

CITY OF FLORENCE
Ordinance No. 10, Series 2014

**AN ORDINANCE FOR THE ADOPTION OF AMENDMENTS TO THE FLORENCE
REALIZATION 2020 COMPREHENSIVE PLAN ("COMPREHENSIVE PLAN") TO
COMPLETE LANE COUNTY CO-ADOPTION OF THE COMPREHENSIVE PLAN AND
FLORENCE PERIODIC REVIEW WORK TASK 8, BY ADOPTING: POST
ACKNOWLEDGMENT PLAN AMENDMENTS TO COMPREHENSIVE PLAN
CHAPTER SIX (6) AIR, WATER AND LAND QUALITY AND
CHAPTER FOURTEEN (14) URBANIZATION**

WHEREAS, the Florence City Council adopted the Realization 2020 Comprehensive Plan on January 14, 2002 and amended the Plan by Ordinances in 2002, 2003, 2004, 2006, 2007, 2008, 2009, 2011, 2012, 2013 and 2014; and

WHEREAS, the City Council initiated amendments to the Comprehensive Plan on September 10, 2012 to match those adopted in the process of co- adoption of the Comprehensive Plan and Periodic Review work tasks by Lane County Board of Commissioners on August 14, 2012 under Ordinance No. PA 1289; and

WHEREAS, additional amendments to the Comprehensive Plan are necessary in order to standardize annexation and urban service delivery policy of the City and the County; to protect water quality in the North Florence Dunal Aquifer; and to make additional clarifications to text in the Comprehensive Plan; and

WHEREAS, the City sent a copy of the proposed Comprehensive Plan Amendments to the Department of Land Conservation and Development, consistent with the state notice requirements; and notices of the public hearings were published in the Siuslaw News, consistent with State law; and

WHEREAS, the Florence Planning Commission held a public hearing on October 14, 2014 to gather citizen comments on proposed Plan amendments; and the hearing was broadcast live on cable TV Channel 191 and rebroadcast for two weeks on Channel 191; and

WHEREAS, the Planning Commission deliberated at its meeting on October 14, 2014 and recommended amendments to the City Council after finding the proposed Comprehensive Plan amendments consistent with applicable criteria in the Florence Realization 2020 Comprehensive Plan, Florence City Code, Oregon Revised Statutes and Administrative Rules, Statewide Planning Goals, and the federal Safe Drinking Water Act; and

WHEREAS, the City Council held a second public hearing on November 17, 2014 which was broadcast live on TV Channel 191; and

WHEREAS, the City Council deliberated at its meetings on November 17, 2014 and found the proposed Comprehensive Plan amendments consistent with applicable

criteria in the Florence Realization 2020 Comprehensive Plan, Florence City Code, Oregon Revised Statutes and Administrative Rules, Statewide Planning Goals, and the federal Safe Drinking Water Act.

NOW THEREFORE, THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

Section 1. Adoption of findings of fact in Exhibit A.


Section 2. Adoption of amendments to the Florence Realization 2020 Comprehensive Plan as shown in Exhibit B, including amendments to Chapter 6 and Chapter 14.

Section 3. This ordinance shall become effective upon approval of the Comprehensive Plan amendments by the Oregon Department of Land Conservation and Development.

Passed by the Florence City Council this 17th day of November, 2014.

AYES: 3 Councilors Greene, Henry and Mayor Xavier
NAYS: 0
ABSTAIN: 0
ABSENT: 2 Councilors Roberts and Jagoe

APPROVED BY THE MAYOR, this 17th day of November, 2014.



Nola Xavier, MAYOR

ATTEST:



Kelli Weese, City Recorder

**EXHIBIT A
FINDINGS OF FACT
CITY OF FLORENCE ORDINANCE NO. 10, SERIES 2014**

I. PROPOSAL DESCRIPTION

Adopt amendments to the Florence Realization 2020 Comprehensive Plan ("Comprehensive Plan"). These amendments are being processed as part of Lane County's co-adoption of the Comprehensive Plan in order to complete co-adoption of Florence Periodic Review Work Task 8 and match amendments adopted by Lane County August 2012. The entire text of the amendments is presented in Exhibit B to Ordinance No. 10, Series 2014.

Exhibit B: Comprehensive Plan Amendments

Proposed amendments to the Comprehensive Plan are shown in legislative format in the attached Exhibit B and are described below:

**A. Amendments to Florence Realization 2020 Comprehensive Plan
Chapter 6: Air, Water and Land Quality**

Add Policies 12 and 13 and Recommendation 8 to establish a ground water testing and monitoring program as a cooperative effort among Lane County, the City of Florence, and, electively, Heceta Water District. The effect of these changes is to take active steps to protect the North Florence Sole Source Dunal Aquifer, the source of drinking water for Florence residents and businesses.

**B. Amendments to Florence Realization 2020 Comprehensive Plan
Chapter 14: Urbanization**

Add section titled "Annexation Policies" and add new policies 1, 2, 4, 5, and 7; and renumber, reformat, and clarify remaining adopted policies. Add section titled "UGB Policy" amending and re-numbering Policy 2. The effects of these changes are: to prohibit the City from using the Island Annexation Method in State law which allows cities to annex with no consent or vote by residents or property owners; to require annexation in order to receive the full range of City services; to prohibit future land divisions in the UGB prior to annexation to the city; to ensure that Lane County and Heceta Water District have an opportunity to comment on annexations; and to clarify urbanization policy, consistent with Statewide Planning Goals. Additional text added to the background section in Exhibit B further explains these changes.

Objectives of Amendments

The objectives of the amendments are to:

- a. Complete Periodic Review Work Task 8.
- b. Assure unincorporated property owners that the city will not use the “island annexation method”, an annexation method that allows the city to annex properties without majority consent.
- c. Prevent the need for health hazard annexations by identifying potential sources of contamination and working to mitigate the effects of those contaminants before they reach the level of creating a health hazard.
- d. Identify potential threats to the city’s current water supply and identify locations for new wells that will not require expensive water treatment systems.
- e. Proactively protect the health, safety, and welfare of the citizens of Florence and Lane County by monitoring the quality of surface water and groundwater; identifying sources of contamination and the City and County working cooperatively together to address any contamination that we find; and by limiting the number of potential new septic systems by prohibiting land divisions in the unincorporated area prior to annexation. These measures will help ensure the quality of the drinking water is protected from the effects of 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.
- f. Implement Florence Realization 2020 Comprehensive Plan and refinement plan policies and clarify and update existing policies. Achieve compliance with the federal Safe Drinking Water Act, Public Law 93-523.

II. NARRATIVE:

The Florence Realization 2020 Comprehensive Plan was adopted on January 14, 2002 through City Council Ordinance Nos. 1 through 10, Series 2002, in compliance with the city’s 1995 Periodic Review Order. In 2008, the City began the process of requesting Lane County co-adoption of the Plan, associated planning documents, and associated Florence Periodic Review work tasks. Following a public hearing and recommendation by the Lane County Planning Commission, the City identified a series of Comprehensive Plan amendments that would address the concerns raised by citizens at the public hearing as well as address additional needed changes to the planning documents, including the proposed housekeeping amendments to the TSP proposed by Lane County Public Works staff.

On December 21, 2009, the Florence City Council adopted Ordinance No. 18, Series 2009 adopting comprehensive plan policy amendments related to annexation and transportation. During the same time the county was holding concurrent hearings on the proposed amendments. On December 1, 2010, after the twelfth reading, the Board of County Commissioners passed Ordinance No. PA 1249: *In the Matter of Co-Adopting the Florence Realization 2020 Comprehensive Plan, Comprehensive Plan*

Map, and Associated Refinement Plans, as Applicable Within The Urban Growth Boundary Outside Florence City Limits, and Adopting Savings and Severability Clauses (File No. PA 08-5363, Florence Periodic Review Work Tasks No.2, 3, 4, 5, 7 and 8, and an Updated Comprehensive Plan Map and Housekeeping Amendments). The County made several amendments to what the City adopted under Ordinance 18 in 2009. Florence City Council found that one amendment was not acceptable -- the one made to Annexation Policy 1.

On February 23, 2011, the City Council authorized the Mayor to send a letter to the County Board of Commissioners requesting that the Board reconsider its decision regarding Annexation Policy 1. The Board agreed and initiated a land use public hearing process. On August 14, 2012, after the fifth reading, the Board of County Commissioners passed Ordinance No. PA 1289: *In the Matter of Adopting a Revised Chapter 14: Urbanization, Annexation Policies, Policy 1 for the Florence Realization 2020 Comprehensive Plan as Applicable within the Urban Growth Boundary Outside Florence City Limits, (File No. PA 08-5363).* On September 10, 2012 the Florence City Council reviewed the policy adopted by the Board of Commissioners and initiated amendments to the City's policy adopted in 2009 to match those adopted by the county August 2012. The excerpts below show the language proposed by the Florence City Council's 2011 letter and that adopted by the Lane County Board in August 2012.

Policy as Proposed by Council in Mayor's March 3, 2011 Letter to Board

The procedures of ORS 222.840 et seq. (Health Hazard Abatement) shall be utilized when there are findings of dangers to public health in the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize annexation utilizing the "Island annexation" procedures set forth by ORS 222.750.

Policy in Ordinance No. PA 1289 as Adopted by Lane County on August 14, 2012

The procedures of ORS 222.840 et. Seq. (Health Hazard Abatement) shall be initiated if needed to remove dangers to public health.

In the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize the "island annexation" procedures set forth by ORS 222.750

The policy adopted by Lane County is different from that adopted by Florence in 2009; but the meaning is basically the same. The County-approved policy calls out the annexation option in state law that allows for the health hazard abatement. It also describes the annexation methods allowable for use by state law as those which require a majority of consents. The policy change under these findings matches those adopted by the county.

III. NOTICES & REFERRALS:

1. Notice:

The proposed Comprehensive Plan Amendments were noticed in accordance with state law. The proposed draft amendments were sent to the Department of Land Conservation and Development (DLCD) September 9, 2014, 35 days in advance of the first evidentiary hearing. After consultation with the City of Florence' coastal DLCD representative an amendment to the DLCD notice was mailed on September 15, 2014 changing the type of application from a periodic review task to a post-acknowledgment plan amendment. The hearing was published in the Siuslaw News on October 1st and 8th and November 5th and 12th to provide citizen involvement opportunities consistent with state law, the Florence Realization 2020 Comprehensive Plan and the Florence Development Code. Additionally, those who have indicated an interest in receiving City Council agendas were provided notice.

2. Referrals:

The City sent referrals to Florence Public Works, Oregon Department of Land Conservation and Development, Lane County, Heceta Water District, the Oregon Department of Environmental Quality (DEQ), and the Environmental Protection Agency (EPA) – Oregon.

IV. APPLICABLE REVIEW CRITERIA

1. Florence City Code (FCC) Title 10:

(found at <http://www.ci.florence.or.us/council/title-10-zoning-regulations>)

Chapter 1: Zoning Administration, Section 10-1-3

2. Realization 2020 Florence Comprehensive Plan:

(found at <http://www.ci.florence.or.us/planning/comprehensive-plan>)

Chapter 1: Citizen Involvement

Chapter 6: Air, Water, and Land Quality

Chapter 11: Utilities and Facilities

Chapter 14: Urbanization

3. Oregon Revised Statutes (ORS) and Administrative Rules (OAR):

ORS 197.175, Cities' and Counties' Responsibilities; Rules on Incorporations; Compliance with Goals (2)

OAR 340-071-0160, (Septic) Permit Application Procedures--Construction, Installation, Alteration, and Repair Permits

ORS 197.524, Moratorium on Construction or Land Development

OAR 340-071-0130, Department of Environmental Quality, General Standards, Prohibitions and Requirements (1) Public Waters or Public Health Hazards and (13) Operation and Maintenance

OAR 340-071-0400 (2), General North Florence Dunal Aquifer, North Florence Dunal Aquifer Area, Lane County

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.
5. **Federal Safe Drinking Water Act, Public Law 93-523.**

V. FINDINGS

Applicable criteria are shown in bold followed by findings in plain text below.

FLORENCE CITY CODE--TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

FCC 10-1-3-C: Amendments and Changes

Legislative Changes

1. **Initiation: A legislative change in zoning district boundaries, in the text of this Title, Title 11 or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposed changes be considered by the Commission and its recommendation returned to the Council.**
2. **Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect. (Amd. by Ord. 30, Series 1990).**

The proposal is consistent with the criteria in FCC 10-1-3-C for the following reasons:

- The proposed amendments in Exhibit B are legislative changes to the Comprehensive Plan, affecting a large number of properties with broad policy application;
- The City Council initiated the amendments on September 10, 2012 by motion and requested that the Planning Commission consider the proposed changes and return its recommendation to Council;
- The Florence Planning Commission held a public hearing on October 14, 2014 to gather citizen comments on proposed Plan amendments; and the hearing notice was published in the Siuslaw News on October 1st and 8th, 2014. This notice complies with the Comprehensive Plan Policies for Citizen Involvement and with state law. Also, the hearing was broadcast live on Cable TV channel 191;

- The Florence City Council held a public hearing on November 17, 2014 to gather citizen comments on proposed Plan amendments; and the hearing notice was published in the Siuslaw News on November 5th and 12th, 2014. This notice complies with the Comprehensive Plan Policies for Citizen Involvement and with state law. Also, the hearing was broadcast live on Cable TV channel 191;

OREGON REVISED STATUTES AND ADMINISTRATIVE RULES

OREGON REVISED STATUTES

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 comprehensive plan revisions are in compliance with the goals approved by the commission. Statewide Planning Goals 1, 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.

ORS 197.505 to 197.540: MORATORIUM ON CONSTRUCTION OR LAND DEVELOPMENT:

ORS 197.524 Local government to adopt moratorium or public facilities strategy following pattern or practice of delaying or stopping issuance of permits.

(1) When a local government engages in a pattern or practice of delaying or stopping the issuance of permits, authorizations or approvals necessary for the subdivision or partitioning of, or construction on, any land, including delaying or stopping issuance based on a shortage of public facilities, the local government shall:

(a) Adopt a public facilities strategy under ORS 197.768; or

(b) Adopt a moratorium on construction or land development under ORS 197.505 to 197.540.

(2) The provisions of subsection (1) of this section do not apply to the delay or stopping of the issuance of permits, authorizations or approvals because they are inconsistent with the local government's comprehensive plan or land use regulations. (1999 c.838 §3]

The proposed Comprehensive Plan amendments are consistent with ORS 197.505 to 197.540 for the following reasons:

1. Having a local joint City-County program in place to identify and remedy contamination threats is not itself declaring a moratorium on development.
2. If a moratorium is deemed necessary, the City will comply with all of the requirements in ORS 197.505-540.

3. Lane County, as an agent of DEQ, is required by law to deny septic permits when septic systems are shown to be contaminating the groundwater, as stated in findings below for compliance with Oregon Administrative Rules for DEQ.

In accordance with proposed revised Comprehensive Plan Chapter 6 Policy 12, both Lane County and the City of Florence are to develop scientifically-based standards and a regular testing program to determine if sewage or chemicals from septic tanks is entering the aquifer or beach along the ocean. Proposed Comprehensive Plan Chapter 6 Policy 13 states that if a problem is identified in the UGB portion of the Area of Concern and immediate correction is not feasible, then the county will not allow installation of any new septic system, replacement or expansion in the portion of the UGB that is the source of the pollution or in that portion of the UGB that has been contaminated by the pollution until the county and the city mutually agree on appropriate measures to stop the contamination. If this groundwater monitoring program results in a pattern or practice of delaying or stopping the issuance of permits, a public facilities strategy under ORS 197.768 shall be adopted; or a moratorium on construction or land development under ORS 197.505 to 197.540 shall be adopted.

OREGON ADMINISTRATIVE RULES

Chapter 340, Division 71 - Department of Environmental Quality

OAR 340-071-0130: General Standards, Prohibitions and Requirements

(1) Public Waters or Public Health Hazards. If, in the judgment of the Agent, proposed operation of a system would cause pollution of public waters or create a public health hazard, system installation or use shall not be authorized. If, in the judgment of the Agent, the minimum standards contained in these rules do not afford adequate protection of public waters or public health, the requirements shall be more stringent. This may include, but is not limited to, increasing setbacks, increasing drain field sizing and/or utilizing an Alternative System. If the Agent imposes requirements more stringent than the minimum, the Agent shall provide the applicant with a written statement of the specific reasons why the requirements are necessary.

The proposal is consistent with OAR 340-071-0130, because, if, in the judgment of Lane County staff who are acting as the agent of DEQ, the results of the groundwater testing program conclude that operation of a septic system would cause pollution of the aquifer or create a public health hazard in the UGB portion of the Area of Concern, the County shall not allow the installation of any new septic system, replacement septic system, or expansion of an existing septic system in the portion of the UGB that is the source of the pollution or in that portion of the UGB that has been contaminated by the pollution until the county and city mutually agree on appropriate measures to stop the contamination.

The proposal is consistent with OAR 340-071-0130(1) because proposed Policy 13 in Comprehensive Plan Chapter 6 provides for Lane County, as the legally designated Agent for DEQ, to act in accordance with the requirements of OAR 340-071-0130, and the minimum standards that will be applied to protect the aquifer shall be more stringent than the standards contained in these administrative rules where Lane County determines that

the standards do not afford adequate protection of public waters or public health. The requirements may include, but are not limited to, increasing setbacks, increasing drainfield sizing and/or utilizing an alternative system. If Lane County staff imposes requirements more stringent than the minimum, staff will provide the applicant with a written statement of the specific reasons why the requirements are necessary.

(13) Operation and Maintenance. All systems shall be operated and maintained so as not to create a public health hazard or cause water pollution. Those facilities specified in sections (15) or (16) of this rule as requiring a WPCF permit shall have operation and maintenance requirements established in the permit.

The proposal is consistent with OAR 340-071-0130(13) because the proposed Policy 12 provides for a process to identify and remedy threats to the North Florence Dunal Aquifer and to the beach along the ocean.

OAR 340-071-0160: (Septic) Permit Application Procedures -- Construction, Installation, Alteration, and Repair Permits

(4) Permit denial. The agent must deny a permit if any of the following occurs.

(f) A sewerage system that can serve the proposed sewage flow is both legally and physically available, as described in paragraphs (A) and (B) of this subsection.

(A) Physical availability.

(i) A sewerage system is considered available if topographic or man-made features do not make connection physically impractical and one of the following applies.

(I) For a single family dwelling or other establishment with a maximum projected daily sewage flow not exceeding 899 gallons, the nearest sewerage connection point from the property to be served is within 300 feet.

(II) For a proposed subdivision or group of two to five single family dwellings or other establishment with the equivalent projected daily sewage flow, the nearest sewerage connection point from the property to be served is not further than 200 feet multiplied by the number of dwellings or dwelling equivalents.

(III) For proposed subdivisions or other developments with more than five single family dwellings or equivalent flows, the agent will determine sewerage availability.

(8) Legal availability. A sewerage system is deemed legally available if the system is not under a department connection permit moratorium and the sewerage system owner is willing or obligated to provide sewer service.

The proposal is consistent with this Administrative Rule for the Oregon Department of Environmental Quality because properties will connect to the City's wastewater system when the system is legally and physically available as defined in OAR 340-071-0160 and the policies do not affect these provisions in State law.

OAR 340-071-0400: Geographic Area Special Considerations.

(2) General North Florence Aquifer, North Florence Dunal Aquifer Area, Lane County.

(a) Within the area described in subsection (b) of this section, an agent may approve sites or issue construction-installation permits for new onsite systems under either of the following circumstances.

(A) The lot and proposed system comply with all rules in effect at the time the site is approved or the permit is issued.

(B) The lot and proposed system comply with paragraph (A) of this subsection except for the projected daily sewage loading rates, and the agent determines the system in combination with all other previously approved systems owned or legally controlled by the applicant will not contribute to the local groundwater more than 58 pounds of nitrate-nitrogen per year per acre owned or controlled by the applicant.

The proposal is consistent with OAR 340-071-0400 because Lane County will issue septic permits in the Florence UGB outside city limits in compliance with all rules in effect at the time the site is approved or the permit is issued and the combined total contribution of nitrate-nitrogen to the groundwater will, under no circumstances exceed 58 pounds of nitrate-nitrogen per year per acre owned or controlled by the applicant.

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 citizens were given the opportunity to be involved in all phases of the planning process: from the Periodic Review Work Program to these amendments. The proposal was advertised in the Siuslaw News and citizens were given the opportunity to comment on the proposal in writing or in person at a public hearing before the Planning Commission and the City Council.

The Florence Planning Commission and City Council held public hearings on October 14, 2014 and November 17, 2014 respectively to gather citizen comments on the proposed plan amendments. The Planning Commission on October 14, 2014 made a recommendation to

the City Council on the proposed policy amendments to match that adopted by the County Board of Commissioners.

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 accordance 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 consistent with Goal 2 because the proposed revisions to the Comprehensive Plan will be adopted by the Florence City Council after public hearing and take into account changing public policies and circumstances. In accordance with the City's DLCDD Periodic Review Notice, opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan.

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 amendments in Exhibit B 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 water quality issues identified through the monitoring program will be addressed, the threat to water quality from septic systems will be minimized. All wastewater discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate the Safe Drinking Water Act or other federal or state environmental quality statutes, rules, and standards. Water quality will be improved through these Comprehensive Plan amendments because the water quality assessment and monitoring program will provide an opportunity to remedy any existing contamination discovered in the water quality assessment.

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 apply to properties within the Florence 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 amendments in Exhibit B are consistent with Goal 14 because the following amendments to the Comprehensive Plan policies are made in order to ensure consistency with the above requirement.

Land Need

Establishment and change of urban growth boundaries shall be based on the following: (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments.

The amendments in Exhibit B are consistent with Goal 14. Proposed Policy 1a under a new section heading “UGB Policy” in Chapter 14 of the Comprehensive Plan is worded to ensure consistency with the above requirement related to the “20-year population forecast coordinated with affected local governments.”

Urbanizable Land

Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.

The proposed amendments comply with the Urbanizable Land requirements of Goal 14 because city planning documents plan for the provision of urban facilities and services state that urban services and facilities can be provided within the UGB upon annexation to the city; and, under proposed Comprehensive Plan Urbanization, Annexation Policy #2, future land divisions within the North Florence Dunal Aquifer within the UGB will be prohibited prior to annexation, ensuring that these properties will develop inside the city at urban densities and served with municipal public facilities and services.

SAFE DRINKING WATER ACT OF 1974 (PUBLIC LAW 93-523,42 U.S.C. 300 ET. SEQ); SECTION 1424(E)

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole source for the area or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health,

but a commitment for federal assistance may, if authorized under another provision of law, be entered into plan or design the project to assure that it will not so contaminate the aquifer.

The Comprehensive Plan policy amendments to Chapters 6 and 14 are consistent with the Safe Drinking Water Act because they will protect the quality of drinking water in the North Florence Dunal Aquifer from contamination from septic systems through a monitoring program which will identify and respond to threats; through the prohibition of land divisions; and through the availability of municipal wastewater system to resolve threats to water quality in the aquifer, where applicable.

The North Florence Dunal Aquifer Study, Final Report, June 1982 (Exhibit F) includes the following statements in the findings on page 104.

"Finding 14. 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.

Finding 20. Based on a policy of no degradation of Clear Lake, a total of 8.7 dwelling units should be allowed on the entire 1040 acre watershed (850 acres of land surface). There are currently 30 units in the watershed on septic systems, 10 of which are permanently occupied. The impact from the current systems on nitrate-nitrogen levels in Collard Lake may be only partially seen at this time.

Finding 21. Throughout much of the remainder of the aquifer, nitrate-nitrogen levels are near background levels of 0.03 mg/L. This level assumes contributions only from rainfall and is represented by the open dune areas.

Finding 22. Based on the planning standard of 5.0 mg/L nitrate-nitrogen calculations indicate an additional loading of 58 lbs. per acre per year nitrate-nitrogen will not exceed this value using a stirred tank model. This translates to 2.9 d.u. per acre with onsite systems using loading rates of 20 lbs. per d.u. per year.

Finding 23. Nitrate-Nitrogen loading considerations for the Florence Well Field are identical with those for the general North Florence Aquifer."

In September, 1987, the EPA designated the North Florence Dunal Aquifer a sole source aquifer, based on the following conclusions:

"An aquifer must supply 50 percent or more of the drinking water for an area in order to receive designation as a sole source aquifer. Ground water supplies about 68% of the drinking water in the North Florence area. Furthermore, ground water partly recharges the one source of surface water used as drinking water. No feasible alternative sources to the North Florence Dunal Aquifer system exist in the area. Therefore, contamination of the aquifer would "create a significant hazard to public health." (EPA Resource Document "For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer," EPA 910/9-87-167, September 1987, page 9)

The EPA designated the boundaries of the North Florence Dunal Aquifer. The boundary is described below and is depicted in the map "North Florence Dunal Aquifer."

"The North Florence Dunal Aquifer encompasses the entire continuous body of sand located north of the Siuslaw River and east of the Pacific Ocean. The surface contact between bedrock and the unconsolidated sand forms the northern and eastern boundary of the designated area as far south as Mercer Lake. The boundary between bedrock and the dual aquifer has been drawn on the basis of a surface geological map published in 1974 by the Oregon Department of Geology and Mineral Industries. In addition to the dual sand area itself, steep drainage areas east of Collard, Clear, Zackery, and Mussel Lakes have been included in the proposed designated area because those lakes are hydrologically connected to the aquifer. Therefore, the surface drainage divide located just east of the lakes forms the eastern boundary of the area proposed for designation from Mercer Lake south to the Siuslaw River." (EPA Resource Document "For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer," EPA 910/9-87-167, September, 1987, page 5)

The EPA states that the aquifer is "highly susceptible to contamination" from septic systems (not just failed systems) and that "direct leaching from septic tanks located in the sand-covered areas adjacent to the lakes could seriously down-grade the quality of Clear Lake - the only surface source of drinking water presently used in the area." The report describes the threat to the drinking water, as follows:

"Potential for Contamination

Rapid infiltration rates into the sand cover combined with a shallow water table make the North Florence Dunal Aquifer highly susceptible to contamination from surface activity. Despite the relatively rapid flow of ground water through the aquifer, water soluble contaminants introduced near the surface may remain in the ground water system for nearly 60 years. Immiscible contaminants, such as petroleum distillates, would spread rapidly if spilled onto the permeable sand cover but would resist flushing by natural ground water flow.

Possible sources of aquifer contamination include fuel storage tank failure, accidental spills of hazardous material transported across the aquifer, septic tank effluent, storm runoff, pesticides, and chemical fertilizers. The lakes located along the eastern margin of the dunal aquifer would suffer from any contaminants introduced into that portion of the aquifer which re-charges the lakes. Direct leaching from septic tanks located in the sand-covered areas adjacent to the lakes could seriously downgrade the quality of Clear Lake - the only surface source of drinking water presently used in the area." (EPA Resource Document "For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer," EPA 910/9-87-167, September, 1987, page 5)

Chapter 1: Citizen Involvement

Policies

- 4. Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.**
- 5. Records of all meetings where official action is taken shall be kept at City Hall and made available on request to the public.**
- 6. Planning documents and background data shall be available to interested citizens.**
- 8. Citizen involvement shall be assured in the review and update of the Comprehensive Plan.**

The Comprehensive Plan amendment process for Exhibit B and Ordinance No. 10, Series 2014 is consistent with these policies because: all City Planning Commission and City Council meetings on this matter were noticed to the media and posted on the City web site, and held at regular times as provided in adopted City policies and Code; agendas provided the opportunity for citizen comment; records of all meetings where official action was taken were kept at City Hall and made available on request to the public; planning documents and background data were made available to interested citizens; and citizen involvement was assured in the amendments of the 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 to 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 Growth 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.

The Comprehensive Plan amendments in Exhibit B are consistent with this objective and the policies in Chapter 6 of the Comprehensive Plan because the amendments will help to protect the quality of water in the North Florence Dunal Aquifer from contamination, including contamination from septic systems. The threat to the aquifer posed by septic systems is documented in two reports: the *North Florence Dunal Aquifer Study, Final Report, June 1982* and EPA Resource Document "*For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer,*" EPA 910/9-87-167, September, 1987. More detail is provided in the findings of consistency with the Safe Drinking Water Act, above. The threat posed by septic systems is also documented in the Florence Water Facilities Plan, September, 1999, as follows.

"Because groundwater is present at shallow depths (less than 50 feet) and the dual 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 Hecate 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 Comprehensive Plan amendments in Exhibit B are consistent with the objectives and policies in Chapter 6 of the Comprehensive Plan for this reason and for the following reasons:

- The amendments to Chapter 6 maintain the quality of the water resources through monitoring of groundwater and surface water and limiting the number of septic systems within the UGB (through a prohibition of land divisions).
- The amendments to both Chapter 6 and Chapter 14 are coordinated with Lane County and DEQ and DHS and thus support regional efforts to control environmental pollution through its compliance with state and federal standards.

- The amendments ensure that the drinking water supply in the UGB continues to comply with the Safe Drinking Water Act.

As discussed in detail in the finding above of compliance with the U.S. Safe Drinking Water Act, and as detailed in the two reports (1) EPA Resource Document "For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer," EPA 910/9-87-167, September 1987 and (2) North Florence Dunal Aquifer Study, Final Report, June 1982, the Comprehensive Plan amendments to Chapters 6 and 14 are consistent with the Safe Drinking Water Act because they will protect the quality of drinking water in the North Florence Dunal Aquifer from contamination from septic systems by addressing contamination threats, including restricting development in problem areas identified through the monitoring program that tests water quality in the aquifer. (See, also, findings of compliance with "Safe Drinking Water Act Of 1974 (Public Law 93-523, 42 U.S.C. 300 Et. Seq); Section 1424(E),")

- The amendments will ensure that the City 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 Growth Boundary will be monitored to determine impact on the North Florence Dunal Aquifer and determine if there is a negative impact on the beneficial uses of the water resource, or potential of violating drinking water standards for new well locations.

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 policies 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 policies ensure that the aquifer is protected by establishing a water quality monitoring program in conjunction with Lane County and limiting the number of new septic systems.

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, the City's supply of drinking water by establishing a monitoring program with Lane County and restricting future development in the UGB on septic systems through prohibiting future land divisions prior to annexation.

Chapter 14: Urbanization

Goal

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

The Comprehensive Plan amendments in Exhibit B are consistent with this Urbanization Goal because they clarify existing City annexation, service extension, and UGB expansion policy; and the amendments are consistent with the Florence Realization 2020 Comprehensive Plan for the following reasons:

- The policies set broad policy direction for annexation in the Comprehensive Plan, as requested by Lane County and citizens during the citizen involvement process.
- The amendments provide additional clarity to the meaning of Comprehensive Plan policy related to UGB expansions.
- The amendments are consistent with other policies in the Comprehensive Plan, as discussed in the findings in this section, above.

VI. CONCLUSIONS

The proposal to adopt the post acknowledgement plan amendment to the Realization 2020 Comprehensive Plan is consistent with applicable criteria in Florence Realization 2020 Comprehensive Plan, Florence City Code, Oregon Revised Statutes and Administrative Rules, Statewide Planning Goals, and the federal Safe Drinking Water Act, Public Law 93-523.

**Ordinance 10, Series 2014
Exhibit B**

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN AMENDMENTS

Additions are shown in double-underline and deletions in strike-out. Comments are in italics.

Amendments to Chapter 6: Air, Water and Land Quality

Add new Policies 12 and 13

12. Lane County and the City of Florence shall develop, approve by their respective governing bodies before implementation, and jointly pay for scientifically-based standards and a regular testing program to determine if sewage or chemicals from septic tanks is entering the North Florence Dunal Aquifer in a location that could potentially impact Clear Lake, our current water supply or future water supplies, or impact the beach along the ocean (the "Area of Concern"). A system to spot isolated problems and correct them as soon as possible will be put in place. Such system may assure safe drinking water and prevent the need for health related annexations and ensure a safe, positive experience for beach recreation.

13. If a problem is identified in the UGB portion of the "Area of Concern" and immediate correction is not feasible, the county shall not allow the installation of any new septic system, replacement septic system, or expansion of an existing septic system in the portion of the UGB that is the source of the pollution or in that portion of the UGB that has been contaminated by the pollution until the county and city mutually agree on appropriate measures to stop the contamination.

Add new Recommendation 8

8. Lane County and the City of Florence will request that the Heceta Water District participate in the testing program of water supplies (Policy 12) in order to ensure monitoring of both Clear Lake and the sole source aquifer which are hydraulically connected.

Amendments to Chapter 14: Urbanization

Add a section titled "Annexation Policies" and add new policies, amend one policy, and renumber the remaining policies.

Annexation Policies

1. The procedures of ORS 222.840 et. Seq. (Health Hazard Abatement) shall be initiated if needed to remove dangers to public health.

In the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize the "island annexation" procedures set forth by ORS 222.750.

2. For properties within the North Florence Dunal Aquifer that are also within the Urban Growth Boundary, no land divisions shall be allowed prior to annexation to the City. The North Florence Dunal Aquifer boundary is delineated by 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.

34. Conversion of lands within the UGB outside City limits shall be based on consideration of:

- a. orderly, economic provision for public facilities and services;
- ~~b. availability of sufficient land for the various uses to insure choices in the market place;~~
- be. conformance with the acknowledged City of Florence Comprehensive Plan;
- ~~d. encouragement of development within urban areas before conversion of urbanizable areas; and~~
- ce. consistency with state law.

4. 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.

5. The City will send a referral requesting comments on annexations to the Heceta Water District, for annexations within the District's service boundary. 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.

63. Annexed properties shall pay systems development charges as required by City Code.

7. As a matter of public policy, Lane County and the City of Florence share a substantial interest in development within the Urban Growth Boundary. In order to receive a full range of urban services provided by the City of Florence, development within the Urban Growth Boundary shall require annexation. However, it is also recognized that until annexation Lane County will retain primary permitting responsibility for those lands.

Add a new section heading "UGB Policy," and re-number and amend policy #2 as follows:

12. Establishment and change of the UGB shall be a cooperative process between the City and the County. Boundary changes shall be considered only on an annual basis. Applications for boundary changes shall include documentation that the following criteria are met:

- a. The proposed change provides for a demonstrated need to accommodate long-range urban population growth requirements consistent with applicable LCDC goals and administrative rules. UGB expansions to accommodate the need for residential land shall be based on any coordinated population allocations adopted in accordance with state law, including applicable state statutes and administrative rules pertaining to coordinated population allocations.
- b. The proposed change is based on a demonstrated need for housing, employment opportunities and/or livability.
- c. The proposed change is necessary for, and/or will not hinder, orderly and economic provision for public facilities and services and will take into consideration water availability.
- d. Maximum efficiency of land uses within and on the fringe of the existing urban area has already been provided for, and the boundary change will continue to provide maximum efficiency of land use, as prescribed in state law and administrative rules.
- e. An environmental, energy, economic and social consequences analysis has been performed showing that the land is suitable for urbanization at City land uses and densities and that the ultimate annexation of the UGB expansion area will be cost-effective for the City.

24. The City shall not include active dunes in the UGB through any future UGB expansions.

Amend the second paragraph of the Background section as follows:

Oregon Statewide Planning Goals identify land within the UGB outside city limits as "urbanizable lands" that may eventually be annexed to cities and provided with municipal services following annexation, in accordance with City annexation and public facility extension policies and standards and state law. ~~However, almost all of the UGB lands outside the city limits are, or can be, served by Heceta Water District. Provision of municipal water has allowed lot sizes in the range of 1/3 acre or less, subject to approval of on-site sewage treatment facilities. Because of the high seasonal water table in some of this area of newer development, there are failing on-site sewage disposal systems.~~ While some of these lots are vacant, and some are large enough to be partitioned upon provision of municipal sewer, much of this area will remain large lot residential, at least during the 20-year planning period. Since the City has few areas of large lot residential development, annexation of these already developed areas will continue to provide for a range of housing types and costs within the City.