

Draft **APPLICABLE STATE & FEDERAL LAW**

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I. CONFORMANCE WITH THE JOSEPHINE COUNTY COMPREHENSIVE PLAN TO INCLUDE ITS GOALS AND POLICIES

Goal 1: To Preserve and Maintain Agricultural Lands and The Rural Character of Josephine County

Policy 2. The Board of County Commissioners shall **coordinate with the private sectors, Federal and State agencies** to meet the needs of irrigation for the existing and continued expansion of farming.

Goal 2: to Conserve and Develop the Forest Lands of Josephine County

Policy 2. Because of the economic importance of the timber economy to Josephine County, forest lands as described in Policy 7 shall be conserved through:

E. Continuing **cooperation with Federal and State forest management agencies** to encourage more intensive forest management practices, which will increase the timber supply over time.

Goal 3: Provide Land Allocations to Encourage a Wide Variety of Safe and Affordable Housing

Policy 7. The Board of County Commissioners shall continue to seek representation in the management of the programs on the Rogue River, **administered by Federal and State agencies**. They shall further protect the public and private interest by assuming primary jurisdiction in the following areas authorized by law:

Goal 8: Pollution Shall Be Controlled

Policy 4. County agencies such as the Planning and Environmental Health Departments shall coordinate activities with State agencies involved in the regulation of air, water and noise pollution to ensure application of **State and federal standards**. Ordinances shall be adopted which require compliance with State discharge and construction permits for new or industrial land uses.

Goal 8, Policy 4. County agencies such as the Planning and Environmental Health Departments shall coordinate activities with State agencies involved in the regulation of air, water and noise pollution to ensure application of **State and federal standards**. Ordinances shall be adopted which require compliance with State discharge and construction permits for new or industrial land uses.

Goal 11: the Comprehensive Plan Shall Be Maintained, Amended, and Updated as Necessary

Overview: The comprehensive plan contains the general goals and policies, maps, inventories, functional plans and implementing ordinances that are required to guide the future development of Josephine County. As such, the plan is intended to be responsive to changes in the circumstances of the county and the desires of its citizens. Goal 11 shall provide the rules and procedures for maintaining, amending and updating the various components of the plan.

2. Map Amendment Criteria. Applications to amend a comprehensive plan and/or zone maps shall comply with all of the following criteria and procedures:

C. Requests involving changes to the plan and/or zone maps shall demonstrate the land has adequate carrying capacity to support the densities and types of uses allowed by the proposed plan and zone designations. . . .

[1] The proposed density and types of uses can be supported by the facility, service and other applicable development standards contained in the Rural Land Development Code or contained in other **applicable federal, state and local rules and regulations** governing such densities and types of uses.

3. Non-resource Land Criteria.

C. Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur. The following rules shall apply when evaluating this criterion:

[3] The application shall include a review of the relationship between the lot or parcel under consideration and surrounding farm practices and forest operations. . . .The review may be based upon data or information from some or all of the following sources: private organizations (commercial timber producers, forestry consultants, woodlot associations, etc.) public agencies that collect and interpret farm practice or forest operation data, such as county offices (Departments of Planning, Assessor and Forestry) state agencies (Departments of Forestry, Agriculture, Revenue and the Oregon State Extension Service), **federal agencies (Department of Agriculture/Forest Service, the Bureau of Land Management, the Natural Resources Conservation Service and the Farm Service Agency, and other similar public entities.**

MERLIN/NORTH VALLEY UNINCORPORATED RURAL COMMUNITY

Goal 1: Steps Shall Be Taken to Implement Needed Community Facilities and Services While Ensuring Cumulative Development Does Not Exceed the Carrying Capacity of the Land.

Policy 3. Zoning and development standards shall be applied to the MNVC through the Rural Land Development Code to ensure cumulative development does not result in public health hazards or adverse environmental **impacts contrary to state and federal regulations**. This policy shall be implemented through specific goals and policies regarding the development of residential, commercial and industrial uses as provided herein. Whenever zoning and development standards within the Rural Land Development Code are hereafter amended, these goals and policies shall also be reviewed and adjusted to assure consistency.

II. CONFORMANCE WITH JOSEPHINE COUNTY RURAL LAND DEVELOPMENT CODE (RLDC)

RLDC ARTICLE 12 - ADMINISTRATION 12.010 - SCOPE & COMPLIANCE. 12.020
CONSISTENCY WITH PLANS AND LAWS

B. Actions initiated and approved under this code **shall be consistent with the requirements of the Josephine County Comprehensive Plan, the Goals and Policies of the Comprehensive Plan, and any applicable local, state, or federal laws, rules and regulations.**

RLDC - Article 31 - Public Hearings, 31.070 - Burden and Nature of Proof.

B. The decision of the hearing body shall be supported by substantial evidence in the record. The applicant shall address the required criteria and present evidence as appropriate to the specific proposal. In addition to the standards and criteria for the specific type of application, the hearing body shall deem the following criteria applicable to its decisions: 1. **Conformance with the Josephine County Comprehensive Plan to include its Goals and Policies;** 2. **Conformance with applicable state laws, rules, and regulations pertaining to land use and the specific proposal,** including the applicable Oregon Administrative Rules in Chapter 660 and guidelines contained in the statewide planning goals;

RLDC 11.030 - PARTITION OF LAND. D. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and other state laws applicable to farm and forest lands.

RLDC 10.080 - Relationship to Other Laws. When Oregon Revised Statutes and Oregon Administrative Rules relating to land use are enacted, amended, or repealed, mandatory state laws and rules shall apply from the time they are effective and shall be amended into this code at the earliest possible time.

RLDC Article 12 - Administration 12.010 - Scope & Compliance. 12.020 - Consistency with Plans and Laws. B. Actions initiated and approved under this code **shall be consistent with the**

requirements of the Josephine County Comprehensive Plan, the Goals and Policies of the Comprehensive Plan, and any applicable local, state, or federal laws, rules and regulations.

RLDC 12.070 - Rules of Interpretation of Document. A.2. Where conditions imposed by this code are less restrictive than comparative conditions imposed by any other local ordinance, code resolution or regulation, or by the provision of state law or state administrative regulation, then the more restrictive shall govern;

RLDC - Article 23 - Hearings Officer Review Procedures, 23.050 - Review & Decision. F. The final decision of the Hearings Officer shall be in the form of written findings of fact meeting the requirements of state law and Section 31.130.C of this code.

RLDC - ARTICLE 24 - Planning Commission Review Procedures, 24.050 - Review & Decision. F. A final decision of the Planning Commission shall be in the form of findings of fact meeting the requirements of state law and Section 31.130.C of this code. Decisions which constitute a recommendation to the Board shall be in the form of minutes detailing the testimony, arguments and deliberations leading up to the recommendation.

RLDC - Article 25 - Board of Commissioner Review Procedures, 25.040 - Review & Decision. F. The final decision of the Board shall be in the form of findings of fact meeting the requirements of state law and Section 31.130.C of this code.

RLDC - Article 25 - Board of Commissioner Review Procedures, 25.050 - Appeal. A land use decision by the Board may be appealed to the Oregon Land Use Board of Appeals as provided by state law.

RLDC - Article 31 - Public Hearings, 31.070 - Burden and Nature of Proof. B. The decision of the hearing body shall be supported by substantial evidence in the record. The applicant shall address the required criteria and present evidence as appropriate to the specific proposal. In addition to the standards and criteria for the specific type of application, the hearing body shall deem the following criteria applicable to its decisions: **1. Conformance with the Josephine County Comprehensive Plan to include its Goals and Policies; 2. Conformance with applicable state laws, rules, and regulations pertaining to land use and the specific proposal**, including the applicable Oregon Administrative Rules in Chapter 660 and guidelines contained in the statewide planning goals;

RLDC - Article 31 - Public Hearings, 31.080 - Disclosure Rule. B. Conflict of Interest: 1. In addition to the ex parte and pre-hearing contacts, no member of the governing body shall participate in any vote on a proposal when: d. For any other reason specified by state law;

RLDC - Article 33 - Appeal of Decisions, 33.040 - Statement of Appeal. A. A statement of appeal shall be on a form supplied by the Planning Director and shall contain the following information: 2. What information in the record of decision was pertinent to the decision, but was

not considered by the review body. This may include the comprehensive plan, this code, applicable state law, or other evidence;

RLDC - Article 40 - Basic Provisions, 40.010 - Purpose. The purpose of this Article is to establish the basic procedures for the submission of applications for land use permits in Josephine County; 40.020 - TYPES OF ACTIONS. The following is a list of land use actions authorized by this code. This list shall not be considered exclusive, and land use actions authorized by state or federal law or other county ordinance or regulation are also authorized.

46.020 - Review Procedure. A. Applications to amend any element of the comprehensive plan shall be processed using Planning Commission Review Procedures (Article 24) and/or Board of Commissioners Review Procedures (Article 25).

B. Applications to amend any element of the comprehensive plan shall be reviewed and decided as follows:

2. Review Authority of the Board [BCC]. The Board's authority to review actions by the Planning Commission to adopt, amend or repeal any part of the comprehensive plan shall be subject to the following rules: a. Where the Planning Commission makes a recommended decision to the Board pursuant to subsection B[1][d] above, the Board shall conduct a full *de novo* hearing regarding the application. The Board's hearing shall conform to the notice and hearing rules as set forth in Chapter 3 of this code, and any other applicable state law or rule.

RLDC - Article 84 - Water Standards, 84.100 - State Law. Nothing in this code is intended to conflict with ORS 537.505, et. seq., and the provisions of state law shall apply and prevail as applicable to any actual or intended groundwater use.