

AN ORDINANCE PROVIDING FOR THE PROTECTION)
 OF RESOURCES, REQUIRING COMPLIANCE WITH) O R D I N A N C E
 MULTIPLE-USE POLICIES, AND DECLARING AN)
 EMERGENCY.....) NO. MC-C-6-92

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the County over matters of County concern; and

WHEREAS, the Morrow County Comprehensive Plan announces as a formal finding that "The grazing of livestock currently exists on the majority of all forest lands and is a vital key to the continued existence of the county's livestock operations...such is particularly true relative to those livestock operations relying on grazing permits on public lands"; and

WHEREAS, the Morrow County Comprehensive Plan announces as objectives the following:

1. "To encourage and support management practices which support existing use levels, particularly as related to the forest products industry, the dependent livestock sector, and the dispersed recreational user";
2. "To support resource management practices directed at achieving a balance of forest uses as set forth in Multiple Use concepts"; and

WHEREAS, the Morrow County Comprehensive Plan announces as one of its policies: "It shall be the policy of Morrow County, Oregon to conserve forest lands for forest uses...Multi-use, rather than single use, shall be stressed on all forest lands...Forest uses such as timber production, fish and wildlife habitat, livestock grazing, dispersed recreation, and the production of high quality water for agriculture and domestic use shall be stressed"; and

WHEREAS, that the Fifth and Fourteenth Amendments to the United States Constitution provides that private property shall not be taken for a public use without payment of just compensation and without due process; and

WHEREAS, that on March 18, 1988, Presidential Executive Order 12630 was enacted and requires all federal agencies to analyze the economic effects or takings implications of their proposed policies, decisions, rules and regulations on the private property, private property rights and investment backed expectations of individual citizens; and

WHEREAS, it appears livestock grazing upon public lands in Morrow County is a use which currently is not receiving the protection and preference afforded to that use pursuant to the Morrow County Comprehensive Plan; and

WHEREAS, it is vital to the economic stability of Morrow County that the livestock industry, including the grazing of livestock upon private and public lands, be encouraged;

NOW, THEREFORE, THE COUNTY COURT OF MORROW COUNTY ORDAINS AS FOLLOWS:

SECTION 1. SHORT TITLE.

This Ordinance shall be known, and may be cited as the "Multiple-Use Compliance Ordinance.

SECTION 2. CRITERIA FOR DETERMINATION.

Livestock grazing on public or private lands situated within Morrow County shall not, on the grounds that emergency conditions exist, be limited, prohibited, or made subject to regulation requiring substantial expenditure, unless a written determination is obtained from the Morrow County Planning Director (hereinafter referred to as "Director"), which determination is based upon evidence sufficient to support the following findings:

- (a) Serious resource damage is presently occurring; and
- (b) The damage is of a nature which is likely to produce effects beyond the period of one grazing season; and
- (c) The damage is the result of actions or events not occurring naturally on forest lands; and
- (d) The damage is directly attributable to livestock grazing; and
- (e) No less burdensome alternative is reasonably available or practical.

SECTION 3. APPLICATION REQUIREMENTS.

Any person, partnership, association, corporation, or governmental agency which owns or controls the use of forest lands may request a determination from the Director that livestock grazing upon such lands situated in Morrow County may be limited, prohibited, or made subject to regulation on the grounds that an emergency exists upon an application providing all of the following information:

- (a) A specific description of the lands alleged to be affected by the emergency;
- (b) A specific description of the nature and effects of the emergency alleged;
- (c) A specific description of the resource, or resources alleged to be damaged, together with a description of the particular damage which is occurring;
- (d) The names and addresses of all persons whose livestock, or other property, would be affected by the Director's finding.

- (e) All data which supports a finding that:
 - (1) the damage is of a nature which is likely to produce effects beyond the period of one grazing season; and
 - (2) the damage is the result of actions or events not occurring naturally on forest lands; and
 - (3) the damage is directly attributable to livestock grazing.
- (f) A detailed explanation of all facts which render any less burdensome alternative unreasonable or impractical.
- (g) Any other information deemed necessary by the Director.

SECTION 4. NOTICE REQUIREMENTS.

(1) Except as set forth in subsection (2) of this Section, upon receipt of an application described in Section 2 of this Ordinance, the Director shall, within three working days, send notice by registered or certified mail to all persons whose livestock or other property may be affected by the Director's finding. The notice, with a copy of the application attached, shall establish a time and place at which such person may appear and be heard on the matter. The Director shall also notify the applicant of the time and place of such hearing. The time set for said hearing shall be not less than 7 days or more than 14 days from the date upon which notice was sent to the interested parties.

(2) If the Director determines that the information provided in the application is inadequate or lacks sufficient specificity upon which to base a determination, the Director shall notify the applicant of the particular deficiency, in writing, within three days of receipt of the application. The applicant shall have not more than 14 days to make such corrections or additions to the application as the Director requires. If corrections or additions to an application are deemed necessary, the Director shall not send the notices required by subsection (1) of this section until the Director has approved the application in final form.

SECTION 5. APPEAL.

Any person aggrieved by the decision of the Director may appeal the decision in the same manner and to the same extent as is provided by law for appeal of a decision of the Director pursuant to the Morrow County Comprehensive Plan and Zoning Ordinance.

SECTION 6. PENALTIES.

(1) No person shall order, authorize, require or otherwise effect the removal of livestock from public or private forest lands situated within Morrow County, on the grounds that an emergency exists, other than an owner of such livestock or a person acting at the direction of such owner, unless the person has obtained the written determination of the Director as described in Sections 2

of this ordinance. Any person who violates this subsection, upon conviction, may be assessed a fine not to exceed \$500.00.

(2) No person shall knowingly assemble, create, gather, transmit, or present false, misleading, or biased information or data in support of, or in opposition to, a determination that serious resource damage is occurring, or that an emergency exists, which requires the removal of livestock from forest lands within Morrow County. Any person who violates this section, upon conviction, may be assessed a fine not to exceed \$500.00.

SECTION 7. VENUE.

This Ordinance shall be applicable in Morrow County, Oregon, and in all situations which would establish venue for a criminal proceeding in Morrow County under ORS 131.305 and 131.315.

SECTION 8. JURISDICTION.

Jurisdiction and prosecution of offenses under this Ordinance may be initiated in either the Justice Court for Morrow County, or the District Court for Morrow County; those Courts having concurrent jurisdiction under this Ordinance. All other rules of procedure shall be as provided for other violation or infraction prosecutions initiated in the respective Court.

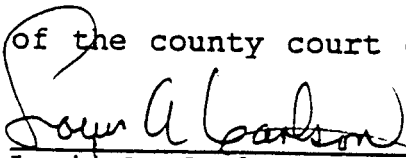
SECTION 9. OPERATION AND SEVERABILITY.

Nothing in this Ordinance shall be construed in such a way as to conflict with the Oregon Revised Statutes, or any other provision of law. In the event that a section of this Ordinance is ruled to be unconstitutional or otherwise invalid, it shall not affect the operation of the remaining sections of this Ordinance.


SECTION 10. EMERGENCY.

As it is necessary for the health, safety, comfort, and convenience of the people of Morrow County that this Ordinance have immediate effect, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval by unanimous vote of the County court.

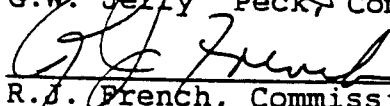
passed by the unanimous vote of the county court of Morrow county this 29th day of July, 1992.



Louis A. Carlson, Judge

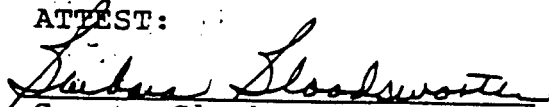


G.W. "Jerry" Peck, Commissioner



R.J. French, Commissioner

ATTEST:



Barbara Bloodworth
County Clerk

STATE OF OREGON

County of Morrow

} 146747
ss

I hereby certify that the within
instrument was received for record.

on 7-30-92 at 10:45am

and assigned

38851

in the Microfilm Records of said
county.

Witness My Hand and Seal of County
Affixed

Barbara Bloodsworth
County Clerk

By Shirley M. Carl
Deputy