

AGENDA COVER MEMO



DATE: February 1, 2010 (Memo)
February 17, 2010 (Public Hearing)

TO: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Stephanie Schulz/Planner/Land Management Division

ITEM TITLE: Ordinance No. 7-08 – in the Matter Of Amending Chapter 10 of Lane Code (LC10) To Revise And Add Provisions For The Interim Urbanizing Combining District (U) Applicable Within The Florence Urban Growth Boundary (LC 10.122-10, 10.122-13, 10.122-14, 10.122-15, 10.122-30, 10.122-31)(File No. PA 08-5363, Applicant: Florence)

The Lane County Planning Commission conducted a hearing on revisions to Lane Code Chapter 10 proposed amendments in Florence on January 27, 2010.

The attached LC10 page shows the text amendment revision to Lane Code Chapter 10 the Planning Commission will recommend the Board of Commissioners adopt for implementing the Realization 2020 Comprehensive Plan for city of Florence. The only remaining provision in the proposed amendment to the code would prohibit future lot line adjustments for property located within the Florence Urban Growth Boundary outside the city limits of Florence.

At right margin indicates changes
Bold indicates material being added
Strikethrough indicates material being deleted

LEGISLATIVE
FORMAT

~~10.122-1010.122-35~~ Lane Code ~~10.122-3010.122-35~~
Comprehensive Plan provisions relating to the respective city urban growth boundary.
(Revised by Ordinance No. 15-79, Effective 12.1.79; 10-82, 7.9.82)

10.122-10 Permitted Buildings and Uses.

All buildings and uses permitted in the respective district with which the /U District is combined, **except as herein specifically modified.** (Revised by Ordinance No. 15-79, Effective 12.1.79)

10.122-13 Special Uses--Planning Director Review.

All buildings and uses subject to the approval of the Planning Director, pursuant to LC 14.100, in the respective district with which the /U District is combined, **except as herein specifically modified.** (Revised by Ordinance No. 10-82, Effective 7.9.82; 16-83, 9.14.83)

10.122-14 Special Uses--Hearings Official's Approval.

All buildings and uses subject to the approval of the Hearings Official, pursuant to LC 14.300, in the respective district with which the /U District is combined, **except as herein specifically modified.** (Revised by Ordinance No. 10-82, Effective 7.9.82; 16-83, 9.14.83)

10.122-15 Conditional Uses.

All buildings and uses permitted conditionally in the respective district with which the /U District is combined, **except as herein specifically modified.** (Revised by Ordinance No. 15-79, Effective 12.1.79)

10.122-20 Site and Development Requirements.

The requirements for yards, setbacks, coverage, vision clearance, height and parking shall be the same as provided in the respective district with which the /U District is combined, **except as herein specifically modified.** (Revised by Ordinance No. 15-79, Effective 12.1.79; 10-82, 7.9.82)

Florence Urban Growth Boundary

10.122-25 Location.

The /U Combining District is for the purpose of reviewing land within those areas that are considered transitional and/or marginal; conditions which could either restrict and/or limit urban and semi-urban uses. (Revised by Ordinance No. 10-82, Effective 7.9.82)

10.122-30 Lot Area.

~~(1) For land within the Florence UGB that is within the North Florence Dunal Aquifer boundary, as designated by the U.S. Environmental Protection Agency in September, 1987, served by a community water supply and community sewerage system, the minimum lot area shall be as provided by the respective district with which the /U District is combined, except that no land divisions within the boundaries of the Florence Dunal Aquifer shall be allowed prior to annexation to the City.~~

~~(2) For land not served by a community water system and community sewerage system, the minimum lot area shall be 10 acres, except that smaller lot areas may be permitted where:~~

~~(a) Initial connection to a community sewerage system is not feasible.~~

~~(b) The proposed parcel size, configuration and number will be consistent with the long-range sewerage plan for the area where such plans exist.~~

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LEGISLATIVE
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10.122-3510.122-35

Lane Code

10.122-3510.122-35

~~(c) The proposed land division will be adequately served by interim sewerage disposal facilities and will not adversely affect other properties by causing water pollution.~~

~~(d) The design and operation of the proposed land division or development will allow for later conversion to urban densities in an orderly and efficient manner and not otherwise preempt the subject property and other properties from:~~

~~(i) Later inclusion into a community sewerage system.~~

~~(ii) Inclusion into the City of Florence.~~

~~(iii) The orderly provision of other community services and facilities.~~

~~(3) For land designated Limited Service Area by the Florence Comprehensive Plan, the minimum lot or parcel size shall be 10 acres. A lot of less than 10 acres may be approved if, on the basis of findings contained in a site investigation report, the following conditions are met in addition to any other applicable criteria:~~

~~(a) The site investigation report shall determine the carrying capacity, as defined by the Statewide Planning Goals, of the site. The report shall demonstrate that the proposed development would be in conformance with the Florence Comprehensive Plan and the Coastal Resources Management Plan.~~

~~(b) The development will be served by a public water system and sewerage system which meets the standards of the State Department of Environmental Quality.~~

~~(c) The report shall address any development hazards inventoried in the comprehensive plan, the proposal shall be allowed only when the report demonstrates that any hazards and constraints can be mitigated or do not exist on the specific property.~~

~~10.122-31 Land Uses.~~

~~For land within the Florence UGB that is within the North Florence Dunal Aquifer boundary, as designated by the U.S. Environmental Protection Agency in September, 1987, no land uses that require an expansion or installation of a new septic system will be allowed, unless the applicant provides proof that an exception has been made as evidenced by a written action of the Florence City Council. Replacement of a failing septic system for existing uses is allowed if consistent with state law. (Revised by Ordinance No. 10.82, Effective 7.9.82; 2-83, 4.1.83)~~

Eugene-Springfield Urban Growth Boundary

10.122-35 Location.

The /U Combining District is to be applied to urbanizable properties designated for residential use in the Eugene-Springfield Metropolitan Area General Plan which are undeveloped or which are wholly or partially underdeveloped. In situations where property is zoned /U on the periphery of the urban growth boundary and the growth boundary may bisect the property by generally following a physical feature, such as a ridge line, the actual interpretation of the growth boundary location is necessary. For the purposes of this District it will be determined by application of the requirements of LC 10.122-40 below in the absence of interpretation by means of a refinement planning process for the property. Land zoned /U and which is thereafter interpreted as being outside the urban growth boundary shall not be considered as urbanizable and shall not be

W. S. A.

MEMO

Memo Date: October 20, 2008
First Reading Date: November 5, 2008
Second Reading/Public Hearing Date: November 25, 2008

TO: Board of County Commissioners
DEPARTMENT: Public Works, Land Management Division, Planning Department
PRESENTED BY: Stephanie Schulz, Metro and Small City Planner
AGENDA ITEM TITLE: Ordinance No. 7-08 / In The Matter Of Amending Chapter 10 of Lane Code To Revise And Add Provisions For The Interim Urbanizing Combining District (/U) Applicable Within The Florence Urban Growth Boundary (LC 10.122-10, 10.122-13, 10.122-14, 10.122-15, 10.122-30, 10.122-31)

I. MOTION:

For November 5, 2008: Move approval of the first reading and setting the second reading and public hearing on Ordinance No. 7-08 for Tuesday, November 25, 2008 at 1:30 p.m.

For November 25, 2008: Move approval of Ordinance No. 7-08.

II. AGENDA ITEM SUMMARY

This Ordinance would amend text in Lane Code Chapter 10 for the land located within the urbanizable area of Florence which also falls within the North Florence Dunal Aquifer, an area designated as a sole source aquifer under the Section 1424(e) of the Safe Drinking Water Act (PL93-523) for the municipality of Florence. The urbanizable area lies outside Florence city limits and within the Florence urban growth boundary (UGB).

III. BACKGROUND

A. Board Action and Other History

The Board held a hearing on co-adoption of the Florence Realization 2020 Comprehensive Plan and other related refinement plans on October 1, 2008. At that hearing, Florence presented additional text amendments to the Comp Plan Policies to address issues raised at the Lane County Planning Commission hearing, and a timeline for completing associated Lane Code implementation amendments was presented to coincide with the policy amendments.

The attached Ordinance to amend Lane Code Chapter 10 would apply within an overlay district (/U) that covers all base zones in the urbanizable area. This Ordinance and the record of testimony or evidence presented during its consideration will be included in the open record for the Realization 2020 Plan co-adoption process, which has been held open until December 5th.

B. Analysis

The proposed amendments to LC Chapter 10 must be made in accordance with the procedures of the relevant criteria in Lane Code Chapter 10, listed below. Findings of compliance with these criteria are attached to the Ordinance.

10.015 Purpose.

The purpose of this chapter is to provide procedures for dividing the unincorporated portions of Lane County into districts and to provide requirements pertaining to such districts in accordance with a comprehensive plan, and is adopted to protect and promote the public health, safety, welfare, and to promote the implementation of the Comprehensive Plan for Lane County. Such procedures and requirements are intended to achieve the following objectives:

- (1) To encourage the most appropriate use of land and resources throughout the County.

- (2) To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, and other public requirements.
- (3) To avoid undue concentration of population.
- (4) To secure safety from fire, panic, flood and other dangers.
- (5) To prevent the overcrowding of land.
- (6) To provide adequate light and air.
- (7) To lessen congestion in the streets, roads, and highways.
- (8) To provide an environment of character in harmony with existing and proposed neighboring use of land.
- (9) To preserve and enhance the quality of Lane County's environment.

10.315-05 Purpose.

As the Comprehensive Plan for Lane County is implemented, changes in District and other requirements of this chapter will be required.

10.315-20 Criteria.

Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest.

C. Alternatives/Options

Option 1. Approve the Ordinance as presented.

Option 2. Direct staff to revise the Ordinance and return for a third reading and approval of the revised Ordinance on a date certain set by the Board at the end of the hearing.

Option 3. Do not approve the Ordinance for amendments to Lane Code Chapter 10, denying the application.

IV. TIMING/IMPLEMENTATION

This Ordinance is prepared in response to proposed policy amendments to the Florence Realization 2020 Comprehensive Plan. This Ordinance is scheduled for a Planning Commission hearing on November 18, 2008. Their recommendation will be provided to the Board prior to the Board Hearing. Concurrent decisions on the policies and code amendments would ensure consistency in land use planning for the Florence community beyond the city limits out to the urban growth boundary.

V. RECOMMENDATION

Staff recommends Option 1.

VI. FOLLOW-UP

Notice of Board action will be provided to DLCD and all interested parties as required under Statewide Planning Law. If the Board modifies or rejects the Ordinance as presented, notice of that action will also be provided. Should the Board choose option 3, an Order with findings setting forth the Board's reasons for not adopting the Ordinance would be prepared and returned to the Board on a date certain prior to sending that final decision notice to DLCD on the matter.

VII. ATTACHMENTS

1. Ordinance No. 7-08 with attachments
2. Ballot Measure 56 notice mailed to all property owners within the Florence UGB

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 7-08

IN THE MATTER OF AMENDING CHAPTER 10 OF LANE CODE TO REVISE AND ADD PROVISIONS FOR THE INTERIM URBANIZING COMBINING DISTRICT (U) APPLICABLE WITHIN THE FLORENCE URBAN GROWTH BOUNDARY (LC 10.122-10, 10.122-13, 10.122-14, 10.122-15, 10.122-30, 10.122-31)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 10 of Lane Code is hereby amended by deleting, substituting, and adding new sections as follows:

DELETE THESE SECTION(S)

INSERT THESE SECTION(S)

10.122-10 through 10.122-15, 10.122-30
as located on page 10-354 through 10-355
a total of 2 pages

10.122-10 through 10.122-15, 10.122-30,
10.122.31
as located on page 10-354
a total of 1 page

Said sections are attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to revise and add provisions regarding the Interim Urbanizing Combining District (U) within the Florence Urban Growth Boundary (LC 10.122-10, 10.122-13, 10.122-14, 10.122-15, 10.122-30, 10.122-31).

While not part of this Ordinance, findings attached as Exhibit "A" and incorporated herein by this reference are adopted in support of this decision.

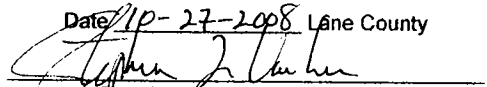
ENACTED this _____ day of _____ 2008.

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 10-27-2008 Lane County


OFFICE OF LEGAL COUNSEL

Comprehensive Plan provisions relating to the respective city urban growth boundary. *(Revised by Ordinance No. 15-79, Effective 12.1.79; 10-82, 7.9.82)*

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10.122-13 Special Uses--Planning Director Review.

All buildings and uses subject to the approval of the Planning Director, pursuant to LC 14.100, in the respective district with which the /U District is combined, except as herein specifically modified. *(Revised by Ordinance No. 10-82, Effective 7.9.82; 16-83, 9.14.83)*

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Florence Urban Growth Boundary

10.122-25 Location.

The /U Combining District is for the purpose of reviewing land within those areas that are considered transitional and/or marginal; conditions which could either restrict and/or limit urban and semi-urban uses. *(Revised by Ordinance No. 10-82, Effective 7.9.82)*

10.122-30 Lot Area.

For land within the Florence UGB that is within the North Florence Dunal Aquifer boundary, as designated by the U.S. Environmental Protection Agency in September, 1987, the minimum lot area shall be as provided by the respective district with which the /U District is combined, except that no land divisions within the boundaries of the Florence Dunal Aquifer shall be allowed prior to annexation to the City.

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For land within the Florence UGB that is within the North Florence Dunal Aquifer boundary, as designated by the U.S. Environmental Protection Agency in September, 1987, no land uses that require an expansion or installation of a new septic system will be allowed, unless the applicant provides proof that an exception has been made as evidenced by final written action of the Florence City Council. Replacement of a failing septic system for existing uses is allowed if consistent with state law. *(Revised by Ordinance No. 10-82, Effective 7.9.82; 2-83, 4.1.83)*

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~~(e) The proposed land division will be adequately served by interim sewerage disposal facilities and will not adversely affect other properties by causing water pollution.~~

~~(d) The design and operation of the proposed land division or development will allow for later conversion to urban densities in an orderly and efficient manner and not otherwise preempt the subject property and other properties from:~~

~~(i) Later inclusion into a community sewerage system.~~

~~(ii) Inclusion into the City of Florence.~~

~~(iii) The orderly provision of other community services and facilities.~~

~~(3) For land designated Limited Service Area by the Florence Comprehensive Plan, the minimum lot or parcel size shall be 10 acres. A lot of less than 10 acres may be approved if, on the basis of findings contained in a site investigation report, the following conditions are met in addition to any other applicable criteria:~~

~~(a) The site investigation report shall determine the carrying capacity, as defined by the Statewide Planning Goals, of the site. The report shall demonstrate that the proposed development would be in conformance with the Florence Comprehensive Plan and the Coastal Resources Management Plan.~~

~~(b) The development will be served by a public water system and sewerage system which meets the standards of the State Department of Environmental Quality.~~

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The /U Combining District is to be applied to urbanizable properties designated for residential use in the Eugene-Springfield Metropolitan Area General Plan which are undeveloped or which are wholly or partially underdeveloped. In situations where property is zoned /U on the periphery of the urban growth boundary and the growth boundary may bisect the property by generally following a physical feature, such as a ridge line, the actual interpretation of the growth boundary location is necessary. For the purposes of this District it will be determined by application of the requirements of LC 10.122-40 below in the absence of interpretation by means of a refinement planning process for the property. Land zoned /U and which is thereafter interpreted as being outside the urban growth boundary shall not be considered as urbanizable and shall not be

**Ordinance No. 7-08 Findings of Fact
Amending Chapter 10 of Lane Code To Revise and Add Provisions For the Interim
Urbanizing Combining District (/U) Applicable Within The Florence UGB**

I. REQUEST

The City of Florence requests Lane County adopt amendments to Lane Code, Chapter 10, as shown in Ordinance No. 7-08 to implement Florence Realization 2020 Comprehensive Plan policies adopted by the City to complete Florence state-mandated Periodic Review Work Task 8.

The purpose of this request is to achieve coordinated City-County compliance with Statewide Planning Goal 2 and to achieve some of the policies that address the federal Safe Drinking Water Act, as discussed in the findings. The North Florence Dunal Aquifer was designated by EPA as a sole source aquifer in September 1987, as reported in the document, "Resource Document For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer, EPA 910/9-87-167," September 29, 1987 (North Florence Dunal Aquifer Study). This document and associated map were adopted as part of the Lane County Coastal Resources Management Plan by Lane County on June 19, 1980, with the most recent revision adopted in 1991 through Ordinance No. 1000.

The objectives of amending Lane Code Chapter 10 to revise and add provisions for the Florence Interim Urbanizing Combining District (/U) through Ordinance No. 7-08 are to:

- a. Protect the health, safety, and welfare of the citizens of Florence and Lane County, within the Florence urban growth boundary (UGB), by ensuring the quality of the drinking water is protected from any negative effects from on-site septic systems, one of the principle threats identified by the U.S. Environmental Protection Agency (EPA) in its designation of the North Florence Dunal Aquifer as a sole source aquifer. Water Quality finding 14 in the resource document states "Subsurface disposal of sewage waste is the primary human caused source of nitrate-nitrogen. Except for the landfill, the school district, and the golf course, there are no other significant human caused nitrate sources within the North Florence watershed."
- b. Implement City "Air, Water, and Land Quality" and "Urbanization" policies found in the Florence Realization 2020 Comprehensive Plan and refinement plans as co-adopted by the city and county under Florence Periodic Review work tasks.

II. APPLICABLE CRITERIA

1. **Lane Code Chapter 10:** LC10.015, 10.315-05, 10.315-20.
2. **Florence Realization 2020 Comprehensive Plan**
3. **Oregon Revised Statutes and Administrative Rules:** ORS 197.628, 197.629, 197.633, 197.644, 197.175; OAR Chapter 660 Division 25, Periodic Review, and OAR 025-0080, Citizen Involvement
4. **Statewide Land Use Planning Goals:** Goal 1, Citizen Involvement; Goal 2, Land Use; Goal 6, Air, Water, and Land Resources Quality; Goal 11, Public Facilities and Services; and Goal 14, Urbanization.

III. FINDINGS

Applicable criteria are shown in bold and findings are in plain text below.

LANE CODE

10.015 Purpose.

The purpose of this chapter is to provide procedures for dividing the unincorporated portions of Lane County into districts and to provide requirements pertaining to such districts in accordance with a comprehensive plan, and is adopted to protect and promote the public health, safety, welfare, and to promote the implementation of the Comprehensive Plan for Lane County. Such procedures and requirements are intended to achieve the following objectives:

- (1) To encourage the most appropriate use of land and resources throughout the County.**
- (2) To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, and other public requirements.**
- (3) To avoid undue concentration of population.**
- (4) To secure safety from fire, panic, flood and other dangers.**
- (5) To prevent the overcrowding of land.**
- (6) To provide adequate light and air.**
- (7) To lessen congestion in the streets, roads, and highways.**
- (8) To provide an environment of character in harmony with existing and proposed neighboring use of land.**
- (9) To preserve and enhance the quality of Lane County's environment.**

The city of Florence and its urbanizable area where Lane Code Chapter 10 applies is located within the North Florence Dunal Aquifer, a sole source aquifer which covers a broad area of dunal sand extending from the Siuslaw River to Sutton Creek and from the Pacific Ocean to the bedrock ridge east of Clear Lake. Because Florence is entirely within this identified district, and the city's primary source of water for consumptive use is groundwater, the above objectives are found to apply to the urbanizable area. The proposed Chapter 10 code amendments will further objectives (1), (2), (8), and (9), above.

10.315-05 Purpose.

As the Comprehensive Plan for Lane County is implemented, changes in District and other requirements of this chapter will be required.

Florence is completing periodic review to update their Comprehensive Plan for application within the long term planning horizon extending to the year 2020. The proposed amendments to Lane Code Chapter 10 are found to be required to implement the policy amendments to Realization 2020 addressing concerns in the Urbanizing Combining District (U) regarding groundwater contamination in the sole source aquifer.

10.315-20 Criteria.

Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest.

The general purpose of chapter 10 requires consideration of changes that could be considered to promote implementation of revised and updated Comprehensive Plans in Lane County. The appropriate use of land and resources in the Florence community is updated through periodic review. The proposed amendments to the Florence Urbanizing Combining District are found to be in harmony with existing and proposed neighboring uses of land and are not contrary to the public interest as demonstrated in these findings.

REALIZATION 2020 FLORENCE COMPREHENSIVE PLAN

Chapter 6, Air, Water and Land Quality

Objective

To maintain the quality of the air, water, and land resources through control of waste and process discharges from future development.

Policies

1. **The City shall support regional efforts to control environmental pollution through its compliance with state and federal standards. Department of Environmental Quality permit referrals will be reviewed to insure that proposed activities are consistent with the Comprehensive Plan.**
2. **Water recharge areas, lakes, and streams which have a direct bearing on the quality of the water resources shall be protected to insure the continuous quality and quantity of public water supplies.**
5. **Solid, liquid, gaseous and industrial waste discharges and/or disposal from septic tanks and/or sewers shall not contaminate land, air, and water resources.**
8. **The City shall also ensure that its drinking water supply continues to conform with the Safe Drinking Water Act.**
9. **The City shall meet all applicable standards relating to air quality, water quality and noise pollution.**
11. **All future development within the unincorporated portion of the Florence Urban Service Boundary shall be coordinated with the State Department of Environmental Quality to insure that the development will not degrade the North Florence Dunal Aquifer, negatively impact the beneficial uses of the water resource, or violate drinking water standards. The City of Florence and Lane County will coordinate their respective roles through a Joint Management Agreement.**
12. **Lane County and the City of Florence shall develop scientifically-based standards and a regular testing program to determine if sewage from septic tanks is entering water supplies. A system to spot isolated problems and correct them as soon as possible will be put in place. Such a system may assure safe water and prevent the need for health related annexations.**

The Code amendments in Ordinance No. 7-08 are consistent with these objectives and policies in Chapter 6 of Realization 2020 because the amendments will protect the quality of groundwater within the Urban Growth Boundary from potential septic system contamination. The threat to the aquifer posed by septic systems is documented in the North Florence Dunal Aquifer Study, September 1987, and described in detail in these findings. The threat posed by septic systems is also documented in the Florence Water Facilities Plan, September, 1999, as follows:

City of Florence Water Facilities Plan, September 1999

"Because groundwater is present at shallow depths (less than 50 feet) and the dunal sands have high permeability, it is likely that an accidental release of contamination at the surface would result in groundwater contamination." (Water Facilities Plan, Page ES-9)

“Several freshwater lakes are found within the Florence area, many of which are used for recreation. Clear Lake, one of the largest, is used as a drinking water source for the Heceta Water District, north of the city. The lake is under consideration as a potable water source for the city as well. The city currently obtains its drinking water from wells. Because the soil is highly permeable in this area, these lakes could be subject to contamination if septic tank drain fields are improperly sited or designed.” (Water Facilities Plan, Page 2-4)

The Lane Code Chapter 10 amendments are consistent with the objectives and policies in Chapter 6 of Realization 2020 for this reason and for the following reasons:

- The proposed amendments maintain the quality of water resources through control of waste and process discharges from future development on septic systems.
- The amendments are coordinated among the City, Lane County and DEQ and thus support regional efforts to control environmental pollution through its compliance with state and federal standards.
- The amendments ensure that disposal from new septic systems will not contaminate water resources.
- The amendments ensure that the drinking water supply in the UGB continues to conform with the Safe Drinking Water Act.
- The amendments help the city ensure that the County will continue to meet all applicable standards relating to water quality.
- Through these amendments, all future development within the unincorporated portion of the Florence Urban Service Boundary will be coordinated with the State Department of Environmental Quality to ensure that the development will not degrade the North Florence Dunal Aquifer, negatively impact the beneficial uses of the water resource, or violate drinking water standards.
- Through this adoption process, the City of Florence and Lane County will coordinate their respective roles through the adopted Joint Management Agreement.

Chapter 11, Utilities and Facilities

Wastewater Collection and Treatment Goal

To provide cost effective collection and treatment of wastewater consistent with projected population growth and development needs. (Florence Realization 2020 Comprehensive Plan, page 101)

The proposal is consistent with this goal because the proposed amendments will ensure that properties are connected to the City's wastewater system as the need arises and this is the most cost-effective collection and treatment of wastewater in the UGB. In the interim, prior to annexation and connection to the municipal system, the proposed code amendments ensure that the aquifer is protected by allowing septic systems only when the Florence City Council grants an exemption from hooking up to the City system, due to impracticality.

Water System Supplies and Needs Goal

To continue to provide an adequate supply of potable water for domestic, business, and industrial needs, as well as sufficient water for fire protection, all in a

cost effective manner. (Florence Realization 2020 Comprehensive Plan, page 102)

The proposal is consistent with this goal because the proposal will allow the City to continue to provide an adequate supply of potable water for domestic, business, and industrial needs, as well as sufficient water for fire protection, all in a cost effective manner. Septic systems have been identified by the EPA as a major threat to the quality of drinking water, in its 1987 report designating the North Florence Dunal Aquifer a sole source aquifer. The proposal will protect the aquifer, and the City's supply of drinking water, by restricting the installation of new septic systems in the UGB outside the city.

Chapter 14, Urbanization

Goal

To provide for an orderly and efficient transition from County/rural land uses to City/urban land uses.

Annexation Policies

1. **Unless necessitated by a health hazard as determined by state law, the City will only annex property when requested to do so by a property owner, in accordance with the processes prescribed by state law existing at the time of annexation.**
2. **Property owners within the North Florence Dunal Aquifer who are also within the Urban Growth Boundary who wish to either (1) develop or (2) redevelop must first annex to the city and hook up to the city's sanitary sewer service unless they obtain a special exemption from the City Council. The North Florence Dunal Aquifer boundary is delineated in the EPA Resource Document "For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer," EPA 910/9-87-167, September 29, 1987, Comprehensive Plan Appendix 5.**
3. **The City will not provide sewer service outside the City limits. To obtain sewer service, the property must first annex to the city.**
4. **Annexation of lands within the UGB outside City limits shall be based on consideration of:**
 - a. **orderly, economic provision for public facilities and services;**
 - b. **conformance with the acknowledged Florence Comprehensive Plan; and**
 - c. **consistency with state law.**
5. **The City will send a referral requesting comments on annexations to Lane County. The comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.**
8. **As a matter of public policy, Lane County and the City of Florence share a substantial interest in development within the Urban Growth Boundary. Development within the Urban Growth Boundary shall require annexation in order to receive a full range of urban services provided by the City of Florence. However, it is also recognized that until annexation Lane County will retain primary permitting responsibility for those lands.**

The amendments are consistent with these Comprehensive Plan policies because they provide for an orderly and efficient transition from County/rural land uses to City/urban land uses by limiting the installation of new septic systems in the UGB and encourage connection to the municipal wastewater system. In addition, the amendments support City Comprehensive Policy to:

- Allow new or expanded septic systems only when the Florence City Council grants an exemption to the policy to annex and connect to the municipal system prior to development or redevelopment for properties within the Florence Urban Growth Boundary. The Interim Urbanizing Combining District (U) covers the entire area within the UGB.
- Not provide sewer service outside the City limits and require annexation in order to receive sewer service.
- Annex lands within the UGB outside City limits based on consideration of orderly, economic provision for public facilities and services; conformance with the acknowledged Realization 2020 Plan; and consistency with state law.
- Require that development within the Urban Growth Boundary require annexation in order to receive a full range of urban services provided by the City of Florence; and, until annexation, Lane County will retain primary permitting responsibility for those lands.

OREGON REVISED STATUTES AND ADMINISTRATIVE RULES

ORS 197.628

Periodic review; policy; conditions that indicate need for periodic review. (1) It is the policy of the State of Oregon to require the periodic review of comprehensive plans and land use regulations in order to respond to changes in local, regional and state conditions to ensure that the plans and regulations remain in compliance with the statewide planning goals adopted pursuant to ORS 197.230, and to ensure that the plans and regulations make adequate provision for economic development, needed housing, transportation, public facilities and services and urbanization.

ORS 197.629

Schedule for periodic review; coordination.

ORS 197.633

Two phases of periodic review; rules; appeal of decision on work program; schedule for completion; extension of time on appeal.

ORS 197.644

Modification of work program; commission jurisdiction and rules.

(1) The Land Conservation and Development Commission may direct or, upon request of the local government, the Director of the Department of Land Conservation and Development may authorize a local government to modify an approved work program when:

(a) Issues of regional or statewide significance arising out of another local government's periodic review require an enhanced level of coordination;

(b) Issues of goal compliance are raised as a result of completion of a work program task resulting in a need to undertake further review or revisions;

(c) Issues relating to the organization of the work program, coordination with affected agencies or persons, or orderly implementation of work tasks result in a need for further review or revision; or

(d) Issues relating to needed housing, employment, transportation or public facilities and services were omitted from the work program but must be addressed in order to ensure compliance with the statewide planning goals.

(2) The commission shall have exclusive jurisdiction for review of the evaluation, work program and completed work program tasks as set forth in ORS 197.628 to 197.650. The commission shall adopt rules governing standing, the provision of notice, conduct of hearings, adoption of stays, extension of time periods and other matters related to the administration of ORS 197.180, 197.245, 197.254, 197.295, 197.320, 197.620, 197.625, 197.628 to 197.650, 197.712, 197.747, 197.840, 215.416, 227.175 and 466.385.

(3)(a) Commission action pursuant to subsection (1) or (2) of this section is a final order subject to judicial review in the manner provided in ORS 197.650.

(b) Action by the director pursuant to subsection (1) of this section may be appealed to the commission pursuant to rules adopted by the commission. Commission action under this paragraph is a final order subject to judicial review in the manner provided in ORS 197.650. [1991 c.612 §6; 1997 c.634 §1; 1999 c.622 §5]

The amendments are consistent with Oregon Revised Statutes pertaining to periodic review work tasks because the Department of Land Conservation and Development approved the City's Periodic Review Work Program on November 3, 1995 and approved revisions to the Work Program on March 20, 1997, and left the Work Program Completion Date, "Open."

OAR Chapter 660, Division 25: Periodic Review

The amendments are consistent with Oregon Administrative Rules pertaining to periodic review work tasks because the Department of Land Conservation and Development approved the City's Periodic Review Work Program on November 3, 1995 and approved revisions to the Work Program on March 20, 1997, and left the Work Program Completion Date, "Open."

OAR-025-0080 Citizen Involvement

(1) The local government must use its acknowledged or otherwise approved citizen involvement program to provide adequate participation opportunities for citizens and other interested persons in all phases of the local periodic review. Each local government must publish a notice in a newspaper of general circulation within the community informing citizens about the initiation of the local periodic review. The local government must also provide written notice of the initiation of the local periodic review to other persons who, in writing, request such notice.

(2) Each local government must review its citizen involvement program and assure that there is an adequate process for citizen involvement in all phases of the periodic review process. Citizen involvement opportunities must, at a minimum, include:

(a) Interested persons must have the opportunity to comment in writing in advance of or at one or more hearings on the periodic review evaluation. Citizens and other interested persons must have the opportunity to present comments orally at one or more hearings on the periodic review evaluation.

Citizens and other interested persons must have the opportunity to propose periodic review work tasks prior to or at one or more hearings. The local government must provide a response to comments at or following the hearing on the evaluation.

(b) Interested persons must have the opportunity to comment in writing in advance of or at one or more hearings on a periodic review work task. Citizens and other interested persons must have the opportunity to present comments orally at one or more hearings on a periodic review work task. The local government must respond to comments at or following the hearing on a work task.

The amendments to comply with Periodic Review Work Task 8 are consistent with this OAR because:

- As discussed below in the findings of consistency with Statewide Planning Goal 1, the adoption of the Realization 2020 Comprehensive Plan was the result of a multi-year effort on the part of the City Council, Planning Commission, Citizen Advisory Committee, and the general public. Notice of the proposed amendments to the Code were published three times in the Siuslaw News and posted on the City's web site and the City provided written notice of the initiation of the local periodic review to other persons who, in writing, requested such notice.
- The City used its acknowledged citizen involvement program to provide adequate participation opportunities for citizens and other interested persons in all phases of the local periodic review.
- The City reviewed its citizen involvement program and assured that there was an adequate process for citizen involvement in all phases of the periodic review process. Citizen involvement opportunities included:
 - Interested persons had the opportunity to comment in writing in advance of or at all hearings on the periodic review evaluation. Citizens and other interested persons had the opportunity to present comments orally at all hearings on the periodic review evaluation. Citizens and other interested persons had the opportunity to propose periodic review work tasks prior to or at one or more hearings. The City provided a response to comments at or following the hearing on the evaluation.
 - Interested persons had the opportunity to comment in writing in advance of or at one or more hearings on a periodic review work task. Citizens and other interested persons had the opportunity to present comments orally at all hearings on the periodic review work tasks. The City responded to comments at or following the hearing on the work task.
- County consideration and adoption of the amendments includes consideration of the city efforts at citizen involvement and utilized the adopted Lane County citizen involvement program as described under the Goal 1 findings, below.

ORS 197.175: Cities' and Counties' Planning Responsibilities; Rules on Incorporations; Compliance with Goals.

(2) Pursuant to ORS Chapters 195, 196 and 197, each city and county in this state shall: (a) Prepare, adopt, amend and revise comprehensive plans in compliance with goals approved by the commission;

The proposal is consistent with ORS 197.175 because this staff report contains findings to conclude that the proposed Code revisions are in compliance with the goals approved

by the commission. Statewide Planning Goals 1, 2, 6, 11, and 14 apply to this proposal. A finding of "Not Applicable to this Proposal" is incorporated into these findings for all other Statewide Planning Goals not specifically cited below.

STATEWIDE PLANNING GOALS

Goal 1: Citizen Involvement [OAR 660-015-0000(1)]

3. **Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.**

Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures.

The proposal is consistent with Statewide Planning Goal 1 because notice and referral of the proposal and opportunity to comment and provide testimony at upcoming hearings was provided in a timely manner. Citizens were given the opportunity to comment on the proposal in writing or in person at both public hearings, before the Planning Commission and before the County Board of Commissioners.

Referrals were mailed to agencies and interested parties and a legal ad published in the Register Guard, a newspaper of general circulation, on October 29, 2008 for the planning commission hearing, and on November 5, 2008 for the Board hearing. Direct mailing of a notice required by Ballot Measure 56 notifying all affected property owners in the Urbanizing Combining District that the proposed amendments could affect the permissible use of their property and other properties was mailed on October 30, 2008.

The Lane County Planning Commission held a work session on November 4, 2008 and public hearing on November 18, 2008; heard public testimony; and recommended adoption of the proposed amendments.

The Lane County Board of Commissioners held a work session and public hearing on November 26, 2008 and heard public testimony; and deliberated and approved the amendments on December 10, 2008.

Goal 2: Land Use [OAR 660-015-0000(2)]

All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.

The proposal is found to be consistent with Goal 2 because the proposed revisions to the Code were adopted by the Lane County Board of Commissioners after public hearing and taking into account changing public policies and circumstances, in accordance with the City's DLCD Periodic Review Notice; opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the Code. Citizens and affected governmental units were given opportunity to comment and written testimony in the record was considered by the Board along with recommendation from the county planning commission prior to adoption of the amendments.

Goal 6: Air, Water And Land Resources Quality [OAR 660-015-0000(6)]

To maintain and improve the quality of the air, water and land resources of the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards.

The Lane Code amendments are consistent with Statewide Planning Goal 6 because they will maintain and improve the quality of water resources in the Florence UGB; and they will ensure that, by restricting development on septic systems in the North Florence Dunal Aquifer, all wastewater discharges from future development, when combined with such discharges from existing developments shall not threaten city compliance with relevant plan policies addressing the Safe Drinking Water Act or other federal or state environmental quality statutes, rules, and standards.

Goal 11: Public Facilities and Services [OAR 660-015-0000(11)]

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

The proposal is consistent with Goal 11 because the policies and North Florence Dunal Aquifer Map apply to properties within the Florence urban growth boundary (UGB) that will be served in accordance with City facility management consistent with the Comprehensive Plan and for areas now outside the city, with annexation and service policies. Key facilities and services can be provided to the areas upon development, including water, wastewater, stormwater, and transportation, consistent with the policies in the Florence Realization 2020 Comprehensive Plan.

Goal 14: Urbanization [OAR 660-015-0000(14)]

To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The Code amendments are consistent with Goal 14 because, by limiting new and expanded septic systems in the Interim Urbanizing Combining District located within the North Florence Dunal Aquifer, the amendments ensure efficient use of land by maintaining a high level of groundwater quality and providing for a livable community. The efficient transition from rural to urban land use is enhanced by consistency for long term planning.

IV. CONCLUSION

The proposal to adopt Periodic Review amendments to Lane Code Chapter 10 for application within the urbanizable combining district outside city limits and within the Florence urban growth boundary is consistent with applicable Florence Realization 2020 Comprehensive Plan policies. The Code amendments are also consistent with applicable criteria in Lane Code, Oregon Revised Statutes and Administrative Rules, as demonstrated in these findings of fact.

**A Notice Required by Ballot Measure 56 About Changes in Lane County
Land Use Regulations That May Affect The Permissible Uses Of Your
Property and Other Properties**

Lane County is proposing to adopt revisions to Lane Code Chapter 10 for application within the Florence Urban Growth Boundary and North Dunal Aquifer interface. The proposed revisions clarify the development allowed in the urbanizable area outside the city limits. Adoption of these land use changes may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Copies of the proposed revisions to Lane Code Chapter 10 are available at the Lane County Land Management Division, at 125 E. 8th Ave, Eugene, Oregon 97401. The Draft revisions are also posted on the Land Management Division's web site at:

[lanecounty.org/Planning/documents/Proposed_LC_Ch10
Revisions 10 22 2008.pdf](http://lanecounty.org/Planning/documents/Proposed_LC_Ch10_Revisions_10_22_2008.pdf)

The Lane County Board of Commissioners will conduct a Public Hearing on proposed revisions to Lane Code Chapter 10 on Tuesday, November 25, 2008 at 1:30pm in the Lane County Public Service Building, Board of Commissioners Conference Room, 125 E. 8th Ave., Eugene, Oregon

About this notice ...

In 1998, Oregon's voters passed a new law known as Ballot Measure 56. It requires that notices like this must be mailed to landowners when a change in land-use laws might limit use of their property. Measure 56 requires the notice to say that Lane County has determined the revision "may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property." The new law requires the same general wording in all such notices. But sometimes that wording doesn't describe the likely effects from the change in land-use laws very well. We hope the following explanation will clarify the effect of these revisions.

The area between Florence's city limits and urban growth boundary includes many lots and parcels. The County does not know whether the proposed changes to Lane Code Chapter 10 will affect *your* uses on *your* property. You are receiving this notice because county records show you own property in this area.

The Proposed Revisions to Lane Code Chapter 10:

The following substantive revisions are proposed and if adopted, will apply as an overlay (/U) zone to all base zoning categories within the Florence Urban Growth Boundary:

Florence Urban Growth Boundary

- **10.122-30 Lot Area.** (1) For land within the Florence UGB that is within the North Florence Dunal Aquifer boundary, as designated by the U.S. Environmental Protection Agency in September, 1987, the minimum lot area shall be the lot area established on January 1, 2009. No land divisions within the boundaries of the Florence Dunal Aquifer shall be allowed prior to annexation to the City.

- **10.122-31 Land Uses.** (1) For land within the Florence UGB that is within the North Florence Dunal Aquifer boundary, as designated by the U.S. Environmental Protection Agency in September, 1987, no land uses that require an expansion or installation of a new septic system will be allowed, unless an exception is made by the Florence City Council. Replacement of a failing septic system for existing uses is allowed if consistent with state law.

About your comments and testimony ...

As a result of an order of the Land Conservation and Development Commission under Florence periodic review of their comprehensive plan, and to implement proposed policy amendments to the Florence Realization 2020 Comprehensive Plan, the City and Lane County propose revisions to Lane Code 10.122. Lane County has determined that the adoption of the Lane Code Chapter 10 amendments in this notice may affect the permissible uses of your property, and may change the value of your property. The project file is available for inspection at no charge in the Lane County Land Management Division Office at 125 E. 8th Ave., Eugene. Copies of documents in the file can be purchased at a reasonable cost. For additional information concerning the ordinance, or to view the file, please contact **Stephanie Schulz, Planner**, at: 541-682-3958, email at Stephanie.Schulz@co.lane.or.us, regular mail at the LMD address above. You are also welcome to attend the Board of Commissioners public hearing on Tuesday, November 25th in the Board Conference Room, 2nd floor of the Public Service Building in Eugene and provide testimony to the Board at the hearing.

Thank you for your attention !

LANE COUNTY LAND MANAGEMENT DIVISION
125 E. 8th AVE / PSB
EUGENE, OR 97401

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