
CODIFIED ORDINANCES OF JACKSON COUNTY

PART EIGHTEEN - HEALTH AND SANITATION

CHAPTER 1810

Air Pollution

- 1810.01 Definitions.
- 1810.02 Exceptions to Chapter.
- 1810.03 Requirements for Solid Fuel Heating Device Installation.
- 1810.04 Solid Fuel Burning Device Emission Standard.
- 1810.05 Restriction of wood burning and emissions on high pollution days.
- 1810.06 Trackout.
- 1810.07 Open Burning.
- 1810.08 Burning of Material Emitting Dense Smoke or Noxious Odors in Solid Fuel Burning Devices.
- 1810.09 Abatement; Legal Proceedings.
- 1810.10 Removal of Non-Certified Wood Stoves, Wood Heaters or Fireplace Inserts.
- 1810.99 Penalty.
- Exhibits C-D

CROSS REFERENCES

- Quality control programs - see ORS 468A.010
- Application of statutes - see ORS 468A.020
- Contamination rules and standards; variances - see ORS 468A.075
- Air quality control authorities - see ORS 468A.115
- State aid - see ORS 468A.175
- Authority to limit motor vehicle operation and traffic - see ORS 468A.405
- Fires in parks - see S.U. & P.S. 1064.10
- Fires in County Fairgrounds and Exposition Park - see S.U. & P.S. 1066.14

1810.01 DEFINITIONS.

As used in this chapter:

- (a) Agricultural Operation - means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit by raising, harvesting and selling crops or by raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose.

- (b) Agricultural Waste - means any material actually generated or used by an agricultural operation, but excluding those materials described in Section 1810.07(d).
- (c) Board - means the Board of County Commissioners.
- (d) Certified Stove - means a solid fuel burning device that is permanently and visibly labeled as such as a result of its compliance with emission standards outlined in OAR 340-262-0020(19).
- (e) High Pollution Period - means a period of time commencing three hours after initial designation as a red or yellow day by the Oregon Department of Environmental Quality (hereinafter referred to as DEQ) or the Jackson County Department of Health and Human Services. In the event that more than one consecutive day is designated as red or yellow, it shall all be considered part of the same period.
- (f) Medford-Ashland Air Quality Maintenance Area (hereinafter referred to as AQMA)- means that part of the County specifically identified by the Oregon Department of Environmental Quality as an air quality maintenance area that is one of several areas in the State wherein air quality has deteriorated due to unhealthful levels of pollutants in the air. A map and written description of the AQMA are included as Exhibits "C" and "D", respectively, following the text of this chapter.
- (g) Non-Certified Wood Stove, Wood Heater, or Fireplace Insert - means an enclosed, wood burning appliance capable of and intended for space heating and domestic water heating that meets all of the following criteria as outlined in OAR 340-262-0020(19) that has not been certified by either the State of Oregon Department of Environmental Quality or Federal Environmental Protection Agency as complying with smoke emission standards. "Non-certified wood stove, wood heater, or fireplace insert" does not include (1) devices exempt from certification requirements such as pellet stoves (a wood burning heating appliance which uses wood pellets as its primary source of fuel), (2) cook stoves (an indoor wood burning appliance the design and primary purpose of which is to cook food), (3) antique wood stoves (a wood stove built before 1940 that has an ornate construction and a current market value substantially higher than a common wood stove manufactured in the same time period), (4) fireplaces and (5) wood stoves, wood heaters, and fireplace insert that have been rendered permanently inoperable.
- (h) Opacity - means the degree to which emissions from a solid fuel burning device reduce the transmission of light and obscure the view of an object in the background. It is expressed as a percentage representing the extent to which an object viewed through the smoke is obscured.
- (i) Open Burning - means burning in burn barrels or incinerators, open outdoor fires and any other burning where combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

- (j) PM_{2.5} - means airborne particles ranging from .01 to 2.5 microns in size, the breathing of which can be harmful to the human respiratory system.
- (k) Permanently Inoperable - means a non-certified wood stove, wood heater or fireplace insert that has been rendered unusable by removal of or disconnection and capping of the chimney pipe.
- (l) Proof of Destruction - means receipt from a metal scraper stating that they have received the same heating unit as was specified in the disclosure (descriptions must match).
- (m) Red Day - means a twenty-four hour period, beginning at 7:00 a.m., when PM_{2.5} levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to reach unhealthy levels.
- (n) Residence - means a building containing one or more dwelling units used for habitation by one or more persons.
- (o) Residential Woodburning - means utilization of wood in a solid fuel heating device inside a residence.
- (p) Sale of Structure or Sale of Structures - means any transaction whereby the ownership of a structure, or the real property upon which a structure is located, is conveyed by a purchase agreement, inheritance or a transfer of title, for real property.
- (q) Sole Source of Heat - means one or more solid fuel burning devices which constitute the only source of heating in a residence. No solid fuel burning device or devices shall be considered to be the sole source of heat if the residence is equipped with a permanently installed, furnace or heating system utilizing oil, natural gas, electricity or propane.
- (r) Solid Fuel Burning Device - means a device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes, without limitation, solid fuel burning stoves, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel or solid fuel burning cooking stoves. Solid fuel burning devices do not include barbecue devices, natural gas-fired artificial fireplace logs, DEQ approved pellet stoves or Kachelofens.
- (s) Space Heating - means raising the interior temperature of a room.
- (t) Structure - has the same meaning provided in the Land Development Ordinance of Jackson County, Oregon.
- (u) Trackout - means the deposit of mud, dirt and other debris on paved public roadways by motor vehicles. "Trackout" also means the material being so tracked onto public roadway. Trackout can become pulverized and blown into the air by vehicular traffic where it becomes a part of the total suspended particulate level.

(v) Ventilation Index - means the National Weather Service's indicator of the relative degree of air circulation for a specified area and time period.

(w) Waste - means discarded or excess material, including:

- (1) Agricultural waste resulting from farming or agricultural practices and operations; and
- (2) Nonagricultural waste resulting from practices and operations, other than farm operations, including industrial, commercial, construction, demolition and domestic wastes and yard debris.

(x) Yellow Day - means a twenty-four hour period, beginning at 7:00 a.m., when the PM_{2.5} levels are forecast by the DEQ or the Jackson County Department of Health and Human Services to be approaching unhealthy levels.

(Ord. 85-31. Passed 12-4-85; E. Ord 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89; Ord. 90-4. Passed 5-2-90; Ord. 2007-6. Passed 02-07-07.)

1810.02 EXCEPTIONS TO CHAPTER.

This chapter shall not apply:

- (a) Within incorporated limits of any city;
- (b) To Federal or State lands;
- (c) To prescribed slash burns regulated by the State Smoke Management Plan;
- (d) To open cooking fires or ceremonial fires; or
- (e) To orchard heating devices in which combustion air is effectively controlled and combustion products are effectively vented through a stack or chimney, provided that no materials which may emit dense smoke or noxious odors are burned; or
- (f) To fires set by a public agency for instruction of employees in the methods of firefighting.

(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89; Ord. 2001-17. Passed 8-22-01.)

1810.03 REQUIREMENTS FOR SOLID FUEL HEATING DEVICE INSTALLATION.

The purpose of this section is to reduce the amount of particulate pollution resulting from woodburning for space heating.

(a) It shall be unlawful for any new or used solid fuel heating device to be installed in the Medford-Ashland Air Quality Maintenance Area after the effective date of this chapter (December 22, 1989), unless:

- (1) The device is installed pursuant to the County Building Code and regulations of the Development Services Department;
- (2) The solid fuel heating device complies with the Oregon Department of Environmental Quality 1988 Particulate Emission standards for certified woodstoves; and
- (3) For all new construction, the structure contains an alternate form of space heating, including natural gas, propane, electric, oil, solar or kerosene, sufficient to meet necessary space heating requirements, so that during episodes of high pollution levels, the occupant will be able to heat the home with other than a solid fuel heating device.

(b) If the conditions set forth in subsection (a) hereof are not fulfilled, no person in possession of the premises shall cause or permit, and no public agency shall issue any permit for, the installation of the device.

(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89; Ord. 2003-4. Passed 1-22-03; Ord. 2007-2. Passed 1-31-07.)

1810.04 SOLID FUEL BURNING DEVICE EMISSION STANDARD.

(a) Within AQMA, no person owning or operating a solid fuel burning device shall at any time cause, allow or discharge emissions from such device which are of an opacity greater than fifty percent.

(b) The provisions of this section shall not apply to emissions during the starting or refueling of a new fire for a period not to exceed thirty minutes in any four-hour period.

(c) For the purposes of this section, opacity percentages shall be determined by a certified observer, using the standard visual method listed in 40 CFR 60A, Method 9, or operation of equipment approved by the Jackson County Department of Health and Human Services that is known to produce equivalent or better accuracy.

(Ord. 90-4. Passed 5-2-90; Ord. 2007-6. Passed 02-07-07.)

1810.05 RESTRICTION OF WOODBURNING AND EMISSIONS ON HIGH POLLUTION DAYS.

(a) Operation of Solid Fuel Burning Device Prohibition:

- (1) The operation of a solid fuel burning device within the AQMA during a high pollution period shall be prohibited, unless an exemption has been granted pursuant to Section 1810.05(b). A presumption of a violation for which a citation shall be issued shall arise if smoke is being discharged through a flue or chimney after a time period of three hours has elapsed from the time of declaration of the high pollution period.
- (2) Notwithstanding paragraph (a)(1) hereof, the operation of a certified solid fuel burning device shall be permitted during a high pollution period so long as no visible emissions of smoke are discharged through a flue or chimney after a time period of three hours has elapsed from the time of the declaration of the high pollution period. The provisions of this subsection shall not apply to emissions of smoke during the starting or refueling of a fire for a period not to exceed thirty minutes in any four-hour period.
- (3) After two years from the effective date of this chapter, no property owner within the AQMA shall rent or lease a residential unit that is not equipped with a secondary source of heat other than a solid fuel burning device.

(b) Exemptions. It is permissible for a household to operate a solid fuel burning device within the AQMA during a high pollution period when the head of that household has obtained one of the following exemptions. Exemptions granted under this section shall expire on September 1 of each year.

- (1) Economic Need. An exemption for an economic need to burn solid fuel for residential space heating purposes may be issued to heads of households who can show that their family income is less than eighty percent of the median income level for the Medford metropolitan area, as established by the Federal Department of Housing and Urban Development (HUD). Households that qualify for an exemption based on economic need may rely on a solid fuel burning device as the sole source of heat.
- (2) Special Needs. Upon a showing of special need, as further defined by administrative rule, a temporary exemption may be granted authorizing the burning of a solid fuel burning device, notwithstanding Section 1810.05(a)(1) and (2). "Special need" shall include, but not be limited to, occasions when a furnace or central heating system is inoperable, other than through the owner or operator's own actions or neglect.

(c) Administrative Rules. The County Administrator shall develop administrative rules setting out the requirements necessary to qualify for the exemptions described herein and specifying the manner in which this chapter will be enforced.

(Ord. 85-31. Passed 12-4-85; Ord. 90-4. Passed 5-2-90; Ord. 2007-6. Passed 02-07-07.)

1810.06 TRACKOUT.

(a) The purpose of this section is to lessen the amount of particulate pollution which originates from roads and roadways. Dirt and other debris which may become deposited upon paved roads can be ground and pulverized by traffic into minute particles. These particles can then become airborne, adding to the particulate pollution problem.

(b) This section applies to construction sites, agricultural activities and commercial and industrial operations.

(c) No person shall trackout mud, dirt or other debris from private or public lands onto paved public roads without taking reasonable precautions to prevent such particulate matter from becoming airborne. These precautions shall include, where appropriate, the prompt removal of such material from the paved road surface. This section does not apply to noncommercial uses of public roads.

(d) No person shall violate the provisions of a stop-work order issued pursuant to subsection hereof.

(e) The County may require the imposition of building permit conditions for the prevention of trackout. Conditions imposed may include, but are not limited to, the following:

- (1) Posting of a bond by a contractor in an amount sufficient to ensure that funds are available for roadway cleanup by the County, if the contractor is negligent in the cleanup of an adjacent public roadway;
- (2) Street sweeping, vacuuming or other means of removing trackout material from public roadways;
- (3) The installation of wheel washers at exits of major construction sites;
- (4) The use of temporary or permanent barricades to keep traffic off unpaved areas;
- (5) Graveling of access roads on site;
- (6) Limiting the use of public roadways by vehicles; and

(7) The issuance of a stop-work order.

(f) A stop-work order issued pursuant to subsection (e) hereof shall be posted at the work site and delivered by certified mail to an alleged violator. Appeals from any such order shall be conducted pursuant to the provisions of Section 204 of the County Building Code, as amended in Section 1420.02 of these Codified Ordinances.

(Ord. 85-31. Passed 12-4-85.)

1810.07 OPEN BURNING.

(a) The purpose of this section is to minimize the accumulation of PM₁₀ air pollution resulting from open burning. The public should be aware that open burning may also be restricted during the fire season (typically June through October) by the fire districts or other fire regulating authorities. These authorities base their restrictions of open burning on such factors as low humidity, high winds, drought or other conditions which make outside burning unsafe.

(b) Open burning of any kind is prohibited throughout unincorporated Jackson County on all days of the year when the maximum ventilation index is below 400.

(c) For the years 2009 and 2015, opening burning of any kind is prohibited within the Medford-Ashland Air Quality Maintenance Area starting November 15 of that respective year. Open burning of any kind is still prohibited within the Medford-Ashland Air Quality Maintenance Area during all of November, December, January and February of any other year due to generally poor smoke dispersion.

(d) Open burning of any wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains or animal or vegetable matter resulting from the handling, preparation, cooking or service of food or of any other material which normally emits dense smoke or noxious odors is prohibited throughout the unincorporated areas of Jackson County.

(e) The provisions of this section do not apply to the open burning of agricultural wastes which is necessary for disease or pest control.

(f) The provisions of this section do not apply to fires set by a public agency for instruction of employees in the methods of firefighting.

(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89; Ord. 2001-17. Passed 8-22-01; E. Ord. 2002-23, Passed 10-31-02; E.Ord. 2003-30. Passed 11-6-03; E.Ord. 2004-15, Passed 11-3-04. E. Ord. 2005-20, Passed 10-25-05; E. Ord. 2006-12. Passed 11-1-06, E. Ord. 2009-10. Passed 11-04-09; E.Ord. 2015-15, Passed 10-28-15, P.Ord. 2015-16. Passed 11-12-15.)

1810.08 BURNING OF MATERIAL EMITTING DENSE SMOKE OR NOXIOUS ODORS IN SOLID FUEL BURNING DEVICES.

The burning of any of the materials listed in Section 1810.07(d) in a solid fuel burning device is prohibited throughout the unincorporated areas of Jackson County at all times.

(E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89.)

1810.09 ABATEMENT; LEGAL PROCEEDINGS.

Whoever violates or fails to comply with any of the provisions of this chapter shall be subject to appropriate legal proceedings to enjoin or abate such violation or noncompliance, in addition to the penalty provided in Section 1810.99.

(Ord. 85-31. Passed 12-4-85; E. Ord. 89-13. Passed 12-22-89; P. Ord. 89-12. Passed 12-20-89.)

1810.10 REMOVAL OF NON-CERTIFIED WOOD STOVES, WOOD HEATERS OR FIREPLACE INSERTS.

(a) All non-certified wood stoves, wood heaters, and fireplace inserts shall be removed from a structure and destroyed upon sale or transfer of a structure containing any non-certified wood stoves, wood heaters, and fireplace inserts.

(b) Unless otherwise agreed in writing, the removal and proof of destruction of non-certified wood stoves, wood heaters, and fireplace inserts shall be the responsibility of the seller or transferor of the structure(s) which contain the non-certified wood stove(s), wood heater(s), or fireplace insert(s).

(c) The presence of all wood stoves, wood heaters, and fireplace inserts in a structure shall be included as a part of the seller's property disclosure presented to the new owner, as part of the sale or transfer of any real property. The disclosure shall be evidenced by a certificate which shall state whether any wood stoves, wood heaters, or fireplace inserts are present in the subject property and if so, whether the wood stoves, wood heaters, and fireplace inserts are certified or non-certified.

(d) If the seller or transferor assumes the responsibility of removal and proof of destruction, then such removal and proof of destruction shall be completed on or before the closing or title transfer of any real estate. Should the buyer or transferee assume the responsibility of removal and proof of destruction, the responsible party shall complete the removal and proof of destruction within 30 calendar days after the recordation of title and evidence the removal and proof of destruction, as stated herein.

The certificate shall be in substantially the following form:

Jackson County Solid Fuel Heating Device Disclosure Certificate

The undersigned seller discloses to the undersigned buyer the presence of wood stoves, wood heaters, or fireplace inserts located at the property which has the following address:

Street:		City:	Zip:
Township:	Range:	Section:	Taxlot:

Please describe the types and brands of solid fuel heating devices below (i.e wood stove, wood heater, fireplace insert) and indicate its certification status (EPA certified stoves usually have a metal plaque permanently affixed to the back).

1)	Certified: <input type="checkbox"/> YES <input type="checkbox"/> NO
2)	Certified: <input type="checkbox"/> YES <input type="checkbox"/> NO
3)	Certified: <input type="checkbox"/> YES <input type="checkbox"/> NO
4)	Certified: <input type="checkbox"/> YES <input type="checkbox"/> NO
5)	Certified: <input type="checkbox"/> YES <input type="checkbox"/> NO

The undersigned seller and the undersigned buyer, understand that the Jackson County wood stove, wood heater, and fireplace inserts ordinance requires non-certified wood stoves, wood heaters, and fireplace inserts to be removed from the subject structures upon sale; and that the seller shall have the responsibility for the removal and proof of destruction of the non-certified wood stoves, wood heaters, and fireplace inserts, unless the seller and the undersigned buyer agree, in writing, that the undersigned buyer shall assume the responsibility for the removal and proof of destruction of the non-certified wood stoves, wood heaters, and fireplace inserts pursuant to the local ordinance. The undersigned seller and the undersigned buyer also understand, this certificate must be completed and signed by both parties and delivered to Jackson County Department of Development Services on or before the closing of any related real estate transaction. Further, all obligations stated herein, survive the close of escrow or transfer of title.

The responsibility for removing and destroying any non-certified wood stoves, wood heaters, or fireplace inserts shall be that of the: <input type="checkbox"/> Seller <input type="checkbox"/> Buyer	
Buyer	Seller
Name:	Name:
Signature:	Signature:
Date:	Date:

Please submit this disclosure to:

Jackson County Development Services
10 South Oakdale Rm. 100
Medford, OR 97501

Address questions to the Jackson County Environmental Health Division at (541) 774-8207.

ATTACH COPIES OF ALL ASSOCIATED RECEIPTS SHOWING PROOF OF DESTRUCTION OF NON-CERTIFIED SOLID FUEL HEATING DEVICES (RECEIPTS CAN BE OBTAINED FROM ANY METAL SCRAPER OR WOOD STOVE RETAILER IN JACKSON COUNTY).

This disclosure is required pursuant to Chapter 1810.10 of the Codified Ordinances of Jackson County effective April, 8 2007.



(e) The disclosure(s) and certificate must be executed by both seller and the buyer on or before the closing of any real estate transfer involving real property, upon which the structure(s) containing the wood stoves, wood heaters, or fireplace inserts are involved. Upon the complete execution of the disclosure certificate, a copy must be submitted to Jackson County Department of Development Services with proof of destruction by the responsible designee. Delivery of the disclosure certificate with proof of destruction is required for any transfer of title, whether the real estate transaction is closed in escrow or closed by the seller and the buyer without a closing escrow.

(f) Failure of the seller, or the buyer, to provide a disclosure certificate required by this ordinance, demonstrating the subsequent removal and proof of destruction of a non-certified wood stove(s), wood heater(s) or fireplace insert(s) from a structure, required by this ordinance, shall be considered a violation and shall be subject to the penalties set forth in Section 202.99.

(Ord. 2007-6. Passed 02-07-07; Ord. 2007-13. Passed 04-04-07.)

1810.99 PENALTY.

EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

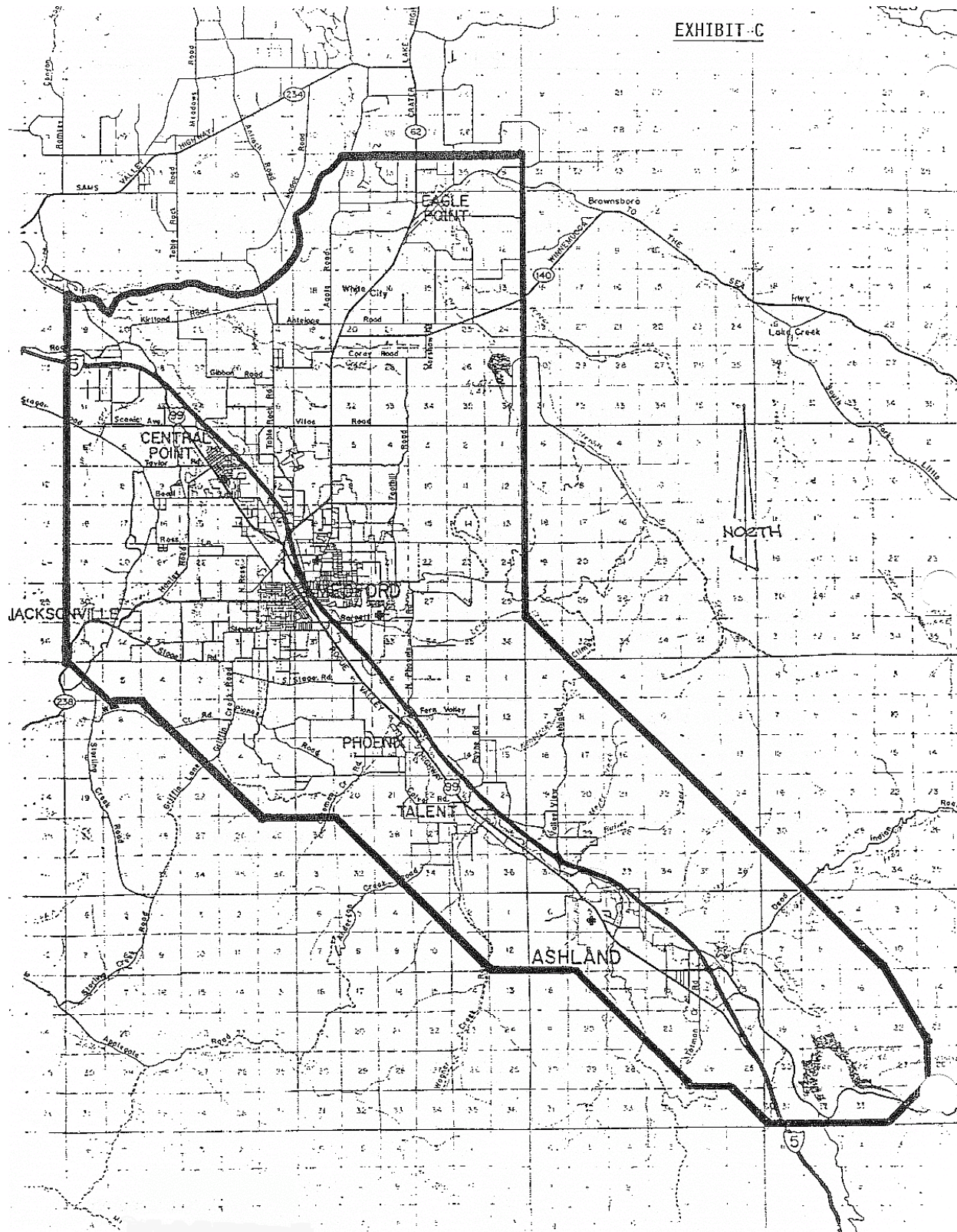


EXHIBIT D

BOUNDARY DESCRIPTION
MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

The Medford-Ashland Air Quality Maintenance Area is defined as beginning at a point approximately one mile NE of the town of Eagle Point, Jackson County, Oregon, at the NE corner of Section 36, T35S, R1W; thence south along the Willamette Meridian to the SE corner of Section 25, T37S, R1W; thence SE along a line to the SE corner of Section 9, T39S, R2E; thence SSE to the SE corner of Section 22, T39S, R2E; thence south to the SE corner of Section 27, T39S, R2E; thence SW to the SE corner of Section 33, T39S, R2E; thence west to the SW corner of Section 31, T39S, R2E; thence NW to the NW corner of Section 36, T39S, R1E; thence west to the SW corner of Section 26, T39S, R1E; thence NW along a line to the SE corner of Section 7, T39S, R1E; thence west to the SW corner of Section 12, T39S, R1W; thence NW along a line to the SW corner of Section 20, T38S, R1W; thence west to the SW corner of Section 24, T38S, R2W; thence NW along a line to the SW corner of Section 4, T38S, R2W; thence west to the SW corner of Section 5, T38S, R2W; thence NW along a line to the SW corner of Section 31, T37S, R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of Section 32, T35S, R1W; thence east along a line to the point of beginning.