming facilities. Further, by order the County shall also establish fees for inspecting day care centers and school cafeterias." New language that reads as follows is adopted in its place: "County shall adopt by resolution or ordinance appropriate fees for the regulation of food service facilities, tourist facilities, and swimming facilities. Further, by resolution or ordinance the County shall also establish fees for inspecting day care centers and school cafeterias, and in doing water/sewage disposal system surveys."

#### SECTION 5 CODIFICATION

The County Legal Counsel's Office is authorized to codify the above-referenced changes into the text of the Curry County Code.

#### SECTION 6 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court or competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance, and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

#### SECTION 7 EMERGENCY CLAUSE

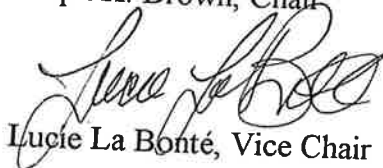
The Board of Commissioners for the County of Curry deems this ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and declares an emergency exists, and this ordinance shall be in full force and effect upon its passage.

ADOPTED this \_\_\_\_ day of June, 2005.

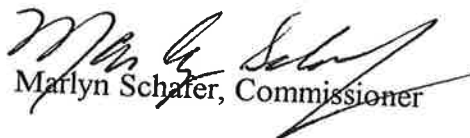
BOARD OF CURRY COUNTY COMMISSIONERS



Ralph H. Brown, Chair

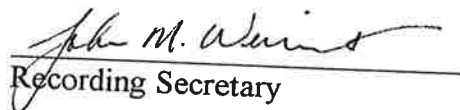


Lucie La Bonté, Vice Chair

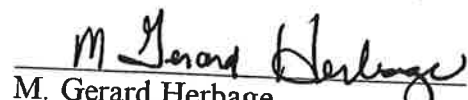


Marlyn Schafer, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 6-20-05  
Second Reading: NONE  
Emergency Adoption: YES  
Effective Date: 6-20-05

## ARTICLE NINE - FEES

### DIVISION ONE

### PROCEDURE FOR SETTING FEES

#### SECTION 9.01.010

#### POLICY AND PURPOSE

The Board of Commissioners finds that:

- (1) Various State statutes and County ordinances provide for different means or are silent as to establishing fees for County services.
- (2) A single procedure for establishing fees is desired and such procedure should encourage public input.

#### SECTION 9.01.020

#### EXEMPTIONS

This division does not apply to establishing fees for:

- (1) Public Land Corner Preservation Fund (ORS 203.148)
- (2) Recording Plats (ORS 205.350)
- (3) Marking vacations upon original plat (ORS 271.230)
- (4) Approval of plat by Surveyor (ORS 92.100)
- (5) Filing and indexing a map of a survey with the County Surveyor (ORS 209.260)
- (6) Fees specifically established by State or Federal law
- (7) Public Transit Services
- (8) Such other fees which State or Federal law requires to be set by ordinance.

#### SECTION 9.01.030

#### PROCEDURES

Notwithstanding the provision of any other ordinance previously adopted by Curry County, the following procedures shall apply to the establishment or amendment of fees for County services:

- (1) All fees shall be established or amended by an order or ordinance approved by the majority of the Board.
- (2) Before adopting an order or ordinance establishing or amending fees, a public hearing shall be held to allow all interested persons to attend and be heard. Notice of

the hearing shall be given by publication in a newspaper of general circulation in the County at least five (5) days before the public hearing.

(3) In establishing or amending fees, the Board shall consider the cost of service provided and such other factors the Board considers relevant.

(4) If the Board of Commissioners declares an emergency, the Board may adopt an order establishing or amending fees without following the procedures set forth in subsection two (2) through three (3) above.

#### SECTION 9.01.040      RATIFICATION

All fees the Board previously established or amended by an ordinance, order or resolution are hereby ratified and shall continue in full force and effect until amended pursuant to the procedures of this division.



## ARTICLE NINE

### DIVISION TWO

### FREIGHT HANDLER'S FEE AT THE BROOKINGS STATE AIRPORT

#### SECTION 9.02.010

#### FREIGHT HANDLER'S FEE

A freight handler's fee is hereby established at the Brookings State Airport as follows:

- (1) The fee shall apply to each aircraft, each time it lands at the airport, for the purpose of picking up or delivering freight.
- (2) The amount of the fee shall be set by County Order.
- (3) The fee shall be paid to the Curry County Treasurer (the Curry County General Fund) on a monthly basis for freight charges incurred from the first to the last day of each calendar month. Such fees shall be due on the first day following the month in which they were incurred and shall be considered late if not received by the County by the 10th day following the month in which they were incurred.

#### SECTION 9.02.020

#### LATE PAYMENTS

Late payments shall be subject to interest at the legal rate plus a penalty of \$10.00.

#### SECTION 9.02.030

#### RECORDS

Each freight handler shall maintain its own records of gross weight of aircraft as it relates to this ordinance. Such records shall be available to the County for inspection upon reasonable notice.

## ARTICLE NINE

### DIVISION THREE

### TIE DOWN CHARGES AT THE BROOKINGS STATE AIRPORT

#### SECTION 9.03.010

#### TIE DOWN FEES

A transient aircraft tie down fee at the Brookings State Airport is hereby established:

(1) A one day fee shall be charged for each day or portion of a day an aircraft is tied down at the Brookings State Airport. However, no fee shall be assessed on a plane which incurs a freight handler's charge on a flight to or from the Brookings State Airport.

(2) The amount of the fee shall be set by county order.

(3) The fee is payable by use of an envelope/collection box system prior to the aircraft leaving the tie down area.

#### SECTION 9.03.020

#### FAILURE TO PAY FEE

Any owner, agent of the owner or operator of any transient aircraft who fails to timely pay a tie down fee as required by this ordinance commits an infraction enforceable under Article Ten of this ordinance.

**ARTICLE NINE**

DIVISION FOUR

RESERVED

## ARTICLE NINE

### DIVISION FIVE

### PUBLIC LAND CORNER PRESERVATION ACCOUNT

#### SECTION 9.05.010

#### DEFINITIONS

(1) "Instrument" means:

(a) Deeds and mortgages of real property, powers of attorney and contracts affecting the title to real property, authorized by law to be recorded, assignments thereof and of any interest therein when properly acknowledged or proved and other interests affecting the title to real property;

(b) Certificates of sale or real property under execution or order of court, or assignments thereof or of any interest therein when properly acknowledged or proved; and

(c) Certified copies of death certificates of any person appearing in the County records as owning or having a claim or interest in land in the County.

(2) "County Surveyor" means an individual appointed or elected to the office of Curry County Surveyor and who is responsible for performing the duties of such office as described by law, and it includes the surveyor's designee.

#### SECTION 9.05.020

#### PURPOSE

The purpose of this division is to create a fund and to allow a fee to be used to pay expenses incurred and authorized by the County Surveyor in the establishment, reestablishment, and maintenance of corners of government surveys under ORS 209.070 (5) and (6).

#### SECTION 9.05.030

#### PUBLIC LAND CORNER PRESERVATION FUND ESTABLISHED

A public land corner preservation fund is established for the purposes outlined in Section 9.05.020. All moneys collected under this Section shall be deposited with the County Treasurer at least once a month to be credited to the public land corner preservation fund.

SECTION 9.05.040      FEE

A public land corner preservation fund recording fee shall be set by Board order.

## ARTICLE NINE

### DIVISION SIX

### FEES RELATING TO THE REGULATION OF FOOD SERVICE, TOURIST, SWIMMING AND RELATED FACILITIES

#### SECTION 9.06.010

#### FEES

- (1) That the County shall adopt by order appropriate fees for the regulation of food service facilities, tourist facilities, and swimming facilities. Further, by order the County shall also establish fees for inspecting day care centers and school cafeterias, and in doing water/sewage disposal system surveys. None of these fees shall exceed the cost of administering the inspection or survey programs.
- (2) That Curry County shall determine the amount of and retain any fee for relevant services undertaken pursuant to ORS Chapters 446, 448, 624, and OAR 333-12-050 through 333-12-065.
- (3) That quarterly, the County shall remit a surcharge to be defined as 15% of the State Licensing Fee or 15% of the County Licensing Fee, whichever is lesser, to the State Health Division for consultation services and maintenance of the State-wide Travelers' Accommodation and Swimming Pool Programs. The County shall also remit to the State Health Division a Biennial Food Service Remittance Fee as calculated by the State Health Divisions' fee remittance process outlined in Oregon Administrative Rule 333-012-0057.

## ARTICLE NINE

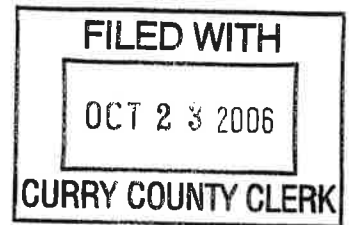
### DIVISION SEVEN

### BUILDING FEES

#### SECTION 9.07.010

#### BUILDING FEE RULES

- (1) Fees charged under this code shall be as provided by the State Building Codes Division, except as otherwise provided for by the Board.
- (2) The building official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction.
- (3) The determination of value or valuation under any provisions of this code shall be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.



BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Amendment to )  
The Curry County Code by Amending )  
Article Nine Division One and by )  
Adding a New Article Nine Section Eight )  
Regarding Plat Fees Charged by the )  
Curry County Clerk for Recording )

ORDINANCE NO. 06-07

COPY

The Board of Commissioners for the County of Curry ordains as follows:

SECTION I TITLE

This ordinance shall be known as Ordinance 06-07, an ordinance amending the Curry County Code.

SECTION II FINDINGS

- A. The Curry County Clerk has requested that the Board of Curry County Commissioners update and reestablish recording fees regarding plats and that the Commissioners eliminate any reference to mining fees which were established in a prior order of the Board.
- B. ORS 205.350 provides that fees for County Clerk services in recording plats under ORS 92.090 and ORS 92.100 shall be set by ordinance.
- C. Section 9.01.020 of the Curry County Code should be amended by deleting the recording of plats (ORS 205.350) from the list of exemptions that Article Nine of the Curry County Code does not apply to.
- D. It is appropriate for the Board of Curry County Commissioners to amend the Curry County Code to update the recording fees for plats of the Curry County Clerk.

SECTION III REPEALER

Any fees previously established by the County, including those set forth in Order No. 10002, for the same services outlined in the attached Exhibit "A", that is attached hereto and incorporated by reference, are hereby repealed.



#### SECTION IV AMENDMENT

Section 9.01.020 of the Curry County Code is amended to delete subsection (2) "Recording of Plats (ORS 205.350)" as an exemption to the application of Article Nine of the Curry County Code.

#### SECTION V ADOPTION

Exhibit "A", that is attached hereto and incorporated by reference, is adopted as an amendment and an addition to the Curry County Code.

#### SECTION VI SEVERANCE CLAUSE

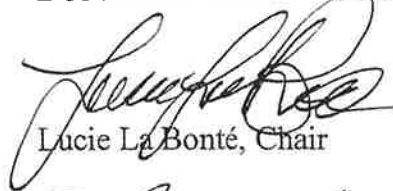
If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is expressly declared that every other section, subsection, provision clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion declared to be unconstitutional or invalid, is valid.

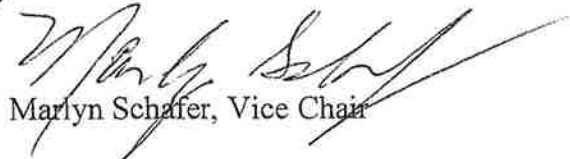
#### SECTION VII EMERGENCY CLAUSE


This ordinance, being necessary for the health, safety and welfare of the residents of Curry County, and an emergency having been unanimously declared to exist, shall become effective upon its passage.

ADOPTED this 16<sup>th</sup> day of October, 2006.

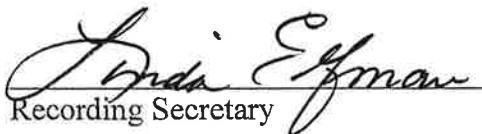
#### BOARD OF CURRY COUNTY COMMISSIONERS

  
Lucie La Bonté, Chair

  
Marilyn Schafer, Vice Chair

  
Ralph H. Brown, Commissioner

Attest:

  
Recording Secretary

First Reading: 9/18/06  
Second Reading: 10/2/06  
Emergency Adoption: \_\_\_\_\_  
Effective Date: 10/16/06

Exhibit "A"

**ARTICLE NINE**

DIVISION EIGHT    PLAT FEES FOR CLERK SERVICES

SECTION 9.08.010    COUNTY CLERK RECORDING FEES

The following recording fees are hereby established:

- (1) Fees for all plats to be recorded- \$50.00.
- (2) Replats-\$50.00 (Note: This fee is for the plat only; supplemental documents required to be recorded that pertain to plats, will be subject to normal recording fee as set by the Oregon Revised Statutes or other law or regulation.)
- (3) Plats with more than 100 lots- \$1.00 per additional lot. (This fee is in addition to any fee set forth in subsections (1) and (2) above.)
- (4) Vacation of Plat- \$5.00 per page.
- (5) Affidavit of Correction pertaining to any plat- \$5.00 per page.
- (6) The above fees are in addition to the fees required to be charged by ORS 205.323, and the fees charged for the corner preservation fund.

**COPY**

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Amendment )  
to the Curry County Code )  
Regarding Article Ten Division )  
One-Enforcement )

**ORDINANCE NO. 09-03**

The Board of Curry County Commissioners ordains as follows:

**SECTION 1 TITLE**

This ordinance shall be known as Ordinance 09-03, an ordinance amending the Curry County Code.

**SECTION 2 AUTHORITY**

This ordinance is enacted pursuant to ORS 203.035, ORS 153.042(1) and ORS 153.030.

**SECTION 3 FINDINGS**

- A. Section 10.01.090 of the Curry County Code (Ordinance 96-7 as amended) states that with a few exceptions specifically enumerated, the County will follow the violation procedures outlined in ORS 153.005 to ORS 153.145.
- B. ORS 153.042(1) provides that "Except ... as otherwise provided by law, an enforcement officer may issue a violation only if the conduct alleged to constitute a violation takes place in the presence of the enforcement officer and the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation.
- C. ORS 153.030(8) states "Nothing in ORS 153.042 affects the authority of any political subdivision of this state to provide for issuance of citations for violation of offenses created by ordinance on the same basis as the political subdivision could under the law in effect immediately before January 1, 2000.

- D. Immediately before January 1, 2000, the law requiring that a citation can be issued only if the alleged violation takes place "in the presence of the officer" was not in existence.
- E. It has become very difficult to impossible to pursue some alleged County violations (for example, dog nuisance violations) because the alleged violations almost never occur in the presence of the enforcement officer.
- F. The County Code needs to be amended to allow more flexibility in the issuance of citations. This would have no bearing on the issuance of citations for violations of State Law which will continue to be governed strictly by ORS Chapter 153.
- G. The County Code also needs to be amended to streamline the process on decisions not to take enforcement action (Section 10.01.150(3)) by eliminating the need for extra and unnecessary paperwork.

#### **SECTION IV REPEALER**

The current subsection 10.01.150(3) is repealed.

#### **SECTION V ADOPTION**

Attachment "A", a new subsection 10.01.090(2)(d), and a new Subsection 10.01.150(3) is adopted as an amendment to the Curry County Code (Ordinance 96-7) as amended.

#### **SECTION VI SEVERANCE CLAUSE**

If any section, provision, clause or paragraph of the Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of the Ordinance. It is expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

#### **SECTION VI EMERGENCY CLAUSE**

The Board of Commissioners for the County of Curry deems this Ordinance necessary for the immediate preservation and protection of the public peace, health, safety and general welfare for Curry County and

declares an emergency exists, and this Ordinance shall be in full force and effect upon its passage.

DATED this 6<sup>th</sup> day of July, 2009.

BOARD OF CURRY COUNTY COMMISSIONERS

Bill Waddle

Bill Waddle, Chair

George Rhodes

George Rhodes, Vice Chair

Georgia Yee Nowlin

Georgia Yee Nowlin, Commissioner

Attest:

Ronda Eisman

Recording Secretary

Approved as to Form:

M. Gerard Herbage

M. Gerard Herbage  
Curry County Legal Counsel

First Reading: 6/15/09  
Second Reading: 7/6/09  
Emergency Adoption: Yes  
Effective Date: 7/6/09

## **ATTACHMENT "A"**

### **SECTION 10.01.090(2)(d)**

**(2) The violation procedures contained in ORS 153.005 to 153.145, as subsequently amended are hereby incorporated into this division by reference and are adopted as a method for the enforcement of County ordinances and other laws subject to the following:**

**...**

**(d) The requirement that an enforcement officer may issue a violation only if the conduct alleged to constitute a violation takes place in the presence of the enforcement officer is removed and stricken.**

### **SECTION 10.01.150(3)**

**(3) When any enforcement officer receives information from any source that leads the enforcement officer to believe an offense declared to be a violation by this division has occurred, or is occurring, or a violation of any other laws whatsoever has occurred, or is occurring, the enforcement officer or the County is authorized by law to enforce by any method. The enforcement officer shall make a determination, considering the severity of the alleged violation, the departmental and county staff, time and resources necessary, and the possibility of success, whether enforcement action is warranted and what type of enforcement action should be undertaken.**

IN THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON

RECEIVED

AUG 21 2000

CURRY COUNTY CLERK

19

In the Matter of An Amendment to the )  
Curry County Code Repealing and )  
Replacing Article Ten Division One )  
Regarding Enforcement )

ORDINANCE NO. 00-04SECTION 1 TITLE

This Ordinance shall be known as Ordinance 00-04, an ordinance amending the Curry County Code.

SECTION 2 PURPOSE

The purpose of this Ordinance is to amend Article Ten Division One of Ordinance 96-7 which is outdated and in need of revision.

SECTION 3 REPEALER

Article Ten Division One of the current Code is hereby repealed in its entirety.

SECTION 4 ADOPTION

Exhibit "A", attached hereto and incorporated herein by this reference, is adopted as an amendment to the Curry County Code.

SECTION 5 SEVERANCE CLAUSE

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion thereof declared to be unconstitutional or invalid, is valid.

SECTION 6 EMERGENCY CLAUSE: EFFECTIVE DATE

This Ordinance, being necessary for the health, safety and welfare of the residents of Curry County, and an emergency having been unanimously declared to exist, shall become

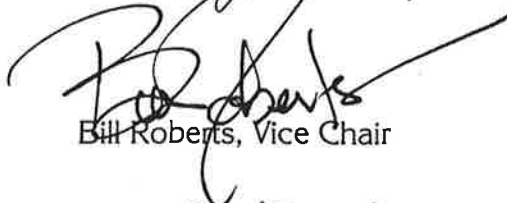


effective upon its passage.

ADOPTED this 21 day of August, 2000.

BOARD OF CURRY COUNTY COMMISSIONERS

  
Cheryl Thorp, Chair

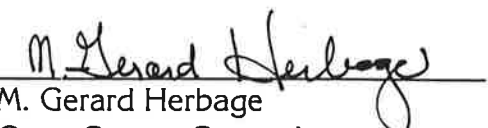
  
Bill Roberts, Vice Chair

  
Lloyd Olds, Commissioner

Attest:

  
Recording Secretary

Approved as to Form:

  
M. Gerard Herbage  
Curry County Counsel

First Reading: 8-7-00  
Second Reading: 8-21-00  
Emergency Adoption: \_\_\_\_\_  
Effective Date: 8-21-2000

## EXHIBIT "A"

### ARTICLE TEN - ENFORCEMENT

#### DIVISION ONE

#### ENFORCEMENT OF THE CURRY COUNTY CODE

##### SECTION 10.01.010 RESERVED

##### SECTION 10.01.020 APPLICATION

This division applies throughout Curry County, Oregon, except that it shall not apply within the limits of any incorporated city unless consent to its application is given by the city governing body or the electors of the city.

##### SECTION 10.01.030 FINDINGS

- (1) The Board finds that violations of County ordinances and other laws threaten the health, safety and welfare of Curry County citizens; and
- (2) The Board finds that County ordinances and other laws are currently enforced by the County through injunction and other procedures that are slow, cumbersome and expensive; and
- (3) The Board further finds that an enforcement ordinance would provide a more efficient method of notifying individuals of possible violations and of preventing or insuring correction of dangerous or otherwise illegal conditions.

##### SECTION 10.01.040 PURPOSE

The purpose of this division is to provide a procedure for enforcing certain statutes, administrative rules, ordinances, orders and resolutions, and provisions thereof. The enforcement procedures set forth in this division are permissive, not mandatory, and are within the discretion of the authorized persons designated herein and the Board of County Commissioners.

##### SECTION 10.01.050 AUTHORITY

This division is adopted generally under the authority granted to counties under ORS 203.035. The enforcement of county ordinances is authorized and governed generally by ORS 30.310, 30.315, 203.065, 203.145 and 203.810. Violation procedures and the issuance of citations for violations are authorized and governed generally by ORS 153.005 to 153.145. In addition, the County is further

and more specifically authorized as follows:

- (1) To adopt and enforce a comprehensive plan, zoning ordinance and a subdivision and partitioning ordinance pursuant to ORS Chapters 92, 197 and 215, particularly ORS 92.010 to 92.190, 92.990(1), 197.175, 215.050, 215.110, 215.130, 215.185, 215.190, 215.223 and 215.503.
- (2) To adopt and enforce a solid waste management ordinance pursuant to ORS 459.005 to 459.108, particularly 459.085, 459.205 to 459.385, 459.992 and 459.995.
- (3) To enforce Oregon Environmental Quality Commission and statutory subsurface sewage disposal regulations under ORS Chapter 454.
- (4) To exercise jurisdiction over County roads, local access roads and trails within the County pursuant to ORS Chapter 368, particularly ORS 368.016, 368.021 and 368.031, to abate road hazards pursuant to ORS 368.251 to 368.281, to penalize violations of road statutes pursuant to ORS 368.990 and to enact ordinances superseding certain of the road statutes pursuant to ORS 368.011.
- (5) To control, restrict or prevent the placement, building or construction on the right of way of any County road, any approach road, structure, pipeline, ditch, cable, wire or any other facility, thing or appurtenance or any change in the manner of using such approach road pursuant to ORS 374.305 to 374.330, 374.420 to 374.430 and 374.990 and to adopt reasonable rules and regulations related thereto pursuant to ORS 374.310.
- (6) To adopt and enforce ordinances and regulations relating to the control of dogs pursuant to ORS 609.015 and to enact a dog control program pursuant to ORS 609.010 to 609.190 and 609.990.
- (7) To adopt and enforce an ambulance service ordinance and an ambulance service plan pursuant to ORS 682.205 and 682.275 and OAR 333-260-0000 through 333-260-0070.
- (8) To enforce the Building Codes.
- (9) By other provisions of law not enumerated herein.

#### SECTION 10.01.060 DEFINITIONS

As used in this division, unless the context requires otherwise:

- (1) "Board" means the Board of County Commissioners for Curry County, Oregon.
- (2) "Enforcement Officer" means the County Sheriff or a deputy sheriff or a person designated by Board order to be an enforcement officer and to issue citations for violations under this division. Such authority may be revoked, by order, at any time and shall be automatically terminated when

the person ceases to hold a position for which the authority was granted.

(3) "Laws" means statutes, administrative rules, ordinances, orders, resolutions and provisions thereof.

(4) "Person" means the definition it has under ORS 161.015(5) or its successor provisions.

SECTION 10.01.070 STATUTES, ADMINISTRATIVE RULES, ORDINANCES, ORDERS AND RESOLUTIONS, AND PROVISIONS THEREOF, ENFORCEABLE UNDER THIS ORDINANCE

The following laws are enforceable under this division:

(1) Any Curry County ordinance (whether in this code or not) for which specific conduct is either required or prohibited may be enforced by a citation issued under authority of this division.

(2) The ordinances and laws referenced in Section 10.01.050.

(3) All amendments to the laws listed in this section enacted subsequent to the adoption of this division, unless otherwise expressly stated in the amendment, or unless the context of the amendment clearly implies otherwise.

(4) Any other County ordinance, order or resolution, or provision thereof, which specifically states it is enforceable under this division.

(5) The Board of Commissioners may, by written order, designate other statutes, administrative rules, orders or resolutions to be enforceable under this division.

SECTION 10.01.080 NUISANCE AND VIOLATION DECLARED

Violation of any laws enforceable under this division is unlawful and an offense. Such an offense is hereby declared to be a nuisance and a violation, unless otherwise provided, and is subject to the penalties provided for in this division.

SECTION 10.01.090 VIOLATION PROCEDURE

(1) Except as specifically provided otherwise by this division, including Section 10.01.140, enforcement of the laws declared to be violations under this division shall follow the procedure for the enforcement of violations set forth by ORS 153.005 to 153.145.

(2) The violation procedures contained in ORS 153.005 to 153.145, as subsequently amended, are hereby incorporated into this division by reference and are adopted as a method for the enforcement of County ordinances and other laws subject to the following:

(a) Except as otherwise provided below, all violations under this division are Class A violations with corresponding maximum penalties as set forth in ORS 153.018. Where State Law or County Ordinance provides for a greater or lesser penalty for a specifically identified violation than the maximum penalty in ORS 153.018, that greater or lesser penalty shall apply.

(b) Initiation of violation procedures under this division by a private party (non enforcement officer) shall not be permitted pursuant to ORS 153.058(7)(8).

(c) Incorporation of ORS 153.005 to 153.145 shall not limit the use of such other enforcement procedures as provided by law.

#### SECTION 10.01.100 PERSONS AUTHORIZED TO ISSUE AND PROSECUTE CITATIONS

(1) Only enforcement officers may issue citations under this ordinance.

(2) Either the District Attorney (or deputy district attorney) or County Legal Counsel may appear in violations proceedings to the extent permitted by ORS 153.076(6).

#### SECTION 10.01.110 ISSUANCE OF WARNINGS

(1) An enforcement officer may, in lieu of issuing a citation, issue a written warning for the commission of any offense declared to be a violation under this division.

(2) If an enforcement officer issues a written warning, it shall be in writing and shall be delivered to the alleged offender in person or in any other manner reasonably calculated to give notice of the offense, including but not limited to regular mail.

(3) A written warning may include the following information:

(a) the name of the person warned

(b) the date on which the warning was issued

(c) the name of the person issuing the warning and the name of Curry County in whose name the warning was issued

(d) the division or other law alleged to be violated

(e) a statement or designation of the alleged violation in such a manner as can be readily understood by a person making a reasonable effort to do so

(f) the date, time and place at which the violation is alleged to have occurred, or if it is a continuing violation, a statement to that effect and the date the violation was first observed by the

person issuing the warning

(g) the name of the person, department or office to contact for information concerning the warning

(h) a deadline for contacting the person, department or office noted

(i) a statement that failure to correct the alleged violation or to contact the noted person, department or office by the deadline may result in issuance of a citation to appear in court

(j) a statement that if a citation is issued, payment of a fine does not relieve a violator of the responsibility to remedy the violation

(k) the maximum fine that may be imposed for the violation if a citation is issued and the person cited is found guilty.

#### SECTION 10.01.120 DISPOSITION OF FINES

Fines received under this division shall be paid to the Clerk of the Court. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the Curry County Treasurer for the general fund of the County.

#### SECTION 10.01.130 RESPONSIBILITY TO REMEDY

Payment of a fine on a citation issued under this division does not relieve an offender of the responsibility to remedy the violation and such offender may be subject to additional enforcement as provided by this division.

#### SECTION 10.01.140 OTHER REMEDIES PRESERVED

In lieu of the violation procedure set forth in this division, or in addition to it, any and all other remedies provided by the laws listed in Sections 10.01.050 and 10.01.070 to abate or enjoin acts or conditions declared by this division to be nuisances, or to otherwise enforce the laws enforceable under this division are preserved and may be utilized by an enforcement officer, the Board of County Commissioners and any authorized prosecutor to seek compliance with the law and to remedy or penalize violations. The County also reserves the right to utilize remedies provided elsewhere in this county code or by other law.

#### SECTION 10.01.150 DECISIONS NOT TO TAKE ENFORCEMENT ACTION

(1) Enforcement of those offenses declared to be violations by this division utilizing the violation procedures set out in this division, by an enforcement officer as defined in Section 10.01.060(2) or by the County is permissive and not mandatory.

(2) Except to the extent specifically, clearly and expressly stated otherwise in the relevant laws the enforcement by any other means authorized by law including, but not limited to mandamus, injunctive and other equitable proceedings, is also permissive and not mandatory.

(3) When any enforcement officer receives information from any source that leads the enforcement officer to believe an offense declared to be a violation by this division has occurred, or is occurring, or a violation of any other laws, whatsoever has occurred, or is occurring, that the enforcement officer or the County is authorized by law to enforce by any method, the enforcement officer shall make a determination, considering the severity of the alleged violation, the departmental and county or city staff, time and resources necessary, and the possibility of success, whether enforcement action is warranted and what type of enforcement action should be undertaken. If that information is brought to the enforcement officer's attention by formal written complaint and the enforcement officer determines that enforcement is not warranted, the enforcement officer shall promptly mail or deliver written notice to the complainant of the decision not to take enforcement action.

(4) A decision made not to take enforcement action is declared to be an act of discretion as described by ORS 30.265(3)(c).

(5) Notwithstanding any decision by an enforcement officer or the County not to take enforcement action, any person adversely affected by an offense which is or may be a violation under this division shall retain any authority and jurisdiction given under state law or common law to pursue private civil remedies, whether legal or equitable, including nuisance abatement or injunctive relief, against the alleged offender.

#### SECTION 10.01.160 INTERGOVERNMENTAL AGREEMENTS

The Board may enter into intergovernmental agreements with any city or cities in Curry County and with any administrative agency of the State of Oregon to further the purposes of this division. An agreement under this section shall be in accordance with ORS Chapter 190. To the extent that a city consents to the application of this division within its limits, references in this division to the County shall be considered reference to the appropriate city.

ARTICLE SIX – DIVISION TWELVE RESERVED FOR EXCESSIVE NOISE NUISANCE ORDINANCE



**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Amendment to                    )  
The Curry County Code Adding a                    )  
New Article Eleven Division Seventeen            )  
Relating to Adopting a County Surveyor            )  
'Map of Survey' & 'Plat' Review                    )      ORDINANCE NO. **16-06**

**THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDAINS AS FOLLOWS:**

**SECTION I   TITLE**

This Ordinance shall be known as Ordinance No. 16-06 and may be cited as the "Map of Survey & Plat Review Ordinance of Curry County".

**SECTION II   AUTHORITY**

ORS Chapter 92.048, ORS 92, ORS 209, and OAR 820.

**SECTION III   PURPOSE**

The purpose of this Ordinance is to establish standards and requirements for the review and approval of survey maps, partition plats, condominium plats, subdivision plats and property line adjustments in an accurate, efficient and timely manner as necessary for the promotion of economic development and protection of property rights.

**SECTION IV   ADOPTION**

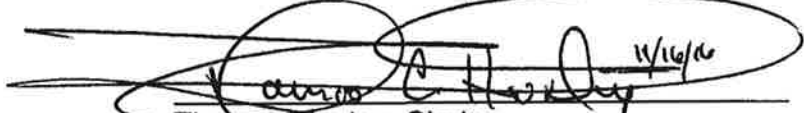
Exhibit "A", attached hereto and incorporated by reference, is adopted as an amendment to the Curry County Code, to wit, as a new Article Eleven Division Seventeen.

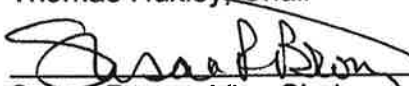
**SECTION 4   SEVERANCE CLAUSE**

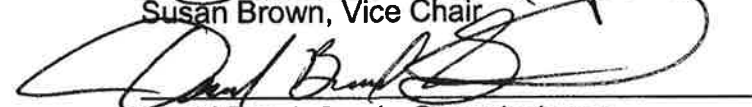
If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The legislative body hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional (or otherwise invalid).

Dated this 16 day of November, 2016.


Board of Curry County Commissioners

 11/16/16  
Thomas Huxley, Chair


  
Susan Brown, Vice Chair

  
David Brock Smith, Commissioner

ATTEST:

  
Recording Secretary

APPROVED AS TO FORM:

  
John Hutt  
Curry County Legal Counsel

First Reading: November 02, 2016  
Second Reading: November 16, 2016  
Effective Date: February 13, 2017

## **EXHIBIT "A"**

### **ARTICLE ELEVEN**

#### **DIVISION SEVENTEEN – ADOPTING A COUNTY SURVEYOR 'MAP OF SURVEY' & 'PLAT' REVIEW**

##### **Section 11.17.010 Title:**

**This Ordinance shall be known as the County Surveyor 'Map of Survey' & 'Plat' Review.**

##### **Section 11.17.020 Definitions:**

a) "Plat" shall mean the map representing the survey of a partition, condominium, or subdivision.

b) "Map of Survey" refers to boundary surveys and property line adjustment surveys.

c) "Aliquot" means a proportional breakdown of a Section of Land in the Public Land Survey System (PLSS); i.e. ¼ section, ¼, ¼ section, etc. as described in the Manual of Survey Instructions published by the U. S. Bureau of Land Management.

##### **Section 11.17.030 County Requirements (exceptions may be made by the County Surveyor):**

a) Monuments shall be set on the new adjusted property line and a Map of Survey filed for a property line adjustment regardless of the abutting property lot sizes, unless it is an aliquot part of the section and is 10 acres, or more.

b) A Property Line Adjustment map shall clearly identify the old and new property line(s).

c) The owner's name, deed number, assessor tax map number and tax lot number shall be shown on the subject property and adjoining parcels.

d) All Maps of Survey and Plats shall be a size of: 18"x 24" with a 1" margin.

e) All abbreviations and symbols shall be defined on the map's legend.

f) Road names, numbers (where applicable) and width shall be stated on all maps. This shall include private streets and alleys.

g) Stream or waterway name and direction of flow shall be shown on all plats. Where relevant, they shall also be shown on Maps of Survey.

h) For reproduction purposes, all lettering shall have a minimum height of 2.0 millimeter (0.08 inch) and all lettering shall be made with archival quality black ink. Dense black permanent ink is required. Blue or black ballpoint shall not be accepted.

i) Public Land Survey Corners (1/4 corners, section corners, meander corners, closing corners, witness corners, etc.) are to be maintained; thus the following map information is required:

1. If the corner is part of the subject property being surveyed and found to be in substandard condition, the corner shall be rehabilitated and new reference points established, if needed. Restoration information shall be shown on the filed map, or a Corner Record filed.

2. If a Public Land Survey Corner is incidental to the subject survey, but found to be in need of rehabilitation, the Land Surveyor shall notify the County Surveyor that work is needed. The County Surveyor shall be responsible for this rehabilitation work, but please note that the County Surveyor has the ability to negotiate a contract for the surveyor to do this work while the surveyor is at the jobsite.

3. The County Surveyor shall provide signs & posts, 30" aluminum monuments, and witness corner signs to any land surveyor requesting them for PLSS corners in Curry County.

j) Identify all found or set monuments and the accessories on the map face or in a legend/table describing:

- 1) Type and dimensions of all found and set monuments.
- 2) Type and/or color of tag or cap and information stamped on the tag or cap.
- 3) Indicate whether pipe dimensions are inside or outside diameter (inside preferred).
- 4) Show the relationship of the monuments found to the monuments set.
- 5) Describe any accessories set.
- 6) Inches or decimal feet (specify) the monument is above or below grade.

k) If the Land Surveyor checked or found gaps, overlaps or other potential boundary concerns, while doing a property survey, copies of the relevant deeds shall be provided to the County Surveyor for the Map of Survey check.

l) The following shall be provided to the County Surveyor for Plat checks:

- 1) A Preliminary Title Report, if prepared for the Community Development Department with the supporting documents, shall also be provided to the County Surveyor for map review.
- 2) Closure calculation sheets for all individual parcels and the overall beginning parcel.
- 3) An original and "True and exact copy" shall be provided for all plats.
- 4) The true and exact copy statement shall state: I HEREBY CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL. Signed by the surveyor with his printed name and PLS number on each page of the plat copy.
- 5) A copy of the subject deed and surrounding deeds shall be provided to the County Surveyor for the map check.
- 6) Easements: their purpose; recorded information; and width. If created by the plat, also name the beneficiary; whether private or public; time limit if temporary; etc. Dashed lines shall be used to illustrate the easement's location.
- 7) Approvals: City/County Planning and their miscellaneous required statements; County Surveyor; Tax Collector/Assessor; and Recorder. For Subdivisions, lines for County Commissioners to sign.
- 8) Statement to the effect that the Surveyor "has correctly surveyed and marked with proper monuments the lands as represented."

m) Declarations for Parcel Maps and Subdivisions

- 1) Owners – signatures in black ink
- 2) Notarized – Legible stamp, signature and date in black ink ORS 92.075(1)
- 3) State that "the declarant has caused the subdivision or partition to be prepared and the property subdivided or partitioned in accordance with the provisions of ORS chapter 92."
- 4) Any dedication of land for public purposes, or any public/private easements, or any other restriction made shall be stated in the declaration.
- 5) Consent affidavit if others (Trust Deed Beneficiaries, Mortgage Holders, or Contract Vendors) have an interest in the property platted.