

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1130

**{ IN THE MATTER OF REZONING LANDS IN THE
{ UNINCORPORATED PORTION OF THE METRO
{ PLAN GLENWOOD AREA FROM EUGENE ZONING
{ DISTRICTS TO SPRINGFIELD ZONING DISTRICTS,
{ ADOPTING SAVINGS AND SEVERABILITY
{ CLAUSES AND DECLARING AN EMERGENCY.**

WHEREAS, pursuant to Lane County Ordinance PA 926, City of Eugene zoning districts have been applied to lands within the urban growth boundary of the Eugene-Springfield Metropolitan Area General Plan ("Metro Plan") but outside the city limits of the city of Eugene including the Glenwood area; and

WHEREAS, land use jurisdiction for the Glenwood area was transferred from Eugene to Springfield on December 1998, through joint adoption of a Metro Plan amendment by the cities of Springfield and Eugene and, pursuant to Lane County Ordinance PA 1123, by Lane County; and by an intergovernmental agreement as set forth in Board Order 98-12-9-6; and

WHEREAS, the city of Springfield has proposed zone changes within the unincorporated portions of the Glenwood area which are similar to those applied by the City of Eugene and are consistent with provisions of the Metro Plan; and

WHEREAS, pursuant to Article IV of an intergovernmental agreement between Springfield and Lane County set forth in Board Order 86-6-4-3, the Springfield Planning Commission has legislative authority on land use matters within the Springfield urban growth boundary as set forth in the Metro Plan; and:

WHEREAS, on May 25, 1999, the Springfield Planning Commission held a public hearing to consider the proposed zone changes and based on evidence and findings contained in record, the Springfield Planning Commission has recommended approval of the proposed zone changes; and

WHEREAS, evidence exists within the record indicating the proposal meets the requirements of Lane Code Chapter 10 and the requirements of applicable local and state law; and,

WHEREAS, the Board of County Commissioners has conducted a public hearing on the proposal and is now ready to take action; and

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

As set forth in Exhibit "A" attached hereto and incorporated herein by this reference, properties identified by current map and tax lot number and current City of Eugene zoning classifications are hereby rezoned to City of Springfield zoning classifications.

Ordinances and regulations amended by this Ordinance shall remain in force to authorize a punishment, penalty or forfeiture incurred, or a suit, prosecution or proceeding pending when the amendment takes effect, for an offense or violation committed under the amended Ordinance or regulation prior to the effective date of this Ordinance.

IN THE MATTER OF REZONING LANDS IN THE UNINCORPORATED PORTION OF THE METRO PLAN GLENWOOD AREA FROM EUGENE ZONING DISTRICTS TO SPRINGFIELD ZONING DISTRICTS, ADOPTING SAVINGS AND SEVERABILITY CLAUSES AND DECLARING AN EMERGENCY

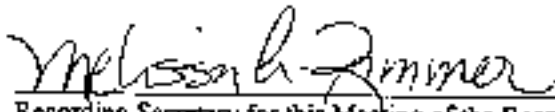
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately upon adoption.

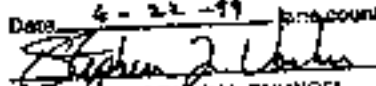
FURTHER, although not part of this Ordinance, the Board of County Commissioners adopts findings as set forth in Exhibit "B" attached, in support of this action.

ENACTED this 28 day of July, 1999.


Chair, Kane County Board of Commissioners


Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 6-22-99 Kane County

OFFICE OF LEGAL COUNSEL

IN THE MATTER OF REZONING LANDS IN THE UNINCORPORATED PORTION OF THE METRO PLAN GLENWOOD AREA FROM EUGENE ZONING DISTRICTS TO SPRINGFIELD ZONING DISTRICTS, ADOPTING SAVINGS AND SEVERABILITY CLAUSES AND DECLARING AN EMERGENCY.

Properties Affected by this Action*

Exhibit "A"

Ord PA 1130

NOTE:
"Proposed Springfield Zoning" is the zoning being applied by this action.

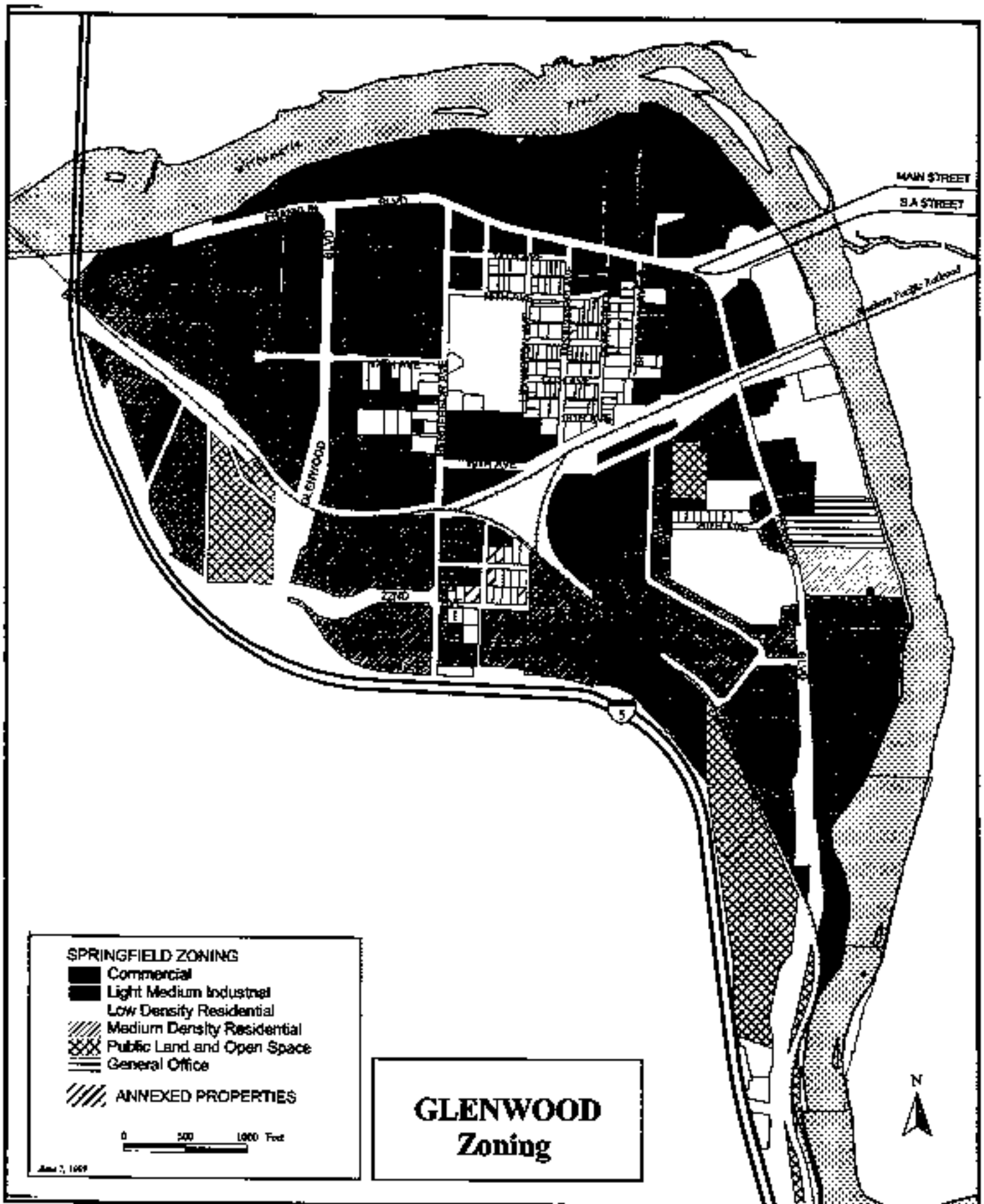
17033441	2500	NA	NA	17033442	503	I2SR/UL	LM/UF10
17033444	2600	I2	LM/UF10	17033442	504	I2SR/UL	CC/UF10
17033431	100	I2SR/UL	LM/UF10	17033442	600	I2SR/UL	CC/UF10
17033431	200	I2SR/UL	CC/UF10	17033442	700	I2SR/UL	CC/UF10
17033431	300	I2SR/UL	LM/UF10	17033442	800	I2SR/UL	CC/UF10
17033431	400	I2SR/UL	LM/UF10	17033442	900	I2SR/UL	CC/UF10
17033431	700	I2SR/UL	LM/UF10	17033442	1000	I2SR/UL	CC/UF10
17033431	701	I2SR/UL	CC/UF10	17033442	1200	I2SR/UL	LM/UF10
17033431	1000	I2SR/UL	LM/UF10	17033442	1300	I2SR/UL	LM/UF10
17033431	1100	I2SR/UL	LM/UF10	17033442	1400	I2SR/UL	LM/UF10
17033431	1200	I2SR/UL	LM/UF10	17033442	1500	C2/UL	CC/UF10
17033432	100	I2SR/UL	LM/UF10	17033442	1600	C2/UL	CC/UF10
17033432	101	I2SR/UL	LM/UF10	17033442	1700	C2/UL	CC/UF10
17033432	300	I2SR/UL	LM/UF10	17033442	1800	C2/UL	CC/UF10
17033432	400	I2SR/UL	LM/UF10	17033442	1900	C2/UL	CC/UF10
17033433	100	I2SR/UL	LM/UF10	17033442	2000	C2/UL	CC/UF10
17033433	700	I2/UL	LM/UF10	17033442	2100	C2/UL	CC/UF10
17033434	100	I2SR/UL	LM/UF10	17033442	2200	I2SR/UL	CC/UF10
17033434	200	I2SR/UL	LM/UF10	17033442	2300	I2SR/UL	CC/UF10
17033434	700	RA/UL	LDR/UF10	17033442	2400	I2SR/UL	CC/UF10
17033434	900	RA/UL	LDR/UF10	17033442	2500	I2SR/UL	CC/UF10
17033434	1000	I2SR/UL	LM/UF10	17033442	2600	I2SR/UL	LM/UF10
17033434	1100	RA/UL	LDR/UF10	17033442	2700	I2SR/UL	LM/UF10
17033434	1102	RA/UL	LM/UF10	17033442	2800	I2SR/UL	LM/UF10
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17033434	1300	RA/UL	LDR/UF10	17033442	2900	C2SR/UL	CC/UF10
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17033434	1400	RA/UL	LDR/UF10	17033443	200	C2/UL	CC/UF10
17033434	1500	RA/UL	LDR/UF10	17033443	300	RA/UL	LDR/UF10
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17033441	100	I2SR/UL	CC/UF10	17033443	600	RA/UL	LDR/UF10
17033441	200	I2SR/UL	LM/UF10	17033443	700	RA/UL	LDR/UF10
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17033441	400	I2SR/UL	CC/UF10	17033443	702	RA/UL	LDR/UF10
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17033441	1900	I2SR/UL	LM/UF10	17033443	1800	RA/UL	LDR/UF10
17033441	2000	I2SR/UL	LM/UF10	17033443	2000	RA/UL	LDR/UF10
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17033442	100	C2/UL	CC/UF10	17033443	2200	RA/UL	LDR/UF10
17033442	200	I2SR/UL	LM/UF10	17033443	2298	RA/UL	LDR/UF10
17033442	300	I2SR/UL	LM/UF10	17033443	2300	RA/UL	LDR/UF10

*Also refer to "Glenwood Zoning" map attached. In event of discrepancies between list and map, list shall prevail.

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17033442	500	I2SRUL	CCUF10	17033443	2500	RAUL	LDRUF10
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17033442	502	I2SRUL	CCUF10	17033443	2700	RAUL	LDRUF10
17033443	2800	RAUL	LDRUF10	17033443	8900	RAUL	LDRUF10
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18030311	900	I2SRJUL	LMIJUF10	18030313	400	RAJUL	LMIJUF10
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18030311	1100	I2SR/UJ	LMIJF10	18030313	1400	RAJL	LDRJF10
18030311	1200	I2SR/UJ	LMIJF10	18030314	200	I2SR/UJ	LMIJF10
18030311	1401	I2SR/UJ	LMIJF10	18030314	500	I2SR/UJ	LMIJF10
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18030311	2100	RAJL	LDRJF10	18030320	101	I2	LMIJF10
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18030311	2200	RAJL	LDRJF10	18030320	1900	AGJL	PLCJF10
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18030320	2500	RAJL	LDRJF10				
18030320	2500	RAJL	LDRJF10				
18030320	2900	RAJL	LDRJF10				
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18030320	3001	RAJL	LDRJF10				
18030340	300	AGJL	PLCJF10				
18030340	600	I2SR/UJ	LMIJF10				
18030340	700	AGJL	PLCJF10				
18030340	800	AGJL	LDRJF10				
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18031010	200	AGJL	LDRJF10				
18031100	700	NA	NA				



FINDINGS IN SUPPORT OF ADOPTION OF THE ORDINANCE

The Board of County Commissioners of Lane County makes the following findings with respect to the action to set forth in this Ordinance to replace Eugene zoning districts with Springfield zoning districts for all land within the unincorporated portion of Glenwood

Background

Jurisdiction of Glenwood was transferred from the City of Eugene to the City of Springfield in December, 1998. This transfer process began with the adoption by all three governing bodies of an amendment to the text of Chapter II of the Metropolitan Area General Plan. This amendment assigns Springfield with jurisdictional responsibility for Glenwood. Lane County's amendment was by means of Ordinance PA 1123.

The amendment to Chapter II represents the first phase of the jurisdictional transfer process. Additional steps in this process include: transfer of annexed territory from Eugene to Springfield (approved by the Boundary Commission on February 4, 1999); replacement of Eugene zoning with Springfield zoning for annexed territory (approved by the Springfield City Council on March 22, 1999); adopt changes to Lane Code to identify Glenwood as being within the Springfield urban growth boundary and thus subject to Lane County's urban transition program with Springfield (adopted County Ordinance 3-99); amend the urban transition intergovernmental agreement (IGA) between Lane County and Springfield to recognize Springfield's responsibility for Glenwood's urban services (pending); replace Eugene zoning with Springfield zoning for the urban transition area of Glenwood (action dealt with here); and revise the Glenwood Refinement Plan consistent with Springfield jurisdiction (underway).

The zone change actions requested in this proposal are necessary to confer planning and building authority to the City of Springfield. All of the urban transition property in Glenwood still retains Eugene zoning classifications even though newly adopted Metro Plan policy vests jurisdiction with Springfield. Eugene zoning must be repealed and replaced with Springfield zoning before Springfield regulations, including development review and building permit approvals, may be applied to this property.

This request involves about 350 tax lots that, in the aggregate, total about 400 acres. The Metro Plan designates Glenwood for Light Medium Industrial, Community Commercial, Low Density Residential, Medium Density Residential and Park and Open Space.

The refinement plan designates sites in Glenwood in a similar fashion to the Metro Plan, but includes a "mixed-use" component for much of the riverfront and a good deal of the Metro Plan LMI sites. The refinement plan was found to be consistent with the Metro Plan when the refinement plan was adopted in 1990. An additional finding determined that Eugene I-2, C-1 or C-2 zoning districts were equally suitable for implementation of the mixed-use refinement plan designation in Subareas 6, 7 and 8 of the refinement plan. Springfield's Light Medium Industrial (LMI), and Community Commercial (CC) zoning districts are comparable to Eugene I-2, C-2 and C-4 districts in terms of purpose, intent and permitted uses..

Criteria for Approval

Zone changes within the City of Springfield are subject to criteria found in Section 12.030 of the Springfield Development Code, adopted by Lane County for application within the Springfield urban growth boundary (Ordinance 16-86 as amended).

These criteria are as follows:

1. *Consistency with the Metro Plan Text and Diagram;*
2. *Consistency with applicable Refinement Plans, special area studies and functional plans; and,*
3. *That the property can be served by the orderly and efficient extension of key urban facilities and services as prescribed in the Metro Plan prior to or in conjunction with development.*

CRITERION 1: CONSISTENCY WITH THE METRO PLAN TEXT AND DIAGRAM

Section II-C of the Eugene-Springfield Metropolitan Area General Plan reads as follows:

"C. Eugene and Springfield Jurisdictional Responsibility

The division of responsibility between the two cities is the Interstate 5 Highway. However, state law (1981) provides a mechanism for creation of a new city in the River Road-Santa Clara area."

Policy 5.b, Pages IV-2 and IV-3 of the Eugene-Springfield Metropolitan Area General Plan reads as follows:

"5.b. A site specific Type I Metropolitan Plan amendment that involves a UGB expansion or Plan Boundary change and a Type II Metropolitan Plan amendment between the city limits and Plan Boundary, must be approved by the home city and Lane County (Springfield is the home city for amendments east of I-5, and Eugene is the home city for amendments west of I-5). The non-home city will be sent a referral of the proposed amendment and, based upon a determination that the proposal will have Regional Impact, may participate in the decision. Unless the non-home city makes affirmative findings of Regional Impact, the non-home city will not participate in the decision."

These two Plan citations vest Springfield with land use jurisdiction "east of I-5" which clearly includes Glenwood. Land use jurisdiction includes zone changes. Because this land is outside the city limits of Springfield, Lane County is required to participate.

Chapter I, Section D. Use of the Plan

"The Metropolitan Area General Plan is a policy document intended to provide the three jurisdictions and other agencies and districts with a coordinated guide for change over a long period of time. The major components of this policy document are: the written text, which includes findings, goals, objectives, and policies; the Plan diagram; and other supporting materials.

The Plan diagram is a graphic depiction of: (1) the broad allocation of projected land use needs in the metropolitan area; and (2) goals, objectives, and policies embodied in the text of the Plan. Some of the information shown on the diagram includes land use categories, urban growth boundaries, and major transportation corridors.

The degree to which the General Plan provides sufficient detail to meet the needs of each jurisdiction will have to be determined by the respective jurisdictions; and where conflicts exist among the General Plan, refinement plans and existing zoning, each jurisdiction will have to establish its own schedule for bringing the zoning and refinement plans into conformance with the General Plan.

It is recognized that the needs, priorities, and resources vary with each jurisdiction and that the methods and timing used to implement the Plan will also vary."

The proposed Springfield zoning districts (LMI, CC, LDR, and PLO) closely duplicate the existing Eugene

zoning districts of I-2, C-2, C-4 and RA. Some of these properties carrying these zoning districts are not in conformance with the Metro Plan or Glenwood Refinement Plan diagram designations. Consistent with the preceding Metro Plan text citation, the City of Springfield is deferring 100% plan-zone consistency until at least the public hearings on Springfield adoption of the Glenwood Refinement Plan. This action is taken deliberately to elicit more direct and wide-spread citizen involvement in this process.

Chapter I, Section E. Relationship to Other Plans and Policies

"In all cases, the Metropolitan Plan is the guiding document, and refinement plans and policies must be consistent with the Metropolitan Plan. Should inconsistencies occur, the Metropolitan Plan is the prevailing policy document."

Chapter II Plan Principles

"4. Comprehensive plans identify and establish the Plan zoning consistency concept and recognize the importance of timing concerning implementation techniques. Implementation techniques, including zoning, shall generally be consistent with the precepts established in the Metropolitan Plan, which is the broad policy document for the metropolitan area."

"5. The zoning process shall be monitored and adjusted to meet current urban land use demands through the planning period for all land use categories."

"6. The Metropolitan Plan is based on the premise that Eugene and Springfield, the two existing cities, are the logical providers of services accommodating urban levels of development within the urban growth boundary."

The proposed action to rezone these properties with Springfield zoning districts is consistent with these principles. The zoning on 290 of the 355 lots is consistent with the Metro Plan diagram; the question of timing is predicated on the need for Springfield to administer this land now (because of the Metro Plan amendment) but also honor the Glenwood Refinement Plan citizen involvement process currently underway; and providing Springfield urban services to these properties cannot occur without Springfield zoning districts.

Chapter III, Section B. Economic Element

"6. Increase the amount of undeveloped land zoned for light industrial and commercial uses correlating the effective supply in terms of suitability and availability with the projections of demand."

"7. Encourage industrial park development, including areas for warehousing and distributive industries and research and development activities."

"8. Encourage the improvement of the appearance of existing industrial areas, as well as their ability to serve the needs of existing and potential light industrial development."

"10. Encourage economic activities which strengthen the metropolitan area's position as a regional distribution, trade, health, and service center.

"13. Encourage compatibility between industrially zoned lands and adjacent areas in local planning programs."

By providing each of these parcels with appropriate Springfield zoning districts, the opportunity for development, consistent with the Metro Plan and Glenwood Refinement Plan becomes possible. The meaning of the expression "consistent with" applies not only to the application of Springfield zoning, but also to the ability of the City to implement these preceding policies within the meaning and purpose

provided by application of the Springfield Development Code.

From the Metropolitan Plan Diagram:

"The Plan diagram is a graphic depiction of: (1) the broad allocation of projected land use needs in the metropolitan area; and (2) goals, objectives and policies embodied in the text of the plan. One cannot determine the exact designation of a particular parcel of land without consulting with the appropriate local jurisdiction. Local jurisdictions make more specific interpretations of the general diagram through refinement plans and zoning."

The proposed action uses the Metro Plan diagram as the basis for most of the zone change recommendations. Not all of these actions are in conformance with the diagram, however, the ultimate timing of appropriate zone change actions is based on other issues, including citizen involvement, provision of services, supply and demand and other principles and policies of the Metro Plan cited throughout this report.

CRITERION 2: CONSISTENCY WITH APPLICABLE REFINEMENT PLANS, SPECIAL AREA STUDIES AND FUNCTIONAL PLANS; AND

The Glenwood Refinement Plan is the only other planning document applicable to the properties included in this action. However, the City of Springfield has not adopted the Glenwood Refinement Plan therefore cannot currently implement this document. The City of Springfield and the City of Eugene jointly adopted the "Glenwood Transition Agreement" that in part states: "The parties recognize that the Glenwood Refinement Plan will remain in effect following the adoption of the Metro Plan amendment transferring jurisdiction until further amended by Springfield and Lane County. The Springfield City Council will promptly initiate necessary proceedings to consider amending the Glenwood Refinement Plan to recognize the transfer of jurisdiction. On or before September 30, 1999, Springfield and County will complete all necessary review and take final actions on proposed amendments to the Glenwood Refinement Plan. Thereafter, any changes to the Glenwood Refinement Plan shall be subject to the existing process for amendment of such plans."

To this end, the City of Springfield has prepared a work program, including a citizen involvement component, that establishes a Citizen Advisory Committee (CAC) and sets forth a schedule of public meetings with the CAC. The charge of the CAC is to relate policies within the refinement plan to policies within the Metro Plan or recommend to the Springfield City Council adoption of policies unique to Glenwood. The zoning districts proposed in this action are nearly duplicative to existing Eugene zoning and do not allow uses or activities in contravention to any existing Glenwood Refinement Plan policies. This is a certainty because the zoning codes of each city implement the Metro Plan and the Glenwood Refinement Plan cannot contravene the policies of the Metro Plan.

CRITERION 3: THAT THE PROPERTY CAN BE SERVED BY THE ORDERLY AND EFFICIENT EXTENSION OF KEY URBAN FACILITIES AND SERVICES AS PRESCRIBED IN THE METRO PLAN PRIOR TO OR IN CONJUNCTION WITH DEVELOPMENT.

This action is not a prelude to or an inspiration of impending development. Rezoning to Springfield districts is necessary to complete jurisdictional transfer. However, Glenwood has been included in Metro area public facilities planning and has been the subject of several service extension scenarios conducted by the City of Eugene, the City of Springfield, EWEB and SUB. Unincorporated Glenwood is currently served by EWEB and Glenwood Water Districts, by Willamalane Park and Recreation District and by Springfield Fire and Life Safety. Additional water and electric connections can and will be provided by SUB; sanitary and storm sewer systems can and will be provided and or maintained by the City of Springfield; and police fire, library, maintenance, planning and building services by the City of Springfield.

Conclusions

On the basis of the foregoing, the Board of County Commissioners concludes that this action is necessary to achieve planning and building jurisdiction of the urban transition area of Glenwood transferred from Eugene to Springfield in December, 1998. Application of Springfield zoning districts establishes development regulations adopted by the Springfield City Council and implemented by the Springfield staff. Without this action, Eugene zoning districts remain in place and Springfield does not have the authority or appropriate agreements in place to administer the Eugene Code.

The Board further concludes that this action is consistent with existing zoning. Each Eugene zoning district has a similar counterpart in the Springfield Development Code. This relative match exists because both cities adopted the same comprehensive plan and both cities rely on their respective zoning codes to provide the primary implementation of plan policy, particularly land use designations. This action is not insistent upon absolute plan/zone conformity because of deference given to a citizen involvement process that will not conclude until the fall of 1999. This citizen involvement process will culminate with a number of recommendations regarding changes to the Glenwood Refinement Plan to make that plan consistent with zoning and policies adopted by the City of Springfield. The rezoning proposed in this Ordinance does not make this property any more or less conforming to the existing refinement policies and land use designations.

NOT PASSED
(NO VOTE)

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 4-99) IN THE MATTER OF AMENDING CHAPTER 6 OF
) LANE CODE TO REVISE THE PROHIBITED NOISE
) PROVISIONS DEALING WITH RAILROADS AND
) DECLARING AN EMERGENCY (LC 6.520 - 6.530)

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

Chapter 6 of Lane Code is hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

6.515(2) – 6.525 to
6.525(1) – 6.535(2)
i.e. 6-12 to 6-13
(a total of two pages)

INSERT THESE PAGES

6.515(2) – 6.520(3) to
6.525(1) – 6.535(2)
i.e. 6-12 to 6-13
(a total of three pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to amend Lane Code Chapter 6 to revise the prohibited noise provisions dealing with railroads, and declare an emergency. (LC 6.520 - 6.530).

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power of the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately upon adoption.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Enacted this _____ day of _____, 1999

Chair, Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 5-19-99 lane county

William K. ...
OFFICE OF LEGAL COUNSEL

(2) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. of the following day:

(a) Within a noise sensitive unit which is not the source of the sound, or

(b) On a public right-of-way at a distance of 50 feet or more from the source of the sound.

(3) If a measurement of the sound is made, LC 6.515(1) above shall supersede LC 6.515(2) above and shall be used to determine if a violation exists.

6.520 Exceptions. Notwithstanding LC 6.515 above, the following exceptions from this subchapter are permitted when conditions therefor are met:

(1) Sounds caused by organized athletic, religious, educational, civic or other group activities, when such activities are conducted on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, race tracks, airports and waterways between the hours of 7:00 a.m. and 11:00 p.m. of the same day; provided, however, that this exception shall not impair the Director's power to declare that such events or activities violate other applicable laws, ordinances or regulations.

(2) Sound caused by emergency work reasonably necessary to prevent injury to persons or property, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property.

(3) Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations. Notwithstanding anything within LC 6.500 et seq. to the contrary, it shall be unlawful for any railroad "retarder" as that is defined in 40 CFR 201.1(y), to be used between the hours of 10:00 p.m. and 7:00 a.m. of the following day, unless such retarder has shielding sufficient to prevent both

(a) impulse sounds, defined as a single pressure peak or a single burst (multiple pressure peaks), as measured on a C weighted meter with fast response, and

(b) sounds in octave bands of 2000 Hz and above,

where either of such sounds exceed 10 dB over the ambient noise level within a sound sensitive unit with a window ajar and measured from no closer than three (3) feet of the window. The ambient noise level is the total of all noise in the environment, other than noise from railroad operations, averaged over 10 minutes in C weighted decibels.

(4) Sound caused by bona fide use of emergency warning devices and alarm systems authorized by LC 3.400 through 3.460.

(5) Sound caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9:00 a.m. and 4:00 p.m. of the same day, excluding weekends, unless such permit expressly authorizes otherwise.

(6) Sounds caused by commercial, industrial, agricultural, timber harvesting, utility or construction organizations or workers during their normal operations.

(7) Sounds caused by a sound producing device used by a person pursuant to a variance issued by the Director as provided in LC 6.525.

(8) Sounds caused by motor vehicles operated on any highway and subject to ORS 815.250.

6.525 Variances. Any person who is planning the use of a sound producing device which may violate any provision of this subchapter may apply to the Director for a variance from such provision.

(1) Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought and any other supporting information which the Director may reasonably require.

(2) Review Considerations. The Director shall consider:

- (a) The nature and duration of the sound emitted,
- (b) Whether the public health, safety or welfare is endangered,
- (c) Whether compliance with the provision would produce no benefit to the public,
- (d) Whether previous permits have been issued and the applicant's record of compliance.

(3) Time Duration of Variance. A variance may be granted for a specific time interval only.

(4) Director's Action. Within 10 days of receiving the application, the Director shall deny it, approve it, or approve it subject to conditions. The Director's decision shall be final for purposes of filing for review under ORS 34.010 through 34.100 when that decision is reduced to writing and signed.

(5) Revocation. The Director may at any time before or during the operation of a variance granted by the Director revoke the variance for good cause.

6.530 Subchapter Additional to Other Law. The provisions of this subchapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject. In the case of an adjudicated conflict between the provisions of this subchapter and any Federal statute or regulation promulgated thereunder, such statute or regulation shall supersede the provisions of this subchapter and may be enforced, to the fullest extent allowed by law, by Lane County.

6.535 Administration and Enforcement.

(1) The Director of the Department of Public Safety for Lane County shall administer, supervise and perform all acts necessary to enforce this subchapter.

(2) Persons appointed or assigned by the Director, as deemed necessary to accomplish effective enforcement of this subchapter, may be peace officers or not, but if unsworn persons are selected and empowered to enforce violations of this subchapter, the Director shall exercise powers under ORS 204.635.

6.515(2)

Lanc Code

6.5250(3)

(2) Is plainly audible at any time between 10:00 p.m. and 7:00 a.m. of the following day:

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