Several of the comments are repetitive covering the same issue. Therefore, staff has condensed those issues down by sections. This only addresses comments on the ordinance text changes for AM-14-10.

**Chapter I**

§ 1.1.100 Title and Authority: This Ordinance shall be known as the Coos County Zoning and Land Development Ordinance of 1985 and is enacted pursuant to the provisions of ORS 92.044, 92.046, 203.035, 203.065, 215.050 and 215.110 and the Coos County Comprehensive Plan. All provisions of this Ordinance shall remain in compliance with the Comprehensive Plan and State law.

§1.1.200 Purpose: It is the purpose of this Ordinance to implement the Coos County Comprehensive Plan by:
1. Promoting the orderly growth of Coos County,
2. Protecting and enhancing the environment,
3. Conserving and stabilizing the value of property,
4. Reducing excessive traffic congestion,
5. Preventing overcrowding of land by establishing standards for proper density,
6. Providing adequate open space for light and air,
7. Conserving natural resources,
8. Encouraging the most appropriate use of land,
9. Preventing water and air pollution,
10. Facilitating fire and police protection,
11. Providing for community facilities,
12. Promoting and protecting the public health, safety, convenience and general welfare.

§1.1.300 Compliance with Comprehensive Plan and Ordinance Provisions: The Comprehensive Plan of Coos County is the basis for all land use development within Coos County. Should any conflicts arise between the Plan and this Ordinance, the provisions of the Plan will prevail.

Comments provided by: Jody McCaffree
Janet C. Stoffel
Jonathan M. Hanson
John Clarke
Kathy Dodds
Katy Eymann
Richard F. Knablin
Beverly Segner
William York
Response:
Staff’s changes are in compliance with the Comprehensive Plan and State Law. The majority of the changes that apply to AM-14-10 are a reorganization of the sections to help the reader in determining uses that are allowed, conditionally allowed or prohibited on properties. The changes presented in AM-14-10 are either a rearranging exercise to make it easy for the reader or the changes are based on state law, case law or consistency with the Coos County Comprehensive Plan (CCCP).

In the event an ordinance is in conflict with the CCCP § 1.1.300 provides for the following solution “[T]he Comprehensive Plan of Coos County is the basis for all land use development within Coos County. Should any conflicts arise between the Plan and this Ordinance, the provisions of the Plan will prevail.”

All documents are public and can be viewed at the department. There was a suggestion to have documents available at libraries but, in the past, local libraries have not wanted to ensure documents are kept up to date. Southwestern Oregon Community College was the first library to request to be removed from list for updates to the Coos County Zoning and Land Development Ordinance because they chose not to manage the documents any more.

There was another comment submitted regarding changing this language to require staff to post the Coos County Comprehensive Plan (CCCP) on the website; however, there is no legal basis for this request and this would place a burden on the county in cases where the webpage may fail making the County in violation of the ordinance. The current language is in compliance with the CCCP and is not part of the requested text amendments. Staff would suggest that the Board not change the language because notice of this change was not provided. However, Staff is working toward providing all documents on line and having them in a form that is easy to update.

§ 1.3.225 (2)(a) Own property in Coos County outside of the city limits.
§ 1.3.225(6) If the hearings body determines that a violation does in fact exist, the property owner will have 15 days to submit a plan for compliance.

Comments provided by:  Jody McCaffree
                          Katy Eymann
                          Jenmarie Frangopoulos
                          Jonathan Hanson
                          Richard F. Knablin
                          Beverly Segner
                          Janet Stoffel
                          JC Williams

Response to § 1.3.225 Violation Process:
Multiple request were received to remove the “outside city limits” language from § 1.3.225(2)(a). Staff does not have an issue with removal of this. There are many statements made regarding taxes that are invalid and are not supported by any legal argument. The
Board has the authority to change the language. The language itself is not statutory language but a process that was set in place to address ORS 215.185 and 215.190. ORS 215.170 does explain authority of cities within county jurisdictions; however, that does not necessarily extend to citizens that live within the boundary of the city limits.

There was a suggestion to change 15 days to “not less than 15 days”. Staff included timelines to set a standard that would fairly apply to all situations. The 15 days should be adequate time to allow for a plan of compliance. This does not require the plan to be completed but it should provide goals for completion. There is no legal reason provided by the parties that have provided testimony on this section.

§ 1.4.300 TERM OF APPOINTMENT (5) The secretary shall be responsible for the preparation of the committee minutes. If agreed upon by the Citizen Advisory Committee, the Planning Staff may present summary minutes. Summary minutes are not transcripts. Staff does not have the resources to transcribe minutes. The meetings will be recorded.

Comments provided by: Beverly Segner

Response:
There has been a suggestion to add “and recording will be made accessible to the public”. Recordings are accessible to the public by submitting a records request and paying the appropriate fee.

§ 1.4.600 (3) Notice of each committee meeting shall be published in a newspaper and posted at the Coos County Courthouse Seven fourteen (14 7) days prior to the meeting, detailing the date, time, place of meeting and subject matter. The Board of Commissioners shall include the meeting on the weekly agendas that are posted on the Coos County website.

Comments provided by: Janet C. Stoffel, Beverly Segner, Jody McCaffree, Katy Eymann, Jonathan Hanson, Richard F. Knablin, William York

Response:
Notifications published in the newspaper are not required by law for Citizen Advisory Meetings. The reason for setting consistent dates is to make it easier for the public. The newspaper publishing is very costly and, in the past, citizens have provided negative comments regarding publishing in the paper. Staff will contact radio stations to provide for an additional media outlet.
The Planning Commission meetings are in the evening to allow for public comment and the Board of Commissioners is in the day time. However, the Board may choose to hold evening meetings.

The publishing dates limit times that Citizen Advisory can meet and is cost prohibitive. The citizen advisory program was not meant to be a cost burden. Staff has set regular meeting dates and times that the Board has posted on their weekly meeting schedule to make it easier for the public to know when the meetings are.

There have been several comments regarding more online information. Staff is working on providing more on-line information but there is no legal requirement for information to be posted online.

However, as a citizen if you are interested in participating it is your responsibility to be involved. If a citizen does not see the information on line they may call or email the department. They can also request email notification. The department responds to calls and emails everyday and this is part of facilitating public information.

Some of the testimony is in regards to the posting of agendas. This is irrelevant and the website is up to date. The Coos County IT department is working on a list server for the Planning Department.

§ 1.4.700 Meetings (6) (b) declaration of any ex parte contacts or conflicts of interest;

Comments provided by: Jody McCaffree
Katy Eymann
Jonathan Hanson
Richard F. Knablin
Beverly Segner

Response:
The Citizen Advisory (involvement) Group was formed to ensure that there was input from citizens. Below is the section from the CCCP.

1.5 CITIZEN INVOLVEMENT
Statewide Planning Goal #1 requires local governments "to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process”.

Goal #1 states the following components shall be incorporated in the “Citizen Involvement Program” to:

a. provide for widespread citizen involvement; and
b. assure effective two-way communication with citizens; and
c. provide the opportunity for citizens to be involved in all phases of the planning process; and
d. assure that technical information is available in an understandable form; and
e. assure that citizens will receive a response from policy-makers; and
f. insure funding for the Citizen Involvement Program.

In 1977, Coos County adopted a Citizen Involvement Program (CIP) to guide the development of the County’s Comprehensive Plan [Volumes I (Balance of County), II (Coos Bay Estuary), and III (Coquille River Estuary)]. During the development of the Plan and its Implementing Ordinance, the Citizen Involvement Program was essential for the factual information and how to manage the integral estuaries, farmlands, and timberlands, which define this County. Once the Comprehensive Plan was prepared for Coos County, §5.1 in Volume I, Part 1 was created to involve the citizens of Coos County in a productive manner with the on-going planning process for land use.

After the Land Conservation and Development Commission’s (LCDC) acknowledgement and the County’s adoption of Coos County’s Comprehensive Plan and Implementation Ordinance, the County felt its Citizen Involvement Program would be better served by appointing the County’s Planning Commission to serve as a component of its Citizen Involvement Program in order to continue satisfying Statewide Planning Goal #1. In 1987, Coos County’s Citizen Involvement Program was amended to place the County’s Planning Commission in this dual role.

The Coos County Board of Commissioners determined during the County’s Periodic Review process that there was a need for a Citizen Involvement Program separate from the Planning Commission. The citizen involvement group will be a “Citizen Advisory Committee”, which will represent the broad geographic areas of the County and the varied interests related to land use and land-use decisions. This committee’s function will be to review revisions initiated by the Planning Department staff, or to suggest revisions to the County’s Comprehensive Plan and/or Zoning and Land Development Ordinance; will not include applications submitted by property owners and/or their agents.

The implementation of Citizen Advisory is through the Coos County Zoning and Land Development Ordinance. The ordinance sets out the procedures that the CAC will follow. The group is a representation of the citizens of Coos County. This is why the group is selected by the Board of Commissioners based on § 1.4.200. Citizen Advisory does not have any authority to make decisions that would directly change the ordinance or the comprehensive plan. The only body that has that type of authority is the Board of Commissioners. §1.4.600(4) Decisions and/or recommendations of the Citizen Advisory Committee shall be advisory only and shall be non-binding on the part of the Planning Department, Planning Commission, or other decision making boards. Legislative amendments are not subject to § 197.763 and as a group that provides input on legislative matters they should be interacting with the public that is part of their function. The Board has selected different people with different professions.

In Ms. Eymann’s (page 6 of 15) comments she references The Guide to Land Use Planning for Small Cities and Counties in Oregon that was produced by Oregon Department of Land Conservation and Development in January 2007. Although there may be some portions that need to be updated, the guide overall has a lot of good information especially in Chapter 11 where it explains about legislative hearings: “There can be pre-hearing contact between citizens and the decision makers on legislative matters. That is, ‘ex parte contact’ is not a
concern. Decision makers are seeking all the input they can get on the issues in order to make a reasonable decision on the proposed amendments.” This applies to the Board of Commissioners as they are the final decision makers in this matter; however, this supports the argument of not holding the CAC to a higher standard than the BOC.

The Citizen Advisory asked if this language was necessary because they are not making decisions. The Board of Commissioners appoints the committee members and is aware of their background. Legislative process includes changes to the zoning ordinance and comprehensive plan. Citizen Advisory is not a decision making body. Even the Board of Commissioners does not have to consider ex parte contact and, as decision makers, they are seeking all the input they can get on the issues in order to make a reasonable decision on the proposed amendments.

Ms. McCaffree makes two assertions that are not supported by evidence in the record. One is that this change has to do with a particular project and the supporters of this project and two that the majority of citizens are against said project. This project has no relevance to this request to remove this language. The first citizen advisory committee meeting is where this came about and since that time there have been different committee members.
Chapter II New Definitions

(A) COMMERCIAL POWER GENERATING FACILITY. A “commercial power generating facility” is a facility that converts energy into a usable form of energy (such as electricity) and conveys that energy to the public. Commercial power generating facilities typically convert mechanical energy into electrical energy. A “commercial power generating facility” does not include a net metered facility as defined in ORS 757.300 or a facility (either grid-connected or stand-alone) that produces an equal amount or less energy than is consumed by the use(s) to which the facility is accessory over the course of a calendar year, provided that the power generating facility is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

Comments provided by:  Jody McCaffree
Katy Eymann
Jenmarie Frangopoulos
Jonathan Hanson
Richard F. Knablin
Janet Stoffel
JC Williams

Response:
Ms. McCaffree, a prior citizen advisory committee member, had sent a sample ordinance based on OAR 660-033-0130 to be considered for wind and renewable energy device standards. In that document, the aforementioned definition was included. This was an attempt to include ordinance language that Ms. McCaffree had requested via Commissioner Main to include the wind and renewable energy ordinance in the work program. Staff did as instructed and that is where the definition came from in the proposed ordinance. However, because the Citizen Advisory requested more time to review wind energy it did not make it into these proposed changes. The Board may remove the definition but should provide further instruction on wind energy ordinances.

Other suggested definitions that were suggested for modification:

Comments provided by:  Katy Eymann
Richard F. Knablin

Response:
Temporary Residence is defined in this chapter the limitation is found in the uses and should be restricted in the definitions. The current § 3.2.125(b) states – “[t]he Planning Director may authorize use of a camper, travel trailer, recreational vehicle or other similar device as a place of temporary habitation during construction of a permitted building or authorized use, subject to other provisions of this ordinance; ***” This is not restricted to dwellings and should not be. There was no legal basis provided for this restriction and the change in the definition would cause an inconsistency in the listed uses. This is also true with temporary use as the zoning district itself sets the restrictive limit.
Temporary Use was requested to be modified but this is limited within specific zoning districts and would cause a conflict if it were changed in the definition.

Dredging is not a proposed definition and there has been no explanation given as to why the current definition is out of compliance with any Statewide Planning Goal or State Law. Dredging is listed in CCCP and if the definition were to be changed it would cause a conflict.

Critical facility should not be considered until the hazard plan has been updated. There was no legal argument given for any of these proposed changes.
Chapter III Estuary

Coos Bay Estuary Management Plan

Comments provided by: Susan P. Smith
Katy Eymann
Jody McCaffree

General Response:
One of the issues raised was the lack of page numbers in the first table. The first table in Chapter III does not contain page numbers at this time because they will contain hyperlinks to allow readers online to click on the section they would like to view. The policies follow each estuary plan to make it easy to find them. As a general comment, it has been suggested to place each estuary in their own Chapters. This could be accomplished but would require a substantial change in the formatting of the ordinance. Page numbers will be correct once they are inserted into the ordinance.

Comments provided by: Jody McCaffree

Comments regarding the maps
In Ms. McCaffree testimony regarding the maps, it appears she has many different layers turned on the maps at once. The map is clear and shows the zoning clearly. Staff can talk with Department of Land Conservation and Development (DLCD), the agency hosting the data to see if they can alter the shades to aide in better viewing. DLCD is hosting the County’s data but they have other data on the site as well like the 1987 estuary layer which is a layer they produced and does not mean it is based on any type of zoning. Staff is happy to provide assistance to help citizens understand the viewer.
The data is not incorrect as it is from the Mylar maps but, if there is an inconsistency, the Mylar maps are kept to ensure a mistake can be corrected. There have been no legal arguments cited against these changes. In fact, this satisfies most of the requests for additional on-line resources to help facilitate public information. Staff is working on providing more digital layers to DLCD to host. Anyone can request a printed map instead of viewing the online versions if a layer is not available on line.

Comments provided by:  Katy Eymann  
Jody McCaffree  
Beverly Segner

Response to § 3.1.100
The County Clerk has explained that the large Mylar maps cannot be changed once recorded. This presents a conflict with the existing process for map changes as it requires the Mylar map to be modified. Therefore, all map changes are filed with the clerk’s office showing the area of change but the overall map should be kept in the Planning Department as the official record. Staff was unable to find another county that had this type of procedure. If changes are made there is a decision process and notification is made, depending on the type of change. These processes are contingent on whether it is a decision from the Planning Commission or the Planning Director. Either process is a public process and there is opportunity for appeal. There has been no legal argument provided to support the suggested changes by the opponents of this provision. The law does not state that a map cannot be in digital format.
§ 3.1.150 AMENDMENT OF ZONING DISTRICT MAP: Whenever it is necessary to amend the zoning map to conform with an approved rezoning or with an amendment to the text of this Ordinance or as final land use actions of incorporated cities as may be required, the Planning Director shall so change the map, making such changes in red ink and annotating the map and the cover sheet to show the Ordinance or other number and the date of the change. (ORD 85-08-011L)

Comments provided by: Katy Eymann
Beverly Segner

Response:
There are no proposed changes to this section but it should be included. Ms. Eymann requested the Board delete this section because she believed it to be duplicated in Chapter IV. This section is specific to estuary zoned maps and the instructions should be kept in the section. The public process of amending the comprehensive zone map takes place when a plan zone amendment occurs or a text amendment occurs. The Planning Commission and the Board of Commissioner would both be aware of the changes because the amendment rezone would have to go through both reviewing bodies and be adopted by the Board of Commissioners as a post acknowledgment plan amendment.

§ 3.1.200 Interpretation of Zoning District Boundaries: Due to the transposition of boundary lines from the Comprehensive Plan Maps (scale: 2” = 1 mile) to the Official Zoning Maps (scale: 1”=800’), zoning district boundaries were drawn to the nearest 10 acres. Whenever an uncertainty exists as to the boundary of a zone as shown on the official zoning map, the following rules of interpretation shall apply:***

Comments provided by: Katy Eymann
Jonathan Hanson

Response:
There is no proposed change to this language. Ms. Eymann suggested removing it because it was duplicated in Chapter IV. However, these provisions should be left in as they explain the process for estuary zones. Chapter IV is explaining the process in the Balance of County Zones. These sections are stand alone sections and it would not make sense to remove any of the portions that explain about the maps or amendments to the maps. Citizens are encouraged to attend any of the meetings being held so they would have a better understanding of the process.

§ 3.1.250 COASTAL SHORELANDS BOUNDARY: The Coastal Shoreland Boundary as it applies to the Coos Bay Estuary Management Plan and the Coquille River Estuary Management Plan is identified as that outer extent of the estuary zoning boundary.
Response to § 3.1.250:
Charges are only allowed to be made after an action is taken by the Board of Commissioners or Planning Commission, which are public reviews. This section describes the Coastal Shoreland Boundary. The comments requesting some type of process is not appropriate for this section and there is no legal reason provided for making such change.

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§3.1.350 ERRORS IN ZONING DISTRICT MAPS:
1. The Planning Director shall periodically compare zone maps on file with the official zoning map and the action taken by the Board of Commissioners or Hearings Body to assure the maps conform therewith.
2. When errors in transcription, interpretation, or clerical mistakes are found, the Planning Director shall have the authority to correct those errors on the official map using the same process as §3.1.150.

Response to § 3.1.350:
There was testimony requesting this section be removed and/or modified. This section should not be removed as it is specific to the estuary and the balance of county zoning. These changes only happen after a public process has taken place. Subsection 1 states the action will be taken by the Board of Commissioners or Hearings Body to assure the maps conform therewith. There has been no legal basis for any comments from opponents.
Response to Table 3.2:
Table 3.2 lists out abbreviations for district designations and the designations are defined in Chapter II. This was not part of the changes but if the Board would like to see the designations defined under the table, it can be done.

The only changes that were recommended to the Coos Bay Estuary Management Plan were the reference to road standards to be consistent with the Transportation System Plan and the updated language for riparian vegetation to be consistent with the other changes throughout.
The Coos Bay Estuary Management Plan and implementing ordinances will be updated in the near future.

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- **Policy #37: County Plan Revisions and Amendments (Does not apply to provisions affecting City Management Units): Public Hearing Procedure**

  Coos County shall exercise due process in considering amendments to this Plan. Public hearing procedures are set forth in the Coos County Zoning and Land Development Ordinance (CCZLDO) OR 92-05-009PL.

  Comments provided by: Jody McCaffree

  **Response to Policy 37**
  Policy 37 is a plan policy and is not part of the proposed ordinance text changes. The change in this policy would require a comprehensive plan change which is not proposed. No policy can be changed unless it is changed in the CCCP first as it would create an inconsistency.

  Comments provided by: Susan P. Smith

  **Response to General Comments:**
  There were comments regarding the development of Chapter III. Currently, the Coquille River Estuary Management Plan implementing ordinances are scattered throughout Chapter III, IV and Appendix 2 and the Coos Bay Estuary implementing ordinances are located in Chapter III, IV and Appendix 3. The new Chapter III allowed staff to pull the entire estuary zoning requirements together into one section. This will allow for easy reading. Staff reorganized the Coquille River Estuary Plan by grouping segments that had the same or similar purpose statements.
Chapter IV

§ 4.1.110 AMENDMENT OF ZONING DISTRICT MAP: Whenever it is necessary to amend the zoning map to conform with an approved rezoning or with an amendment to the text of this Ordinance or as final land use actions of incorporated cities as may be required, the Planning Staff shall make the change and note it in the meta data. When changes are made to the digitized maps they shall be exported into a shape file with the date and title and stored in an archived file. If changes are needed to align with the Assessor’s tax lot data that may be done without notice. Director shall so change the map, making such changes in red ink and annotating the map and the cover sheet to show the Ordinance or other number and the date of the change. (ORD 85-08-011L)

Comments provided by: Jan Dilley
Katy Eymann
Jody McCaffree

Response:
This language needs to be repeated to make sure it is understood how it applies to each zoning chapter.

Ms. Eymann’s testimony provides a cite to DLCD’s 2007 guide titled *An Introductory Guide to Land use Planning for Small Cities and Counties in Oregon* which is a very useful tool but contains some outdated language when referencing DLCD timelines. On January 27, 2012, the Land Conservation and Development Commission (LCDC) amended Administrative Rules in OAR 660, division 18, concerning local changes to comprehensive plans and implementing ordinances. These rules implement state laws ORS 197.610 through 197.625. The 2011 legislature amended these statutes; LCDC’s amendments align the rules with the newly amended statutes and so does Coos County’s. The new statutes took effect January 1, 2012. The amended rules took effect on February 14, 2012. The revised statutes and rules provide a shorter notice period, in advance of a proposed local “change” (meanwhile, the period for submittal of an adopted change is lengthened; see question 11, below). The notice to DLCD in advance of a local adoption is now 35 days (rather than 45 days) prior to the first evidentiary hearing on a proposed change. The 35 days is counted from the postmark date or the day the amendments are actually received if submitted to the department by any method other than the US Postal Service. The legislation authorizes LCDC to further shorten the notice period for proposed changes, down to 20 days.

The purpose of this section is to allow for the staff to make the necessary changes to the CCCP maps after “an approved rezoning or with an amendment to the text of this Ordinance”. The approved rezoning would go through a process as described in the 2007 DLCD land use guide and once the appeal period had expired then staff would make the changes to the maps. The same is the case of an interpretation to a zoning has been completed and the appeal period has expired. The only minor change staff is allowed to make is based on the movement of a tax lot line when the purpose of the line change was to adjust to the actual boundary and not due to a property line adjustment.
The purpose of the change to § 4.1.110 is to become digital to allow better access for the public and staff. In order to become digital the changes have to be kept in the metadata. Throughout the opposing testimony received Goal 1 is brought up and this is a move to make it easier for people to participate by receiving the data on line.

§ 4.1.200 INTERPRETATION OF ZONING DISTRICT BOUNDARIES: If an interpretation of the zoning district boundary is required the official Mylar maps that were adopted as part of the 1986 Comprehensive Plan shall be used. Due to the transposition of boundary lines from the Comprehensive Plan Maps (scale: 2" = 1 mile) to the Official Zoning Maps (scale: 1”=800’); zoning district boundaries were drawn to the nearest 10 acres. Whenever an uncertainty exists as to the boundary of a zone as shown on the official zoning map, the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted or surveyed lines shall be construed to follow such plat or survey lines.
3. Boundaries indicated as approximately following city limits shall be construed to follow such city limits.
4. Boundaries indicated as following railroad lines or public utility easements shall be construed to follow such lines.
5. Boundaries indicated as following the centerlines of streams, rivers, canals, or other bodies of water shall be construed to follow those centerlines.
6. Boundaries indicated as approximately following the shorelines of water bodies shall be construed to follow the mean high water line (MHWL) or the line of non-aquatic vegetation, whichever is higher.
7. Boundaries indicated as approximately following ridge tops and other topographical features shall be construed to follow those features.
8. Boundaries indicated as approximately parallel to, or as extensions of features indicated in subsections 1 through 7, shall be so construed.
9. Where a public street or alley is officially vacated, the zone requirements applicable to the property in which the vacated area becomes a part shall apply.
10. Boundaries not intended to follow the above-listed features shall indicate where possible distances to reference points and other lines so they can be located on the ground.
11. Where physical features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 10 above, the Planning Director shall interpret the zone boundaries, and if need be, may refer the matter to the Hearings Body for its interpretation pursuant to §1.1.700 of this Ordinance.

Comments provided by: Katy Eymann

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1 The official zone maps state Coos County Zoning Map, Date of Adoption Jan. 1983 (The official date of adoption of the zoning maps including the special development consideration maps was April 4, 1985)
Response:
These are necessary to be left so that the reader understands that the provisions apply to the Balance of County zoning. There has been no legal argument provided for only having this language in one section of the ordinance.

Coos County has an acknowledged plan which means this provision is in compliance. There are no changes to the language.

§ 4.1.130 INTERPRETATION OF COASTAL SHORELANDS BOUNDARY: When a development action is proposed in the immediate vicinity of the Coastal Shorelands Boundary (CSB) and when such proposed development action relies on a precise interpretation of the CSB, the Planning Director shall establish the precise location of the CSB using the seven criteria specified in the Coastal Shorelands Goal 17. Establishment of the exact location may require an on-site inspection. If the location of the CSB as shown on the Plan maps or Coastal Shorelands Inventory map is subsequently found to be inaccurate or misleading, the Planning Director shall make the appropriate minor adjustments to the maps and provide a copy of any map revision will be filed with the County Clerk’s office. All interpretations shall be processed as an administrative decision.

Comments provided by: Curt Clay
Jan Dilley
Kathy Dodds
Jenmarie Frangopoulos
Beverly Segner
JC Williams
William York

Response:
Currently the language provides authority for the Planning Director to make minor changes without any notification or justification. By removing minor and adding the language that makes it an administrative decision, the current authority be removed and the action made would be a noticeable action. The testimony provided indicates that the authority of the Planning Director should not be modified and without any notice of decision. The changes to §4.1.130 require a decision subject to a public notice and review pursuant to Chapter 5. The testimony provided seems to support the current language; therefore, staff suggests the Board leave the proposed change in place. For clarification, Administrative means there is a public process.

§ 4.2.130(10)(i) The 50’ measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.

Comments provided by: Jody McCaffree
Katy Eymann
Richard F. Knablin
Beverly Segner
Response:
The ordinary high water mark is defined by ORS 274.005 as a line of ordinary high water which means the line on the bank or shore to which the high water ordinarily rises annually in season. This wording is significant in that it is used by all the water regulatory agencies such as Department of State Lands. There has been no legal basis provided for these comments.

§ 4.2.200 (18) 18. Photovoltaic Cells. The installation and use of a solar photovoltaic energy system or a solar thermal energy system shall be allowed if:
   a. The installation of a solar energy system can be accomplished without increasing the footprint of the residential structure or the peak height of the portion of the roof on which the system is installed; and
   b. The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof (ORS 215.439)
The solar energy system may be sited on the ground. Must comply with the same setback requirements listed in the development standards.

Comments provided by:  Jody McCaffree

Response:
This language is from ORS 215.439 Solar energy systems in residential or commercial zones. If the opponent has alternative proposed language that is legally supported, then it should have been provided for consideration.

§ 4.2.300(8) Riparian Vegetation Protection. Riparian vegetation within 50 feet of a estuarine wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps, shall be maintained except that: (a) Trees certified as posing an erosion or safety hazard by the one or more of the following: Coos Soil and Water Conservation District, Coos County Road Department, Coos County Forestry Department, Oregon Department of State Forestry, Coos County Board of Commissioners, port district or Natural Resource Conservation Service US Soil Conservation Service posing an erosion or safety hazard may be removed to minimize said hazard;

Comments provided by:  Beverly Segner

Response:
This was a Board of Commissioners suggestion as property owners are having issues obtaining certification for a danger tree from the appropriate agencies. The suggested change is to require two agencies certify the tree as posing an erosion or safety hazard. The Board may want to reconsider this language but the opposing party did not provide a legal justification for the request in the language. This language is proposed in various sections and staff’s response would remain the same.
§ 4.4.220 (12) New High Intensity Recreational Uses may be permitted on public dedicated or government owned property upon finding that the property is no longer needed to meet an industrial land inventory need. The property must be located adjacent to a natural recreational feature such as a sand dune or water body.

Comments provided by: Beverly Segner
Katy Eymann
Richard F. Knablin

Response:
This is a proposed change to protect industrial lands from being utilized for uses that are in conflict with the purpose of the IND zoning. If industrial lands are allowed to be converted to other uses, the County’s industrial land base will be depleted. There needs to be studies done showing that the properties are not needed for industrial uses before they are dedicated to high intensity recreational uses. CCCP Volume I, Part I, 5.16 Industrial & Commercial Lands states “Coos County shall continuously plan for and maintain an adequate supply of commercial and industrial land, recognizing that a readily available supply of such land is the basis for a sound economic development program.” This change will allow the protection of IND lands from being developed into large high intensity recreational developments without providing studies to support that decision.

Any high-intensity recreational use that was approved prior to the adoption date would be considered a non-conforming (grandfathered) use and would be subject to review under Article 5.6 if an expansion or replacement is requested. Article 5.6 explains when public process is required pursuant to ORS 215.130(5)-(8). There are certain modifications that are permitted.

§ 4.5.120 (f) Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper’s vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

Comments provided by: Beverly Segner
Katy Eymann

Response:
The language for campgrounds is based on OAR 660-006-0025. The language mirrors state law and a local definition may pose a legal conflict. The opponents to this language provide no legal argument for that would allow a local definition.

This provision also limits overnight temporary use in the same campground by a camper or camper’s vehicle. The camper or camper’s vehicle shall not exceed a total of 30 days during any consecutive 6 month period. There was some confusion as some people stated in their testimony that limits needed to be placed on the length of stay; however, as stated above there is a limit.
§ 4.1.190 state “uses that are not specifically allowed for are prohibited”. There is a public process for addition or clarification of uses. Some testimony provided connects this provision to housing that support industrial uses. This would have to be a listed use or an interpretation made. No legal argument was provided to support removal and/or modification to this section as suggested by opposing parties.

§ 4.6.220 (1)(f)(iii) Utility facilities necessary for public service, except for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. A facility is necessary if it must be situated in an agricultural zone in order for the service to be provided. An associated transmission line may be allowed if it is necessary for public service and meets the following:

1) Not located on high value farmland or arable farmland.
2) Is co-located with an existing transmission line.
3) Parallels an existing transmission line corridor with the minimum separation necessary for safety, and applicable regulations.
4) Is located within an existing right of way for a linear facility, such as a transmission line, road, or railroad, that is located above the surface of ground. or
5) If, after an evaluation, or reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets two or more of the following:
   a. Technical and engineering feasibility;
   b. The associated transmission line is locationally dependent because the associated transmission line must cross high value farmland or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
   c. Lack of an available existing right of way for a linear facility, such as a transmission line, road, or railroad that is located above the surface of the ground;
   d. Public health and safety. or
   e. Other requirements of state or federal agencies.
   f. The applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmland.
   g. The governing body or its designee may consider costs associated with any factors, but considerations of cost may not be the only consideration in determining whether the associated transmission line is necessary for public services.
   h. Defined as: a new transmission line constructed to connect an energy facility to the first point of junction of such transmission line or lines with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.
Response:
The wording of Utility facility is based on ORS 215.283 and ORS 215.274 which contains associated definitions. The Board should not add definitions that conflict with the statutory definitions if they choose to use the statutory language.

ORS 215.274(3) The governing body of a county or its designee shall approve an application under this § if an applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements: (a) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300 (Definitions for ORS 195.300 to 195.336), or on arable land; (b) The associated transmission line is co-located with an existing transmission line; (c) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or (d) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground.

ORS 215.274 (4) Except as provided in sub§ (3) of this section, the governing body of a county or its designee shall approve an application under this § if, after an evaluation of reasonable alternatives, the applicant demonstrates that the entire route of the associated transmission line meets, subject to paragraphs (b) and (c) of this subsection, two or more of the following factors: (A) Technical and engineering feasibility; (B) The associated transmission line is locationally dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300 (Definitions for ORS 195.300 to 195.336), or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands; (C) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground; (D) Public health and safety; or (E) Other requirements of state or federal agencies. (b) The applicant shall present findings to the governing body of the county or its designee on how the applicant will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland. (c) The governing body of a county or its designee may consider costs associated with any of the factors listed in paragraph (a) of this subsection, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service. [2013 c.242 §2]

There has been testimony provided requesting that the county go beyond the statutory requirements but provides no legal argument for these suggestions.

§ 4.7.100 4.11.100 The purpose of this Article is to prescribe special regulations for the use and development of lands situated within resource or hazard areas identified on the Special Considerations Plan Maps for Volume I (Balance of County). Volume II (Coos Bay Estuary
Management Plan), and Volume III (Coquille River Estuary Management Plan) of the Comprehensive Plan. The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed. In the Balance of County zoning, the development considerations were applied as a broad area and the maps have to be examined in order to determine how the inventory applies to the specific site.

Comments provided by: Beverly Segner
Katy Eymann
Jonathan Hanson
Janet Stoffel

Response:
The airport maps are on scanned documents and can be obtained, if requested. The only change to the airport section is the addition of the Southwest Regional Airport. Staff has reviewed changes with Oregon Department of Aviation and the City of North Bend. The language meets the requirements of OAR 660-013.

The reason for the changes is to have the balance of county zoning (non-estuary zoning) in one chapter and the estuary zoning in the other chapter to make it easier for the reader to understand what applies. Staff is working towards putting all maps online. Some of the maps are completed and are located on the coastal atlas. Tsunamis would have to be addressed in the CCCP as inventories before we can develop implementing language in the ordinance. Staff has received a grant to work on hazards in the future and that would be when this comment would be relevant. There was not a legal argument presented for this suggested changed.

§ 4.7.105 Prescribed Regulations. Development in areas identified on the Special Considerations Map shall be limited by the regulations prescribed by the “Special Regulatory Considerations” set forth in Tables 4.7a, b, and c. Table 4.7a shall apply to the Balance of County. Table 4.7b shall apply to those lands within the Coquille River Coastal Shoreland Boundary. Table 4.7c shall apply to the Coos Bay Estuary Coastal Shoreland Boundary.

Comments provided by: Beverly Segner
Katy Eymann

Response to § 4.7.105 and § 4.7.115:
§ 4.7.105 has been removed from a table format and the policies directly put in the place of the references, which is helpful to readers.

There was a comment made about the current detailed information being helpful to planners. From a planning point of view this section causes confusion because there are specific
sections for estuaries. The reason for the change is to keep provisions that apply to the Balance of County Zoning in the same area reducing the confusion for all readers.

§ 4.7.115 does not reference a table. The special consideration maps are no longer used by staff. Staff uses the detailed spatial information on the inventory maps. The special consideration maps were meant as a tool but not a substitution for the plan maps which should be used by all to eliminate any confusion. There is no valid legal argument made to support these comments.

§ 4.7.125 4.11.125 Special Development Considerations:
The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed in the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site.

Comments provided by: Beverly Segner
Katy Eymann
Jody McCaffree
JC Williams

Responses:
All properties outside of the urban incorporated city boundaries, including the urban growth boundaries, are subject to special development considerations. The estuary zoning has its own special development considerations that apply and they are incorporated into each segment. Again there is no legal argument given for this comment.

Volume I (BALANCE OF COUNTY) of the CCCP explains that applies to unincorporated areas located outside the Coastal Shorelands Boundaries of the Coos Bay and Coquille Estuaries. This language could be included for clarification to the reader. This section is consistent with the CCCP.

§ 4.7.125 4.11.125(1)
Purpose Statement:
Coos County shall manage its identified mineral and aggregate resources (except black sand prospects) in their original character until mined, except where conflicting uses are identified during implementation of the Plan, and such uses are justified based on consideration of the economic, social, environmental and energy consequences of the conflicting uses, or where existing uses have been grandfathered. Where no conflicts are identified, agriculture, forest or similar open space zoning shall be used to implement this strategy.

Comments provided by: Beverly Segner
Katy Eymann
Response:
The purpose statement is from the Coos County Comprehensive Plan Volume 1 Part 1, 5.5 Mineral & Aggregate. This was carried forward from Appendix I of the Coos County Zoning and Land Development Ordinance. There has been a request to modify the purpose statement but no legal basis for the change was given. This would require an amendment to the CCCP.

There was testimony received concerning adding additional language to address the Economic, Social, Environmental and Energy (ESEE) Analysis. The purpose statement is part of the current ordinance and mirrors the CCCP. The wording proposed is not part of the explanation as a general statement. ESEE Analysis applies to specific Statewide Planning Goals and is used for Comprehensive Plans and not ordinances. The regulatory framework for local natural resource protection falls primarily within the purview of Statewide Planning Goals 5 and 6. Goal 5 mandates that local governments “adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations.” A local jurisdiction must either carefully justify its decision to protect or not protect a resource through a Goal 5 standard approach with an Economic, Social, Environmental, and Energy (ESEE) analysis, or follow an inventory process and protection strategy described in the Goal 5 safe harbor method. Where the safe harbor is pursued, no ESEE analysis is required. An ESEE analysis reviews the economic, social, environmental and energy consequences of not allowing, partially allowing or fully allowing conflicting uses. Based on the ESEE Analysis, under Statewide Planning Goal 5, jurisdictions are required to adopt a program to protect their significant wetlands as identified in the local wetland inventory (LWI). The proposed language is not appropriate for a purpose statement but the analysis can be used to determine inventories in the Comprehensive plan. The change would create a conflict with current language of the CCCP.

§ 4.11.125(7) Natural Hazards (Balance of County Policy 5.11)

Natural Hazards (Balance of County Policy 5.11)
The Natural Hazards map has inventoried the following:
- Wind Erosion/Deposition
- Earth flow & Slump Topography
- Critical Stream Bank Erosion
- Flash Flooding
- Rock fall & Debris and Flow Terrain

Purpose Statements:
Coos County shall regulate development in known areas potentially subject to natural disasters and hazards, so as to minimize possible risks to life and property. Coos County considers natural disasters and hazards to include stream and ocean flooding, wind hazards, wind erosion and
deposition, *critical stream bank erosion, mass movement (earthflow and slump topography),
earthquakes and weak foundation soils.

This strategy shall be implemented by enacting special protective measures through zoning and
other implementing devices, designed to minimize risks to life and property.

b. Earth flow/slump topography/rock fall/debris flow: Coos County shall permit the
construction of new dwellings in known areas potentially subject to mass
movement (earth flow/slump topography/rock fall/debris flow) through a conditional use
process only:
   i. if dwellings are otherwise allowed by this comprehensive plan; and

Comments provided by: Jody McCaffree
Beverly Segner
Katy Eymann
Jenmarie Frangopoulos

Response:
Currently, the CCCP addresses wildfires and tsunami’s but there was limited information at
the time due to lack of data to develop inventories. The Forest zone has been updated with
larger sections and development standards to help prevent from wildfires. Tsunami
information was limited at the time of acknowledgment and periodic review. The County is
not subject to periodic review pursuant to ORS 197.628(3) and 197.629(2). Coos County has
an acknowledged comprehensive plan and that acknowledgement means that it is in
compliance with the planning goals. Therefore, given the staffing and resources staff has
worked on needed updates as money is available. There will be updates to the natural
hazards section in the future. Hazard planning updates are one of the next updates.

In regards to the change including all structures within a land slide (earth flow/slump
topography/rock fall/debris flow) should be subject to safety siting regulations. The Board
could consider not making this change until the natural hazard section of the CCCP has been
reviewed. In terms of hazard planning, all structures should be built to a higher standard if
they are in an earth flow slump (landslide) area. No legal requirement was cited. In
Statewide Planning Goal 7 it states “[p]roposed developments should be keyed to the degree
of hazard and to the limitations on uses imposed by such hazard in the planning area”.
Development implies all types of structures that are regulated by the specific zoning
designation.

Ms. McCaffree argues that the County is not in compliance with the Goal 7. As explain
previously, the CCCP does incorporated language for tsunamis and wildfires. Furthermore,
Coos County was found to be in compliance with the Coastal Zone Management (CZM)
program which requires the county to be in compliance with all of the Statewide Planning
Goals. See attached March 13, 2014 memo concerning acknowledgement of Coos County

* These hazards are addressed under policies for "Dunes and Ocean and Lake Shorelands."
Comprehensive Plan and Zoning Ordinance compliance with program. The CCCP does incorporate tsunamis and wildfires in the plan but the data is very limited and should be updated.

§ 4.11.200 PURPOSE: Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations.

Comments provided by: Jody McCaffree
Beverly Segner
Jonathan Hanson

Response:
There have been suggestions to include additional language for tsunamis to the purpose statement. This was not noticed and is not part of the changes. Tsunamis must be fully addressed in the Comprehensive Plan prior to placing them in the implementing ordinances. Currently, tsunami information is very limited in the CCCP because at the time of acknowledgment and periodic review the information was not available. Tsunamis are addressed through the building codes process. All hazards will be reviewed in the near future. The floodplain maps are adopted and Tsunamis will be located in their own special consideration category.

There are no changes proposed to floodplain maps. The maps were updated to the current standards as required to meet the FEMA program with the help of DLCD in March of 2014.

§4.11.445 LAND USE COMPATIBILITY REQUIREMENTS: (4) Industrial Emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

Comments provided by: Jody McCaffree
Katy Eymann
Richard F. Knablin
Beverly Segner

Response:
Comments regarding the Airport Overlay have no legal basis. Staff has worked with all Oregon Department of Aviation to ensure the ordinances are correct for airport planning pursuant to the airport planning rule.
There have been some opposing comments related to a specific project that is irrelevant to the changes proposed. The language has been reviewed for consistency with OAR 660-13 Airport Planning and the Airport Master Plan for the Southwest Airport. Staff has reviewed this section with Jeff Caines, Oregon Department of Aviation, and this was not a concern that was raised. There has been no legal basis provided for the comments. This is new language because the implementing ordinance failed to address the Southwest Regional Airport (AKA North Bend Airport).

§ 4.11.460 NONCONFORMING USES THAT APPLY TO THE SOUTHWEST OREGON REGIONAL AIRPORT OVERALY:

1. *These regulations shall not be construed to require the removal, lowering or alteration of any structure existing at the time the ordinance codified in this chapter is adopted and not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this section.*

Comments provided by: Jody McCaffree

Response:
There has been a suggestion to change the language of this §to read “*These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was approved and begun prior to the effective date of the ordinance codified in this section.*” This suggested change cannot be made by the Board of Commissioners because they are prohibited from adopting any provision that would be retroactive. This would be retroactive because the request would apply to applications that have been approved prior to the adoption this section. §1.2.200 states that text amendments initiated by the Board of Commissioners shall comply with ORS 215.110. Pursuant to ORS 215.110(6) No retroactive ordinance shall be enacted under the provisions of this section. The adoption of any new ordinance may make a use nonconforming but it cannot make a use that was approved prior to the enactment of the ordinance illegal. However, any use that is considered non-conforming by the adoption of this proposed ordinance would regulated by ORS 215.130 (covered in Article 5.6 of the CCZLDO) which specifically regulates the nonconforming uses.
Chapter VI

§6.3.125 PROCEDURE: Same Designation: A line adjustment shall only be permitted where the sale or transfer of ownership is made between abutting owners of like designated lands, residential lands, commercial lands, industrial lands, and resource lands, estuary unless an existing structure encroaches over an existing property boundary or the boundary line adjustment is required to comply with requirements of the State Department of Environmental Quality for a subsurface sewage system.

Comments provided by: Katy Eymann
JC Williams

Response to § 6.3.125:
The sentence should be corrected to read “***like designated lands, residential lands, commercial lands, residential lands, resource lands, and estuary zoned lands ***” This is necessary because it implies you cannot do a property line adjustment in lands that are zoned estuary. The opponents to this provision failed to provide any legal reason for their objections.

§6.3.125 PROCEDURE: (7) Property line adjustments are subject to a twelve (12) day appeal period. If appealed, this will be treated as a Planning Director’s decision and the procedures in Article 5.8 will be followed. A notice of the decision will be mailed to the applicant and to all neighborhood or community organizations recognized by the County and whose boundaries include the site. Notice of the decision will also be mailed to the owners of record of property on the most recent property tax assessment roll where such property is located:

a. Within 100 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is wholly or in part within an urban growth boundary;
b. Within 250 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is outside an urban growth boundary and not within a farm or forest zone;
c. Within 750 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is within a farm or forest zone.

Comments provided by: Katy Eymann
Richard F. Knablin

Response to § 6.3.125(7):
Property line adjustments should remain at the minimum of 12 days. This is a simple process and the criteria are clear and objective. The subsections are referenced with parentheses throughout the ordinance and to make that change would be a large undertaking. This could be corrected at a later date as it has no legal consequences.
There was a suggestion that the county pay for the extended notifications areas. This would allow more people to be notified and not cost the applicant. The Planning Department is not within the general fund and; therefore, would have to request a reimbursement. The notification area and time is consistent with ORS 215.416(11) (C) Notice under this subsection shall comply with ORS 197.763 (3)(a), (c), (g) and (h) and shall describe the nature of the decision. In addition, the notice shall state that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (c) of this subsection may appeal the decision by filing a written appeal in the manner and within the time period provided in the county’s land use regulations. A county may not establish an appeal period that is less than 12 days from the date the written notice of decision required by this subsection was mailed. The notice shall state that the decision will not become final until the period for filing a local appeal has expired. The notice also shall state that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

The County has no reason to be more restrictive than state law. In fact, due to timeline constraints on staff, the shorter time will aid in ensuring that the 150 or 120 day timeline to complete a review can be met. However, this shortening of the time line came about in regards to adding property line adjustments as a noticeable decision. Therefore, the Board may chose to only make property line adjustment require the 12 days and the others 15 days.
Chapter VII

Comments provided by: Jody McCaffree

Response to Chapter 7:

A comment was submitted regarding section numbers being out of order in this chapter. When the final document is put together, the sections will be in the correct order with the correct labels.

Other Comments

Comments provided by: Jody McCaffree

There have been other comments raised that were outside of the scope of this review. Some comments are directly attacking the process and/or staff. If there was not a direct reference made to a section then staff did not address the comments.

Also, there was some testimony received asking the prior deleted sections be added back into the ordinance which is also outside of the scope of these amendments. The Board must review the text in front of them. Some of the areas are renumbered but there are no proposed text changes. There was testimony in regards to Chapter 7 but it was not relevant as they were questions about previous text amendments and coordination with Oregon Department of Transportation. The Transportation System Plan and implementing ordinances were drafted with input from Oregon Department of Transportation.

After re-reviewing the southwest Oregon Regional Airport (AKA: North Bend Municipal Airport) section with Oregon Department of Aviation staff the following change should be made:

§4.11.450 WATER IMPOUNDMENTS WITHIN APPROACH SURFACES AND AIRPORT DIRECT AND SECONDARY IMPACT BOUNDARIES:

1. Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of this section.
2. No new or expanded water impoundments of one-quarter acre in size or larger are permitted:
   a. Within an approach surface and within 5,000 feet from the end of a runway; or

5,000 needs to be changed to 10,000.

Typos will be corrected when the final language is complete and ready for adoption. Formatting will be addressed at the time the language is inserted into the ordinance.
Case Law Provided

There has been some case law provided by Ms. Eymann and Ms. McCaffree. Staff has printed out the final opinions on those cases. All of the case law provided pertains to making findings addressing Statewide Planning Goals when amending the comprehensive plan. Staff is not proposing any comprehensive plan amendments. These are all ordinance text amendments. Any argument that has been raised has been addressed by explaining why the changes were necessary. The majority of the changes are based on a state law, existing comprehensive plan provision or case law. There are some other minor changes that came about from suggestions from Planning Commissions, Citizen Advisory or Board of Commissioners and address formatting, readability issues or are provisions that are not required by any law or comprehensive plan provision.

Staff Suggested Changes:

Remove the following language:

Chapter II, Definitions
COMMERCIAL POWER GENERATING FACILITY. A “commercial power generating facility” is a facility that converts energy into a usable form of energy (such as electricity) and conveys that energy to the public. Commercial power generating facilities typically convert mechanical energy into electrical energy. A “commercial power generating facility” does not include a net metered facility as defined in ORS 757.300 or a facility (either grid-connected or stand-alone) that produces an equal amount or less energy than is consumed by the use(s) to which the facility is accessory over the course of a calendar year, provided that the power generating facility is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

Explanation:
Staff suggests the removal of this definition until Citizen Advisory has had a chance to finish the wind energy ordinance language and make a recommendation to the Board of Commissioners. There was a lot of discussion given to the subject and a need for protections if the wind generating product (wind mill or turbine) was abandoned and the noise and view nuisance it could create in residential zones.

§ 1.3.225 (2)(a) outside of the city limits.

Explanation:
There was no legal argument presented but staff does not see an issue with the removal. This is not based on a specific state law or comprehensive plan policy, leaving the Board with the option to modify the provision to address the public comments.
Changes to language:

Staff suggests that the Board of Commissioners accept the changes made at the request of ODA. The Board could consider having the abbreviations in table 3.2 spelled out below the table. Staff does not support any other suggested changes made by testimony received.