

## Agenda Cover Memo



July 8, 2019 (Date of Memo)  
May 21, 2019 (Date of 1<sup>st</sup> Reading)  
June 11, 2019 (Date of 2<sup>nd</sup> Reading/Public Hearing)  
July 23, 2019 (Date of 3<sup>rd</sup> Reading/Continued Public Hearing)

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**TO:** Lane County Board of Commissioners

**DEPARTMENT:** Public Works / Land Management Division

**PRESENTED BY:** Amber Bell, Interim Planning Supervisor

**AGENDA ITEM TITLE:** ORDINANCE NO. 19-03 / IN THE MATTER OF AMENDING LANE CODE CHAPTER 14 TO MAKE CORRECTIONS REQUIRED BY THE LAND USE BOARD OF APPEALS REMAND OF ORDINANCE 18-02 (LUBA NO. 2018-093) AND IMPLEMENT HB 2106; AMENDING LANE CODE 14.080 APPEAL PROCEDURES AND LANE CODE 14.100 LUBA REMAND PROCEDURES; AMENDING LANE CODE CHAPTER 16 TO UPDATE LANE CODE CHAPTER 14 REFERENCES; AMENDING LANE CODE CHAPTER 14 TO MAKE OTHER CLARIFICATIONS AND CORRECTIONS; AND ADOPTING A SAVINGS AND SEVERABILITY CLAUSE (FILE NO. 509-PA19-05317).

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### I. MOTION:

**July 23, 2019 (3<sup>rd</sup> Reading and Continued Public Hearing):**

Move the Third Reading, and set a Fourth Reading and Continued Public Hearing on (Date Certain) at 1:30 PM (Time Certain) in Harris Hall, Public Service Building.

### II. AGENDA ITEM SUMMARY:

This agenda item consists of proposed amendments to Lane Code Chapter 14, Application Review and Appeal Procedures.

Amendments are proposed to Lane Code 14.080 Appeals and 14.090 Limitations on Approved and Denied Applications to make corrections required by the Land Use Board of Appeals (LUBA) Remand of Ordinance 18-02 (LUBA No. 2018-093). Amendments to these sections were introduced at the June 11, 2019 public hearing on this matter.

Per Board direction at the June 11, 2019 initial public hearing, the Ordinance has since been revised to include amendments to Lane Code 14.090(6) and (7) timeline extension

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provisions to implement HB 2106. HB 2106 allows a county to authorize up to five years of additional one-year timeline extensions for permits for residential development on resource lands subject to certain standards. In addition to incorporating the language of HB 2106 into LC 14.090, staff have researched the legislative history of HB 2106 and propose a finding in the Ordinance and code language that would allow additional one-year timeline extensions to be issued for permits or extensions issued before (retroactively) or after June 20, 2019 (the effective date of HB 2106), provided that the sum of all extensions does not exceed five (5) years.

Additionally, changes are now proposed to the Ordinance to include amendments to Lane Code 14.080 Application Review and Appeal Procedures and Lane Code 14.100 LUBA Remand Procedures to eliminate the “elect whether or not to hear” appeal procedure and allow land use decisions of the Hearings Official to constitute the final decision of the County. Amendments to the appeals process would also create an option for the Planning Director to request Board review of a Hearings Official decision, subject to certain criteria.

The proposed amendments to implement HB 2106 and amendments to appeals and LUBA remand procedures to allow Hearings Official decisions as the final County decision were not reviewed at the initial public hearing on June 11, 2019. Therefore, the Planning Director recommends that the Board set a fourth reading and continued public hearing, with a recommended date of September 10, 2019, 1:30 p.m. (time certain).

Other amendments are proposed to Lane Code Chapter 14, which are summarized below under III.E – Analysis, and amendments are proposed to Lane Code Sections 16.210 through 16.212 to update Lane Code Chapter 14 references.

### **III. BACKGROUND/IMPLICATIONS OF ACTION:**

#### **A. Board Action and Other History**

This agenda item consists of proposed amendments to Lane Code Chapter 14, Application Review and Appeal Procedures. Lane Code Chapter 14 provides the necessary procedural framework for the submittal, review, and processing of land use applications and appeals.

#### **Ordinance No. 18-02 LUBA Remand**

Ordinance No. 18-02, modernization of Lane Code Chapter 14, was enacted by the Board on July 10, 2018. The purpose of Ordinance No. 18-02 was to modernize Lane County’s review procedures and nomenclature, provide more clarity to staff and the general public, simplify the code, and create a more user friendly experience, especially for individuals with little or no land use experience. To achieve this, the updated Chapter utilized a more logical structure and formatting, specifically the use of whitespace, bolding, and page and section breaks. Additionally, procedures for administrative and legislative matters were added, procedure types were updated to Type I through Type IV terminology, and outdated and obsolete references to State Statutes were corrected. References to LC Chapter 14 in LC Chapters 10, 13, and 16 were updated concurrently.

Subsequently, Ordinance No. 18-02 was appealed by LandWatch Lane County (petitioner) to LUBA (LUBA No. 2018-093). LUBA issued a Final Opinion and Order (copy provided as

Attachment 2 with Board Packet dated May 3, 2019) on January 31, 2019 remanding Ordinance No. 18-02 to the County. The bases for the remand are summarized below under III.E – Analysis, along with LC Chapter 14 amendments proposed at this time in response to the LUBA remand.

### **HB 2106**

In their remand of Ordinance No. 18-02, LUBA found that only a single, two-year extension of a permit for residential development on resource land is permitted by State law. HB 2016, signed by the Governor on June 20, 2019 (see **Attachment 2**), now provides that a county may approve no more than five additional one-year extensions of a permit after an initial two-year extension, subject to certain requirements and limitations. After researching its legislative history, staff understand that HB 2106 was intended to address existing resource dwelling permits; during the House vote on June 11, 2019, Representative Clem specifically referenced an existing project in Lane County that needs additional one-year timeline extensions.

### **Appeals and Remand Processes**

On February 5, 2019, the Board held a work session on appeal trends and fees, and considered whether a change in the “elect-not-to-hear” fee is warranted. The Board at that time expressed interest in, rather than lowering the “elect-not-to-hear” fee, eliminating the elect-whether-or-not-to-hear procedure and allowing Hearings Official decisions to be the final decision of the County.

On April 2, 2019, the Board held a work session, at which staff reported back with alternatives to pursue the concept of eliminating the elect-whether-or-not-to-hear procedure and requested policy direction from the Board. The Board directed staff to proceed with proposed Lane Code Chapter 14 amendments to eliminate the elect-whether-or-not-to-hear procedure, allow Hearings Official decisions to be final County decisions, and draft an allowance for Planning Director request for Board review of Hearings Official decisions, subject to criteria.

On May 28, 2019, the Planning Commission held a public hearing, at which they reviewed the proposed amendments to eliminate the elect-whether-or-not-to-hear appeals procedures and proposed amendments to LC 14.100 LUBA remand processing procedures to allow the Hearings Official to render a final County decision on remands not previously reviewed by the Board. The Planning Commission recommended Board approval, with the addition of conceptual changes to paragraph LC 14.080(5)(a) to add criteria that would apply to the Planning Director’s determination to refer a Hearings Official decision to the Board of Commissioners for further review.

Some proposed amendments have been edited slightly or reorganized since the Planning Commission recommendation on May 28, 2019.

### **Notices**

Timely notice of the proposed amendments was provided to DLCD on April 29, 2019 pursuant to ORS Chapter 197. On May 21, 2019, timely notice of the June 11, 2019 public hearing was published in the Register Guard pursuant to Lane Code 14.060. Additionally, on

July 2, 2019, notice of the July 23, 2019 continued hearing and additional proposed amendments was published in the Register Guard and emailed to interested parties.

**B. Policy Issues**

Any policy considerations are discussed below under III.E - Analysis.

**C. Board Goals**

With regards to the Code Modernization Project of which this effort is a part, modernizing the land use elements of Lane Code will provide more clarity, consistency and to the extent possible, certainty in the implementation and interpretation of the County's land use regulations and application processes. Improved code language and a streamlined appeals process may similarly increase the efficiency and speed at which land use applications can be processed. In these regards, Code Modernization will further *Strategic Priority 2, Vibrant Communities*, manage equitable services for urban and rural residents to enhance opportunities and access by embracing efficient systems and processes, collaboration with partners, and innovative approaches to solving problems. To the extent that Lane Code Chapter 14 will become more navigable and user friendly with the proposed amendments, *Key Strategic Initiative 2.a.* will be furthered.

**D. Financial and/or Resource Considerations**

The Division's Long Range Work Plan has allocated staff resources for modernization of Lane Chapter 14, including appeals thereof, and Lane Code housekeeping updates.

**E. Health Implications**

None.

**E. Analysis**

The Land Use Board of Appeals (LUBA) Final Opinion and Order remanded Ordinance 18-02 upon sustaining or partially sustaining two assignments of error. These assignments of error, along with amendments proposed to address each assignment of error, are summarized in the Board's packet dated May 3, 2019 that was provided for the June 11, 2019 public hearing. The aforementioned Board packet also describes other minor amendments proposed based on recent Hearings Official proceedings and/or legal review.

The Ordinance has been substantially revised since the June 11, 2019 public hearing to include the following:

- **HB 2106:** Based on Board direction, additional amendments are proposed to LC 14.090 to implement HB 2106, which allows a county to authorize up to five additional one-year timeline extensions, subject to certain standards, for resource dwelling permits issued before or after June 20, 2019.
- **Appeals Process Update:** In follow up to Board direction on April 2, 2019, amendments are proposed to Lane Code 14.080 Application Review and Appeal Procedures and Lane Code 14.100 LUBA Remand Procedures to eliminate the "elect-whether-or-not-to-hear" appeal procedure and allow land use decisions of the

Hearings Official to constitute the final decision of the County. Amendments to the appeals process would also create an option for the Planning Director to request Board review of a Hearings Official decision subject to certain criteria.

- Other amendments summarized below.

### **HB 2106 Discussion**

HB 2106 (Enrolled) is provided as **Attachment 2**. It amends ORS 215.417 to allow a county to approve no more than five additional one-year extensions of a permit if the applicant makes a written request for the additional extension prior to the permit expiration and, with the exception of amendments made with HB 2225, the applicable residential development statute has not been amended following permit approval. These provisions are included in the amendments proposed at LC 14.090(6) and (7).

HB 2106 includes as a standard for additional one year timeline extensions that *“an applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.”* This standard does not appear to be mandatory; it appears to be the option of a county to determine 1) whether additional one-year timeline extensions are prohibited when there has been an amendment to a rule or land use regulation following permit issuance and 2) whether compliance with the new rule or land use regulation will be required. The Planning Director does not propose to prohibit additional one-year timeline extensions when there has been an amendment to a land use regulation or rule for a couple of reasons. Including this limitation would require extensive research at the time of review of each timeline extension application to track and identify changes to rules and land use regulations. Applying this additional standard could also involve a potentially discretionary determination by the Planning Director of which rule or regulation changes limit additional one-year extensions. Therefore, including this provision may lend itself to risk of procedural error. Additionally, HB 2106 caps the total number of additional one-year timeline extensions at five years. This ensures compliance with new rules or regulations at the time a permit expires and a new application is made. The permit expiration would occur at a maximum of seven years from the final decision (two year initial extension, plus up to five years of one-year additional extensions).

Additionally, while the Bill language itself does not explicitly indicate whether HB 2106 is retroactive to already issued permits and timeline extensions, in the House vote on HB 2106 on June 11, 2019, Representative Clem noted that there is an existing residential project in Lane County that needs additional extensions and this Bill would allow up to five years. Therefore, the legislative history appears to indicate that the County may review and issue additional one-year extensions for permits and one year timeline extensions issued before or after the effective date of HB 2106 (June 20, 2019), provided that the sum of new and existing additional one-year timeline extensions does not exceed a total of five years. To this effect, a finding in the Ordinance and the following provision at LC 14.090(6) is proposed:

- *The Director may approve additional one-year extensions for permits issued prior to or after June 20, 2019, provided that the sum of all additional one-year timeline extensions issued prior to or after this date does not exceed the five year maximum period.*

Finally, at the June 11, 2019 hearing, the question of whether HB 2106 presents a mandatory or permissive procedure was raised by LandWatch Lane County and discussed by the Board. In other words, is a county required to approve up to five years of additional one-year timeline extensions, or can a county limit or choose not to allow these additional extensions? Staff have researched the legislative history of HB 2106 and understand that Senator Dembrow indicated at the Senate's third reading on June 6, 2019 that HB 2106 timeline extension provisions are not mandatory. Language allowing up to five years of additional one-year extensions is proposed, but whether or not to allow the additional extensions or the full five years of extensions is ultimately a policy question for the Board.

### **Appeals Process Update Discussion**

#### **LC 14.080 – Elect Whether or Not to Hear Procedure**

Currently, LC 14.080 includes provisions allowing for appeal of Hearings Official decisions to the Board of County Commissioners. This appeal process may entail two steps. First, the Board determines, based on certain criteria, whether or not the appeal should be considered by the Board at an on-the-record hearing, or whether to adopt the Hearings Official decision as the final decision of the County and affirm or remain silent on interpretations within the decision. This process is commonly referred to as the “elect-whether-or-not-to-hear” process. The Board's decision not to hold an on-the-record hearing and adopt the Hearings Official decision as the final decision of the County is commonly referred to as the “elect-not-to-hear” process. If the Board elects to conduct an on-the-record hearing, a hearing date is set through Board Order and, after notice to interested parties, the Board holds a public hearing on the matter.

As mentioned above, on February 5, 2019, the Board held a work session on appeal trends and fees, and considered whether a change in the “elect-not-to-hear” fee is warranted. The Board at that time expressed interest in, rather than lowering the “elect-not-to-hear” fee, eliminating the elect-not-to-hear procedure and allowing Hearings Official decisions to be the final decision of the County. On April 2, 2019, the Board held a work session, at which time staff reported back with alternatives to pursue this concept and requested direction from the Board. The Board directed staff to proceed with proposed Lane Code Chapter 14 amendments to eliminate the elect-whether-or-not-to-hear procedure, allow Hearings Official decisions to be final County decisions, and draft an allowance for Planning Director appeals for Board review of Hearings Official decisions with criteria.

It is worth noting that the elect-whether-or-not-to-hear Board appeal process alone (1<sup>st</sup> step) extends the total amount of time expended before a final County decision can be reached. For reference, this process currently adds approximately 30-days at minimum to the permit processing timeline from the date of appeal receipt to date of the Board Order. Exceeding statutory processing deadlines for land use decisions (e.g. 150 days for lands outside UGBs) could result in a potentially costly Writ of Mandamus proceeding or applicant-initiated request for a 50% refund in remitted permit fees. The analysis and preparation of a Board elect-whether-or-not-to-hear packet takes a planner approximately five hours or longer for complex issues. Eliminating the elect-whether-or-not-to-hear process would provide planning staff with more time for permit processing and would reduce the possibility that applications would exceed the statutory processing deadline, and thus risk of Writ of Mandamus and fee refunds that could significantly impact Land Management Division's budget.

Concern was expressed by some Board of County Commissioners at their prior work sessions regarding the need to retain “deference”<sup>1</sup> of local code interpretation. If the Board does not ratify and expressly agree with or adopt interpretations of the Hearings Official on local matters, LUBA will not give deference to the County. However, risk of this is likely minimal as most appeals received by the Division concern interpretation of State law and not local policies or code standards. To the extent that appeal issues are found to involve interpretation of local policy, at the Board’s direction, staff have drafted a provision that would allow the Planning Director to request Board review of a Hearings Official decision. The Planning Director request for Board review option could be utilized to retain deference on local policies or appeals involving issues of countywide significance.

The proposed amendments would allow the Planning Director to request Board review within the 12-day appeal period upon written notice to parties of record, subject to certain criteria. If requested, the Planning Director may request that the Board affirm the decision on the consent calendar or hold an on the record hearing.

At their May 28, 2019 Planning Commission hearing, the Planning Commission recommended Board approval, but requested that conceptual changes referenced in the motion be incorporated into the staff report to the Board of Commissioners. See **Attachment 3, Motion Document**. Commissioner Hledik provided the following remarks:

*“While the LCPC [Lane County Planning Commission] supports changes to Chapter 14 that streamline appeals and remand procedures, the LCPC is concerned about any action by the BCC [Board of County Commissioners] that would reduce the BCC’s ability to interpret and decide local land use policy. The LCPC recommends that if the BCC decides to delegate to the LC [Lane County] Planning Director the determination of which land use requests involving “local deference” shall be elevated for BCC review (re: LC 14.080(5)(a)), that criteria or guidelines be established for the Planning Director to follow, e.g. the existing elect-to-hear criteria. The reason for this is to provide for a*

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<sup>1</sup> Per ORS 197.829, LUBA will affirm a local government’s interpretation of its comprehensive plan and land use regulations unless LUBA determines that the local government’s interpretation:

- (a) Is inconsistent with the express language of the comprehensive plan or land use regulation;*
  - (b) Is inconsistent with the purpose for the comprehensive plan or land use regulation;*
  - (c) Is inconsistent with the underlying policy that provides the basis for the comprehensive plan or land use regulation;*
  - or*
  - (d) Is contrary to a state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements.*
- (2) If a local government fails to interpret a provision of its comprehensive plan or land use regulations, or if such interpretation is inadequate for review, the board may make its own determination of whether the local government decision is correct.*

This is commonly referred to as “deference,” which is provided to a local government when the governing body charged with adopting comprehensive plan policies and land use regulations is the same body interpreting those policies or code. Deference is not provided to local governments on interpretations of State law.

*degree of consistency and fairness regarding those land use policy issues to be considered by the BCC.”*

To address the recommendation of the Planning Commission, criteria similar to those required currently for an elect-to-hear on-the-record hearing have been added to the proposed amendments.

Additionally, comments from LandWatch Lane County provided on June 11, 2019 address the proposed amendments allowing a Planning Director request, asserting that *Multnomah County v. Multnomah County* (2004) establishes that a county cannot appeal a decision of a county. However, in that case, the issue on appeal focused on language in Multnomah County’s code that apparently was intended to grant the County party status and allow the County to appeal a Hearings Officer decision directly to LUBA. LUBA found that the County did not have standing to appeal the decision to LUBA in a manner consistent with ORS Chapter 197. In this case, the proposed amendments only provide that the Planning Director may request Board review. Nothing in the proposed amendments is intended to explicitly allow the Planning Director to appeal a decision directly to LUBA in a manner inconsistent with ORS Chapter 197. Therefore, the case cited by LandWatch Lane County does not appear to apply to the amendments proposed at this time.

#### LC 14.100 – LUBA Remand Procedures

LC 14.100 currently requires that for Land Use Board of Appeals remands of Type II and III decisions made by the Hearings Official for which the Board did not conduct an on-the-record hearing, the Hearings Official will conduct the remand hearing and make a recommendation to the Board. LC 14.100 also requires that the Board will hold a public hearing, leave the Hearings Official decision as the final County decision, or adopt the Hearings Official Decision by consent order. This language was derived from HB 4124; however, upon further evaluation, that does not appear to be directly applicable to LUBA Final Orders of Type II and III decisions. It appears HB 4124 applies to remand processing procedures for plan amendment applications affecting farm or forest lands, generally speaking.

LC 14.100 also includes somewhat contradictory terms. LC 14.100(1)(b) states that the Hearings Official will make a recommendation to the Board, while at the same time, stating that the Board has the option of leaving the Hearings Official decision as the final County decision. It is not clear based on this language whether the Hearings Official should issue a recommendation or decision for the Board to ratify under the current code language.

Proposed amendments to LC 14.100 would clarify that for Land Use Board of Appeals remands of Type II and III decisions made by the Hearings Official for which the Board did not issue the final County decision, the Hearings Official will conduct the remand hearing and make a decision on the remand. Board review and/or ratification would not be required and the Hearings Official’s decision if not appealed would constitute the final County decision. This appears to be consistent with HB 4124 (2018).

#### Other Amendments

In addition to the above described amendments, other technical amendments are proposed as summarized below:

- Amendments at LC 14.020(3)(b) would increase the number of pages requiring an identical electronic or paper copy of an application or appeal submittal from five (5) to 20.
- Amendments at LC 14.030(1)(a)(ii) would allow the Planning Director, in addition to an applicant, to elevate an application from the Type I determination to a Type II land use decision procedure when the determination is deemed to constitute a land use decision/permit.

This option is not anticipated to be utilized frequently, but may be necessary to avoid potential procedural error in instances where processing of the Type I determination would involve the exercise of discretion or legal or policy judgement that would constitute a permit as defined in ORS 215.402(4)<sup>i</sup>, which requires additional procedures (e.g. notice of decision and opportunity for appeal). Additionally, the proposed amendments specify that if the application is to be elevated by the Director, the Director should first notify the applicant.

- Amendments at LC 14.030(1)(a)(i) and LC 14.080(1)(a)(i) clarify that a Type I determination may be appealed in the same manner as a Type II decision if found to constitute a permit and authorized by the Director.
- Amendments at LC 14.080(c) require the signature of an appellant or authorized representative on a notice of appeal.

LC 14.080(1)(c)(i) requires that a notice of appeal be completed on a form provided by the Director. The form provided by the Director requires a signature by the appellant; however, LC 14.080 does not specifically list the appellant's signature as a jurisdictional requirement for appeal notice. The proposed amendments would require the appellant's signature as a jurisdictional requirement (required for appeal acceptance), which would ensure the appellant has authorized their appeal.

Additionally, based on comments from LandWatch Lane County provided on June 11, 2019 (see **Attachment 4**), an appellant's authorized representative may sign the form.

## **G. Options**

- 1) Move the Third Reading and set a Fourth Reading and continue the Public Hearing to (Date Certain) at 1:30 PM (Time Certain) in Harris Hall, Public Service Building;
- OR
- 2) Move the Third Reading and set a Fourth Reading and continued Public Hearing on (Date Certain) at 1:30 PM (Time Certain) in Harris Hall, Public Service Building, and direct staff to revise Ordinance No. 19-03 as directed by the Board (summarize revisions);

OR

- 3) Move the Third Reading, hold the record open to (Date Certain) at 4:00 PM, and set a Fourth Reading and Deliberations to (Date).

**IV. RECOMMENDATION:**

**Option 1** to set a Fourth Reading and Continued Public Hearing, considering substantial changes to the proposed Ordinance are proposed. Staff recommend that the hearing be continued to September 10, 2019, 1:30 p.m. (time certain).

**V. TIMING/IMPLEMENTATION/FOLLOW-UP:**

If the Board proceeds with **Option 1** above, staff will return for the Fourth Reading and Continued Public Hearing. Any revisions directed by the Board will be made and presented in a supplemental packet.

**VI. ATTACHMENTS:**

1. Ordinance No. 19-03 with:
  - a. Exhibit A: Amendments to LC Chapter 14 and 16
  - b. Exhibit B: Findings of Fact
2. HB 2106 (Enrolled)
3. Planning Commission May 28, 2019 Motion Document & Packet
4. Public Comments (through July 8, 2019)

To conserve paper, copies of the Lane Code, Oregon Revised Statutes, and Oregon Administrative Rules are not included as attachments. Copies are available at the following websites\*:

<u>Proposed Amendments:</u>	<a href="http://www.lanecounty.org/CMP">http://www.lanecounty.org/CMP</a>
<u>Lane Code:</u>	<a href="http://www.lanecounty.org/LaneCode">http://www.lanecounty.org/LaneCode</a>
<u>Oregon Administrative Rules:</u>	<a href="http://arcweb.sos.state.or.us/banners/rules.htm">http://arcweb.sos.state.or.us/banners/rules.htm</a>
<u>Oregon Revised Statutes:</u>	<a href="https://www.oregonlegislature.gov/bills_laws/">https://www.oregonlegislature.gov/bills_laws/</a>

Adopted Ordinance No. 18-02:

[https://lanecounty.org/UserFiles/Servers/Server\\_3585797/File/Government/BCC/2018/2018\\_ORDINANCES/18-02.pdf](https://lanecounty.org/UserFiles/Servers/Server_3585797/File/Government/BCC/2018/2018_ORDINANCES/18-02.pdf)

\* Internet accuracy is subject to the limitations stated therein.

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<sup>i</sup> ORS 215.402(4) "Permit" means discretionary approval of a proposed development of land under ORS 215.010 to 215.311, 215.317, 215.327 and 215.402 to 215.438 and 215.700 to 215.780 or county legislation or regulation adopted pursuant thereto. "Permit" does not include:

(a) A limited land use decision as defined in ORS 197.015;

(b) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;

(c) A decision which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(d) An expedited land division, as described in ORS 197.360. [1973 c.552 §12; 1977 c.654 §1; 1981 c.748 §49; 1991 c.817 §8; 1995 c.79 §77; 1995 c.595 §12; 2001 c.672 §15; 2015 c.260 §4]

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO: 19-03

IN THE MATTER OF AMENDING LANE CODE CHAPTER 14 TO MAKE CORRECTIONS REQUIRED BY THE LAND USE BOARD OF APPEALS REMAND OF ORDINANCE 18-02 (LUBA NO. 2018-093) AND IMPLEMENT HB 2106; AMENDING LANE CODE 14.080 APPEAL PROCEDURES AND LANE CODE 14.100 LUBA REMAND PROCEDURES; AMENDING LANE CODE CHAPTER 16 TO UPDATE LANE CODE CHAPTER 14 REFERENCES; AMENDING LANE CODE CHAPTER 14 TO MAKE OTHER CLARIFICATIONS AND CORRECTIONS; AND ADOPTING A SAVINGS AND SEVERABILITY CLAUSE (FILE NO. 509-PA19-05317).

**WHEREAS**, Lane Code Chapter 14 provides the necessary procedural framework for the submittal, review, and processing of land use applications and appeals; and

**WHEREAS**, the Board of County Commissioners enacted Ordinance No. 18-02, Lane Code Chapter 14 Modernization, on July 10, 2018; and

**WHEREAS**, Ordinance No. 18-02 was appealed to the Land Use Board of Appeals (LUBA) and LUBA issued a Final Order and Opinion (LUBA No. 2018-093), remanding Ordinance No. 18-02 to the County; and

**WHEREAS**, amendments to Lane Code Chapter 14 are necessary to make the corrections to Lane Code 14.080 and 14.090 required by the aforementioned LUBA Final Order and Opinion (LUBA No. 2018-093), implement HB 2106 Enrolled (2019), and to make other clarifications and corrections; and

**WHEREAS**, the Board finds based on legislative history that HB 2106 is intended to apply to retroactively to issued permits and timeline extensions, provided that the sum of all issued additional one-year timeline extensions does not exceed the five year maximum period; and

**WHEREAS**, amendments to Lane Code 14.080 and 14.100 are necessary to update the County's appeals process and allow in certain instances decisions of the Hearings Official to be the final decision of the County; and

**WHEREAS**, the Lane County Planning Commission held a public hearing on May 28, 2019 on amendments to Lane Code 14.080 and 14.100 and other minor amendments and recommended Board approval; and

**WHEREAS**, amendments to Lane Code 16.210, 16.211, and 16.212 are necessary to update references to Lane Code Chapter 14 as amended; and

**WHEREAS**, the Board of County Commissioners, after conducting a noticed public hearing on this matter on June 11, 2019, is now ready to take action.

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

1. Lane Code Chapter 14 is hereby amended by making the deletions and additions as depicted in **Exhibit A** of this Ordinance, which is attached and incorporated by this reference, to the code sections listed below.

LC 14.030  
LC 14.060  
LC 14.080  
LC 14.090  
LC 14.100

2. Lane Code Chapter 16 is hereby amended by making the deletions and additions as depicted in **Exhibit A** of this Ordinance, which is attached and incorporated by this reference, to the code sections listed below.

LC 16.210  
LC 16.211  
LC 16.212

3. The Findings of Fact attached as **Exhibit B** and incorporated by this reference are adopted in support of the above amendments.

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

Nothing herein is intended to, nor acts to amend, replace, or otherwise conflict with any other ordinances of Lane County or any other Code or statutory provisions unless expressly so stated.

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

**ENACTED** this \_\_\_\_ day of June 2019.

APPROVED AS TO FORM

Date \_\_\_\_\_

\_\_\_\_\_  
Pete Sorenson, Chair  
Lane County Board of Commissioner

\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

LANE COUNTY OFFICE OF LEGAL COUNSEL

## Chapter 14 – Application Review and Appeal Procedures

### Sections:

- 14.010 Purpose
- 14.015 Definitions
- 14.020 General Provisions
- 14.030 Procedural Types and Application Processing
- 14.040 Application Requirements
- 14.050 Completeness Review and Time Limits
- 14.060 Notice Requirements
- 14.070 Public Hearings Process
- 14.080 Appeals
- 14.090 Limitations on Approved and Denied Applications
- 14.100 LUBA Remands

### 14.010 Purpose

- (1) The purpose of this chapter is to establish standard procedures for submittal, acceptance, investigation, and review of applications and appeals, and to establish limitations upon approved or denied applications.
- (2) This chapter applies to Lane Code Chapters 3, 5, 9, 10, 11, 12, 13, 15, and 16, or portions thereof, as specified in those chapters. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

### 14.015 Definitions

**When a Term is Not Defined.** Terms not defined in this section will have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1981, Principal Copyright 1961, will be considered a standard reference for defining the meanings of terms not defined in this section or elsewhere in Lane Code.

**Conflicting Definitions.** Where a term defined in LC 14.015 is defined in another section of Lane Code or by other regulations or statutes referenced by this chapter, the definition in this section will control.

**Definitions.** For the purpose of Chapter 14 of Lane Code, unless the context requires otherwise, the following words and phrases mean:

- (1) **Acceptance.** Received and considered by the Director to contain sufficient information and materials to begin processing in accordance with the procedures of this chapter.
- (2) **Appearance.** Submission of testimony or evidence in the proceeding, either oral or written. A person's name appearing on a petition filed as a general statement of support or opposition to an application without additional substantive content, and that typically contains the names of a number of other persons, does not constitute an appearance.
- (3) **Appellant.** A person who submits to the department a timely appeal of a decision issued by the County.

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- (4) **Applicant.** A person who applies to the department for a decision under this chapter. An applicant must be an owner of the property or someone authorized in writing by the property owner to make application.
- (5) **Approval Authority.** A person or a group of persons, given authority by Lane Code to review and make decisions upon certain applications in accordance with the procedures of this chapter. The approval authority may either be the Director, Hearings Official, or the Board, as specified for application types by this chapter or otherwise specified in LC Chapter 16.
- (6) **Argument.** The assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by a party to a decision. Argument does not include facts.
- (7) **Board.** The Lane County Board of Commissioners.
- (8) **County.** Lane County, Oregon.
- (9) **De Novo.** Review of an application in which all issues of law and fact are heard anew, and no issue of law or fact decided by the lower level review authority is binding on the parties in the new hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony.
- (10) **Department.** The Lane County Department of Public Works.
- (11) **Director.** The Planning Director of Lane County or the Planning Director's designated representative.
- (12) **End of Business.** The end of the business day is 4:00 PM Pacific Time.
- (13) **Evidence.** The facts, documents, data, or other information offered to demonstrate compliance or non-compliance with the standards believed by the proponent to be relevant to the decision.
- (14) **Hearings Official.** A person who has been appointed by the Board in accordance with Lane Manual 3.700 who makes land use decisions under this chapter.
- (15) **Hearing Authority.** The Hearings Official, Planning Commission, or Board who conduct hearings on applications as authorized by this chapter and Lane County land use regulations. The Hearing Official and Board are authorized to issues decisions on certain land use matters. The Planning Commission only makes recommendations on certain land use matters unless otherwise specified in LC Chapter 16.
- (16) **Land Use Decision.** A final decision or determination made by a Lane County approval authority that concerns the adoption, amendment, or application of the Statewide planning goals, a comprehensive plan provision, a land use regulation, or a new land use regulation where the decision requires the interpretation or exercise of policy or legal judgment.

A "Land Use Decision" does not include a decision made by a Lane County approval authority that:

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- (a) Is an informal interpretation made under LC 14.020(1);
  - (b) Is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;
  - (c) Approves or denies a building permit issued under clear and objective land use standards;
  - (d) Is a limited land use decision;
  - (e) Determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;
  - (f) Is an expedited land division as described in ORS 197.360;
  - (g) Approves, in accordance with ORS 480.450(7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;
  - (h) Approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan;
  - (i) Authorizes an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 people that is not anticipated to continue for more than 120 hours in any three-month period, except as provided in ORS 215.213(13)(c);
  - (j) Authorizes an outdoor assembly license in accordance with Lane Code 3.995; or
  - (k) Is a local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.
- (17) **Land Use Regulation.** Any Lane County zoning ordinance, land division ordinance adopted under ORS 92.044 to 92.046, or similar general ordinance establishing standards for implementing the Lane County Comprehensive Plan.
- (18) **Legislative.** An action or decision involving the creation, adoption, or amendment of a law, rule, or a map when a large amount of properties are involved, as opposed to the application of an existing law or rule to a particular use or property.
- (19) **Limited Land Use Decision.** Means a final decision or determination made by Lane County pertaining to a site within an urban growth boundary that concerns:
- (a) The approval or denial of a subdivision or partition plan, as described in ORS 92.040(1).
  - (b) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review.

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Does not mean a final decision made by Lane County pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

- (20) **Ministerial.** An action or decision based on clear and objective standards and criteria where no discretion by the approval authority is required.
- (21) **Owner.** A person on the title to real property as shown on the latest assessment records in the office of the Lane County Tax Assessor. Owner also includes a person whose name does not appear in the latest tax assessment records, but who presents to the County a recorded copy of a deed or contract of sale signed by the owner of record as shown in the Lane County Tax Assessor's records.
- (22) **Party.** With respect to actions under this chapter, the following persons or entities are defined as parties:
  - (a) The applicant;
  - (b) Any owner of the subject property that is the subject of the decision under consideration in accordance with this chapter; and
  - (c) A person who makes an appearance before the approval authority or hearing authority.
- (23) **Permit.** A discretionary approval of a proposed development of land under ORS 215 or county legislation or regulation adopted in accordance with ORS 215.  
 "Permit" does not include:
  - (a) A building permit;
  - (b) A limited land use decision as defined in LC 14.015(19);
  - (c) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;
  - (d) A decision which determines final engineering, design, construction, operation, maintenance, repair, or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or
  - (e) An expedited land division, as described in ORS 197.360.
- (24) **Person.** Any individual, partnership, corporation, limited liability company, association, governmental subdivision or agency or public or private organization of any kind.
- (25) **Planning Commission.** The Planning Commission of Lane County, Oregon.
- (26) **Quasi-judicial.** A land use action or decision that is not ministerial or legislative that requires discretion or judgment in applying the standards or criteria of this Code to an application for approval of a development or land use proposal.

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**(27) Received.** Acquired by or taken into possession by the Director. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.020 General Provisions**

- (1) Effect of Informal Interpretation.** Any statement, interpretation, or determination provided by the department that is not in writing, or that is made outside of a Type I, II, III, or IV procedure in accordance with this chapter, is considered to be only a statement of opinion and not a final action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, to any party.
- (2) Pre-Application.** A pre-application conference is not a requirement of any application, but may be requested for a fee, where a project involves the need for multiple land use applications or for large scale or highly complex development projects. The purpose of the pre-application conference is to acquaint persons with the requirements of Lane Code, the applicable comprehensive plan, and other related documents prior to application. In no case will a pre-application conference or information provided therein be guaranteed to provide an exhaustive review of potential issues associated with any project nor will it preempt the enforcement of applicable regulations.
- (3) Submission of Materials**
- (a) General.** The submission of any materials by any party including application materials, supplemental information, written comments, testimony, evidence, exhibits, or other documents that are entered into the record of any land use application must be submitted either at the offices of the Director or at a public hearing, unless specified otherwise by the hearing notice or hearing authority prior to the close of the record. Materials are considered submitted when received, or in the case of materials submitted at a public hearing, placed before the hearing authority.
- (b) Electronic Materials.**
- (i)** When application or appeal materials submitted in hard copy format are over 20 pages in length, an applicant or appellant must provide an identical electronic version of the submitted materials in addition to a hard copy. Any other party submitting written materials into the record that are over 20 pages is also encouraged to submit an identical electronic copy. Any electronic materials must be in a format acceptable to the Director. This provision should not be interpreted to prohibit electronic submittals of materials less than 20 pages in length. The County will scan submitted materials upon request for fee. The County cannot be held responsible for electronic submittals that are not received by the Director or not confirmed by the Director to have been received.
- (ii)** When electronic materials over 20 pages in length are submitted by any party for inclusion in an application record, an identical hard copy of the materials must also be submitted unless this requirement is waived by the Director.
- (c) Deadline.** Where any materials including both hard and electronic copies are submitted to the offices of the Director and are subject to a date-certain deadline, the materials must be received by the Director by the end of business.

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- (4) **Time Computation.** Except for application completeness review and processing timelines prescribed by LC 14.050, time periods prescribed or allowed by this chapter will be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or a legal holiday or any day on which the Director's office is not open for business.  
(Revised by Ordinance No. 18-02, Effective 8.9.18)

#### 14.030 Procedure Types and Application Processing

- (1) **Procedure Types.** Application review will follow either a Type I, II, III, or IV procedure, set forth in subsections (a) through (d) below:

##### (a) Type I Procedure

- (i) **Overview.** The Type I procedure involves the ministerial review of an application based on clear and objective standards and criteria. Uses or development evaluated through this process are those that are permitted outright in the applicable zone. In general, potential impacts of the proposed development have been already recognized through the adoption of County standards. The Type I procedure does not require interpretation or exercise of policy or legal judgement when evaluating development standards and criteria. A Type I determination is made by the Director without public notice or a hearing. A Type I determination may not be appealed at the County level except as otherwise provided in Lane Code or if found to constitute a permit and authorized by the Director.

The Type I procedure applies to a variety of applications including, but not limited to, a land use compatibility statement (LUCS), declaratory ruling, verification of conditions, final partition or subdivision plat, floodplain verification, or floodplain fill or floodplain development permit, and timeline extensions.

- (ii) **Elective Type II.** A Type I determination may be elevated by the applicant by submitting a Type II application or by the Director. If the application is to be elevated by the Director, the Director should first notify the applicant.
- (iii) **Review and Determination.** Upon accepting a Type I application, the Director will review the application for compliance with all applicable land use standards and regulations and adopted plans.
- (iv) **Effective Date of Determination.** A Type I determination is final on the date it is signed by the Director. Within five days of the determination date, the applicant and property owner will be mailed a copy of the determination.

##### (b) Type II Procedure

- (i) **Overview.** The Type II procedure involves the Director's interpretation and exercise of discretion when evaluating approval standards and criteria. Uses or development evaluated through this process are uses that are conditionally permitted or allowed after Director review that may require the imposition of conditions of approval to ensure compliance with development standards and approval criteria. Type II decisions are made by the Director, in some cases after notice of application and opportunity to comment. Type II decisions may be appealed.

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The Type II procedure applies to a variety of applications including, but not limited to review of applications for: permitted uses subject to standards, conditional use permits, and tentative partition and subdivision applications made pursuant to LC Chapter 13.

- (ii) **Review and Decision.** Upon determination of completeness required by LC 14.050(1), Type II applications will be reviewed in accordance with the following procedures:
  - (aa) Notice of application will be mailed if required or elected by the Director or applicant, as provided in LC 14.060(1).
  - (bb) At the conclusion of the comment period specified by the notice of application, or upon determination of application completeness if notice of application is not required or elected by the Director or applicant, the Director will review the application and written comments and prepare a written decision stating whether the application is approved, approved with conditions, or denied. The Director's decision will state the facts relied upon in rendering the decision. Approval or denial of an application must be based on applicable standards and criteria.
  - (cc) Notwithstanding subsection (1)(b)(ii)(aa) and (bb), the Director may elect to process a Type II application through a Type III procedure in accordance with the procedures at subsection (1)(c) below if the application raises one or more of the following issues:
    - (A) An application raises an issue which is of countywide significance.
    - (B) An application raises an issue which will reoccur with frequency on which policy guidance is needed.
    - (C) An application involves a significant impact to an inventoried Goal 5 resource based upon evidence provided by a state or federal agency or by a private professional with expertise in the field of the resource of concern.
    - (D) An application involves an existing use for which a compliance action is pending or with which a significant level of opposition is anticipated.
    - (E) An application involves opposing legal arguments regarding unresolved interpretations of applicable state laws or regulations.
    - (F) An application involves a contemplated use that would be a different kind of use than the uses of nearby properties and the owners of three or more nearby properties object to the use or request a hearing.
    - (G) An application involves a contemplated use that would result in a significant level of new commercial or industrial traffic, or ongoing truck traffic, on local roads in a residentially zoned area, or the introduction of noise, odors or dust into a residentially zoned area.

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- (H) At the discretion of the Director, if an applicant requests a Type III procedure and pays the additional required fee.
- (dd) The Director will mail notice of a Type II decision in accordance with LC 14.060. Notice of decision should be mailed within two days.
- (ee) Appeals of Type II decisions may be made requesting Director reconsideration or Hearings Official de novo review in accordance with the procedures at LC 14.080.
- (ff) Appeals of Hearings Official decisions on Type II appeals requesting Hearings Official reconsideration may be made by a party or the Director. Requests to the Board for on-the-record review of Hearings Official decisions on Type II appeals may be made by the Director. Appeals requesting reconsideration and Planning Director requests for Hearings Official reconsideration or Board review must be made in accordance with the procedures at LC 14.080.
- (iii) **Effective Date of Decision.** A Type II decision becomes final 12 days after the date the Director mails the notice of decision unless the decision is appealed in accordance with LC 14.080. If the decision is appealed, the effective date of the decision will be the date on which all County appeals are finalized or withdrawn. The effective date of a Hearings Official decision will be the date on which all County appeals or reconsideration requests are withdrawn or 12 days after the Director mails written notice of the Hearings Official decision unless further appealed. If the Director requests on-the-record review by the Board, the effective date of the decision will be the date on which the request is withdrawn or a final County decision by the Board is issued.
- (iv) **Appeal to LUBA.** Appeals of the final County decision by the Hearings Official or Board may be appealed to the Land Use Board of Appeals in accordance with ORS 197, as further described at LC 14.080(7).
- (c) **Type III Procedure**
  - (i) **Overview.** The Type III procedure involves interpretation and exercise of discretion when evaluating approval standards and criteria. Applications subject to a Type III procedure are more complex and development impacts may be more significant than Type II applications, warranting review through a public hearing. The Type III procedure involves public notice, a public hearing, decision by the Hearings Official unless otherwise specified by LC Chapter 16, and an opportunity for appeal requesting Hearings Official reconsideration by any party or request by the Director for Hearings Official reconsideration or on-the-record Board review.
  - (ii) **Review and Decision.** Upon determination of completeness required by LC 14.050(1), Type III applications will be reviewed in accordance with the following procedures:
    - (aa) Notice of public hearing will be mailed, and as required, posted and published, as provided in LC 14.060.

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- (bb) The Hearings Official will conduct a public hearing, in accordance with the applicable hearing procedures found at LC 14.070.
  - (cc) To the extent possible, the Hearings Official should issue to the Director a written decision and findings within 10 days of close of the hearing record and identify parties to the proceeding.
  - (dd) The Director will mail notice of the decision in accordance with LC 14.060. Notice of decision should be mailed within two days of issuance of the Hearings Official decision.
  - (ee) Appeals of Type III Hearings Official decisions requesting reconsideration may be made by any party. Reconsideration of a Hearings Official decision may be requested by the Director. Request to the Board for on-the-record review of Hearings Official decisions may be made by the Director. Appeals requesting reconsideration and Planning Director requests for Hearings Official reconsideration or Board review must be made in accordance with the procedures at LC 14.080.
- (iii) **Effective Date of Decision.** A Type III decision becomes final 12 days after the date the Director mails the notice of decision unless the decision is appealed in accordance with LC 14.080. If the decision is appealed, the effective date of the decision will be the date on which all County appeals are finalized or withdrawn. If the Hearings Official decision is appealed or requested for reconsideration, the effective date of the affirmed or reconsidered Hearings Official decision will be the date on which all County appeals are withdrawn or 12 days after the Director mails written notice of the Hearings Official decision unless further appealed. If the Director requests on-the-record review by the Board, the effective date of the decision will be the date on which the request is withdrawn or a final County decision by the Board is issued.
- (iv) **Appeal to LUBA.** Appeals of the final County decision by the Hearings Official or Board may be appealed to the Land Use Board of Appeals in accordance with ORS 197, as further described at LC 14.080(7).
- (d) **Type IV Procedure**
- (i) **Overview.** The Type IV procedure applies to the creation, revision, or broad-scale implementation of public policy, land use regulations, the comprehensive plan, or zoning maps, except that a change to zoning map independent of a post-acknowledgement plan amendment is subject to a Type III procedure. The Type IV procedure also includes plan diagram or policy amendments affecting specific properties. The Type IV procedure involves the evaluation of subjective review criteria and plan policies, public notice, a hearing before the Planning Commission and Board, final decision issued by the Board, and an opportunity to appeal. For a property specific Type IV application, hearings before the Planning Commission and Board will be quasi-judicial and the County is not required to render a final decision on these matters within the timelines of LC 14.050. A Type IV quasi-judicial application may be initiated by an owner or authorized agent according to LC 14.040. The Director may initiate a Type IV application without a privately-initiated application.

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- (ii) **Review and Decision.** Upon determination of completeness, Type IV applications will be reviewed in accordance with the following procedures:
    - (aa) Notice of Type IV public hearings will be mailed and published as provided in LC 14.060. Additionally, for a Type IV quasi-judicial application that concerns a specific property or properties, the applicant must post notice on the subject property and the County must mail notice of a Type IV quasi-judicial application in accordance with LC 14.060.
    - (bb) The Planning Commission will conduct a public hearing in accordance with the applicable procedures at LC 14.070 and make a recommendation to the Board.
    - (cc) The Board will conduct a public hearing in accordance with the applicable procedures at LC 14.070 and will issue a decision after considering the staff report, Planning Commission recommendation and public comment, and deliberating on the matter.
    - (dd) The Director will mail notice of the Board's decision in accordance with LC 14.060. Notice of a Type IV land use decision will be mailed to the applicant, all parties, and the Department of Land Conservation and Development within 20 days after the Board makes the decision. The Director will also provide notice to any person as required by other applicable laws.
  - (iii) **Final Decision and Effective Date of Decision.** A decision on a Type IV application is final when reduced to writing, signed and mailed to those entitled to notice of decision. If approved, the decision will take effect on the effective date of the enacting ordinance.
  - (iv) **Appeal to LUBA.** Appeals of the final County decision by the Board may be appealed to the Land Use Board of Appeals in accordance with ORS 197, as further described at LC 14.080(7).
- (2) **Consolidated Review of Applications.** When an applicant files more than one application concurrently for the same property or tract of land, the applicant may elect to consolidate the review of the concurrent applications. When review of concurrent applications subject to different procedure types is consolidated, all of the applications will be reviewed under the highest procedure type. When proceedings are consolidated, required notices may be consolidated, provided the notice identifies each application and cites their respective review criteria. When more than one application is reviewed, findings of fact must address each application and a decision must be made on each application.
- (3) **Limited Land Use Decision Procedure (only within UGBs).** All applications for limited land use decisions must be reviewed and decided by the Director through a Type II procedure and are also subject to the following requirements:
- (a) Notice of application must be mailed in accordance with LC 14.060(1)(a).
  - (b) Approval or denial of an application for a limited land use decision must be based upon and accompanied by a brief statement that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision

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and explains the justification for the decision based on the standards, criteria, and facts set forth.

- (c) A limited land use decision by the Director may be appealed to the Hearings Official in accordance with LC 14.080. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.040 Application Requirements**

**(1) Minimum Submittal Requirements.** Applications for a Type I through Type IV procedure must be submitted on a form provided by the Director, address all applicable standards and criteria, and include the following materials and information:

- (a) Applications must include at least one hard copy of all application materials, no larger than 11 inch x 17 inch in size, and an electronic copy if required by LC 14.020(3)(b);
- (b) All applicable information requested on the application form;
- (c) Required filing fee, except that the required filing fee may not be required when Lane County initiates an application;
- (d) Signature of each applicant;
- (e) Signature of a property owner or property owner's authorized representative;
- (f) Proof of property ownership by providing a certified or recorded copy of a deed, or land sale contract, or Lane County Tax Assessor's records;
- (g) Assessor's map and tax lot number of the subject property;
- (h) A site plan drawn to a standard engineer's scale, and conforming to the County's site plan submittal standards;
- (i) Information demonstrating compliance with any applicable prior decisions and conditions of approval for the subject property;
- (j) A written narrative clearly indicating what action is requested and addressing all applicable standards and criteria;
- (k) Supporting information required to evaluate the application and address the applicable standards and criteria;
- (l) A written statement indicating whether a railroad-highway crossing provides or will provide the only access to land that is the subject of an application; and
- (m) Additional information needed to evaluate applicable standards and criteria.

**(2) Fees Required.** In addition to any other applicable approval criteria, an approvable Type II or III application must be accompanied by the appropriate filing fee unless the Director authorizes a waiver or reduction to filing fees pursuant to Lane Manual Chapter 60.850.

**(3) Determination of Application Requirements.** The Director may waive any of the

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requirements of subsection (1) above if deemed to be inapplicable to the application.

**(4) Applicant’s Burden.** It is the applicant’s responsibility to provide evidence demonstrating that the application complies with all applicable standards and criteria.

**(5) Modification of Application.** Once an application is deemed complete, an applicant may modify an application subject to the following provisions:

**(a) Applicability.**

**(i)** A modification of application is a procedure required when an applicant submits:

**(aa)** Additional or revised application materials that include a new or substantially revised site plan; or

**(bb)** Written materials that include or require substantial new findings of fact.

**(ii)** A modification of application does not apply to:

**(aa)** An applicant's submission of new evidence or proposed conditions of approval that merely clarify or support the pending application;

**(bb)** Reductions to the scope of the project to mitigate project impacts where such reductions do not involve the siting of proposed development closer to adjoining properties or Goal 5 inventoried resources, or relocation of the proposed access or circulation pattern; or

**(cc)** Type I applications.

**(b) Requirements.** The Director or hearing authority will not consider information submitted by or on behalf of an applicant that would constitute a modification of application unless the applicant first submits a request that complies with the following:

**(i)** The request includes:

**(aa)** A completed application form that has been signed by the applicant and owner, and that describes the modification of application requested;

**(bb)** The required fee;

**(cc)** Any modified application materials; and

**(dd)** Written authorization for an extension of applicable timelines pursuant to LC 14.050(2) that is effective as of the date the modification of application is submitted and that corresponds with the amount of time calculated between the date of application completeness and the date of the modification of application request. Any such timeline extension must also comply with subsection (5)(b)(ii) below.

**(ii)** The applicable time limit for final review for an application may be extended as many times as there are modification of applications submitted, subject to the limitations,

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exceptions, and clarifications in ORS 215.427. The total of all extensions may not exceed 215 days per ORS 215.427(5).

(iii) The modification of application may be submitted up until the issuance of a Type II Director decision, or close of the open record period allowing submittal of new information for an application reviewed under a Type III or IV hearing procedure, but in no case may it be submitted later than the 215<sup>th</sup> day after the date the application was deemed complete.

**(c) Procedure.**

(i) A modification of application will be processed under the same procedure type as the original application.

(ii) The Director or hearing authority may require additional notice and if applicable, public hearing.

(iii) For Type II applications that do not involve a public hearing, or for procedure types requiring public hearing up until the date and time a hearing is opened for receipt of oral testimony on an application, the Director will have the sole authority to determine whether an applicant's submittal constitutes a modification of application. After such time for procedures that involve a public hearing, the hearing authority will make such determinations. The determination of whether a submittal constitutes a modification of application will be appealable only after a decision is entered on the application.

**(6) New Application.** If an application is modified in such a manner that approval for a different land use is requested or a different set of approval criteria or development standards apply, a new application will be required. The new application will be subject to all submittal and processing requirements of this Chapter applicable to the procedure type. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.050 Completeness Review and Time Limits**

**(1) Type II or III Completeness Review.** Within 30 days of a Type II or Type III application being received, the Director will evaluate the application for completeness in accordance with subsections (a) through (e) below.

(a) An application submitted to the Director will not be considered accepted solely because of having been received. Upon receipt of an application, the Director will date stamp the application and verify that the appropriate application fee and materials have been submitted before accepting the application. Acceptance of an application will not preclude a later determination that the application is incomplete.

(b) Applications will be evaluated for completeness with applicable application requirements of LC 14.040.

(c) **Supplementation of Application within First 30 days of Submittal.** An applicant may not submit any supplemental information for an application within the first 30 days following acceptance of the application or until the application has been deemed complete, whichever is first, except when requested or otherwise authorized by the

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Director. Any supplemental information submitted by an applicant in violation of this section will not be considered in determining whether the application is complete and will be returned to the applicant.

- (d) **Complete Application.** An application will be deemed complete if the application requirements have been fully satisfied upon initial filing or through the procedures set forth in subsection (1)(e)(i) - (iii) below. When the Director deems the application complete, the Director will notify the applicant in writing. If the Director has not issued in writing a completeness determination within 30 days from the date the application is received by the Director, the application is automatically deemed complete on the 31<sup>st</sup> day after it was received.
- (e) **Incomplete Application.** If an application is incomplete, the Director will notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information within the timeframe set forth in subsection (1)(f) below. The application will be deemed complete upon receipt by the Director of:
  - (i) All of the missing information;
  - (ii) Some of the missing information and a written notice from the applicant that no other information will be provided; or
  - (iii) Written notice from the applicant that none of the missing information will be provided.
- (f) **Void Applications.** On the 181st day after first being submitted, an incomplete application is void if the applicant has been notified of missing information and the application has not been deemed complete in accordance with subsection (1)(e)(i) - (iii) above.
- (g) **Applicable Standards and Criteria.** If an application was complete when first submitted or the applicant submits additional information in accordance with subsection (1)(e) above within 180 days of the date the application was first submitted, review of the application will be based upon the standards and criteria that were applicable at the time the application was first submitted.

(2) **Time Limit.** Subject to the limitations, exceptions and clarifications in ORS 215.427 and except as provide in subsection (1) above, the County must take final action, including resolution of all appeals under ORS 215.422, within the timelines set forth in subsections (2)(a) to (d) below. Violation of these timelines does not constitute a procedural error by the County, but provides the applicant with the remedy set forth in ORS 215.429.

- (a) For land within an urban growth boundary and applications for mineral aggregate extraction the County must take final action on an application for a permit, limited land use decision, or zone change, within 120 days after the application is deemed complete.
- (b) For applications for new telecommunication towers or collocations, the County must take final action within any applicable time limit set forth by the Federal Communications

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Commission or within a timeframe mutually agreed upon by the County and the applicant in accordance with FCC ruling, as applicable.

- (c) For all other applications, the County must take final action within 150 days after an application for a permit, limited land use decision, or zone change is deemed complete.
- (d) The time periods specified in subsection (2)(a) and (c) above may be extended for a specified time period at the written request of the applicant, subject to the limitations of ORS 215.427(5).
- (e) The time periods in subsection (2)(a) and (c) do not apply to a Type IV decision changing an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.060 Notice Requirements**

**(1) Notice of Application**

- (a) **Special Notice for Limited Land Use Decision.** For a limited land use decision, written notice of the application must be mailed to owners of property within 100 feet of any part of the tract for which the application is made and to any neighborhood or community organization recognized by the Board and whose boundaries include the site, and to any transportation agencies, such as Oregon Department of Transportation, whose facilities or services may be affected by the proposed action. The notice must provide at least a 14 day period for submission of written comments prior to the decision. The notice must include the information required by subsection (5).
- (b) **Optional.** Notice of a Type II application may be mailed in accordance with subsections (4) and (5) below. Notwithstanding subsections (4) and (5) below, the Director may choose to mail notice of the application only to affected governmental agencies. The notice will provide at least a 15 day period for submission of written comments prior to the decision. This provision does not preclude an applicant’s ability to request notice of application.
- (c) **Special Notice and Review Requirements for a Dwelling in the EFU Zone.** For an application for a dwelling on EFU-zoned land in accordance with LC 16.212(7)(g), the Director must provide notice of application consistent with the following.
  - (i) The notice of application must be mailed in accordance with subsections (4) and (5) below and to:
    - (aa) Owners of land that is within 750 feet of the lot or parcel on which the dwelling will be established; and
    - (bb) Any person who requested notice of such applications and who paid a reasonable fee established by the County to cover the cost of such notice.
  - (ii) The notice required under this section must specify that there are 15 days following the date of the postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in

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or significantly increase the costs of accepted farming practices on nearby lands devoted to farm use.

- (iii) If no objection based on the grounds identified in subsection (1)(c)(ii) above is received within 15 day notice period, the Director must approve, approve with conditions, or deny the application. If an objection is received based on the grounds identified in (1)(c)(ii) above, the Director must set the matter for a hearing and process the application through a Type III procedure.
  - (iv) The costs of the notice required by subsection (1)(c)(i) of this section may be charged to the applicant.
- (d) Special Notice to Railroad Company upon Certain Applications for Land Use Decision, Limited Land Use Decision or Expedited Land Use Decision**
- (i) As used in this section, the term “railroad company” includes every corporation, company, association, joint stock association, partnership or person, and their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, controlling or managing any railroad.
  - (ii) The Director must provide notice of application, in accordance with the timelines established in this section in accordance with subsections (4) and (5) below to the Oregon Department of Transportation and the railroad company if the applicant indicates that a railroad-highway crossing provides or will provide the only access to land that is the subject of the application for a land use decision, limited land use decision, or expedited land division.
- (e) Timing of Notice of Application.** Notice of application provided pursuant to subsection (1)(a) to (d) will be mailed after determination that the application is complete in accordance with LC 14.050(1).

**(2) Notice of Public Hearing**

- (a) Mailed Notice for a De Novo Hearing.** Mailed notice of a de novo public hearing containing the information required by subsection (5) below will be provided as follows:
- (i) **Type III.** The Director must mail notice of hearing on a Type III application at least 20 days prior to the public hearing date. Notice of public hearing will be mailed to the persons and agencies listed in subsection (4) below.
  - (ii) **Type IV.** At least 20 days before the date of the first Type IV public hearing, notice of public hearing will be mailed to:
    - (aa) The applicant;
    - (bb) Each owner whose property would be directly affected by the proposal.
    - (cc) Any affected governmental agency;
    - (dd) To any transportation agencies, such as Oregon Department of Transportation, whose facilities or services may be affected by the proposed

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action; and

- (ee) Any person who requests notice in writing of a specific application.
- (ff) For a Type IV quasi-judicial application, notice must be mailed to the persons and agencies listed at subsection (4)(a).

**(b) Mailed Notice for an On-the-Record Hearing.** Mailed notice of an on-the-record hearing will be provided as follows:

- (i) The Director must mail notice of an on the record hearing at least 10 days prior to the hearing date. Notice of hearing will be mailed to:
  - (aa) Applicant;
  - (bb) Property owner;
  - (cc) Appellant (if applicable); and
  - (dd) Any party to the application.
- (ii) The notice will include the information required by subsection (5) below as applicable, a statement regarding the purpose of the hearing, the names of parties who may participate in the Board hearing, and if the information is available at the time of notice, a statement indicating whether additional limited testimony under LC 14.080(5)(c)(ii) will be allowed or limited to the record.

**(c) Remand Notice.** Notice of a Land Use Board of Appeals (LUBA) remand hearing conducted pursuant to Lane Code 14.100 will be provided as follows:

- (i) The Director must mail notice of a remand hearing at least 20 days prior to first evidentiary hearing on the remand.
- (ii) Notice of the hearing will be mailed to:
  - (aa) Applicant;
  - (bb) Property owner;
  - (cc) Parties to the application who appeared before the approval authority that issued the previous final County decision; and
  - (dd) Any petitioner, respondent, or intervenor of the LUBA appeal.
- (iii) The notice will include the information required by subsection (5) below as applicable, a description of specific issues identified in the remand final order as the basis for the remand, and a statement indicating whether any additional testimony and evidence may be submitted and if so, that additional testimony and evidence must be limited to specific issues identified in the remand final order.

**(d) Posted Notice**

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- (i) For Type III and IV applications that involve a specific property or properties, at least 14 days before the first hearing, not including an appeal hearing, the applicant must post a notice of the hearing on the subject property. The sign must be posted in clear view from a public right-of-way where feasible. Posted notice must be on a sign provided by the Director. The design of the sign will be prescribed by the Director, but must be at least 22 inches by 28 inches in size and have a brightly colored background. The posted notice will contain the following information:
  - (aa) Identification of the hearing authority
  - (bb) Time, date, and location of the first hearing;
  - (cc) Department file number;
  - (dd) General nature of the proposal; and
  - (ee) Where more information may be obtained.
- (ii) Prior to the public hearing, the applicant must submit to the Director an affidavit of posting indicating that the notice was posted in accordance with this subsection.
- (iii) The applicant must remove and lawfully dispose of the sign within 14 days of the close of the public hearing.

**(e) Published Notice of Hearing**

- (i) At least 21 days before the first hearing for zone change and/or plan amendment application, the Director must publish notice of the hearing in a newspaper of general circulation. The notice provisions of this section does not restrict the giving of notice by additional means, including mail, radio, and television. The published notice will contain the same information required in subsection (5)(d) below as applicable.
- (ii) For an on the record hearing on a zone change, published notice must be provided in the same manner as described above, except that notice must be published at least 10 days before the first on the record hearing.

**(3) Notice of Decision.** A notice of a decision will be mailed to the persons identified in (4) below. The notice of decision will contain the information identified in (5) below.

**(4) Mailing List**

- (a) When notice of an application is sent in accordance with LC 14.060(1)(b) above, and for notice of a Type II decision, a Type III hearing, or a Type IV quasi-judicial hearing, notice will be mailed to the following persons:
  - (i) Applicant;
  - (ii) Property owner;

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- (iii) Appellant (if applicable);
  - (iv) Owners of record of properties on the most recent property tax assessment roll where such property is located:
    - (aa) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
    - (bb) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
    - (cc) Within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
  - (v) Any neighborhood group or community organization recognized by the governing body as specified in Lane Manual Chapter 3 and whose boundaries include the site;
  - (vi) Any person who submits a written request to receive a notice of the specific application;
  - (vii) Any person who requests and remits payment for an annual subscription for notice per Lane Manual for a specific type of application involved;
  - (viii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County and any other affected governmental agencies. At a minimum, the Director will notify the road authority if different than Lane County. The failure of another agency to respond with written comments on a pending application will not invalidate a permit or land use decision issued by the Director or Hearings Official; and
  - (ix) For a notice of decision, appeal, or Type IV hearing: any person who appeared either orally or in writing before the approval authority or prior hearing authority.
- (b) A notice of a Type IV legislative hearing or Type III or IV decision must be mailed to the following persons:
- (i) Applicant;
  - (ii) Property owner (if applicable);
  - (iii) Appellant (if applicable);
  - (iv) Any party to the application;
  - (v) Any person who submits a written request to receive a notice of the specific application or specific type of application involved; and
  - (vi) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County and any other affected governmental

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agencies. At a minimum, the Director will notify the road authority if different than Lane County. The failure of another agency to respond with written comments on a pending application will not invalidate an action or permit approval made by the hearing authority under this Code

**(5) Mailed Notice Content.** Any mailed notice of application, decision, or public hearing must contain information in subsection (5)(a) below, and where applicable, the additional information specified in subsection (5)(b) through (e).

**(a) Minimum Content Required**

- (i) Identification of the application by department file number;
- (ii) Identification of the property owner, and if different than the owner, the applicant and/or the applicants or owners authorized representative;
- (iii) Identification of appellant (if applicable);
- (iv) Identification of the address and assessor's map and tax lot number of, or other easily understood geographical reference to, the subject property and any contiguous properties in the same ownership;
- (v) Explanation of the nature of the application and the proposed use or uses which could be authorized by the decision;
- (vi) List of the applicable standards and criteria, by commonly used citation, from the applicable comprehensive plan that apply to the application and decision;
- (vii) Name, phone number, and email of the department representative to contact to obtain additional information;
- (viii) Statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, applicable standards and criteria, and a copy of any staff report are available for inspection at no cost and copies will be provided at reasonable cost; and
- (ix) Statement that "NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE FORWARDED TO THE PURCHASER."

**(b) Content for Notice of Application.** In addition to the information required by subsection (5)(a) above, a mailed notice of application for a Type II application must contain the following information:

- (i) Place, date, and time that comments are due;
- (ii) A general explanation of the requirements for submission of testimony;
- (iii) State that issues that may provide the basis for an appeal must be raised in writing with sufficient specificity to enable the Director to respond to the issue prior to the expiration of the comment period; and

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- (iv) Statement that after the close of the comment period, the Director will issue and provide notice of the decision to persons who provided written comments or are otherwise legally entitled to notice of decision.
- (c) **Content for Notice of Limited Land Use Application.** In addition to the information required by subsection (5)(a) and (b)(i)-(ii) above, a mailed notice of application for a limited land use decision must provide a brief summary of the local decision making process for the limited land use decision being made.
- (d) **Content for Notice of Public Hearing.** In addition to the information required by subsection (5)(a)(i)-(ix) above, mailed notice of public hearing must contain the following information:
  - (i) The time, date, and location of the hearing;
  - (ii) Identification of which hearing authority will conduct the public hearing;
  - (iii) A statement that failure to raise an issue in a hearing, in person or in writing, or failure to provide statements or evidence sufficient to afford the hearing authority an opportunity to respond to the issue, precludes the ability to appeal to the Land Use Board of Appeals on that issue;
  - (iv) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided upon request at a reasonable cost; and
  - (v) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (e) **Content for Notice of Decision.** In addition to the information required by subsection (5)(a) above, a mailed notice of decision must contain the information listed below. The notice may be a summary, provided it references the specifics of the proposal and the conditions of approval in the record.
  - (i) Description of the nature of the decision;
  - (ii) Statement of where a copy of the decision can be obtained;
  - (iii) Statement of how to appeal the decision;
  - (iv) Deadline for an appeal;
  - (v) Date the decision will become final, unless appealed; and
  - (vi) For a Type II decision:
    - (aa) Statement that the decision will not become final until the period for filing a local appeal has expired;
    - (bb) Statement that any person who is adversely affected or aggrieved or who is entitled to notice of decision may appeal the decision by filing a written

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appeal; and

- (cc) Statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals.

- (6) **Additional Notice.** Mailed, posted, or published notice may be provided that exceeds the requirements of this chapter. The requirements for notice must not restrict additional notification considered necessary or desirable by the Board of Commissioners, Planning Commission, or Director for any reason. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.070 Public Hearings Process**

- (1) **Staff Report.** At least seven days prior to a public hearing, the Director will provide a staff report to the hearing authority and parties to the application, and make it available to the public upon request. If the report is not provided by such time, the hearing will be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date certain that is at least seven days after the date the staff report is provided. The granting of a continuance under these circumstances will be at the discretion of the hearing authority.

**(2) Personal Conduct**

- (a) No person may be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- (b) No person may testify without first receiving recognition from the hearing authority and stating their full name and address.
- (c) No person may present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- (d) Audience demonstrations such as applause, cheering, and display of signs, or other conduct disruptive of the hearing are not permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of the offender from the hearing.

- (3) **Limitations on Oral Presentations.** The hearing authority may set reasonable time limits on oral testimony.

- (4) **Appearing.** Any interested person may appear either orally before the close of a public hearing or in writing before the close of the written record, except that for an on the record hearing, persons who may appear are limited to those described at LC 14.080(5)(c)(vii). Any person who has appeared in the manner prescribed in LC 14.080(5)(c)(vii) will be considered a party to the proceeding.

**(5) Disclosure of Ex Parte Contacts**

- (a) Any member of a hearing authority for a quasi-judicial application must reasonably attempt to avoid ex parte contact. As used in this section, ex parte contact is communication directly or indirectly with any party or their representative outside of the hearing in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should a hearing authority member engage

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in ex parte contact, that member must:

- (i) Publically announce for the record at the hearing the substance, circumstances, and parties to such communication;
- (ii) Announce that other parties are entitled to rebut the substance of the ex parte communication during the hearing; and

(iii) State whether they are capable of rendering a fair and impartial decision.

(b) If the hearing authority or member thereof is unable to render a fair and impartial decision, or recommendation in the case of the Planning Commission, they must recuse themselves from the proceedings.

(c) Communication between the Director and the hearing authority or a member thereof is not considered an ex parte contact.

(6) **Disclosure of Personal Knowledge.** If any member of a hearing authority uses personal knowledge acquired outside of the hearing process in rendering a decision, they must state the substance of the knowledge on the record.

(7) **Site Visit.** For the purposes of this section, a site visit by any member of a hearing authority will be deemed to be personal knowledge. If a site visit has been conducted, the hearing authority member must disclose their observations and conclusions gained from the site visit.

(8) **Challenge for Bias, Prejudgment, or Personal Interest.** Prior to or at the commencement of a hearing, any party may challenge the qualification of any member of the hearing authority for bias, prejudgment, or personal interest. The challenge must be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, that hearing authority member must either recuse themselves from the proceedings, or make a statement on the record that they can make a fair and impartial decision and will hear and rule on the matter.

(9) **Potential Conflicts of Interest.** No member of the hearing authority may participate in a hearing or a decision upon an application when the effect of the decision would be to the private pecuniary benefit or detriment of the member or the member's relative or any business in which the member or a relative of the member is associated unless the pecuniary benefit arises out of:

- (a) An interest or membership in a particular business, industry occupation or other class required by law as a prerequisite to the holding by the member of the office or position;
- (b) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the member's relative is associated, is a member or is engaged; or
- (c) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the

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member's relative is associated, is a member or is engaged.

- (10) Qualification of a Member of the Hearing Authority Absent at a Prior Hearing.** If a member of the hearing authority was absent from a prior public hearing on the same matter which is under consideration, that member will be qualified to vote on the matter if the member has reviewed the record of the matter in its entirety and announces, prior to participation that this has been done. If the member does not review the record in its entirety, that member must not vote and must abstain from the proceedings.
- (11) Hearing Authority's Jurisdiction.** In the conduct of a public hearing, the hearing authority will have the jurisdiction to:
- (a) Regulate the course, sequence and decorum of the hearing.
  - (b) Decide procedural requirements or similar matters consistent with this chapter.
  - (c) Rule on offers of proof and relevancy of evidence and testimony and exclude repetitious, immaterial, or cumulative evidence.
  - (d) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, and rebuttal testimony.
  - (e) Take such other action appropriate for conduct of the hearing.
  - (f) Grant, deny, or in appropriate cases, attach such conditions to the matter being heard to the extent allowed by applicable law and that may be necessary to comply with the applicable approval criteria or in appropriate cases, formulate a recommendation for the Board.
  - (g) Continue the hearing to a date certain as provided at LC 14.070(17).
  - (h) Allow the applicant to withdraw and cancel the application. Subsequent to the cancellation of the application, if the applicant wishes to proceed with the same or different proposal requiring a land use application, a new application may be submitted and the new application must processed in compliance with all the provisions of this chapter.
- (12) Hearing Procedures.** At the commencement of a hearing, the hearing authority must state to those in attendance all of the following information and instructions:
- (a) Date of the hearing;
  - (b) Department file number;
  - (c) Nature, purpose, and type of the hearing;
  - (d) When applicable, the parties that may participate in the hearing and/or issues to which the hearing is limited;
  - (e) Identification of the address and assessor's map and tax lot number of, or other easily understood geographical reference to, the subject property, if applicable;

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- (f) Order of the proceedings, including reasonable time limits on oral presentations by parties;
  - (g) For a quasi-judicial application, a statement disclosing any pre-hearing ex parte contacts;
  - (h) For a Type III or IV procedure, a statement disclosing any personal knowledge, bias, prejudice, or personal interest on the part of the hearing authority;
  - (i) Call for any challenges to the hearing authority's qualifications to hear the matter. Any such challenges must be stated at the commencement of the hearing, and the hearing authority must decide whether they can proceed with the hearing as provided in subsection (9) above;
  - (j) List of the applicable approval standards and criteria for the application;
  - (k) Statement that testimony, arguments, and evidence must be directed toward applicable approval standards and criteria, or other standards and criteria in the Lane County land use regulations or comprehensive plan that the person testifying believes to apply to the decision;
  - (l) Statement that failure to raise an issue accompanied by statements or evidence with sufficient detail to give the hearing authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;
  - (m) Statement that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the hearing authority to respond to the issue precludes an action for damages in circuit court;
  - (n) Statement that prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The hearing authority must grant the request by either continuing the public hearing or leaving the record open for additional written evidence, arguments, or testimony in accordance with subsection (17) below; and
  - (o) Statement that the decision of the approval authority may be appealed in accordance with LC 14.080.
- (13) Order of Proceeding.** In the conduct of a public hearing other than an on the record hearing, the following order of procedure will generally be followed. However, the hearing authority may modify the order of proceeding.
- (a) The Director will present the staff report;
  - (b) The applicant will be heard first;
  - (c) Allow persons in favor of the proposal to be heard;
  - (d) Allow persons neither in favor or opposed of the proposal to be heard;
  - (e) Allow persons opposed to the proposal to be heard;

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- (f) Allow the Director to present any further comments or information in response to the testimony and evidence;
  - (g) Allow the applicant final rebuttal; and
  - (h) Conclude the hearing.
- (15) Questions.** The hearing authority at any point during the hearing may ask questions of the Director or parties. Questions by parties, interested persons, or the Director may be allowed by the hearing authority at their discretion. Questions must be directed to the hearing authority. Questions posed directly to the Director or any party are not allowed. The hearing authority may allow questions to be answered by the Director or a party if a question pertains to them. They will be given a reasonable amount of time to respond solely to the question.
- (16) Presenting and Receiving Evidence.** No oral testimony will be accepted after the close of the hearing. Written testimony may be received after the close of the hearing only in accordance with subsections (17) through (19) below.
- (17) Continuances and Leaving the Record Open.** If the hearing is an initial evidentiary hearing, prior to the conclusion of the hearing any participant may request an opportunity to present additional evidence or testimony regarding the application. The hearing authority must grant such request by continuing the public hearing in accordance with subsection (17)(a) below or leaving the record open for additional written evidence, arguments, or testimony in accordance with subsection (17)(b) below.
- (a) If the hearing authority grants a continuance, the hearing must be continued to a date, time, and place certain that is at least seven days after the date of the initial evidentiary hearing. An opportunity must be provided at the continued hearing for persons to present and respond to new evidence, arguments, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments, or testimony for the purpose of responding to the new written evidence.
  - (b) If the hearing authority leaves the record open for additional written evidence, arguments, or testimony, the record must be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such request is filed, the hearing authority must reopen the record in accordance with subsection (19) below.
  - (c) A continuance or leaving the record open (extension) granted under this section is subject to the applicable time limit for processing the application, unless the continuance or extension is requested or agreed to by the applicant, in which case the continuance or extension will result in a corresponding extension of the applicable time limit. A continuance or extension to the applicable timeline is subject to the total time limit set in LC 14.050(2).
  - (d) Unless waived by the applicant, the hearing authority must grant the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application, excluding new evidence. The applicant's final rebuttal will

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be considered part of the record, but must not include any new evidence. This seven-day period will not be counted toward the applicable time limit for processing the application.

- (e) At the discretion of the Director, if prior to the initial public hearing, or at the discretion of the hearing authority if at the hearing, an applicant may receive a continuance upon any request for a continuance if accompanied by a corresponding extension of the applicable time limit subject to the total time limit set forth in LC 14.050(2), and the applicable fee.

**(18) Rescheduling.** In the event that a noticed public hearing must be rescheduled due to an emergency situation, the rescheduling of the meeting will constitute sufficient notice of a public hearing provided the following minimum procedures are observed:

- (a) Notice is posted on the door of the building in which the hearing is scheduled advising of the cancellation and the date, time, and place for the rescheduled meeting or that new notice will be sent indicating that new date, time, and place.
- (b) Reasonable attempts are made prior to the scheduled hearing to announce the cancellation and rescheduling by direct communication to applicants and known interested parties and through available news media to the general public.

**(19) Re-opening the Record.** When the hearing authority re-opens the record to admit new evidence, arguments, or testimony, the hearing authority must allow people who previously participated in the hearing to request the hearing record be re-opened, as necessary, to present evidence concerning the newly presented facts. Upon announcement by the hearing authority of their intention to take notice of such facts in its deliberations, any person may raise new issues which relate to the new evidence, arguments, testimony, or standards and criteria which apply to the matter at issue.

**(20) Record of the Hearing.** The hearing authority will consider only facts and arguments in the hearing record; except that it may consider laws and legal rulings not in the hearing record (e.g., local, state, or federal regulations; previous department decisions; or case law).

- (a) The hearing record will include all of the following information:
  - (i) All oral and written evidence submitted to the hearing authority;
  - (ii) All materials submitted by the Director to the hearing authority regarding the application;
  - (iii) A recording of the hearing;
  - (iv) The final written decision; and
  - (v) Copies of all notices given as required by this chapter and correspondence regarding the application that the Director mailed or received.
- (b) All exhibits presented will be kept as part of the record and marked to show the identity of the person offering the exhibit. Exhibits will be numbered in the order presented and will be dated.

**(21) Conclusion of Hearing**

- (a) After the close of the hearing record, the hearing authority may either make a decision and state findings which may incorporate findings proposed by any party or the Director, or take the matter under advisement for a decision to be made at a later date. If the Planning Commission is the hearing authority, it will make a recommendation with findings to the Board in lieu of issuing a decision.
- (b) The hearing authority may request proposed findings and conclusions from any party at the hearing. The hearing authority, before adopting findings and conclusions, may circulate them in draft form to parties for written comment.
- (c) The decision and findings must be completed in writing and signed by the hearing authority within ten days of the closing of the record for the last hearing. A longer period of time may be taken to complete the findings and decision if the applicant provides written consent to an extension to any applicable timelines in which the County must process the application for an amount of time that is equal to the amount of additional time it takes to prepare the findings.

**(22) Decision and Findings Mailing.** Upon a written decision adopting findings being signed by the approval authority, the Director will mail to the applicant and all parties a copy of the decision and findings, or if the decision and findings exceed five pages, the Director will mail notice of the decision. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.080 Appeals**

**(1) Appeal Requirements.** A person or party identified in subsection (1)(a) may initiate an appeal of a Type II or III decision by filing a notice of appeal under this section. Appeals must comply with subsection (1)(a) through (d) below. The requirements of subsection (1)(a) through (c) are jurisdictional and must be satisfied as a requirement for the Director to accept the appeal in accordance with subsection (2)(a).

**(a) Allowable Appeals.**

**(i) Type I.** Type I determinations may not be appealed at the County level except as otherwise provided in Lane Code, or if found to constitute a permit and authorized by the Director. Where found to constitute a land use decision, the appeal will be processed in the same manner as an appeal of a Type II decision.

**(ii) Type II.** A Type II decision issued by the Director for which a hearing has not been held may be appealed by:

**(aa)** A person who is entitled to written notice under LC 14.060; or

**(bb)** Any person who is adversely affected or aggrieved by the application.

**(iii) Hearings Official Decision on Type II Appeal.** Appeals of Hearings Official decisions on Type II appeals requesting Hearings Official reconsideration may be made by any party, or reconsideration may be requested by the Director. Requests for Board review of Hearings Official decisions on Type II appeals may be made by

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the Director.

**(iv) Type III.** Appeals of Type III Hearings Official decisions requesting Hearings Official reconsideration may be made by any party, or reconsideration may be requested by the Director. Requests for Board review of Type III Hearings Official decisions may be made by the Director.

**(b) Filing Deadline.** A notice of appeal must be filed with the Director prior to the end of business on the 12<sup>th</sup> day after the date the notice of decision is mailed.

**(c) Notice of Appeal Requirements.** A notice of appeal must:

- (i)** Be submitted in writing on a form provided by the Director, and signed by the appellant or their authorized representative;
- (ii)** Be received by the Director within the appeal period;
- (iii)** Be accompanied by the required filing fee in all circumstances except as provided in subsection (3)(a)(iii) or (4)(d)(iv) below;
- (iv)** Identify the decision being appealed, including the date of the decision and the department file number for the decision;
- (v)** Include a statement demonstrating the person filing the notice of appeal is entitled to file the appeal, consistent with subsection (1)(a) above; and
- (vi)** A notice of appeal requesting reconsideration of a Hearings Official decision must also demonstrate that the appeal can be reviewed within the applicable time limits of LC 14.050(2).

**(d) Appeal Statement.** In addition to the appeal requirements of subsection (1)(a) through (c) above, the notice of appeal should include the items listed under (1)(d)(i) and (ii) below. The requirements of subsection (1)(d)(i) and (ii) below are not jurisdictional and will not be interpreted as a basis for appeal rejection under subsection (2)(b)(i).

- (i)** A written statement explaining the issues being raised on appeal with sufficient specificity to afford the approval authority the opportunity to respond to each issue raised.
- (ii)** A written explanation with detailed support specifying one or more of the following as assignments of error or reasons for reconsideration;
  - (aa)** The Director or Hearings Official exceeded their jurisdiction;
  - (bb)** The Director or Hearings Official failed to follow the procedure applicable to the matter;
  - (cc)** The Director or Hearings Official rendered a decision that is unconstitutional;
  - (dd)** The Director or Hearings Official misinterpreted the Lane Code or Lane Manual, state law or federal law, or other applicable standards and criteria; or

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(ee) Reconsideration of the decision is requested in order to submit additional evidence not available in the record at the hearing and addressing compliance with relevant standards and criteria.

(e) **Director’s Request.** Notwithstanding (1)(c)(i) – (vi) and (d), a request by the Director to the Hearings Official for reconsideration or to the Board for on the record review will be filed upon mailing of written notice to parties of record. The notice will identify the decision being appealed and provide a summary of appeal issues.

(2) **Director Review of Appeal.** Within two days of receiving any appeal filed under subsection (1)(c), the Director must review the appeal to determine if it satisfies all of the requirements of subsection (1)(a)-(c) above. The Director will either accept or reject the appeal according to subsection (2)(a) or (b) below.

(a) **Appeal Acceptance.**

- (i) If an appeal satisfies all the requirements of LC 14.080(1)(a)-(c), the Director must accept and process the appeal.
- (ii) Appeals not rejected by the Director within two days of receipt pursuant to subsection (2)(b)(i) are deemed accepted.
- (iii) The Director must mail notice of acceptance of an appeal of a Type II or III decision within two days of appeal acceptance to the applicant, applicant’s representative, and if different than the applicant, the appellant. As applicable, the notice must state the tentative hearing date for the appeal and the requirements of this chapter for submission of written materials prior to the hearing.

(b) **Appeal Rejection.**

- (i) The Director must reject an appeal and mail notice to the appellant that it was rejected if the appeal does not satisfy the requirements of LC 14.080(1)(a)-(c).
- (ii) The notice of rejection of an appeal must be mailed within two days of appeal filing and must identify the deficiencies of the appeal.
- (iii) The appellant may correct the deficiencies and re-submit the appeal if the resubmission is received by the Director within the 12-day appeal period. Failure to correct the deficiencies within the original appeal period will waive the right to appeal.

(c) Within two days of accepting an appeal of a Type III decision, the Director must forward a copy of the appeal to the Hearings Official for reconsideration.

(d) The Hearings Official or Board may, after acceptance by the Director, dismiss the appeal, or make other appropriate disposition, as a result of the failure of the appeal to comply with subsection (1)(a)-(c) above.

(3) **Appeal Process for a Type II Decision**

(a) **Reconsideration.** Within two days of acceptance of an appeal of a Type II decision, the

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Director may affirm, modify, or reverse the decision in compliance with the following:

- (i) **Affirmation.** To affirm the decision, no action by the Director is necessary.
  - (ii) **Modification or Reversal.** To modify or reverse the decision, the Director must conclude that the final County decision on the application can be made within the applicable limits at LC 14.050(2), prepare a written modification or reversal of the decision, together with supporting findings, and mail notice of decision in accordance with LC 14.060 above. Notice of a modification or reversal of the decision should be mailed within two days of the Director's decision and provide for a new 12-day appeal period.
  - (iii) If the Director elects to reconsider the decision without request by the appellant, the appellant will not be required to pay a fee for a subsequent appeal of the Director's reconsidered decision.
- (b) **De Novo Hearing.** Appeal of a Type II decision made by the Director will result in a de novo hearing before the Hearings Official. A hearing on an appeal of Type II decision will follow the same procedure used for a hearing on a Type III review in accordance with the applicable procedures at LC 14.070 with notice in accordance with the Type III hearing notice requirements of LC 14.060. The Hearings Official's review will not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type II Decision. The Hearings Official's review may include consideration of additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue submitted or raised during the open record period.
  - (c) **Appeal of Hearings Official Decision.** Appeals filed under (1)(c) requesting Hearings Official reconsideration or Director requests made under (1)(e) for Hearings Official reconsideration or Board review of Hearings Official decisions on an appeal of a Type II decision will be processed in accordance with subsection (4) and (5) below.
- (4) **Hearings Official Reconsideration.** Appeals filed under (1)(c) requesting Hearings Official reconsideration or written notice of a Director request made under (1)(e) for Hearings Official reconsideration of a Hearings Official decision will be processed according to the following procedures.
- (a) If the applicant requests reconsideration by the Hearings Official, the applicant must first agree to an extension of any applicable timelines in which the County must process the application, and such an extension must be in addition to any other extensions already requested by the applicant.
  - (b) Within two days of acceptance of an appeal requesting Hearings Official reconsideration filed under (1)(c) or written notice of a Director request for reconsideration under (1)(e), the Director must forward a copy of the appeal or Director's written notice to the Hearings Official. The Hearings Official will have full discretion to affirm, modify, or reverse the initial decision and to supplement findings as the Hearings Official deems necessary. When affirming, modifying, or reversing the initial decision, the Hearings Official must comply with (4)(c) affirmation or (4)(d) reconsideration procedures below.
  - (c) **Affirmation.** Within seven days of acceptance of the appeal by the Director, if the

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Hearings Official wishes to affirm the decision without further consideration, the Hearings Official must provide a written decision to this effect to the Director. The Director must mail written notice of the Hearings Official's decision to affirm the original decision to the appellant and other parties of record.

- (d) Reconsideration.** If the Hearings Official wishes to reconsider the decision, the Hearings Official must conclude that a final decision can be made by the County within the applicable time limits at LC 14.050(2). If the reconsideration will cause the final decision to not be made within the applicable time limits at LC 14.050(2), the Hearing Official cannot reconsider the decision. Reconsideration must comply with subsection (4)(d)(i), (ii), or (iii) below.
- (i) On the Record.** If the reconsideration is limited to the existing record, then within seven days of the Director's acceptance of the appeal, the Hearings Official must prepare a reconsideration decision and supplemental findings and provide the reconsidered decision to the Director. Within two days of the decision, the Director must mail the reconsidered decision in conformance with the notice of decision requirements at LC 14.060.
- (ii) Brief of Additional Issues.** If the reconsideration is not limited to the existing record, and if the Hearings Official wishes to allow written materials to be submitted briefing limited issues, then the Hearings Official must:
- (aa)** Within seven days of acceptance of the appeal by the Director, request that the Director mail notice to any person who qualifies as a party to the decision under reconsideration. The notice must disclose the limited issues to be addressed for the reconsideration and timelines for submittal of new materials and rebuttal by the applicant; and
- (bb)** Within 14 days of the close of the hearing record, issue a decision and supplemental findings. The decision and findings should be mailed by the Director within two days of issuance to the same parties as subsection (4)(d)(ii)(aa) in accordance with the applicable notice of decision procedures at LC 14.060.
- (iii) Limited Hearing.** If the reconsideration is not limited to the existing record and if the Hearings Official wishes to reopen the record and to conduct a hearing to address limited issues then the Hearings Official must:
- (aa)** Within seven days of acceptance of the appeal by the Director, request that the Director mail notice to any person who qualifies as a party to the decision that is being reconsidered. The notice must be in conformance with LC 14.060. The conduct of the hearing will be in accordance with the applicable provisions of LC 14.070; and
- (bb)** Within 10 days of the close of the hearing record, issue a reconsideration decision and supplemental findings, and within this same time period, the Hearings Official must notify the Director to mail a copy of the decision and findings to people who qualify as a party to the application in conformance with notice of decision procedures at LC 14.060.

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(iv) If the Hearings Official elects to reconsider a decision without being requested to do so by an appellant, that appellant will not be required to pay a fee for a subsequent appeal of the Hearings Official decision on reconsideration.

(e) **Appeal of Reconsidered Decisions.** Affirmed or reconsidered Hearings Official decisions may be appealed in the manner allowed by subsection (1)(a)(iii) within 12 days of the date that the decision is mailed, subject to the same requirements of LC 14.080 for the initial Hearings Official reconsideration

(5) **Director Request for Board Review.** A request by the Director for review by the Board of a Type III Hearings Official decision will be processed in accordance with the procedures below.

(a) The Director may request that the Board affirm the Hearings Official decision or conduct an on-the-record hearing if the Hearings Official decision involves:

- (i) Interpretation of County policies or issues of countywide significance;
- (ii) Issues that will reoccur with frequency or for which there is a need for policy guidance;
- (iii) Issues involving impacts to an inventoried Goal 5 resource; or
- (iv) The Director or Hearings Official recommends review.

(b) **Board Order.** The Board must adopt a written decision and order electing to affirm the Hearings Official decision or to conduct a hearing on-the-record as follows:

- (i) If the Director requests that the Board affirm the decision of the Hearings Official, the Board will review the order on the consent calendar. The order will state that the Board has elected to ratify and affirm the decision of the Hearings Official and state either that the Board expressly agrees with or remains silent on any interpretations made by the Hearings Official. The Board order will incorporate the decision of the Hearings Official by reference and attachment. In affirming the decision, the Board will consider only those materials contained in the hearing record as provided in LC 14.070(20), except that in this context, the Hearings Official is the hearing authority.
- (ii) If requested by the Director, or if the order to affirm the decision under (5)(b) is not adopted and the Board so elects, the Board will conduct an on-the-record hearing. The Board order must specify the date for the on-the-record hearing, the parties who qualify to participate in the on the record hearing, and whether the Board finds that an opportunity for limited additional testimony based on subsection (5)(c)(ii) is warranted and will be provided.

(c) **Hearing Procedures for On the Record Hearings.** An on-the-record hearing must be conducted according to the following procedures and LC 14.070 as applicable. The below procedures are in addition to or apply in place of other hearing procedures in LC 14.070 where these procedures are duplicative of or conflict with those procedures.

(i) **Review on the Record.** Evidence considered by the Board must be confined to the record of the proceeding before the previous approval authority except as

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provided in subsection (ii) and (iii) below.

- (ii) **Limited Additional Testimony.** The Board may admit additional testimony and other evidence without holding a de novo hearing, if the approval authority is satisfied that the testimony or other evidence could not have been presented before close of the record on prior hearing proceedings. In deciding whether to admit additional testimony or evidence, the approval authority will consider:
  - (aa) Prejudice to parties;
  - (bb) Convenience or availability of evidence at the time of the prior hearing proceedings;
  - (cc) Impact to opposing parties;
  - (dd) When notice was given to other parties of the intended attempt to admit the new evidence prior to the close of the record;
  - (ee) The competency, relevancy, and materiality of the proposed testimony or other evidence; and
  - (ff) Whether the matter should be remanded to the approval authority for a de novo hearing under subsection (iii) below.
- (iii) **De Novo Hearing/Remand.** The Board may elect to hold a de novo hearing or remand the appeal for a supplemental de novo hearing before the approval authority that held the previous hearing if it decides that the volume of new information offered by a party proceeding under subsection (ii) above would:
  - (aa) Interfere with the approval authority's agenda;
  - (bb) Prejudice parties; or
  - (cc) If the approval authority determines that the wrong legal criteria were applied by the previous approval authority.
- (iv) On remand pursuant to subsection (iii), the previous approval authority must apply the applicable hearing conduct procedures of LC 14.070. If an appeal is desired from the previous approval authority's decision on remand, the procedures of LC 14.080 apply. In the event that a de novo hearing or remand is requested by the applicant, the applicant must first agree to an extension of any applicable timelines in which the County must process the application, and such extension must be in addition to any other extensions of applicable application processing timelines already requested by the applicant, subject to LC 14.050(2).
- (v) **Notice of an On the Record Hearing.** Notice of an on the record hearing will be mailed, and as required, posted and published, in accordance with LC 14.060 at least 10 days in advance of the hearing.
- (vi) **Written Material.** Unless otherwise specified by the Board, all written materials exceeding two pages in length to be submitted for consideration at an on the

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record hearing if permitted under subsection (ii) above must be submitted to and received by the Director at least five days in advance of the hearing. Upon request, the application file containing these materials must be made available to the public by the Director. The approval authority may allow written materials to be submitted and received after this five day deadline if:

- (aa) The written materials are limited to those solely responsive to the written materials submitted at least five days in advance of the on the record hearing;
- (bb) The responsive, written materials could not have been reasonably prepared and submitted at least five days in advance of the on the record review hearing; and
- (cc) Copies of the written materials have been provided to all parties to the on the record hearing.

**(vii) On the Record Hearing Participation.** The only people who may participate in a Board on the record hearing are:

- (aa) The Director;
- (bb) The applicant and the applicant’s representative;
- (cc) The appellant and the appellant’s representative; and
- (dd) Another party of record may provide limited additional testimony, but only in accordance with subsection (ii) above.

**(viii) Order of Proceeding.** In the conduct of an on the record hearing the following order of proceeding will be followed:

- (aa) The Director will present the staff report;
- (bb) The appellant will be heard first;
- (cc) The applicant, if different from the appellant will be heard next;
- (dd) The appellant will be allowed to rebut;
- (ee) Conclude the hearing.

**(iv) On the Record Hearing Order.** Upon the adoption of findings on the on the record hearing, the Board must adopt a written decision and order affirming, reversing, or modifying the decision of the Hearings Official. If the decision of the Board is to affirm the decision of the Hearings Official, the Board order adopted by the Board must state whether or not the Board has elected to ratify and affirm the decision of the Hearings Official and any interpretations therein, and the Board order will incorporate the decision of the Hearings Official by reference and attachment.

**(6) Effective Date.** A decision on any application reviewed by the Board will become final upon signing of an order by the Board to adopt and affirm the Hearings Official decision or order by

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the Board specifying the decision of an on the record hearing. The Director will mail notice of the Board order to parties of record upon receipt of the signed order. The notice of Board order will state that any appeal of the Board decision can be appealed to LUBA in accordance with ORS 197.

- (7) Appeals of Final County Decision.** Appeal of a final County decision made under this chapter must be filed with Land Use Board of Appeals in accordance with ORS 197. If a decision is appealed beyond the jurisdiction of the County, the approval period does not begin until review before the Land Use Board of Appeals and/or the appellate courts have been completed, including any remand proceedings. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

#### 14.090 Limitations on Approved and Denied Applications

- (1)** An application reviewed in accordance with the provisions of this chapter is subject to the limitations at subsection (1) through (9) below.
- (2)** The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The Director's failure to notify the applicant of any requirement or procedure of another agency will not invalidate a decision made under this chapter.
- (3) Vesting of Approval.** Approval of an application for which all rights of appeal have been exhausted cannot be invalidated or modified by subsequent revisions of Lane Code, unless specifically provided for otherwise in Lane Code or the conditions of approval.
- (4) Compliance with Conditions of Approval.** Compliance with conditions of approval and adherence to approved plans is required. Any departure from the conditions of approval and approved plans constitutes a violation of the applicable sections of Lane Code and may constitute grounds for revocation or suspension of the approval unless a modification of approval is approved as provided in subsection (5) below.
- (5) Modification of Approval.** An application for modification of approval must comply with the subsection (5)(a) through (c) below.
- (a)** An application for modification of approval must:
- (i)** Be in writing on a form provided by the Director;
  - (ii)** Include the required application fee;
  - (iii)** Be received by the Director prior to the expiration of the approval time period to complete any conditions of approval of the decision for which modification is requested, where calculation of the expiration date includes any time extension approved in accordance with subsection (7) below;
  - (iv)** Identify and address any standards or criteria that the original approval addressed; and
  - (v)** Address compliance of the requested modifications with any applicable standards or criteria.

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- (b) The applicable standards and criteria for the final decision have not changed; and
- (c) A decision on a modification of approval must be made by the same approval authority as the original final decision unless the original decision allows modification by a different approval authority.

**(6) Expiration of Approvals**

- (a) A permit for a discretionary approval is valid for two years from the date of the final decision, unless otherwise specified in the approval, by other provisions of Lane Code, and or unless the approval period is extended pursuant to subsection (7). Subject to the requirements of subsection (7), the Director may grant one extension period of 12 months, and additional one-year extensions may be authorized by the Director.

**(b) Resource Dwellings.**

- (i) A permit for a discretionary approval for a residential development on agricultural or forest zoned land outside of an urban growth boundary is valid for four years, unless the approval period is extended pursuant to subsection (7) below. As used in this section, “residential development” only includes the dwellings provided for LC 16.212(3)-2.5 and -2.6, LC 16.214, LC 16.211(2)-2.1 to -2.5, and LC 16.210(2)-2.1 to -2.2.
- (ii) Subject to the requirements of subsection (7), an extension of a permit described in subsection (6)(b)(i) is valid for two years, and the Director may approve no more than five (5) additional one-year extensions of a permit. The Director may approve additional one-year extensions for permits issued prior to or after June 20, 2019, provided that the sum of all additional one-year timeline extensions issued prior to or after this date does not exceed the five year maximum period.
- (c) A land division decision is valid subject to Lane Code Chapter 13 except as provided in subsection (7) below.
- (d) A telecommunication tower decision is valid subject to Lane Code 16.264.

**(7) Time Extension Requirements**

- (a) **Submittal Requirements.** Unless prohibited by the approval or other provisions of Lane Code, the Director may grant an extension to the approval period of a permit as allowed by subsection (6) if:

- (i) The extension request is submitted in writing on the form provided by the department and accompanied by the required fee; and
- (ii) The request for extension is submitted prior to the expiration of the approval period, but not earlier than six months before the expiration date, of the permit or extension.

**(b) Standards.**

- (i) Additional one year extensions that are allowed by subsection (6)(a) or (c), beyond

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the initial extension, may be authorized where applicable criteria for the decision have not changed.

- (ii) Additional one-year extensions allowed by subsection (6)(b) may be authorized if the applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by Oregon Laws 2019 (Enrolled House Bill 2225).
- (c) Approval of an extension granted under this section is a Type I administrative determination, is not a land use decision, and is not subject to appeal as a land use decision.

### **(8) Revocation or Suspension of a Decision**

- (a) The Director may suspend or revoke a decision issued in accordance with this chapter for any reason listed in subsection (8)(a)(i) through (iv) below. When taking such action, the Director will notify the owner and/or applicant of the reason for the suspension or revocation and what steps, if any the applicant must take to remedy the reason for the Director's decision.
  - (i) The site has been developed in a manner not authorized by the approval of the application;
  - (ii) The approval has not been complied with;
  - (iii) The conditions of approval have not been completed; or
  - (iv) The approval was secured with false or misleading information.
- (b) The Director's decision to suspend or revoke a decision is appealable to the Hearings Official in the same manner as provided for in LC 14.080 for an appeal of a Type II decision. The appeal period will commence the day the Director mails notice to the owner and/or applicant of the Director's decision to suspend or revoke the decision. The notice must state that the owner and/or applicant has the right to appeal the Director's decision and what the procedure is for the applicant to appeal. If the Director elects to refer the matter to the Hearings Official under subsection (8)(c) below, the Director must include in the notice to the owner and/or applicant that the matter has been referred to the Hearings Official and the steps the owner and/or applicant must take to contest the reasons for the suspension or revocation.
- (c) The Director may initiate a review by the Hearings Official to suspend or revoke the issued decision in lieu of making the decision to suspend or revoke the decision. Hearings Official review will follow the procedure for processing of appeals of a Type II decision, and the Hearings Official may suspend or revoke a decision for one or more of the reasons specified in subsection (8)(a) above. A Hearings Official's decision to suspend or revoke a decision is appealable to the Board in the same manner as provided for in LC 14.080 for appeals to the Board.
- (d) If the reason for the suspension or revocation is remedied before the decision becomes final, by the expiration of the appeal time, or by the date of the hearing official hearing, then the suspension or revocation is void.

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- (9) Limitations on Refiling Applications.** Except for a Type I application, an application for which a substantially similar application relating to the same property or tract has been denied within the previous year will not be accepted. At the Director's discretion, an earlier refiling may be allowed if it can be demonstrated that the basis for the original denial has been eliminated. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.100 LUBA Remands**

- (1) Remanded County Decisions.** A County decision remanded by the Land Use Board of Appeals (LUBA) or state appellate court will be processed according to the procedures below. Except for (1)(d)(v), these procedures do not apply to voluntary remands.
- (a) Remand Request.** To request County processing of the matter on remand, the applicant must submit a completed application on a form provided by the Director and the required filing fee. The completed form and fee must be received by the Director within the time frames at subsection (1)(d) below for the County to commence review.
- (b) Hearing.** For remands that require a remand hearing, or for which the County opts to conduct a hearing, the following requirements apply:
- (i)** For Type IV decisions, and Type II and III decisions for which the Board reviewed the decision of the Hearings Official and issued the final land use decision, the Board will conduct the remand hearing to review and address issues raised in the final LUBA order.
  - (ii)** For Type II and III decisions made by the Hearings Official for which the Board did not review the decision of the Hearings Official and issue the final land use decision, the Hearings Official will conduct the remand hearing and render a decision on the matter.
  - (iii)** A LUBA remand hearing will be conducted in accordance with LC 14.070 except that where the procedures of this subsection are duplicative of or conflict with those procedures, the procedures of this subsection will apply.
  - (iv)** The Board and Hearings Official may only consider issues identified in the LUBA order as the basis for the remand.
- (c) Notice.** The Director must mail notice at least 20 days prior to the hearing in accordance with LC 14.060(2)(c).
- (d) Time Limit.** For a permit, limited land use decision, or zone change, final action on a LUBA remand must occur within the timelines set forth below:
- (i)** The County must take final action within 120 days of the date the applicant submits a request pursuant to LC 14.100(1)(a). If the County does not receive the request within 180 days of the effective date of the LUBA final order or the final resolution of the judicial review, the application is deemed terminated on the 181<sup>st</sup> day. For purposes of this subsection, the effective date of the LUBA final order is the last day for filing a petition for judicial review under ORS 197.850(3).
  - (ii)** The 120-day period established under subsection (1)(d)(i) of this section may be

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extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The application is deemed terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension.

- (iii) The 120-day period established under subsection (1)(d)(i) of this section applies only to decisions wholly within the authority and control of the governing body of the County.
  - (iv) Subsection (1)(d)(i) of this section does not apply to a remand proceeding concerning a decision making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.
  - (v) If the County withdraws a decision for the purposes of reconsideration under ORS 197.830(13)(b) by filing a notice of withdrawal with LUBA, it must file a copy of its decision on reconsideration with LUBA within 90 days after the filing of the notice of withdrawal or within such other time as LUBA may allow.
- (e) Appeal and Effective Date of Decision.**
- (i) Notice of the Board or Hearings Official decision on remand will be as provided by LC 14.060.
  - (ii) A Hearings Official decision on remand may be appealed in the same manner as an appeal of a Hearings Official's decision on an appeal of Type II decision or on a Type III application, in accordance with LC 14.080. Appeal of a Board remand decision is governed by ORS Chapter 197. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

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## Chapter 14 – Application Review and Appeal Procedures

### Sections:

14.010 Purpose  
 14.015 Definitions  
 14.020 General Provisions  
 14.030 Procedural Types and Application Processing  
 14.040 Application Requirements  
 14.050 Completeness Review and Time Limits  
 14.060 Notice Requirements  
 14.070 Public Hearings Process  
 14.080 Appeals  
 14.090 Limitations on Approved and Denied Applications  
 14.100 LUBA Remands

### 14.010 Purpose

- (1) The purpose of this chapter is to establish standard procedures for submittal, acceptance, investigation, and review of applications and appeals, and to establish limitations upon approved or denied applications.
- (2) This chapter applies to Lane Code Chapters 3, 5, 9, 10, 11, 12, 13, 15, and 16, or portions thereof, as specified in those chapters. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

### 14.015 Definitions

**When a Term is Not Defined.** Terms not defined in this section will have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, Copyright 1981, Principal Copyright 1961, will be considered a standard reference for defining the meanings of terms not defined in this section or elsewhere in Lane Code.

**Conflicting Definitions.** Where a term defined in LC 14.015 is defined in another section of Lane Code or by other regulations or statutes referenced by this chapter, the definition in this section will control.

**Definitions.** For the purpose of Chapter 14 of Lane Code, unless the context requires otherwise, the following words and phrases mean:

- (1) **Acceptance.** Received and considered by the Director to contain sufficient information and materials to begin processing in accordance with the procedures of this chapter.
- (2) **Appearance.** Submission of testimony or evidence in the proceeding, either oral or written. A person's name appearing on a petition filed as a general statement of support or opposition to an application without additional substantive content, and that typically contains the names of a number of other persons, does not constitute an appearance.
- (3) **Appellant.** A person who submits to the department a timely appeal of a decision issued by the County.

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- (4) **Applicant.** A person who applies to the department for a decision under this chapter. An applicant must be an owner of the property or someone authorized in writing by the property owner to make application.
- (5) **Approval Authority.** A person or a group of persons, given authority by Lane Code to review and make decisions upon certain applications in accordance with the procedures of this chapter. The approval authority may either be the Director, Hearings Official, or the Board, as specified for application types by this chapter or otherwise specified in LC Chapter 16.
- (6) **Argument.** The assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by a party to a decision. Argument does not include facts.
- (7) **Board.** The Lane County Board of Commissioners.
- (8) **County.** Lane County, Oregon.
- (9) **De Novo.** Review of an application in which all issues of law and fact are heard anew, and no issue of law or fact decided by the lower level review authority is binding on the parties in the new hearing. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony.
- (10) **Department.** The Lane County Department of Public Works.
- (11) **Director.** The Planning Director of Lane County or the Planning Director's designated representative.
- (12) **End of Business.** The end of the business day is 4:00 PM Pacific Time.
- (13) **Evidence.** The facts, documents, data, or other information offered to demonstrate compliance or non-compliance with the standards believed by the proponent to be relevant to the decision.
- (14) **Hearings Official.** A person who has been appointed by the Board in accordance with Lane Manual 3.700 who makes land use decisions under this chapter.
- (15) **Hearing Authority.** The Hearings Official, Planning Commission, or Board who conduct hearings on applications as authorized by this chapter and Lane County land use regulations. The Hearing Official and Board are authorized to issues decisions on certain land use matters. The Planning Commission only makes recommendations on certain land use matters unless otherwise specified in LC Chapter 16.
- (16) **Land Use Decision.** A final decision or determination made by a Lane County approval authority that concerns the adoption, amendment, or application of the Statewide planning goals, a comprehensive plan provision, a land use regulation, or a new land use regulation where the decision requires the interpretation or exercise of policy or legal judgment.

A "Land Use Decision" does not include a decision made by a Lane County approval authority that:

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- (a) Is an informal interpretation made under LC 14.020(1);
  - (b) Is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;
  - (c) Approves or denies a building permit issued under clear and objective land use standards;
  - (d) Is a limited land use decision;
  - (e) Determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations;
  - (f) Is an expedited land division as described in ORS 197.360;
  - (g) Approves, in accordance with ORS 480.450(7), the siting, installation, maintenance or removal of a liquefied petroleum gas container or receptacle regulated exclusively by the State Fire Marshal under ORS 480.410 to 480.460;
  - (h) Approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan;
  - (i) Authorizes an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 people that is not anticipated to continue for more than 120 hours in any three-month period, except as provided in ORS 215.213(13)(c);
  - (j) Authorizes an outdoor assembly license in accordance with Lane Code 3.995; or
  - (k) Is a local decision or action taken on an application subject to ORS 215.427 or 227.178 after a petition for a writ of mandamus has been filed under ORS 215.429 or 227.179.
- (17) **Land Use Regulation.** Any Lane County zoning ordinance, land division ordinance adopted under ORS 92.044 to 92.046, or similar general ordinance establishing standards for implementing the Lane County Comprehensive Plan.
- (18) **Legislative.** An action or decision involving the creation, adoption, or amendment of a law, rule, or a map when a large amount of properties are involved, as opposed to the application of an existing law or rule to a particular use or property.
- (19) **Limited Land Use Decision.** Means a final decision or determination made by Lane County pertaining to a site within an urban growth boundary that concerns:
- (a) The approval or denial of a subdivision or partition plan, as described in ORS 92.040(1).
  - (b) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review.

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Does not mean a final decision made by Lane County pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

- (20) **Ministerial.** An action or decision based on clear and objective standards and criteria where no discretion by the approval authority is required.
- (21) **Owner.** A person on the title to real property as shown on the latest assessment records in the office of the Lane County Tax Assessor. Owner also includes a person whose name does not appear in the latest tax assessment records, but who presents to the County a recorded copy of a deed or contract of sale signed by the owner of record as shown in the Lane County Tax Assessor's records.
- (22) **Party.** With respect to actions under this chapter, the following persons or entities are defined as parties:
- (a) The applicant;
  - (b) Any owner of the subject property that is the subject of the decision under consideration in accordance with this chapter; and
  - (c) A person who makes an appearance before the approval authority or hearing authority.
- (23) **Permit.** A discretionary approval of a proposed development of land under ORS 215 or county legislation or regulation adopted in accordance with ORS 215.
- "Permit" does not include:
- (a) A building permit;
  - (b) A limited land use decision as defined in LC 14.015(19);
  - (c) A decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards defining the uses permitted within the zone, and the determination applies only to land within an urban growth boundary;
  - (d) A decision which determines final engineering, design, construction, operation, maintenance, repair, or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or
  - (e) An expedited land division, as described in ORS 197.360.
- (24) **Person.** Any individual, partnership, corporation, limited liability company, association, governmental subdivision or agency or public or private organization of any kind.
- (25) **Planning Commission.** The Planning Commission of Lane County, Oregon.
- (26) **Quasi-judicial.** A land use action or decision that is not ministerial or legislative that requires discretion or judgment in applying the standards or criteria of this Code to an application for

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approval of a development or land use proposal.

**(27) Received.** Acquired by or taken into possession by the Director. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

## 14.020 General Provisions

- (1) Effect of Informal Interpretation.** Any statement, interpretation, or determination provided by the department that is not in writing, or that is made outside of a Type I, II, III, or IV procedure in accordance with this chapter, is considered to be only a statement of opinion and not a final action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, to any party.
- (2) Pre-Application.** A pre-application conference is not a requirement of any application, but may be requested for a fee, where a project involves the need for multiple land use applications or for large scale or highly complex development projects. The purpose of the pre-application conference is to acquaint persons with the requirements of Lane Code, the applicable comprehensive plan, and other related documents prior to application. In no case will a pre-application conference or information provided therein be guaranteed to provide an exhaustive review of potential issues associated with any project nor will it preempt the enforcement of applicable regulations.
- (3) Submission of Materials**
- (a) General.** The submission of any materials by any party including application materials, supplemental information, written comments, testimony, evidence, exhibits, or other documents that are entered into the record of any land use application must be submitted either at the offices of the Director or at a public hearing, unless specified otherwise by the hearing notice or hearing authority prior to the close of the record. Materials are considered submitted when received, or in the case of materials submitted at a public hearing, placed before the hearing authority.
- (b) Electronic Materials.**
- (i)** When application or appeal materials submitted in hard copy format are over **five** ~~20~~ pages in length, an applicant or appellant must provide an identical electronic version of the submitted materials in addition to a hard copy. Any other party submitting written materials into the record that are over ~~five-20~~ pages is also encouraged to submit an identical electronic copy. Any electronic materials must be in a format acceptable to the Director. This provision should not be interpreted to prohibit electronic submittals of materials less than ~~five-20~~ pages in length. The County will scan submitted materials upon request for fee. The County cannot be held responsible for electronic submittals that are not received by the Director or not confirmed by the Director to have been received.
- (ii)** When electronic materials over ~~five-20~~ pages in length are submitted by any party for inclusion in an application record, an identical hard copy of the materials must also be submitted unless this requirement is waived by the Director.
- (c) Deadline.** Where any materials including both hard and electronic copies are submitted

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to the offices of the Director and are subject to a date-certain deadline, the materials must be received by the Director by the end of business.

- (4) Time Computation.** Except for application completeness review and processing timelines prescribed by LC 14.050, time periods prescribed or allowed by this chapter will be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, or a legal holiday or any day on which the Director's office is not open for business.  
*(Revised by Ordinance No. 18-02, Effective 8.9.18)*

#### 14.030 Procedure Types and Application Processing

- (1) Procedure Types.** Application review will follow either a Type I, II, III, or IV procedure, set forth in subsections (a) through (d) below:

**(a) Type I Procedure**

- (i) Overview.** The Type I procedure involves the ministerial review of an application based on clear and objective standards and criteria. Uses or development evaluated through this process are those that are permitted outright in the applicable zone. In general, potential impacts of the proposed development have been already recognized through the adoption of County standards. The Type I procedure does not require interpretation or exercise of policy or legal judgement when evaluating development standards and criteria. A Type I determination is made by the Director without public notice or a hearing. A Type I determination may not be appealed at the County level except as otherwise provided in Lane Code or if found to constitute a permit and authorized by the Director.

The Type I procedure applies to a variety of applications including, but not limited to, a land use compatibility statement (LUCS), declaratory ruling, verification of conditions, final partition or subdivision plat, floodplain verification, or floodplain fill or floodplain development permit, and timeline extensions.

- (ii) Elective Type II.** ~~In instances when an applicant seeks notice of a~~ Type I determination, ~~may be elevated by~~ the applicant ~~may request to process the request by making application for a Type II procedure by submitting a Type II application or by the Director.~~ If the application is to be elevated by the Director, the Director should first notify the applicant.
- (iii) Review and Determination.** Upon accepting a Type I application, the Director will review the application for compliance with all applicable land use standards and regulations and adopted plans.
- (iv) Effective Date of Determination.** A Type I determination is final on the date it is signed by the Director. Within five days of the determination date, the applicant and property owner will be mailed a copy of the determination.

**(b) Type II Procedure**

- (i) Overview.** The Type II procedure involves the Director's interpretation and exercise of discretion when evaluating approval standards and criteria. Uses or

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development evaluated through this process are uses that are conditionally permitted or allowed after Director review that may require the imposition of conditions of approval to ensure compliance with development standards and approval criteria. Type II decisions are made by the Director, in some cases after notice of application and opportunity to comment. Type II decisions may be appealed.

The Type II procedure applies to a variety of applications including, but not limited to review of applications for: permitted uses subject to standards, conditional use permits, and tentative partition and subdivision applications made pursuant to LC Chapter 13.

- (ii) Review and Decision.** Upon determination of completeness required by LC 14.050(1), Type II applications will be reviewed in accordance with the following procedures:
- (aa)** Notice of application will be mailed if required or elected by the Director or applicant, as provided in LC 14.060(1).
  - (bb)** At the conclusion of the comment period specified by the notice of application, or upon determination of application completeness if notice of application is not required or elected by the Director or applicant, the Director will review the application and written comments and prepare a written decision stating whether the application is approved, approved with conditions, or denied. The Director's decision will state the facts relied upon in rendering the decision. Approval or denial of an application must be based on applicable standards and criteria.
  - (cc)** Notwithstanding subsection (1)(b)(ii)(aa) and (bb), the Director may elect to process a Type II application through a Type III procedure in accordance with the ~~provisions-procedures~~ at subsection (1)(c) below if the application raises one or more of the following issues-:
    - (A)** An application raises an issue which is of countywide significance.
    - (B)** An application raises an issue which will reoccur with frequency on which policy guidance is needed.
    - (C)** An application involves a significant impact to an inventoried Goal 5 resource based upon evidence provided by a state or federal agency or by a private professional with expertise in the field of the resource of concern.
    - (D)** An application involves an existing use for which a compliance action is pending or with which a significant level of opposition is anticipated.
    - (E)** An application involves opposing legal arguments regarding unresolved interpretations of applicable state laws or regulations.
    - (F)** An application involves a contemplated use that would be a different kind

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of use than the uses of nearby properties and the owners of three or more nearby properties object to the use or request a hearing.

**(G)** An application involves a contemplated use that would result in a significant level of new commercial or industrial traffic, or ongoing truck traffic, on local roads in a residentially zoned area, or the introduction of noise, odors or dust into a residentially zoned area.

**(H)** At the discretion of the Director, if an applicant requests a Type III procedure and pays the additional required fee.

**(dd)** The Director will mail notice of a Type II decision in accordance with LC 14.060. Notice of decision should be mailed within two days.

**(ee)** Appeals of Type II decisions may be made requesting Director reconsideration or Hearings Official de novo review in accordance with the procedures at LC 14.080.

~~**(ee)**~~**(ff)** Appeals of Hearings Official decisions on Type II appeals requesting Hearings Official reconsideration may be made by a party or the Director. Requests to the Board for on-the-record review of Hearings Official decisions on Type II appeals may be made by the Director. Appeals requesting reconsideration and Planning Director requests for Hearings Official reconsideration or Board review must be made in accordance with the procedures at LC 14.080.

**(iii)** **Effective Date of Decision.** A Type II decision becomes final 12 days after the date the Director mails the notice of decision unless the decision is appealed in accordance with LC 14.080. If the decision is appealed, the effective date of the decision will be the date on which all County appeals are finalized or withdrawn. ~~If the Director's decision is appealed, the effective date of the decision will be the date on which all County appeals are finalized or withdrawn.~~The effective date of a Hearings Official decision will be the date on which all County appeals or reconsideration requests are withdrawn or 12 days after the Director mails written notice of the Hearings Official decision unless further appealed. If the Director requests on-the-record review by the Board, the effective date of the decision will be the date on which the request is withdrawn or a final County decision by the Board is issued.

~~**(iii)**~~**(iv)** Appeal to LUBA. Appeals of the final County decision by the Hearings Official or Board may be appealed to the Land Use Board of Appeals in accordance with ORS 197, as further described at LC 14.080(7).

### **(c) Type III Procedure**

**(i) Overview.** The Type III procedure involves interpretation and exercise of discretion when evaluating approval standards and criteria. Applications subject to a Type III procedure are more complex and development impacts may be more significant than Type II applications, warranting review through a public hearing. The Type III procedure involves public notice, a public hearing, decision by the

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Hearings Official unless otherwise specified by LC Chapter 16, and an opportunity for appeal ~~under LC 14.080~~requesting Hearings Official reconsideration by any party or request by the Director for Hearings Official reconsideration or on-the-record Board review.

- (ii) **Review and Decision.** Upon determination of completeness required by LC 14.050(1), Type III applications will be reviewed in accordance with the following procedures:
- (aa) Notice of public hearing will be mailed, and as required, posted and published, as provided in LC 14.060.
  - (bb) The Hearings Official will conduct a public hearing, in accordance with the applicable hearing procedures found at LC 14.070.
  - (cc) To the extent possible, the Hearings Official should issue to the Director a written decision and findings within 10 days of close of the hearing record and identify parties to the proceeding.
  - (dd) The Director will mail notice of the decision in accordance with LC 14.060. Notice of decision should be mailed within two days of issuance of the Hearings Official decision.
  - (ee) Appeals of Type III Hearings Official decisions requesting reconsideration may be made by any party. Reconsideration of a Hearings Official decision may be requested by the Director. Request to the Board for on-the-record review of Hearings Official decisions may be made by the Director. Appeals requesting reconsideration and Planning Director requests for Hearings Official reconsideration or Board review must be made in accordance with the procedures at LC 14.080. ~~may be made in accordance with pursuant to the procedures at LC 14.080.~~
- (iii) Effective Date of Decision.** A Type III decision becomes final 12 days after the date the Director mails the notice of decision unless the decision is appealed in accordance with LC 14.080. If the decision is appealed, the effective date of the decision will be the date on which all County appeals are finalized or withdrawn. If the Hearings Official decision is appealed or requested for reconsideration, the effective date of the affirmed or reconsidered Hearings Official decision will be the date on which all County appeals are withdrawn or 12 days after the Director mails written notice of the Hearings Official decision unless further appealed. If the Director requests on-the-record review by the Board, the effective date of the decision will be the date on which the request is withdrawn or a final County decision by the Board is issued.
- ~~(iii)~~**(iv) Appeal to LUBA.** Appeals of the final County decision by the Hearings Official or Board may be appealed to the Land Use Board of Appeals in accordance with ORS 197, as further described at LC 14.080(7).

**(d) Type IV Procedure**

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- (i) **Overview.** The Type IV procedure applies to the creation, revision, or broad-scale implementation of public policy, land use regulations, the comprehensive plan, or zoning maps, except that a change to zoning map independent of a post-acknowledgement plan amendment is subject to a Type III procedure. The Type IV procedure also includes plan diagram or policy amendments affecting specific properties. The Type IV procedure involves the evaluation of subjective review criteria and plan policies, public notice, a hearing before the Planning Commission and Board, final decision issued by the Board, and an opportunity to appeal. For a property specific Type IV application, hearings before the Planning Commission and Board will be quasi-judicial and the County is not required to render a final decision on these matters within the timelines of LC 14.050. A Type IV quasi-judicial application may be initiated by an owner or authorized agent according to LC 14.040. The Director may initiate a Type IV application without a privately-initiated application.
- (ii) **Review and Decision.** Upon determination of completeness, Type IV applications will be reviewed in accordance with the following procedures:
- (aa) Notice of Type IV public hearings will be mailed and published as provided in LC 14.060. Additionally, for a Type IV quasi-judicial application that concerns a specific property or properties, the applicant must post notice on the subject property and the County must mail notice of a Type IV quasi-judicial application in accordance with LC 14.060.
  - (bb) The Planning Commission will conduct a public hearing in accordance with the applicable procedures at LC 14.070 and make a recommendation to the Board.
  - (cc) The Board will conduct a public hearing in accordance with the applicable procedures at LC 14.070 and will issue a decision after considering the staff report, Planning Commission recommendation and public comment, and deliberating on the matter.
  - (dd) The Director will mail notice of the Board's decision in accordance with LC 14.060. Notice of a Type IV land use decision will be mailed to the applicant, all parties, and the Department of Land Conservation and Development within 20 days after the Board makes the decision. The Director will also provide notice to any person as required by other applicable laws.
  - ~~(ee) Appeals of final land use decisions issued by the Board may be appealed in accordance with the procedures in LC 14.080.~~
- (iii) Final Decision and Effective Date of Decision.** A decision on a Type IV application is final when reduced to writing, signed and mailed to those entitled to notice of decision. If approved, the decision will take effect on the effective date of the enacting ordinance. ~~If a Type IV ordinance is appealed, the effective date will be delayed until the proceedings before the Land Use Board of Appeals or the appellate courts have been completed and any County remand proceedings have been concluded and a new effective date determined via an ordinance approving the application.~~

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~~(iii)~~(iv) **Appeal to LUBA.** Appeals of the final County decision by the Board may be appealed to the Land Use Board of Appeals in accordance with ORS 197, as further described at LC 14.080(7).

- (2) **Consolidated Review of Applications.** When an applicant files more than one application concurrently for the same property or tract of land, the applicant may elect to consolidate the review of the concurrent applications. When review of concurrent applications subject to different procedure types is consolidated, all of the applications will be reviewed under the highest procedure type. When proceedings are consolidated, required notices may be consolidated, provided the notice identifies each application and cites their respective review criteria. When more than one application is reviewed, findings of fact must address each application and a decision must be made on each application.
- (3) **Limited Land Use Decision Procedure (only within UGBs).** All applications for limited land use decisions must be reviewed and decided by the Director through a Type II procedure and are also subject to the following requirements:
- (a) Notice of application must be mailed in accordance with LC 14.060(1)(a).
  - (b) Approval or denial of an application for a limited land use decision must be based upon and accompanied by a brief statement that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the standards, criteria, and facts set forth.
  - (c) A limited land use decision by the Director may be appealed to the Hearings Official in accordance with LC 14.080. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

#### 14.040 Application Requirements

- (1) **Minimum Submittal Requirements.** Applications for a Type I through Type IV procedure must be submitted on a form provided by the Director, address all applicable standards and criteria, and include the following materials and information:
- (a) Applications must include at least one hard copy of all application materials, no larger than 11 inch x 17 inch in size, and an electronic copy if required by LC 14.020(3)(b);
  - (b) All applicable information requested on the application form;
  - (c) Required filing fee, except that the required filing fee may not be required when Lane County initiates an application;
  - (d) Signature of each applicant;
  - (e) Signature of a property owner or property owner's authorized representative;
  - (f) Proof of property ownership by providing a certified or recorded copy of a deed, or land sale contract, or Lane County Tax Assessor's records;
  - (g) Assessor's map and tax lot number of the subject property;

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- (h) A site plan drawn to a standard engineer's scale, and conforming to the County's site plan submittal standards;
  - (i) Information demonstrating compliance with any applicable prior decisions and conditions of approval for the subject property;
  - (j) A written narrative clearly indicating what action is requested and addressing all applicable standards and criteria;
  - (k) Supporting information required to evaluate the application and address the applicable standards and criteria;
  - (l) A written statement indicating whether a railroad-highway crossing provides or will provide the only access to land that is the subject of an application; and
  - (m) Additional information needed to evaluate applicable standards and criteria.
- (2) **Fees Required.** In addition to any other applicable approval criteria, an approvable Type II or III application must be accompanied by the appropriate filing fee unless the Director authorizes a waiver or reduction to filing fees pursuant to Lane Manual Chapter 60.850.
- (3) **Determination of Application Requirements.** The Director may waive any of the requirements of subsection (1) above if deemed to be inapplicable to the application.
- (4) **Applicant's Burden.** It is the applicant's responsibility to provide evidence demonstrating that the application complies with all applicable standards and criteria.
- (5) **Modification of Application.** Once an application is deemed complete, an applicant may modify an application subject to the following provisions:
- (a) **Applicability.**
    - (i) A modification of application is a procedure required when an applicant submits:
      - (aa) Additional or revised application materials that include a new or substantially revised site plan; or
      - (bb) Written materials that include or require substantial new findings of fact.
    - (ii) A modification of application does not apply to:
      - (aa) An applicant's submission of new evidence or proposed conditions of approval that merely clarify or support the pending application;
      - (bb) Reductions to the scope of the project to mitigate project impacts where such reductions do not involve the siting of proposed development closer to adjoining properties or Goal 5 inventoried resources, or relocation of the proposed access or circulation pattern; or
      - (cc) Type I applications.

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**(b) Requirements.** The Director or hearing authority will not consider information submitted by or on behalf of an applicant that would constitute a modification of application unless the applicant first submits a request that complies with the following:

**(i)** The request includes:

**(aa)** A completed application form that has been signed by the applicant and owner, and that describes the modification of application requested;

**(bb)** The required fee;

**(cc)** Any modified application materials; and

**(dd)** Written authorization for an extension of applicable timelines pursuant to LC 14.050(2) that is effective as of the date the modification of application is submitted and that corresponds with the amount of time calculated between the date of application completeness and the date of the modification of application request. Any such timeline extension must also comply with subsection (5)(b)(ii) below.

**(ii)** The applicable time limit for final review for an application may be extended as many times as there are modification of applications submitted, subject to the limitations, exceptions, and clarifications in ORS 215.427. The total of all extensions may not exceed 215 days per ORS 215.427(5).

**(iii)** The modification of application may be submitted up until the issuance of a Type II Director decision, or close of the open record period allowing submittal of new information for an application reviewed under a Type III or IV hearing procedure, but in no case may it be submitted later than the 215<sup>th</sup> day after the date the application was deemed complete.

**(c) Procedure.**

**(i)** A modification of application will be processed under the same procedure type as the original application.

**(ii)** The Director or hearing authority may require additional notice and if applicable, public hearing.

**(iii)** For Type II applications that do not involve a public hearing, or for procedure types requiring public hearing up until the date and time a hearing is opened for receipt of oral testimony on an application, the Director will have the sole authority to determine whether an applicant's submittal constitutes a modification of application. After such time for procedures that involve a public hearing, the hearing authority will make such determinations. The determination of whether a submittal constitutes a modification of application will be appealable only after a decision is entered on the application.

**(6) — New Application.** If an application is modified in such a manner that approval for a different land use is requested or a different set of approval criteria or development standards apply, a

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new application will be required. The new application will be subject to all submittal and processing requirements of this Chapter applicable to the procedure type. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

(6)

#### 14.050 Completeness Review and Time Limits

- (1) **Type II or III Completeness Review.** Within 30 days of a Type II or Type III application being received, the Director will evaluate the application for completeness in accordance with subsections (a) through (e) below.
- (a) An application submitted to the Director will not be considered accepted solely because of having been received. Upon receipt of an application, the Director will date stamp the application and verify that the appropriate application fee and materials have been submitted before accepting the application. Acceptance of an application will not preclude a later determination that the application is incomplete.
  - (b) Applications will be evaluated for completeness with applicable application requirements of LC 14.040.
  - (c) **Supplementation of Application within First 30 days of Submittal.** An applicant may not submit any supplemental information for an application within the first 30 days following acceptance of the application or until the application has been deemed complete, whichever is first, except when requested or otherwise authorized by the Director. Any supplemental information submitted by an applicant in violation of this section will not be considered in determining whether the application is complete and will be returned to the applicant.
  - (d) **Complete Application.** An application will be deemed complete if the application requirements have been fully satisfied upon initial filing or through the procedures set forth in subsection (1)(e)(i) - (iii) below. When the Director deems the application complete, the Director will notify the applicant in writing. If the Director has not issued in writing a completeness determination within 30 days from the date the application is received by the Director, the application is automatically deemed complete on the 31<sup>st</sup> day after it was received.
  - (e) **Incomplete Application.** If an application is incomplete, the Director will notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information within the timeframe set forth in subsection (1)(f) below. The application will be deemed complete upon receipt by the Director of:
    - (i) All of the missing information;
    - (ii) Some of the missing information and a written notice from the applicant that no other information will be provided; or
    - (iii) Written notice from the applicant that none of the missing information will be provided.

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(f) **Void Applications.** On the 181st day after first being submitted, an incomplete application is void if the applicant has been notified of missing information and the application has not been deemed complete in accordance with subsection (1)(e)(i) - (iii) above.

~~(g)~~ **Applicable Standards and Criteria.** If an application was complete when first submitted or the applicant submits additional information in accordance with subsection (1)(e) above within 180 days of the date the application was first submitted, review of the application will be based upon the standards and criteria that were applicable at the time the application was first submitted.

~~(g)~~

(2) **Time Limit.** Subject to the limitations, exceptions and clarifications in ORS 215.427 and except as provide in subsection (1) above, the County must take final action, including resolution of all appeals under ORS 215.422, within the timelines set forth in subsections (2)(a) to (d) below. Violation of these timelines does not constitute a procedural error by the County, but provides the applicant with the remedy set forth in ORS 215.429.

(a) For land within an urban growth boundary and applications for mineral aggregate extraction the County must take final action on an application for a permit, limited land use decision, or zone change, within 120 days after the application is deemed complete.

(b) For applications for new telecommunication towers or collocations, the County must take final action within any applicable time limit set forth by the Federal Communications Commission or within a timeframe mutually agreed upon by the County and the applicant in accordance with FCC ruling, as applicable.

(c) For all other applications, the County must take final action within 150 days after an application for a permit, limited land use decision, or zone change is deemed complete.

(d) The time periods specified in subsection (2)(a) and (c) above may be extended for a specified time period at the written request of the applicant, subject to the limitations of ORS 215.427(5).

(e) The time periods in subsection (2)(a) and (c) do not apply to a Type IV decision changing an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

## 14.060 Notice Requirements

### (1) Notice of Application

(a) **Special Notice for Limited Land Use Decision.** For a limited land use decision, written notice of the application must be mailed to owners of property within 100 feet of any part of the tract for which the application is made and to any neighborhood or community organization recognized by the Board and whose boundaries include the site, and to any transportation agencies, such as Oregon Department of Transportation, whose facilities or services may be affected by the proposed action. The notice must

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provide at least a 14 day period for submission of written comments prior to the decision. The notice must include the information required by subsection (5).

- (b) **Optional.** Notice of a Type II application may be mailed in accordance with subsections (4) and (5) below. Notwithstanding subsections (4) and (5) below, the Director may choose to mail notice of the application only to affected governmental agencies. The notice will provide at least a 15 day period for submission of written comments prior to the decision. This provision does not preclude an applicant's ability to request notice of application.
- (c) **Special Notice and Review Requirements for a Dwelling in the EFU Zone.** For an application for a dwelling on EFU-zoned land in accordance with LC 16.212(7)(g), the Director must provide notice of application consistent with the following.
- (i) The notice of application must be mailed in accordance with subsections (4) and (5) below and to:
- (aa) Owners of land that is within 750 feet of the lot or parcel on which the dwelling will be established; and
- (bb) Any person who requested notice of such applications and who paid a reasonable fee established by the County to cover the cost of such notice.
- (ii) The notice required under this section must specify that there are 15 days following the date of the postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in or significantly increase the costs of accepted farming practices on nearby lands devoted to farm use.
- (iii) If no objection based on the grounds identified in subsection (1)(c)(ii) above is received within 15 day notice period, the Director must approve, approve with conditions, or deny the application. If an objection is received based on the grounds identified in (1)(c)(ii) above, the Director must set the matter for a hearing and process the application through a Type III procedure.
- (iv) The costs of the notice required by subsection (1)(c)(i) of this section may be charged to the applicant.
- (d) **Special Notice to Railroad Company upon Certain Applications for Land Use Decision, Limited Land Use Decision or Expedited Land Use Decision**
- (i) As used in this section, the term "railroad company" includes every corporation, company, association, joint stock association, partnership or person, and their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating, controlling or managing any railroad.
- (ii) The Director must provide notice of application, in accordance with the timelines established in this section in accordance with subsections (4) and (5) below to the Oregon Department of Transportation and the railroad company if the applicant indicates that a railroad-highway crossing provides or will provide the only access

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to land that is the subject of the application for a land use decision, limited land use decision, or expedited land division.

- (e) **Timing of Notice of Application.** Notice of application provided pursuant to subsection (1)(a) to (d) will be mailed after determination that the application is complete in accordance with LC 14.050(1).

**(2) Notice of Public Hearing**

- (a) **Mailed Notice for a De Novo Hearing.** Mailed notice of a de novo public hearing containing the information required by subsection (5) below will be provided as follows:
- (i) **Type III.** The Director must mail notice of hearing on a Type III application at least 20 days prior to the public hearing date. Notice of public hearing will be mailed to the persons and agencies listed in subsection (4) below.
  - (ii) **Type IV.** At least 20 days before the date of the first Type IV public hearing, notice of public hearing will be mailed to:
    - (aa) The applicant;
    - (bb) Each owner whose property would be directly affected by the proposal.
    - (cc) Any affected governmental agency;
    - (dd) To any transportation agencies, such as Oregon Department of Transportation, whose facilities or services may be affected by the proposed action; and
    - (ee) Any person who requests notice in writing of a specific application.
    - (ff) For a Type IV quasi-judicial application, notice must be mailed to the persons and agencies listed at subsection (4)(a).
- (b) **Mailed Notice for an On-the-Record Hearing.** Mailed notice of an on-the-record hearing will be provided as follows:
- (i) The Director must mail notice of an on the record hearing at least 10 days prior to the hearing date. Notice of hearing will be mailed to:
    - (aa) Applicant;
    - (bb) Property owner;
    - (cc) Appellant (if applicable); and
    - (dd) Any party to the application.
  - (ii) The notice will include the information required by subsection (5) below as applicable, a statement regarding the purpose of the hearing ~~and whether~~

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~~additional limited testimony under LC 14.080(4)(d)(vii) will be allowed or limited to the record, and the names of parties who may participate in the Board hearing, and if the information is available at the time of notice, a statement indicating whether additional limited testimony under LC 14.080(5)(c)(ii) will be allowed or limited to the record.-~~

- (c) **Remand Notice.** Notice of a Land Use Board of Appeals (LUBA) remand hearing conducted pursuant to Lane Code 14.100 will be provided as follows:
- (i) The Director must mail notice of a remand hearing at least ~~40~~20 days prior to first evidentiary hearing on the remand.
  - (ii) Notice of the hearing will be mailed to:
    - (aa) Applicant;
    - (bb) Property owner;
    - (cc) Parties to the application who appeared before the approval authority that issued the previous final County decision; and
    - (dd) Any petitioner, respondent, or intervenor of the LUBA appeal.
  - (iii) The notice will include the information required by subsection (5) below as applicable, a description of specific issues identified in the remand final order as the basis for the remand, and a statement indicating whether any additional testimony and evidence may be submitted and if so, that additional testimony and evidence must be limited to specific issues identified in the remand final order.
- (d) **Posted Notice**
- (i) For Type III and IV applications that involve a specific property or properties, at least 14 days before the first hearing, not including an appeal hearing, the applicant must post a notice of the hearing on the subject property. The sign must be posted in clear view from a public right-of-way where feasible. Posted notice must be on a sign provided by the Director. The design of the sign will be prescribed by the Director, but must be at least 22 inches by 28 inches in size and have a brightly colored background. The posted notice will contain the following information:
    - (aa) Identification of the hearing authority
    - (bb) Time, date, and location of the first hearing;
    - (cc) Department file number;
    - (dd) General nature of the proposal; and
    - (ee) Where more information may be obtained.

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- (ii) Prior to the public hearing, the applicant must submit to the Director an affidavit of posting indicating that the notice was posted in accordance with this subsection.
- (iii) The applicant must remove and lawfully dispose of the sign within 14 days of the close of the public hearing.

**(e) Published Notice of Hearing**

- (i) At least 21 days before the first hearing for zone change and/or plan amendment application, the Director must publish notice of the hearing in a newspaper of general circulation. The notice provisions of this section does not restrict the giving of notice by additional means, including mail, radio, and television. The published notice will contain the same information required in subsection (5)(d) below as applicable.
- (ii) For an on the record hearing on a zone change, published notice must be provided in the same manner as described above, except that notice must be published at least 10 days before the first on the record hearing.

**(3) Notice of Decision.** A notice of a decision will be mailed to the persons identified in (4) below. The notice of decision will contain the information identified in (5) below.

**(4) Mailing List**

- (a) When notice of an application is sent in accordance with LC 14.060(1)(b) above, and for notice of a Type II decision, a Type III hearing, or a Type IV quasi-judicial hearing, notice will be mailed to the following persons:
  - (i) Applicant;
  - (ii) Property owner;
  - (iii) Appellant (if applicable);
  - (iv) Owners of record of properties on the most recent property tax assessment roll where such property is located:
    - (aa) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
    - (bb) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
    - (cc) Within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.
  - (v) Any neighborhood group or community organization recognized by the governing body as specified in Lane Manual Chapter 3 and whose boundaries include the site;

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- (vi) Any person who submits a written request to receive a notice of the specific application;
  - (vii) Any person who requests and remits payment for an annual subscription for notice per Lane Manual for a specific type of application involved;
  - (viii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County and any other affected governmental agencies. At a minimum, the Director will notify the road authority if different than Lane County. The failure of another agency to respond with written comments on a pending application will not invalidate a permit or land use decision issued by the Director or Hearings Official; and
  - (ix) For a notice of decision, appeal, or Type IV hearing: any person who appeared either orally or in writing before the approval authority or prior hearing authority.
- (b) A notice of a Type IV legislative hearing or Type III or IV decision must be mailed to the following persons:
- (i) Applicant;
  - (ii) Property owner (if applicable);
  - (iii) Appellant (if applicable);
  - (iv) Any party to the application;
  - (v) Any person who submits a written request to receive a notice of the specific application or specific type of application involved; and
  - (vi) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County and any other affected governmental agencies. At a minimum, the Director will notify the road authority if different than Lane County. The failure of another agency to respond with written comments on a pending application will not invalidate an action or permit approval made by the hearing authority under this Code

(5) **Mailed Notice Content.** Any mailed notice of application, decision, or public hearing must contain information in subsection (5)(a) below, and where applicable, the additional information specified in subsection (5)(b) through (e).

(a) **Minimum Content Required**

- (i) Identification of the application by department file number;
- (ii) Identification of the property owner, and if different than the owner, the applicant and/or the applicants or owners authorized representative;

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- (iii) Identification of appellant (if applicable);
  - (iv) Identification of the address and assessor's map and tax lot number of, or other easily understood geographical reference to, the subject property and any contiguous properties in the same ownership;
  - (v) Explanation of the nature of the application and the proposed use or uses which could be authorized by the decision;
  - (vi) List of the applicable standards and criteria, by commonly used citation, from the applicable comprehensive plan that apply to the application and decision;
  - (vii) Name, phone number, and email of the department representative to contact to obtain additional information;
  - (viii) Statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, applicable standards and criteria, and a copy of any staff report are available for inspection at no cost and copies will be provided at reasonable cost; and
  - (ix) Statement that "NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE FORWARDED TO THE PURCHASER."
- (b) **Content for Notice of Application.** In addition to the information required by subsection (5)(a) above, a mailed notice of application for a Type II application must contain the following information:
- (i) Place, date, and time that comments are due;
  - (ii) A general explanation of the requirements for submission of testimony;
  - (iii) State that issues that may provide the basis for an appeal must be raised in writing with sufficient specificity to enable the Director to respond to the issue prior to the expiration of the comment period; and
  - (iv) Statement that after the close of the comment period, the Director will issue and provide notice of the decision to persons who provided written comments or are otherwise legally entitled to notice of decision.
- (c) **Content for Notice of Limited Land Use Application.** In addition to the information required by subsection (5)(a) and (b)(i)-(ii) above, a mailed notice of application for a limited land use decision must provide a brief summary of the local decision making process for the limited land use decision being made.
- (d) **Content for Notice of Public Hearing.** In addition to the information required by subsection (5)(a)(i)-(ix) above, mailed notice of public hearing must contain the following information:
- (i) The time, date, and location of the hearing;

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- (ii) Identification of which hearing authority will conduct the public hearing;
  - (iii) A statement that failure to raise an issue in a hearing, in person or in writing, or failure to provide statements or evidence sufficient to afford the hearing authority an opportunity to respond to the issue, precludes the ability to appeal to the Land Use Board of Appeals on that issue;
  - (iv) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and copies will be provided upon request at a reasonable cost; and
  - (v) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (e) **Content for Notice of Decision.** In addition to the information required by subsection (5)(a) above, a mailed notice of decision must contain the information listed below. The notice may be a summary, provided it references the specifics of the proposal and the conditions of approval in the record.
- (i) Description of the nature of the decision;
  - (ii) Statement of where a copy of the decision can be obtained;
  - (iii) Statement of how to appeal the decision;
  - (iv) Deadline for an appeal;
  - (v) Date the decision will become final, unless appealed; and
  - (vi) For a Type II decision:
    - (aa) Statement that the decision will not become final until the period for filing a local appeal has expired;
    - (bb) Statement that any person who is adversely affected or aggrieved or who is entitled to notice of decision may appeal the decision by filing a written appeal; and
    - (cc) Statement that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals.
- (6) **Additional Notice.** Mailed, posted, or published notice may be provided that exceeds the requirements of this chapter. The requirements for notice must not restrict additional notification considered necessary or desirable by the Board of Commissioners, Planning Commission, or Director for any reason. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

#### 14.070 Public Hearings Process

- (1) **Staff Report.** At least seven days prior to a public hearing, the Director will provide a staff report to the hearing authority and parties to the application, and make it available to the

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public upon request. If the report is not provided by such time, the hearing will be held as scheduled, but any party may at the hearing or in writing prior to the hearing request a continuance of the hearing to a date certain that is at least seven days after the date the staff report is provided. The granting of a continuance under these circumstances will be at the discretion of the hearing authority.

### (2) Personal Conduct

- (a) No person may be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- (b) No person may testify without first receiving recognition from the hearing authority and stating their full name and address.
- (c) No person may present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- (d) Audience demonstrations such as applause, cheering, and display of signs, or other conduct disruptive of the hearing are not permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of the offender from the hearing.

### (3) Limitations on Oral Presentations.

The hearing authority may set reasonable time limits on oral testimony.

### (4) Appearing.

Any interested person may appear either orally before the close of a public hearing or in writing before the close of the written record, except that for an on the record hearing, persons who may appear are limited to those described at LC 14.080(54)(cd)(vii). Any person who has appeared in the manner prescribed in LC 14.080(54)(cd)(vii) will be considered a party to the proceeding.

### (5) Disclosure of Ex Parte Contacts

- (a) Any member of a hearing authority for a quasi-judicial application must reasonably attempt to avoid ex parte contact. As used in this section, ex parte contact is communication directly or indirectly with any party or their representative outside of the hearing in connection with any issue involved in a pending hearing except upon notice and opportunity for all parties to participate. Should a hearing authority member engage in ex parte contact, that member must:
  - (i) Publically announce for the record at the hearing the substance, circumstances, and parties to such communication;
  - (ii) Announce that other parties are entitled to rebut the substance of the ex parte communication during the hearing; and
  - (iii) State whether they are capable of rendering a fair and impartial decision.
- (b) If the hearing authority or member thereof is unable to render a fair and impartial decision, or recommendation in the case of the Planning Commission, they must recuse themselves from the proceedings.

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- (c) Communication between the Director and the hearing authority or a member thereof is not considered an ex parte contact.
- (6) **Disclosure of Personal Knowledge.** If any member of a hearing authority uses personal knowledge acquired outside of the hearing process in rendering a decision, they must state the substance of the knowledge on the record.
- (7) **Site Visit.** For the purposes of this section, a site visit by any member of a hearing authority will be deemed to be personal knowledge. If a site visit has been conducted, the hearing authority member must disclose their observations and conclusions gained from the site visit.
- (8) **Challenge for Bias, Prejudgment, or Personal Interest.** Prior to or at the commencement of a hearing, any party may challenge the qualification of any member of the hearing authority for bias, prejudgment, or personal interest. The challenge must be made on the record and be documented with specific reasons supported by facts. Should qualifications be challenged, that hearing authority member must either recuse themselves from the proceedings, or make a statement on the record that they can make a fair and impartial decision and will hear and rule on the matter.
- (9) **Potential Conflicts of Interest.** No member of the hearing authority may participate in a hearing or a decision upon an application when the effect of the decision would be to the private pecuniary benefit or detriment of the member or the member's relative or any business in which the member or a relative of the member is associated unless the pecuniary benefit arises out of:
- (a) An interest or membership in a particular business, industry occupation or other class required by law as a prerequisite to the holding by the member of the office or position;
  - (b) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the member's relative is associated, is a member or is engaged; or
  - (c) The decision, or recommendation in the case of the Planning Commission, would affect to the same degree a class consisting of an industry, occupation or other group in which the member or the member's relative or business with which the member or the member's relative is associated, is a member or is engaged.
- (10) **Qualification of a Member of the Hearing Authority Absent at a Prior Hearing.** If a member of the hearing authority was absent from a prior public hearing on the same matter which is under consideration, that member will be qualified to vote on the matter if the member has reviewed the record of the matter in its entirety and announces, prior to participation that this has been done. If the member does not review the record in its entirety, that member must not vote and must abstain from the proceedings.
- (11) **Hearing Authority's Jurisdiction.** In the conduct of a public hearing, the hearing authority will have the jurisdiction to:
- (a) Regulate the course, sequence and decorum of the hearing.

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- (b) Decide procedural requirements or similar matters consistent with this chapter.
  - (c) Rule on offers of proof and relevancy of evidence and testimony and exclude repetitious, immaterial, or cumulative evidence.
  - (d) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, and rebuttal testimony.
  - (e) Take such other action appropriate for conduct of the hearing.
  - (f) Grant, deny, or in appropriate cases, attach such conditions to the matter being heard to the extent allowed by applicable law and that may be necessary to comply with the applicable approval criteria or in appropriate cases, formulate a recommendation for the Board.
  - (g) Continue the hearing to a date certain as provided at LC 14.070(17).
  - (h) Allow the applicant to withdraw and cancel the application. Subsequent to the cancellation of the application, if the applicant wishes to proceed with the same or different proposal requiring a land use application, a new application may be submitted and the new application must be processed in compliance with all the provisions of this chapter.
- (12) Hearing Procedures.** At the commencement of a hearing, the hearing authority must state to those in attendance all of the following information and instructions:
- (a) Date of the hearing;
  - (b) Department file number;
  - (c) Nature, purpose, and type of the hearing;
  - (d) When applicable, the parties that may participate in the hearing and/or issues to which the hearing is limited;
  - (e) Identification of the address and assessor's map and tax lot number of, or other easily understood geographical reference to, the subject property, if applicable;
  - (f) Order of the proceedings, including reasonable time limits on oral presentations by parties;
  - (g) For a quasi-judicial application, a statement disclosing any pre-hearing ex parte contacts;
  - (h) For a Type III or IV procedure, a statement disclosing any personal knowledge, bias, prejudice, or personal interest on the part of the hearing authority;
  - (i) Call for any challenges to the hearing authority's qualifications to hear the matter. Any such challenges must be stated at the commencement of the hearing, and the hearing authority must decide whether they can proceed with the hearing as provided in

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subsection (9) above;

- (j) List of the applicable approval standards and criteria for the application;
  - (k) Statement that testimony, arguments, and evidence must be directed toward applicable approval standards and criteria, or other standards and criteria in the Lane County land use regulations or comprehensive plan that the person testifying believes to apply to the decision;
  - (l) Statement that failure to raise an issue accompanied by statements or evidence with sufficient detail to give the hearing authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;
  - (m) Statement that the failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the hearing authority to respond to the issue precludes an action for damages in circuit court;
  - (n) Statement that prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The hearing authority must grant the request by either continuing the public hearing or leaving the record open for additional written evidence, arguments, or testimony in accordance with subsection (17) below; and
  - (o) Statement that the decision of the approval authority may be appealed in accordance with LC 14.080.
- (13) Order of Proceeding.** In the conduct of a public hearing other than an on the record hearing, the following order of procedure will generally be followed. However, the hearing authority may modify the order of proceeding.
- (a) The Director will present the staff report;
  - (b) The applicant will be heard first;
  - (c) Allow persons in favor of the proposal to be heard;
  - (d) Allow persons neither in favor or opposed of the proposal to be heard;
  - (e) Allow persons opposed to the proposal to be heard;
  - (f) Allow the Director to present any further comments or information in response to the testimony and evidence;
  - (g) Allow the applicant final rebuttal; and
  - (h) Conclude the hearing.
- (15) Questions.** The hearing authority at any point during the hearing may ask questions of the Director or parties. Questions by parties, interested persons, or the Director may be allowed by the hearing authority at their discretion. Questions must be directed to the hearing

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authority. Questions posed directly to the Director or any party are not allowed. The hearing authority may allow questions to be answered by the Director or a party if a question pertains to them. They will be given a reasonable amount of time to respond solely to the question.

- (16) Presenting and Receiving Evidence.** No oral testimony will be accepted after the close of the hearing. Written testimony may be received after the close of the hearing only in accordance with subsections (17) through (19) below.
- (17) Continuances and Leaving the Record Open.** If the hearing is an initial evidentiary hearing, prior to the conclusion of the hearing any participant may request an opportunity to present additional evidence or testimony regarding the application. The hearing authority must grant such request by continuing the public hearing in accordance with subsection (17)(a) below or leaving the record open for additional written evidence, arguments, or testimony in accordance with subsection (17)(b) below.
- (a)** If the hearing authority grants a continuance, the hearing must be continued to a date, time, and place certain that is at least seven days after the date of the initial evidentiary hearing. An opportunity must be provided at the continued hearing for persons to present and respond to new evidence, arguments, or testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments, or testimony for the purpose of responding to the new written evidence.
  - (b)** If the hearing authority leaves the record open for additional written evidence, arguments, or testimony, the record must be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such request is filed, the hearing authority must reopen the record in accordance with subsection (19) below.
  - (c)** A continuance or leaving the record open (extension) granted under this section is subject to the applicable time limit for processing the application, unless the continuance or extension is requested or agreed to by the applicant, in which case the continuance or extension will result in a corresponding extension of the applicable time limit. A continuance or extension to the applicable timeline is subject to the total time limit set in LC 14.050(2).
  - (d)** Unless waived by the applicant, the hearing authority must grant the applicant at least seven days after the record is closed to all other parties to submit final written argument in support of the application, excluding new evidence. The applicant's final rebuttal will be considered part of the record, but must not include any new evidence. This seven-day period will not be counted toward the applicable time limit for processing the application.
  - (e)** At the discretion of the Director, if prior to the initial public hearing, or at the discretion of the hearing authority if at the hearing, an applicant may receive a continuance upon any request for a continuance if accompanied by a corresponding extension of the applicable time limit subject to the total time limit set forth in LC 14.050(2), and the applicable fee.

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- (18) Rescheduling.** In the event that a noticed public hearing must be rescheduled due to an emergency situation, the rescheduling of the meeting will constitute sufficient notice of a public hearing provided the following minimum procedures are observed:
- (a)** Notice is posted on the door of the building in which the hearing is scheduled advising of the cancellation and the date, time, and place for the rescheduled meeting or that new notice will be sent indicating that new date, time, and place.
  - (b)** Reasonable attempts are made prior to the scheduled hearing to announce the cancellation and rescheduling by direct communication to applicants and known interested parties and through available news media to the general public.
- (19) Re-opening the Record.** When the hearing authority re-opens the record to admit new evidence, arguments, or testimony, the hearing authority must allow people who previously participated in the hearing to request the hearing record be re-opened, as necessary, to present evidence concerning the newly presented facts. Upon announcement by the hearing authority of their intention to take notice of such facts in its deliberations, any person may raise new issues which relate to the new evidence, arguments, testimony, or standards and criteria which apply to the matter at issue.
- (20) Record of the Hearing.** The hearing authority will consider only facts and arguments in the hearing record; except that it may consider laws and legal rulings not in the hearing record (e.g., local, state, or federal regulations; previous department decisions; or case law).
- (a)** The hearing record will include all of the following information:
    - (i)** All oral and written evidence submitted to the hearing authority;
    - (ii)** All materials submitted by the Director to the hearing authority regarding the application;
    - (iii)** A recording of the hearing;
    - (iv)** The final written decision; and
    - (v)** Copies of all notices given as required by this chapter and correspondence regarding the application that the Director mailed or received.
  - (b)** All exhibits presented will be kept as part of the record and marked to show the identity of the person offering the exhibit. Exhibits will be numbered in the order presented and will be dated.
- (21) Conclusion of Hearing**
- (a)** After the close of the hearing record, the hearing authority may either make a decision and state findings which may incorporate findings proposed by any party or the Director, or take the matter under advisement for a decision to be made at a later date. If the Planning Commission is the hearing authority, it will make a recommendation with findings to the Board in lieu of issuing a decision.

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- (b) The hearing authority may request proposed findings and conclusions from any party at the hearing. The hearing authority, before adopting findings and conclusions, may circulate them in draft form to parties for written comment.
- (c) The decision and findings must be completed in writing and signed by the hearing authority within ten days of the closing of the record for the last hearing. A longer period of time may be taken to complete the findings and decision if the applicant provides written consent to an extension to any applicable timelines in which the County must process the application for an amount of time that is equal to the amount of additional time it takes to prepare the findings.

**(22) Decision and Findings Mailing.** Upon a written decision adopting findings being signed by the approval authority, the Director will mail to the applicant and all parties a copy of the decision and findings, or if the decision and findings exceed five pages, the Director will mail notice of the decision. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**14.080 Appeals**

**(1) Appeal ~~Filing Procedures~~Requirements.** ~~Appeals of~~ A person or party identified in subsection (1)(a) may initiate an appeal of a Type II ~~and or~~ III decision by filing a notice of appeals may be filed under this section. Appeals must comply with subsection (1)(a) through ~~(de)~~ below. The requirements of ~~this section-subsection (1)(a) through (c)~~ are jurisdictional and must be satisfied as a requirement for the Director to accept the appeal in accordance with subsection (2)(a).

**(a) ~~Who May Appeal~~Allowable Appeals.**

(i) Type I. Type I determinations may not be appealed at the County level except as otherwise provided in Lane Code, or if found to constitute a permit and authorized by the Director. Where found to constitute a land use decision, the appeal will be processed in the same manner as an appeal of a Type II decision.

~~(i)(ii)~~ (ii) Type II. A Type II decision issued by the Director for which a hearing has not been held may be appealed by:

**(aa)** A person who is entitled to written notice under LC 14.060; or

~~(bb)~~ (bb) Any person who is adversely affected or aggrieved by the application; ~~or~~

~~(iii)~~ (ii) Hearings Official Decision on Type II Appeal. Appeals of Hearings Official decisions on Type II appeals requesting Hearings Official reconsideration may be made by any party, or reconsideration may be requested by the Director. Requests for Board review of Hearings Official decisions on Type II appeals may be made by the Director.

(iv) Type III. Appeals of Type III Hearings Official decisions requesting Hearings Official reconsideration may be made by any party, or reconsideration may be requested by the Director. Requests for Board review of Type III Hearings Official decisions may

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be made by the Director. ~~For other decisions, any party may appeal.~~

- (b) **Time for Filing Deadline.** A notice of appeal ~~in accordance with subsection (1)(e) below~~ must be filed with the Director prior to the end of business on the 12<sup>th</sup> day after the date the notice of decision is mailed.
- (c) **Content of Notice of Appeal Requirements.** A notice of appeal must:
- (i) Be submitted in writing on a form provided by the Director, and signed by the appellant or their authorized representative;
  - (ii) Be received by the Director within the appeal period;
  - (iii) Be accompanied by the required filing fee in all circumstances except as provided in subsection (3)(a)(iii) or (4)(~~de~~)(iv) below;
  - (iv) Identify the decision being appealed, including the date of the decision and the department file number for the decision;
  - (v) Include a statement demonstrating the person filing the notice of appeal is ~~a party, if required by~~ entitled to file the appeal, consistent with subsection (1)(a) above; and
  - ~~(vi) Include a statement explaining the specific issues being raised on appeal with sufficient specificity to afford the approval authority the opportunity to resolve each issue raised;~~
  - ~~(vii) Provide an explanation with detailed support specifying one or more of the following as assignments of error or reasons for reconsideration;~~
    - ~~(aa) The Director or Hearings Official exceeded their jurisdiction;~~
    - ~~(bb) The Director or Hearings Official failed to follow the procedure applicable to the matter;~~
    - ~~(cc) The Director or Hearings Official rendered a decision that is unconstitutional;~~
    - ~~(dd) The Director or Hearings Official misinterpreted the Lane Code or Lane Manual, state law or federal law, or other applicable standards and criteria; or~~
    - ~~(ee) Reconsideration of the decision is requested in order to submit additional evidence not available in the record at the hearing and addressing compliance with relevant standards and criteria.~~
  - ~~(viii)~~(vi) A notice of appeal requesting reconsideration of a ~~Type III~~ Hearings Official decision must also demonstrate that the appeal can be reviewed within the applicable time limits of LC 14.050(2). ~~include the following:~~
    - ~~(aa) Statement indicating whether the issue raised in the appeal to the Board was raised before the close of the record and whether the appellant wishes the application to be approved, denied, or conditionally approved. Unless~~

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~~otherwise allowed by LC 14.080(4)(c)(ii), (c)(iii), (d)(vii)(bb), or (d)(vii)(cc), an appeal of a Type III decision must be limited to issues raised in the below proceeding before the close of the record.~~

~~(d) A written request that the Board conduct an on-the-record hearing or that the Board not conduct an on-the-record hearing on the appeal and deem the Hearings Official decision the final decision of the County pursuant to LC 14.080(4)(d).~~ **Appeal Statement.** In addition to the appeal requirements of subsection (1)(a) through (c) above, the notice of appeal should include the items listed under (1)(d)(i) and (ii) below. The requirements of subsection (1)(d)(i) and (ii) below are not jurisdictional and will not be interpreted as a basis for appeal rejection under subsection (2)(b)(i).

(i) A written statement explaining the issues being raised on appeal with sufficient specificity to afford the approval authority the opportunity to respond to each issue raised.

(ii) A written explanation with detailed support specifying one or more of the following as assignments of error or reasons for reconsideration;

(aa) The Director or Hearings Official exceeded their jurisdiction;

(bb) The Director or Hearings Official failed to follow the procedure applicable to the matter;

(cc) The Director or Hearings Official rendered a decision that is unconstitutional;

(dd) The Director or Hearings Official misinterpreted the Lane Code or Lane Manual, state law or federal law, or other applicable standards and criteria; or

(ee) Reconsideration of the decision is requested in order to submit additional evidence not available in the record at the hearing and addressing compliance with relevant standards and criteria.

~~(bb)~~ **(e) Director’s Request.** Notwithstanding (1)(c)(i) – (vi) and (d), a request by the Director to the Hearings Official for reconsideration or to the Board for on the record review will be filed upon mailing of written notice to parties of record. The notice will identify the decision being appealed and provide a summary of appeal issues.

**(2) Director Review of Appeal.** Within two days of receiving any appeal filed under subsection (1)(c), the Director must review the appeal to determine if it ~~was received within the 12-day appeal period and if it~~ satisfies all of the requirements of ~~LC 14.080~~ subsection (1)(a)-(c) above. ~~The Director will either accept or reject the appeal as follows:~~ according to subsection (2)(a) or (b) below.

**(a) Appeal Acceptance.**

(i) If an appeal is timely and satisfies all the requirements of LC 14.080(1)(a)-(c), the Director must accept and process the appeal.

(ii) Appeals not rejected by the Director within two days of receipt pursuant to

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subsection (2)(b)(i) are deemed accepted.

~~(a)(iii)~~ The Director must mail notice of acceptance of an appeal of a Type II or III decision within two days of appeal acceptance to the applicant, applicant's representative, and if different than the applicant, the appellant. As applicable, the notice must state the tentative hearing date for the appeal and the requirements of this chapter for submission of written materials prior to the hearing.

**(b) Appeal Rejection.**

—The Director must reject an appeal and mail notice to the appellant that it was rejected if:

~~(i) The appeal does not satisfy the~~ requirements of LC 14.080(1)~~(a)-(c) are not satisfied.~~

~~(ii) If the appeal is made within the appeal period, but does not satisfy the requirements of LC 14.080(1), the Director may reject the appeal and mail to the appellant a written statement identifying the deficiencies of the appeal. The notice of rejection of an appeal must be mailed within two days of appeal filing and must identify the deficiencies of the appeal.~~

~~(iii) The appellant may correct the deficiencies and re-submit the appeal if the resubmission is received by the Director within the 12-day appeal period. Failure to correct the deficiencies within the original appeal period will waive the right to appeal.~~

~~(iv) Appeals not rejected by the Director within two days of receipt will be deemed accepted.~~

~~(e) The Director must mail notice of acceptance of an appeal of a Type II or III decision within two days of appeal acceptance to the applicant, applicant's representative, and if different than the applicant, the appellant. The notice must state the tentative hearing date for the appeal and the requirements of this chapter for submission of written materials prior to the hearing.~~

~~(d)(c)~~ Within two days of accepting an appeal of a Type III decision, the Director must forward a copy of the appeal to the Hearings Official for reconsideration.

~~(e)(d)~~ The Hearings Official or Board may, after acceptance by the Director, dismiss the appeal, or make other appropriate disposition, as a result of the failure of the appeal to comply with subsection (1)~~(a)-(c)~~ above.

**(3) Appeal Process for a Type II Decision**

**(a) Reconsideration.** Within two days of acceptance of an appeal of a Type II decision, the Director may affirm, modify, or reverse the decision in compliance with the following:

**(i) Affirmation.** To affirm the decision, no action by the Director is necessary.

**(ii) Modification or Reversal.** To modify or reverse the decision, the Director must

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conclude that the final County decision on the application can be made within the applicable limits at LC 14.050(2), prepare a written modification or reversal of the decision, together with supporting findings, and mail notice of decision in accordance with LC 14.060 above. Notice of a modification or reversal of the decision should be mailed within two days of the Director's decision and provide for a new 12-day appeal period.

(iii) If the Director elects to reconsider the decision without request by the appellant, the appellant will not be required to pay a fee for a subsequent appeal of the Director's reconsidered decision.

(b) **De Novo Hearing.** Appeal of a Type II decision made by the Director will result in a de novo hearing before the Hearings Official. A hearing on an appeal of Type II decision will follow the same procedure used for a hearing on a Type III review in accordance with the applicable procedures at LC 14.070 with notice in accordance with the Type III hearing notice requirements of LC 14.060. The Hearings Official's review will not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type II Decision. The Hearings Official's review may include consideration of additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue submitted or raised during the open record period.

(c) **Appeal of Hearings Official Decision.** Appeals filed under (1)(c) requesting Hearings Official reconsideration or Director requests made under (1)(e) for Hearings Official reconsideration or Board review of Hearings Official decisions ~~made by the Hearings Official~~ on an appeal of a Type II decision will be processed in accordance with ~~the Type III appeal procedures in~~ subsection (4) and (5) below.

(4) ~~Appeal Process for a Type III Decision~~ Hearings Official Reconsideration. Appeals filed under (1)(c) requesting Hearings Official reconsideration or written notice of a Director request made under (1)(e) for Hearings Official reconsideration of a Hearings Official decision will be processed according to the following procedures.

(a) If the applicant requests reconsideration by the Hearings Official, the applicant must first agree to an extension of any applicable timelines in which the County must process the application, and such an extension must be in addition to any other extensions already requested by the applicant.

(a)(b) Within two days of acceptance of an appeal of a Type III decision requesting Hearings Official reconsideration filed under (1)(c) or written notice of a Director request for reconsideration under (1)(e), the Director must forward a copy of the appeal or Director's written notice to the Hearings Official. The Hearings Official will have full discretion to affirm, modify, or reverse the initial decision and to supplement findings as the Hearings Official deems necessary. When affirming, modifying, or reversing the initial decision, the Hearings Official must comply with (4)(~~cb~~) affirmation or (4)(~~de~~) reconsideration procedures below.

(b)(c) Affirmation. Within seven days of acceptance of the appeal by the Director, if the Hearings Official wishes to affirm the decision without further consideration, the Hearings Official must provide a written decision to this effect to the Director. The

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Director must mail written notice of the Hearings Official's decision to affirm the original decision to the appellant and other parties of record.

- ~~(e)~~(d) Reconsideration.** If the Hearings Official wishes to reconsider the decision, the Hearings Official must conclude that a final decision can be made by the County within the applicable time limits at LC 14.050(2). If the reconsideration will cause the final decision to not be made within the applicable time limits at LC 14.050(2), the Hearing Official cannot reconsider the decision. Reconsideration must comply with subsection (4)**~~(de)~~**(i), (ii), or (iii) below.
- (i) On the Record.** If the reconsideration is limited to the existing record, then within seven days of the Director's acceptance of the appeal, the Hearings Official must prepare a reconsideration decision and supplemental findings and provide the reconsidered decision to the Director. Within two days of the decision, the Director must mail the reconsidered decision in conformance with the notice of decision requirements at LC 14.060.
- (ii) Brief of Additional Issues.** If the reconsideration is not limited to the existing record, and if the Hearings Official wishes to allow written materials to be submitted briefing limited issues, then the Hearings Official must:
- (aa)** Within seven days of acceptance of the appeal by the Director, request that the Director mail notice to any person who qualifies as a party to the decision under reconsideration. The notice must disclose the limited issues to be addressed for the reconsideration and timelines for submittal of new materials and rebuttal by the applicant; and
- (bb)** Within 14 days of the close of the hearing record, issue a decision and supplemental findings. The decision and findings should be mailed by the Director within two days of issuance to the same parties as subsection (4)**~~(de)~~**(ii)(aa) in accordance with the applicable notice of decision procedures at LC 14.060.
- (iii) Limited Hearing.** If the reconsideration is not limited to the existing record and if the Hearings Official wishes to reopen the record and to conduct a hearing to address limited issues then the Hearings Official must:
- (aa)** Within seven days of acceptance of the appeal by the Director, request that the Director mail notice to any person who qualifies as a party to the decision that is being reconsidered. The notice must be in conformance with LC 14.060. The conduct of the hearing will be in accordance with the applicable provisions of LC 14.070; and
- (bb)** Within 10 days of the close of the hearing record, issue a reconsideration decision and supplemental findings, and within this same time period, the Hearings Official must notify the Director to mail a copy of the decision and findings to people who qualify as a party to the application in conformance with notice of decision procedures at LC 14.060.
- (iv)** If the Hearings Official elects to reconsider a decision without being requested to

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do so by an appellant, that appellant will not be required to pay a fee for a subsequent appeal of the Hearings Official decision on reconsideration.

**(e) Appeal of Reconsidered Decisions.** ~~Affirmed or r~~Reconsidered Hearings Official decisions may be appealed ~~to the Board in the manner allowed by subsection (1)(a)(iii)~~ within 12 days of the date that the decision is mailed, subject to the same requirements of LC 14.080 for the initial Hearings Official reconsideration

~~(v)~~ ~~in accordance with the procedures at LC 14.080(1) and subsection (4)(d) below.~~

~~(vi)~~ ~~Timeline Extension. In the event a decision of the Hearings Official is being appealed by the applicant, if the applicant requests reconsideration by the Hearings Official, the applicant must first agree to an extension of any applicable timelines in which the County must process the application, and such an extension must be in addition to any other extensions already requested by the applicant.~~

~~(d)(5) Elective Director Request for Board Review Procedure.~~ An appeal request by the Director for review by the Board of a Type III Hearings Official decision will be processed ~~by the Board~~ in accordance with the procedures below.

(a) The Director may request that the Board affirm the Hearings Official decision or conduct an on-the-record hearing if the Hearings Official decision involves:

~~(i) If more than one appeal related to the same property is received and one of the appeals requests a hearing by the Board, then all appeals will be forwarded to the Board for determination consistent with subsection (4)(d)(ii) below.~~

~~(ii) Board Determination. After indication from the Hearings Official not to reconsider the decision, the Board must determine whether or not they wish to conduct an on the record hearing. An appellant's request for the Board to not conduct an on the record hearing does not preclude the ability of the Board to elect to conduct an on the record hearing if the criteria at subsection (4)(d)(iii) are met.~~

~~(iii) Criteria. A determination by the Board to hear the appeal pursuant to subsection (4)(d)(ii) must conclude that a final decision by the Board can be made within the applicable time limit and that the issue raised in the appeal to the Board could have been and was raised before the close of the record at or following the final evidentiary hearing. The Board's decision to hear the appeal must be based on a determination that the appeal meets one or more of the following criteria:~~

~~(aa)(i) The Interpretation of County policies or issues issue is of countywide significance;~~

~~(bb)(ii) The issue|issues that will reoccur with frequency and there is a need for or for which there is a need for policy guidance;~~

~~(cc)(iii) The issue involves|issues involving impacts to an inventoried Goal 5 resource;~~  
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~~(dd)(iv)~~ (iv) The Director or Hearings Official recommends review.

**(b) Record of the Hearing Board Order.** The Board must adopt a written decision and order electing to affirm the Hearings Official decision or to conduct a hearing on-the-record as follows:

~~(iv)~~ (iv) If the Director requests that the Board affirm the decision of the Hearings Official, the Board will review the order on the consent calendar. The order will state that the Board has elected to ratify and affirm the decision of the Hearings Official and state either that the Board expressly agrees with or remains silent on ~~specify any~~ interpretations made by the Hearings Official ~~that are adopted by the Board.~~ The Board order will incorporate the decision of the Hearings Official by reference and attachment. In their determination pursuant to subsection (4)(d)(ii) above ~~affirming the decision~~, the Board will consider only those materials contained in the hearing record as provided in LC 14.070(20), except that in this context, the Hearings Official is the hearing authority.

(i)

~~(v)~~ (v) If requested by the Director, or if the order to affirm the decision under (5)(b) is not adopted and the Board so elects, the Board will conduct an on-the-record hearing. The Board order must specify the date for the on-the-record hearing, the parties who qualify to participate in the on the record hearing, and whether the Board finds that an opportunity for limited additional testimony based on subsection (5)(c)(ii) is warranted and will be provided. Board Order. After the determination made under subsection (4)(d)(ii) above, the Board must adopt a written decision and order electing to conduct a hearing on the record or declining to further review the appeal. The Board order must specify the decision of the Board and must include findings addressing the criteria at subsection (4)(d)(iii). If the Board's decision is to have a hearing on the record for the appeal, the Board order must specify the date for the on the record hearing, the parties who qualify to participate in the on the record hearing, and whether the Board finds that an opportunity for limited additional testimony based on subsection (4)(d)(vii)(bb) is warranted and will be provided.

~~(vi)(ii)~~ (vi)(ii) **Elect to Not Hear Order.** If the decision of the Board is to not hear the appeal, the Board order adopted by the Board per (4)(d)(v) above must state whether or not the Board has elected to ratify and affirm the decision of the Hearings Official and any interpretations therein. The Board order must incorporate the decision of the Hearings Official by reference and as an exhibit.

**(vii)(c) Hearing Procedures for On the Record Hearings.** If the decision of the Board is to allow limited additional testimony or conduct an on the record hearing, the ~~An~~ appeal proceeding ~~on-the-record hearing~~ must be conducted according to the following procedures and LC 14.070 as applicable. ~~These~~ The below procedures are in addition to or apply in place of other hearing procedures in LC 14.070 where these procedures are

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duplicative of or conflict with those procedures.

**(aa)(i) Review on the Record.** Evidence considered by the Board must be confined to the record of the proceeding before the previous approval authority except as provided in subsection ~~(jjbb)~~ and ~~(jjee)~~ below.

**(bb)(ii) Limited Additional Testimony.** The Board may admit additional testimony and other evidence without holding a de novo hearing, if the approval authority is satisfied that the testimony or other evidence could not have been presented before close of the record on prior hearing proceedings. In deciding whether to admit additional testimony or evidence, the approval authority will consider:

~~(A)(aa)~~ Prejudice to parties;

~~(B)(bb)~~ Convenience or availability of evidence at the time of the prior hearing proceedings;

~~(C)(cc)~~ Impact to opposing parties;

~~(D)(dd)~~ When notice was given to other parties of the intended attempt to admit the new evidence prior to the close of the record;

~~(E)(ee)~~ The competency, relevancy, and materiality of the proposed testimony or other evidence; and

~~(F)(ff)~~ Whether the matter should be remanded to the approval authority for a de novo hearing under subsection ~~(eeiii)~~ below.

**(ee)(iii) De Novo Hearing/Remand.** The Board may elect to hold a de novo hearing or remand the appeal for a supplemental de novo hearing before the approval authority that held the previous hearing if it decides that the volume of new information offered by a party proceeding under subsection ~~(jjbb)~~ above would:

~~(A)(aa)~~ Interfere with the approval authority's agenda;

~~(B)(bb)~~ Prejudice parties; or

~~(C)(cc)~~ If the approval authority determines that the wrong legal criteria were applied by the previous approval authority.

**(dd)(iv)** On remand pursuant to subsection ~~(jjee)~~, the previous approval authority must apply the applicable hearing conduct procedures of LC 14.070. If an appeal is desired from the previous approval authority's decision on remand, the procedures of LC 14.080 apply. In the event that a de novo hearing or remand is requested by the applicant, the applicant must first agree to an extension of any applicable timelines in which the County must process the application, and such extension must be in addition to any other extensions of applicable application processing timelines already requested by the applicant, subject to LC 14.050(2).

**(ee)(v) Notice of an On the Record Hearing.** Notice of an on the record hearing

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will be mailed, and as required, posted and published, in accordance with LC 14.060 at least 10 days in advance of the hearing.

~~(ff)~~**(vi)** **Written Material.** Unless otherwise specified by the Board, all written materials exceeding two pages in length to be submitted for consideration at an on the record hearing if permitted under subsection ~~(iibb)~~ above must be submitted to and received by the Director at least five days in advance of the hearing. Upon request, the application file containing these materials must be made available to the public by the Director. The approval authority may allow written materials to be submitted and received after this five day deadline if:

~~(A)~~**(aa)** The written materials are limited to those solely responsive to the written materials submitted at least five days in advance of the on the record hearing;

~~(B)~~**(bb)** The responsive, written materials could not have been reasonably prepared and submitted at least five days in advance of the on the record review hearing; and

~~(C)~~**(cc)** Copies of the written materials have been provided to all parties to the on the record hearing.

~~(gg)~~**(vii)** **On the Record Hearing Participation.** The only people who may participate in a Board on the record hearing are:

~~(A)~~**(aa)** The Director;

~~(B)~~**(bb)** The applicant and the applicant's representative;

~~(C)~~**(cc)** The appellant and the appellant's representative; and

~~(D)~~**(dd)** Another party of record may provide limited additional testimony, but only in accordance with subsection ~~(iiee)~~ above.

~~(hh)~~**(viii)** **Order of Proceeding.** In the conduct of an on the record hearing the following order of proceeding will be followed:

~~(A)~~**(aa)** The Director will present the staff report;

~~(B)~~**(bb)** The appellant will be heard first;

~~(C)~~**(cc)** The applicant, if different from the appellant will be heard next;

~~(D)~~**(dd)** The appellant will be allowed to rebut;

~~(E)~~**(ee)** Conclude the hearing.

~~(viii)~~**(iv)** **On the Record Hearing Order.** Upon the adoption of findings on the on the record hearing, the Board must adopt a written decision and order affirming, reversing, or modifying the decision of the Hearings Official. If the decision of the

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Board is to affirm the decision of the Hearings Official, the Board order adopted by the Board ~~per (4)(d)(v) above~~ must state whether or not the Board has elected to ratify and affirm the decision of the Hearings Official and any interpretations therein, and the Board order will incorporate the decision of the Hearings Official by reference and attachment.

~~(ix)~~**(6) Effective Date.** ~~If the Board elects to not conduct an on the record hearing on an appeal, the Hearing Official's decision will become the final decision of the County.~~ A decision on any application ~~reviewed by~~**appealed to** the Board will become final upon signing of an order by the Board to ~~adopt and affirm the Hearings Official decision~~**not hear the appeal** or order by the Board specifying the decision of an on the record hearing. The Director will mail notice of the Board order to parties of record upon receipt of the signed order. The notice of Board order will state that any appeal of the Board decision can be appealed to LUBA in accordance with ORS 197.

~~(6)~~**(7) Appeals of Final County Decision.** Appeal of a final County decision made under this chapter must be filed with Land Use Board of Appeals in accordance with ORS 197. If a decision is appealed beyond the jurisdiction of the County, the approval period does not begin until review before the Land Use Board of Appeals and/or the appellate courts have been completed, including any remand proceedings. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

### 14.090 Limitations on Approved and Denied Applications

- (1) An application reviewed in accordance with the provisions of this chapter is subject to the limitations at subsection (1) through (9) below.
- (2) The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The Director's failure to notify the applicant of any requirement or procedure of another agency will not invalidate a decision made under this chapter.
- (3) **Vesting of Approval.** Approval of an application for which all rights of appeal have been exhausted cannot be invalidated or modified by subsequent revisions of Lane Code, unless specifically provided for otherwise in Lane Code or the conditions of approval.
- (4) **Compliance with Conditions of Approval.** Compliance with conditions of approval and adherence to approved plans is required. Any departure from the conditions of approval and approved plans constitutes a violation of the applicable sections of Lane Code and may constitute grounds for revocation or suspension of the approval unless a modification of approval is approved as provided in subsection (5) below.
- (5) **Modification of Approval.** An application for modification of approval must comply with the subsection (5)(a) through (c) below.
  - (a) An application for modification of approval must:
    - (i) Be in writing on a form provided by the Director;
    - (ii) Include the required application fee;

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- (iii) Be received by the Director prior to the expiration of the approval time period to complete any conditions of approval of the decision for which modification is requested, where calculation of the expiration date includes any time extension approved in accordance with subsection (7) below;
  - (iv) Identify and address any standards or criteria that the original approval addressed; and
  - (v) Address compliance of the requested modifications with any applicable standards or criteria.
- (b) The applicable standards and criteria for the final decision have not changed; and
  - (c) A decision on a modification of approval must be made by the same approval authority as the original final decision unless the original decision allows modification by a different approval authority.

**(6) Expiration of Approvals**

- (a) A permit for a discretionary approval is valid for two years from the date of the final decision, unless otherwise specified in the approval, ~~or by other provisions of Lane Code, and~~ or unless the approval period is extended pursuant to except as provided for in subsection (7) below. Subject to the requirements of subsection (7), the Director may grant one extension period of 12 months, and additional one-year extensions may be authorized by the Director.

**(b) Resource Dwellings.**

- (i) A permit ~~for a discretionary approval~~ for a discretionary approval ~~of for a~~ residential development on agricultural or forest zoned land outside of an urban growth boundary is valid for four years, unless ~~otherwise specified in the approval of an application or by another provision of Lane Code, and the approval period is extended pursuant to except as provided in~~ subsection (7) below. ~~For the purpose of~~ As used in this section, "residential development" only includes the dwellings provided for ~~under ORS 215.213(3) and (4), 215.284, 215.705(1) to (3), 215.720, 215.740, 215.750, and 215.755(1) and (3) as implemented through Lane Code Chapter 16~~ LC 16.212(3)-2.5 and -2.6, LC 16.214, LC 16.211(2)-2.1 to -2.5, and LC 16.210(2)-2.1 to -2.2.
- (ii) Subject to the requirements of subsection (7), an extension of a permit described in subsection (6)(b)(i) is valid for two years, and the Director may approve no more than five (5) additional one-year extensions of a permit. The Director may approve additional one-year extensions for permits issued prior to or after June 20, 2019, provided that the sum of all additional one-year timeline extensions issued prior to or after this date does not exceed the five year maximum period.

- ~~(b)~~
- (c) A land division decision is valid subject to Lane Code Chapter 13 except as provided in subsection (7) below.

- (d) A telecommunication tower decision is valid subject to Lane Code 16.264.

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**(7) Extension of Approval Period Time Extension Requirements.**

**(7)(a) Submittal Requirements.** Unless ~~otherwise specified in~~ prohibited by the approval or by other provisions of Lane Code, the Director may grant an extension subject to the following requirements: to the approval period of a permit as allowed by subsection (6) if:

**(a)(i)** ~~Extensions must be~~ The extension request is submitted in writing on the form provided by the department and accompanied by the required fee; and;

**(b)** ~~The application must be accompanied by the required fee;~~

**(c)(ii)** ~~The request for extension must be~~ is submitted prior to the expiration of the approval period, but not earlier than six months before the expiration date, of the permit or extension;

**(b) Standards.**

**(d)** ~~An initial one-year extension period will be granted unless otherwise provided in the decision and except as provided in (7)(e) below;~~

**(e)** ~~An initial extension of a permit described in subsection (6)(b) above is valid for two years;~~

**(f)** ~~Except as limited below, additional one-year extensions, beyond the initial extension, will be authorized by the Director;~~

**(i)** ~~Additional one year extensions that are allowed by subsection (6)(a) or (c), beyond the initial extension, will~~ may be authorized where applicable criteria for the decision have not changed.

**(g)(ii)** ~~Additional one-year extensions allowed by subsection (6)(b) may be authorized if the applicable residential development statute has not been amended following the approval of the permit, except the amendments to ORS 215.750 by Oregon Laws 2019 (Enrolled House Bill 2225).~~ ;

**(h)** ~~An extension cannot be submitted earlier than six months before the expiration date;~~

**(i)(c)** ~~Approval of an extension granted under this section is a Type I decision~~ administrative determination, is not a land use decision, and is not subject to appeal as a land use decision.

**(8) Revocation or Suspension of a Decision**

**(a)** The Director may suspend or revoke a decision issued in accordance with this chapter for any reason listed in subsection (8)(a)(i) through (iv) below. When taking such action, the Director will notify the owner and/or applicant of the reason for the suspension or revocation and what steps, if any the applicant must take to remedy the reason for the Director's decision.

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- (i) The site has been developed in a manner not authorized by the approval of the application;
  - (ii) The approval has not been complied with;
  - (iii) The conditions of approval have not been completed; or
  - (iv) The approval was secured with false or misleading information.
- (b) The Director's decision to suspend or revoke a decision is appealable to the Hearings Official in the same manner as provided for in LC 14.080 for an appeal of a Type II decision. The appeal period will commence the day the Director mails notice to the owner and/or applicant of the Director's decision to suspend or revoke the decision. The notice must state that the owner and/or applicant has the right to appeal the Director's decision and what the procedure is for the applicant to appeal. If the Director elects to refer the matter to the Hearings Official under subsection (8)(c) below, the Director must include in the notice to the owner and/or applicant that the matter has been referred to the Hearings Official and the steps the owner and/or applicant must take to contest the reasons for the suspension or revocation.
- (c) The Director may initiate a review by the Hearings Official to suspend or revoke the issued decision in lieu of making the decision to suspend or revoke the decision. Hearings Official review will follow the procedure for processing of appeals of a Type II decision, and the Hearings Official may suspend or revoke a decision for one or more of the reasons specified in subsection (8)(a) above. A Hearings Official's decision to suspend or revoke a decision is appealable to the Board in the same manner as provided for in LC 14.080 for appeals to the Board.
- (d) If the reason for the suspension or revocation is remedied before the decision becomes final, by the expiration of the appeal time, or by the date of the hearing official hearing, then the suspension or revocation is void.
- (9) **Limitations on Refiling Applications.** Except for a Type I application, an application for which a substantially similar application relating to the same property or tract has been denied within the previous year will not be accepted. At the Director's discretion, an earlier refiling may be allowed if it can be demonstrated that the basis for the original denial has been eliminated. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

## 14.100 LUBA Remands

- (1) **Remanded County Decisions.** A County decision remanded by the Land Use Board of Appeals (LUBA) or state appellate court will be processed according to the procedures below. Except for (1)(d)(v), these procedures do not apply to voluntary remands.
- (a) **Remand Request.** To request County processing of the matter on remand, the applicant must submit a completed application on a form provided by the Director and the required filing fee. The completed form and fee must be received by the Director within the time frames at subsection (1)(d) below for the County to commence review.

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- (b) **Hearing.** For remands that require a remand hearing, or for which the County opts to conduct a hearing, the following requirements apply:
- (i) For Type IV decisions, and Type II and III decisions for which the Board reviewed the decision of the Hearings Official and issued the final land use decision~~conducted an on-the-record hearing~~, the Board will conduct the remand hearing to review and address issues raised in the final LUBA order.
  - (ii) For Type II and III decisions made by the Hearings Official for which the Board did not ~~conduct an on-the-record hearing~~review the decision of the Hearings Official and issue the final land use decision, the Hearings Official will conduct the remand hearing and ~~make a recommendation to the Board. The Board must hold a public hearing and issue a final decision on the application, leave the Hearings Official decision as the final County decision, or adopt the Hearings Official decision by consent order as the final decision of the County~~render a decision on the matter.
  - (iii) A LUBA remand hearing will be conducted in accordance with LC 14.070 except that where the procedures of this subsection are duplicative of or conflict with those procedures, the procedures of this subsection will apply.
  - (iv) The Board and Hearings Official may only consider issues identified in the LUBA order as the basis for the remand.
- (c) **Notice.** The Director must mail notice at least ~~40~~20 days prior to the hearing in accordance with LC 14.060(2)(c).
- (d) **Time Limit.** For a permit, limited land use decision, or zone change, final action on a LUBA remand must occur within the timelines set forth below:
- (i) The County must take final action within 120 days of the date the applicant submits a request pursuant to LC 14.100(1)(a). If the County does not receive the request within 180 days of the effective date of the LUBA final order or the final resolution of the judicial review, the application is deemed terminated on the 181<sup>st</sup> day. For purposes of this subsection, the effective date of the LUBA final order is the last day for filing a petition for judicial review under ORS 197.850(3).
  - (ii) The 120-day period established under subsection (1)(d)(i) of this section may be extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The application is deemed terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension.
  - (iii) The 120-day period established under subsection (1)(d)(i) of this section applies only to decisions wholly within the authority and control of the governing body of the County.
  - (iv) Subsection (1)(d)(i) of this section does not apply to a remand proceeding concerning a decision making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610.

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- (v) If the County withdraws a decision for the purposes of reconsideration under ORS 197.830(13)(b) by filing a notice of withdrawal with LUBA, it must file a copy of its decision on reconsideration with LUBA within 90 days after the filing of the notice of withdrawal or within such other time as LUBA may allow.

**(e) Appeal and Effective Date of Decision.**

- (i) Notice of the Board or Hearings Official decision on remand will be as provided by LC 14.060.

~~(ii) A Hearings Official decision on remand may be appealed in the same manner as an appeal of a Hearings Official's decision on an appeal of Type II decision or on a Type III application, in accordance with LC 14.080. to the Board within 12 days of mailing of the notice of remand decision. A notice of appeal of the Hearings Official's decision must be filed with the Director prior to the end of business on the 12<sup>th</sup> day after the date the notice of decision is mailed. Appeal of the Hearings Official remand decision will be heard by the Board according to the procedures at LC 14.100(1)(b).~~

~~(iii)~~**(ii)** Appeal of a Board remand decision is governed by ORS Chapter 197. *(Revised by Ordinance No. 18-02, Effective 8.9.18)*

**NONIMPACTED FOREST LANDS ZONE (F-1, RCP)  
RURAL COMPREHENSIVE PLAN**

F-1 Zone Table of Contents

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**16.210 Nonimpacted Forest Lands (F-1, RCP)**

(1) Purpose

The purpose of the Nonimpacted Forest Land (F-1) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The F-1 zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water, and land resources of the county.

The F-1 zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the F-1 zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-006. The minimum parcel size, prohibition of new dwellings, and other standards established by this zone are intended to promote commercial forest operations.

(2) Use Table

Table of Permitted Uses

Table 16.210-1 sets forth the uses allowed in the F-1 zone subject to Type I, II, or III approval processes. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type I, II, or, III process, unless otherwise specified on Table 16.210-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions, siting standards, fire siting standards, and exceptions set forth in LC 16.210.

As used in Table 16.210-1:

- (a) Use Type:
  - (i) "A" means the use is allowed outright or permitted subject to standards.
  - (ii) "C" means the use is a Conditional Use, subject to Section (4) and other listed criteria.
- (b) Local Procedure Type:
  - (i) "P" means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Chapter.
  - (ii) "AL" means Assembly License, subject to LC 3.995.
  - (iii) Type I uses and activities are permitted subject to the general provisions and exceptions set forth by this chapter of Lane Code.
  - (iv) Type II uses may be allowed provided a land use application is submitted and approved by the Director pursuant to LC Chapter 14.
  - (v) Type III uses may be allowed provided a land use application is submitted and approved by the Hearings Official pursuant to LC Chapter 14.
- (c) The "Subject To" column identifies any specific provisions of LC 16.210 to which the use is subject. All uses and development are subject to the development standards provisions of LC 16.210(5)(b) and (6)(c). Residences, dwellings, and structures must comply with LC 16.210(5) and (6). Any new structure subject to LC 16.210(5)(a) is subject to a Type II procedure pursuant to LC Chapter 14.
- (d) A determination by the Director for whether or not a use fits within the classification of uses listed as Type I, Permitted Outright, or Assembly License in the use table may constitute a "permit" as defined by ORS 215.402(4), "...discretionary approval of a proposed development of land..." An owner of land where the use would occur therefore may request to elevate review of a Type I, Permitted Outright, or Assembly License use to a Type II land use application pursuant to LC Chapter 14. The burden of proof in the application will be upon the owner of land to demonstrate that the proposed use fits within the classification.

<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
<b>1.</b>	<b>Forest, Farm and Natural Resource Uses</b>			

<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
1.1.	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash	A	P	
1.2.	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation	A	I	(5)(b), (6)(c)
1.3.	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities	A	P	
1.4.	Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources	A	P	
1.5.	Farm use as defined in LC 16.090.	A	P	
1.6.	Uninhabitable structures accessory to fish and wildlife enhancement	A	I	(5)(b), (6)(c)
1.7.	Agricultural building	A	I	(5)(b), (6)(c)
1.8.	Log scaling and weigh stations	C	II	(4), (5), (6)
1.9.	Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations	C	II	(4), (5), (6)
1.10.	Marijuana production	A	I	LC 16.420, (5)(b), (6)(c)
1.11.	Marijuana wholesale distribution	A	I	LC 16.420, (5)(b), (6)(c)
1.12.	Marijuana research	A	I	LC 16.420, (5)(b), (6)(c)
<b>2.</b>	<b>Residential Uses</b>			

<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b> <b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	Use	Use Type	Local Procedure Type	Subject to
2.1.	Caretaker residences for public parks and public fish hatcheries	A	II	(3)(n), (3)(o), (5), (6)
2.2.	Alteration, restoration, or replacement of a lawfully established dwelling	A	I or II	(3)(a), (3)(n)-(p), (5), (6)
2.3.	Temporary hardship dwelling	C	II	(3)(b), (3)(n), (4), (5), (6)
<b>3.</b>	<b>Commercial Uses</b>			
3.1.	Temporary portable facility for the primary processing of forest products	A	I	(5)(b), (6)(c)
3.2.	Temporary forest labor camps	A	I	(5)(b), (6)(c)
3.3.	Private hunting and fishing operations without any lodging accommodations	A	P or II	(5), (6)
3.4.	Parking of up to seven dump trucks and trailers	C	II	(4)
3.5.	In-home commercial activity (Minor Home Occupation)	A	I	(3)(d)
3.6.	Home occupations	C	II	(3)(c)(4)
3.7.	Permanent facility for the primary processing of forest products	C	II	(3)(i), (4),(5), (6)
3.8.	Permanent logging equipment repair and storage	C	II	(4),(5), (6)
3.9.	Private seasonal accommodations for fee hunting operations	C	II	(3)(e), (4), (5), (6)
3.10.	Private accommodations for fishing occupied on a temporary basis	C	II	(3)(f), (4), (5), (6)
3.11.	Marijuana processing, provided an on-site dwelling is present	C	II	LC 16.420, (4)

<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b> <b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	Use	Use Type	Local Procedure Type	Subject to
<b>4.</b>	<b>Mineral, Aggregate, Oil and Gas Uses</b>			
4.1.	Exploration for aggregate resources as defined in ORS chapter 517	A	P	
4.2.	Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head	A	P	
4.3.	Mining and processing of oil, gas or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted by 4.2 above (e.g. compressors, separators, and storage servicing multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517	C	III	(4), (4)(d)
4.4.	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects	C	II	(4)
<b>5.</b>	<b>Transportation Uses</b>			
5.1.	Climbing and passing lanes within the right of way existing as of July 1, 1987	A	P	
5.2.	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result	A	P	
5.3.	Temporary public road and highway detours that will be abandoned and restored to condition or use in effect prior to construction of the detour at such time as no longer needed	A	P	
5.4.	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways	A	P	
5.5.	Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	

<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
5.6.	Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards	A	P	
5.7.	Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.101 for existing transportation facilities, services, and improvements, including road bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	
5.8.	Changes in the frequency of transit, rail and airport services	A	P	
5.9.	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels	C	II	(4)
5.10.	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels	C	II	(4)
5.11.	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels	C	II	(4)
5.12.	Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road	C	II	(4)
5.13.	Park and ride lots	C	II	(4)
5.14.	Railroad mainlines and branch lines	C	II	(4)
5.15.	Pipelines	C	II	(4)
5.16.	Navigation channels	C	II	(4)
5.17.	Realignment as defined in LC 15.010 not otherwise permitted pursuant to this chapter	C	II	(3)(j), (4)
5.18.	Replacement of an intersection with an interchange	C	II	(3)(j), (4)
5.19.	Continuous median turn lanes	C	II	(3)(j), (4)

<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b> I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
5.20.	New roads as defined in LC 15.010 that are County Roads functionally classified as Local Roads or Collectors, or are Public Roads or Local Access Roads as defined in LC 15.010(35) in areas where the function of the road is to reduce local access to or local traffic on a state highway	C	II	(3)(j), (4)
5.21.	Transportation facilities, services, and improvements other than those listed in LC 16.210 that serve local travel needs	C	II	(3)(j), (4)
5.22.	Expansion of lawfully existing airports	C	II	(4), (5), (6)
<b>6.</b>	<b>Utility and Power Generation</b>			
6.1.	Local distribution lines (e.g. electric, telephone, natural gas) & accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups	A	P	
6.2.	Water intake facilities, canals and distribution lines for farm irrigation and ponds	A	P	
6.3.	Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;	C	II	(4), (5), (6)
6.4.	Television, microwave and radio communication facilities and transmission towers	C	II	(4), (5), (6)
6.5.	New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width	C	II	(4)
6.6.	Water intake facilities, related treatment facilities, pumping stations and distribution lines	C	II	(4), (5), (6)
6.7.	Reservoirs and water impoundments	C	II	(4)
6.8.	Commercial utility facilities for the purpose of generating power	C	II	(3)(g), (4), (5), (6)
6.9.	Telecommunication tower changeout	A	I	(8)

<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b> I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
6.10.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	A	I	(8)
6.11.	Telecommunication tower collocation	A	II	(8)
6.12.	New telecommunication tower or replacement tower	C	III	(4), (5), (6), (8)
<b>7.</b>	<b>Public and Quasi-public Uses</b>			
7.1.	Towers and fire stations for forest fire protection	A	II	(5), (6)
7.2.	Youth camps	A	II	(3)(k), (5), (6)
7.3.	Aids to navigation and aviation	C	II	(4), (5), (6)
7.4.	Firearms training facility as provided in ORS 197.770	C	II	(4), (5), (6)
7.5.	Fire stations for rural fire protection	C	II	(4), (5), (6)
7.6.	Cemeteries	C	II	(4)
7.7.	Public parks and public campgrounds, including those uses specified under OAR 660-034-0035 or OAR 660-034-0040	C	II	(4), (5), (6)
7.8.	Private parks and private campgrounds	C	II	(3)(h), (4), (5), (6)
7.9.	Storage structures for emergency supplies	C	II	(3)(l), (4), (5), (6)
<b>8.</b>	<b>Outdoor Gatherings</b>			
8.1.	An outdoor gathering of fewer than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period	A	P or AL (if over 1,000 persons)	LC 3.995
8.2.	An outdoor mass gathering of more than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period, and which is held primarily in open spaces and not in any permanent structure as provided in ORS 433.735-760	A	III	ORS 433.735-760

Table 16.210-1: Use Table for Nonimpacted Forest Zones I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License				
	Use	Use Type	Local Procedure Type	Subject to
8.3.	Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by the Planning Commission under ORS 433.763, notwithstanding Type III Hearings Official review	C	III (LCPC)	(3)(m)
<b>9.</b>	<b>Accessory Uses</b>			
9.1.	Uses and structures accessory to existing uses and development permitted by LC 16.210.	A	P or II	(3)(p), (5), (6)

(3) Use Standards

- (a) Alteration, restoration, or replacement of a lawfully established dwelling, subject to the following:
  - (i) The dwelling was lawfully established;
  - (ii) The lawfully established dwelling:
    - (aa) Has intact exterior walls and roof structures;
    - (bb) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (cc) Has interior wiring for interior lights; and
    - (dd) Has a heating system;
  - (iii) In the case of replacement, is removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- (b) A temporary hardship dwelling is subject to the following:
  - (i) One manufactured dwelling (MH), or recreational vehicle (RV), or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:

- (aa) The hardship dwelling must use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If a public sanitary sewer system is available, the hardship dwelling may connect to the public system and not use a subsurface sewage disposal system;
- (bb) Except as provided in (3)(b)(i)(cc) below, approval of a temporary hardship dwelling permit is valid until December 31 of the year following the year of original permit approval and may be renewed once every two years until the hardship situation ceases or unless in the opinion of the Lane County Sanitarian the on-site sewage disposal system no longer meets DEQ requirement;
- (cc) Within 90 days of the end of the hardship situation, the MH or RV must be removed from the property or demolished. In the case of an existing building, the building must be removed, demolished, or returned to an allowable nonresidential use; and
- (dd) The temporary hardship dwelling will comply with Oregon Department of Environmental Quality review and removal requirements;
- (ii) As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons; and
- (iii) A temporary hardship dwelling approved under (3)(b) above cannot be eligible for replacement under (3)(a) above.
- (c) A home occupation must:
  - (i) Be operated by a resident or employee of a resident of the property on which the business is located;
  - (ii) Employ on the site no more than five full-time or part-time persons at any given time;
  - (iii) Be operated substantially in the dwelling or other buildings normally associated with uses permitted in the F-1 Zone;
  - (iv) Not unreasonably interfere with other uses permitted in LC 16.210;
  - (v) Comply with sanitation and building code requirements prior to start of Home Occupation; and
  - (vi) Not be used as a justification for a zone change.
- (d) An in-home commercial activity must comply with the following requirements:
  - (i) Meets the criteria under Section (3)(c)(i), (ii), (iii), (v), and (vi);

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- (ii) Is operated by no more than five employees, who all reside in the single-family dwelling;
  - (iii) Is conducted within a dwelling;
  - (iv) Does not occupy more than 25 percent of the combined floor area of the dwelling, including attached garage;
  - (v) Does not serve clients or customers on-site;
  - (vi) Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage; and
  - (vii) Does not include the outside storage of materials, equipment, or products.
- (e) Private seasonal accommodations for fee hunting operations are subject to the following requirements:
- (i) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted; and
  - (iii) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.
- (f) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:
- (i) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted;
  - (iii) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
  - (iv) Accommodations must be located within one-quarter mile of fish-bearing Class I waters.
- (g) A commercial utility facility for the purpose of generating power cannot preclude more than 10 acres from use as a commercial forest operation, unless an exception is taken pursuant to OAR 600, Division 4.
- (h) Private Parks and Private Campgrounds.
- (i) Campgrounds in private parks may be permitted, subject to the following:

- (aa) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds are not allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4;
  - (bb) A campground must be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;
  - (cc) Campgrounds authorized by this rule cannot include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations;
  - (dd) Overnight temporary use in the same campground by a camper or camper's vehicle cannot exceed a total of 30 days during any consecutive six-month period;
  - (ee) Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate sewer, water, or electric service hook-ups cannot be provided to individual camp sites except that electrical service may be provided to yurts allowed by Section (3)(h)(i)(ff); and
  - (ff) A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt must be located on the ground or on a wood floor with no permanent foundation.
- (i) Permanent facility for the primary processing of forest products.
- (i) Located in a building or buildings that do not exceed 10,000 square feet in total floor area; or
  - (ii) Located in an outdoor area that does not exceed one acre excluding laydown and storage yards; or
  - (iii) Located in a proportionate combination of indoor and outdoor areas described in Sections (3)(i)(i) and (ii); and
  - (iv) Adequately separated from surrounding properties to reasonably mitigate noise, odor, and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by Lane County.
- (j) Certain transportation facilities and uses must comply with the following:

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- (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. Lane County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
  - (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
  - (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.
- (k) Youth Camps
- (i) The purpose of a youth camp is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. Changes to or expansions of youth camps established prior to June 14, 2000, are subject to the provisions of ORS 215.130.
  - (ii) An application for a proposed youth camp must comply with the following:
    - (aa) The number of overnight camp participants that may be accommodated must be determined by Lane County, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (3)(k)(ii)(bb) a youth camp cannot provide overnight accommodations for more than 350 youth camp participants, including staff.
    - (bb) Lane County may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph (3)(k)(ii)(aa).
    - (cc) Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, cannot exceed 10 percent of the total camper nights offered by the youth camp.
    - (dd) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
    - (ee) A campground as described in Subsection (3)(h) cannot be established in conjunction with a youth camp.

- (ff) A youth camp cannot be allowed in conjunction with an existing golf course.
- (gg) A youth camp cannot interfere with the exercise of legally established water rights on adjacent properties.
- (iii) The youth camp must be located on a lawful parcel that is:
  - (aa) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination is based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities.
  - (bb) Is at least 40 acres in size.
  - (cc) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers must consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property is 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
    - (A) The proposed setback will prevent conflicts with commercial resource management practices;
    - (B) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
    - (C) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
  - (dd) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate must verify that a proposed youth camp will not result in the need for a sewer system.
- (iv) A youth camp may provide for the following facilities:

- (aa) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses are not allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.
- (bb) Primary cooking and eating facilities must be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services are limited to the operation of the youth camp and provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.
- (cc) Bathing and laundry facilities except that they cannot be provided in the same building as sleeping quarters.
- (dd) Up to three camp activity buildings, not including primary cooking and eating facilities.
- (ee) Sleeping quarters including cabins, tents, or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, cannot include kitchen facilities. Sleeping quarters can be provided only for youth camp participants and must not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
- (ff) Covered areas that are not fully enclosed.
- (gg) Administrative, maintenance, and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.
- (hh) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).
- (ii) A caretaker's residence may be established in conjunction with a youth camp, if no other dwelling exists on the subject property.
- (v) A proposed youth camp must comply with the following fire safety requirements:
  - (aa) The fire siting standards in Section (6).

- (bb) A fire safety protection plan must be developed for each youth camp that includes the following:
  - (A) Fire prevention measures;
  - (B) On site pre-suppression and suppression measures; and
  - (C) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
- (cc) Except as determined under paragraph (3)(k)(v)(dd), a youth camp's on-site fire suppression capability must at least include:
  - (A) A 1000 gallon mobile water supply that can access all areas of the camp;
  - (B) A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
  - (C) A sufficient number of fire-fighting hand tools; and
  - (D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
- (dd) An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability must be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.
- (ee) The provisions of paragraph (3)(k)(v)(dd) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs Lane County in writing that on-site fire suppression at the camp is not needed.
- (vi) The Director, or its designate, requires as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

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- (l) Storage structures for emergency supplies located west of the summit of the Coastal Range to serve communities and households located in tsunami inundation zones, as depicted on tsunami inundation maps prepared by Department of Geology and Mineral Industries (DOGAMI):
  - (i) Areas within an urban growth boundary cannot reasonably accommodate the structures;
  - (ii) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI);
  - (iii) Sites where the structure could be co-located with an existing use approved under this section are given preference for consideration;
  - (iv) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
  - (v) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
  - (vi) Notice of application for proposed storage structures is provided according to LC Chapter 14 to Lane County Emergency Management.
  - (vii) As used in this section, “storage structures for emergency supplies” means structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.
  
- (m) Any Outdoor gathering of more than 3,000 people for more than 120 hours within any three-month period must comply with the following requirements:
  - (i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;
  - (ii) The proposed gathering is compatible with existing land uses;
  - (iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and
  - (iv) The provisions of ORS 433.755 shall apply to the proposed gathering.

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- (n) For single-family dwellings, the landowner must sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (o) For single-family dwellings, the approval is valid for four years from the date of approval. The Director may approve an application for extension of the permit, subject to the requirements and limitation of LC 14.090 (6) and (7).
- (p) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.210(5)(a). For the purpose of LC 16.210(3)(p), the "same site" is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

(4) Conditional Use Review Criteria

A Conditional Use listed in Table 16.210-1 of this zone that references this section may be allowed provided the following requirements are satisfied. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

- (a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- (b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- (c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for Use 2.3, Use 3.6, Use 3.10, Use 6.6, and Use 7.8.
- (d) For Use 4.3: the use will not significantly conflict with the existing uses on adjacent and nearby lands.

(5) Siting Standards for Uses, Activities, and Structures

The following siting criteria apply to all new uses, activities, and structures allowed by LC 16.210. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. The Director must consider the criteria in this section together with the requirements of Section (6) to identify the building site.

- (a) Residences, dwellings, and structures must be sited as follows:

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- (i) Near dwellings on other tracts, near existing roads, on the most level part of the tract, on the least suitable portion of the tract for forest use and at least 30 feet from any ravine, ridge or slope greater than 40 percent (40%);
  - (ii) With minimal intrusion into forest areas undeveloped by nonforest uses;
  - (iii) Where possible, when considering LC 16.210(5)(a)(i) and (ii) and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU; and
  - (iv) The amount of forest lands used to site access roads, service corridors, and structures must be minimized.
- (b) Setbacks. Structures other than a fence or sign cannot be located closer than:
- (i) 20 feet from the right-of-way of a state road, County road, or a local access public road specified in LC Chapter 15.
  - (ii) 30 feet from all property lines other than those described in Section (5)(b)(i).
  - (iii) The minimum distance necessary to comply Sections (5)(a) and (6).
  - (iv) Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a riparian modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.
- (c) Domestic Water Supplies. For new dwellings and non-farm structures on vacant land, evidence must be provided that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rule, OAR Chapter 629. If the water supply is unavailable from public sources or sources located entirely on the property, then the applicant must provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. For purposes of LC 16.210(5)(c) above, evidence of domestic water supply means:
- (i) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - (ii) A water use permit issued by the Water Resources Department for the use described in the application; or

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- (iii) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant must submit the well constructor's report to the Director upon completion of the well.
- (d) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant must provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (e) Approval of a dwelling is subject to the following requirements:
  - (i) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules.
  - (ii) The Director must notify the County Assessor of the above condition at the time the dwelling is approved.
  - (iii) Stocking survey report:
    - (aa) If the lot or parcel is more than ten acres, the property owner must submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules; and
    - (bb) Upon notification by the Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, that department will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax.
- (f) Signs.
  - (i) Signs cannot extend over a public right-of-way or project beyond the property line;
  - (ii) Signs cannot be illuminated, flashing, blinking, contain scrolling images, or capable of movement; and
  - (iii) Signs are to be limited to 200 square feet in area.

**(6) Fire-Siting Standards for Dwellings and Structures**

The following fire-siting standards or their equivalent apply to new residences, dwellings, manufactured dwellings, or structures allowed in Lane Code 16.210:

- (a) The dwelling must be located upon a parcel within a fire protection district or must be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant must provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the dwelling must comply with the following fire safety plan requirements:
  - (i) The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
  - (ii) If a water supply is required for fire protection, it must be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;
  - (iii) The applicant must provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use;
  - (iv) Road access must be provided to within 15 feet of the water's edge for firefighting pumping units. The road access must accommodate the turnaround of firefighting equipment during the fire season. Permanent signs must be posted along the access route to indicate the location of the emergency water source; and
  - (v) A 100-foot wide primary safety zone and a 100-foot wide secondary safety zone surrounding the perimeter of the dwelling or manufactured dwelling structures must be provided and maintained in perpetuity in compliance with the standards in (6)(c).
- (b) Fire Safety Design Standards for Roads and Driveways.

- (i) Private driveways, roads or bridges accessing only commercial forest uses are not subject to compliance with these fire safety design standards for roads and driveways. The route of access for firefighting equipment, from the fire station to the destination point, across public roads, bridges, private roads or private access easements and driveways must comply with the standards specified below. Evidence of compliance with the standards specified in (6)(b) should include objective information about the firefighting equipment, the physical nature of the access route, the nature of any proposed improvements to the access route, and it may also include a written verification of compliance from the agency providing fire protection, or a written certification of compliance from an Oregon Registered Professional Engineer. As used herein, "road" means a way of access used for more than one use and accessory uses. As used herein, "driveway" means a way of access used for only one dwelling.
- (ii) Road and Driveway Surfaces. Roads must have unobstructed widths of at least 20 feet including: travel surfaces with widths of at least 16 feet constructed with gravel to a depth sufficient to provide access for fire fighting vehicles and containing gravel to a depth of at least six-inches or with paving having a crushed base equivalent to six inches of gravel, an unobstructed area two feet in width at right angles with each side of the constructed surface, curve radii of at least 50 feet, and a vertical clearance of at least 13 feet 6 inches. Driveways must have: constructed widths of at least 12 feet with at least six inches of gravel or with paving having a crushed base equivalent to six inches of gravel and must have a vertical clearance of 13 feet 6 inches.
- (iii) Turnarounds. Any dead-end road over 200 feet in length and not maintained by Lane County must meet these standards for turnarounds. Dead-end roads must have turnarounds spaced at intervals of not more than 500 feet. Turnarounds must comply with these design and construction standards:
  - (aa) Hammerhead Turnarounds. Hammerhead turnarounds (for emergency vehicles to drive into and back out of to reverse their direction on the road) must intersect the road as near as possible at a 90 degree angle and extend from the road at that angle for a distance of at least 20 feet. They must be constructed to the standards for driveways in LC 16.210(6)(b)(i) above and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; or
  - (bb) Cul-de-sac Turnarounds. Cul-de-sac turnarounds must have a right-of-way width with a radius of at least 45 feet and an improved surface with a width of at least 36 feet and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; and

- (cc) Cul-de-sacs or hammerhead turnarounds cannot cross any slope which will allow chimney-effect draws unless the dangerous effects of the chimney-effect draws have been mitigated by the location of the road and, where necessary, by the creation of permanent fire breaks around the road.
- (iv) Bridges and Culverts. Bridges and culverts must be constructed to sustain a minimum gross vehicle weight of 50,000 lbs. and to maintain a minimum 16-foot road width surface or a minimum 12-foot driveway surface. The Planning Director may allow a single-span bridge utilizing a converted railroad flatcar as an alternative to the road and driveway surface width requirements, subject to verification from an engineer licensed in the State of Oregon that the structure will comply with the minimum gross weight standard of 50,000 lbs.
- (v) Road and Driveway Grades. Road and driveway grades cannot exceed 16 percent except for short distances when topographic conditions make lesser grades impractical. In such instances, grades up to 20 percent may be allowed for spans not to exceed 100 feet. An applicant must submit information from a Fire Protection District or engineer licensed in the State of Oregon demonstrating that road and driveway grades in excess of eight percent are adequate for the firefighting equipment of the agency providing fire protection to access: the use, firefighting equipment, and water supply.
- (vi) Identification. Roads must be named and addressed in compliance with LC 15.305 through 15.335.
- (vii) Driveway Vehicle Passage Turnouts. Driveways in excess of 200 feet must provide for a 20-foot long and eight-foot wide passage space (turn out) with six inches in depth of gravel and at a maximum spacing of 400 feet. Shorter or longer intervals between turnouts may be authorized by the Planning Director where the Director inspects the road and determines that topography, vegetation, corners or turns obstruct visibility.
- (viii) Modifications and Alternatives. The standards in (6)(b)(i) through (6)(b)(vii) above may be modified by the approval authority provided the applicant has submitted objective evidence demonstrating that an alternative standard would insure adequate access for firefighting equipment from its point of origination to its point of destination.
- (c) Fuel-Free Breaks. The owners of dwellings and structures must maintain a primary safety zone surrounding all structures and clear and maintain a secondary safety zone on land surrounding the dwelling that is owned or controlled by the owner in compliance with these requirements.

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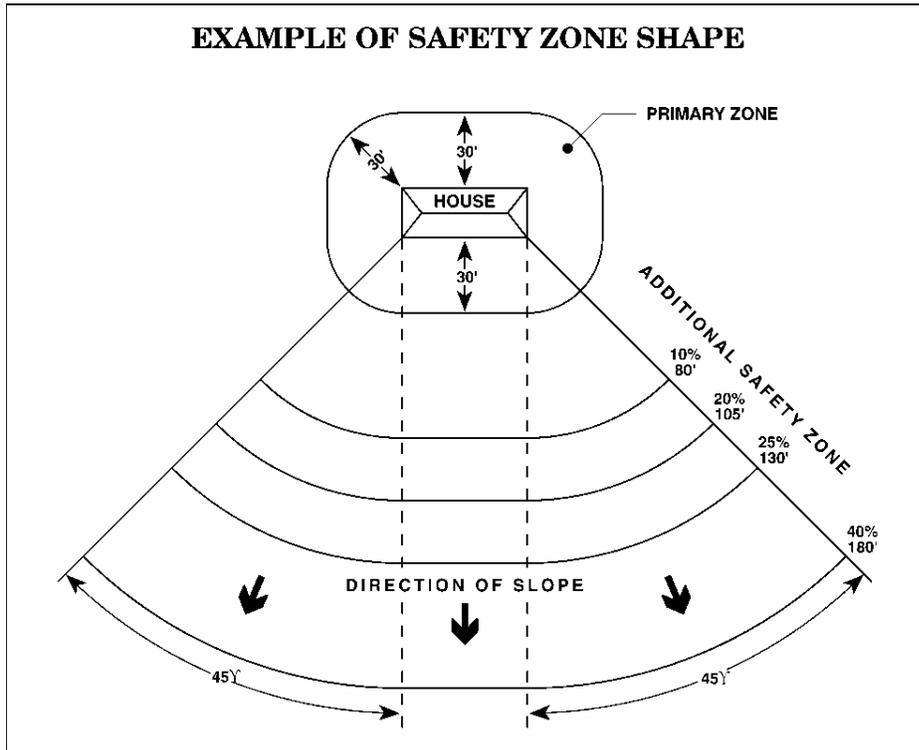
(i) **Primary Safety Zone.** The primary safety zone is a fire break extending a minimum of 30 feet in all directions around dwellings, manufactured dwellings and structures, unless otherwise specifically stated in LC 16.210. The goal within the primary safety zone is to exclude fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone could include green lawns and low shrubs (less than 24 inches in height). Trees must be spaced with greater than 15 feet between the crown and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, and other dead vegetation must be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) must be placed next to the house.

(aa) As slope increases, the primary safety zone must increase away from the house, parallel to the slope and down the slope, as shown in the table and figure below:

*Table 16.210-2 Minimum Primary Safety Zone*

<i>Slope</i>	<i>Feet of Primary Safety Zone</i>	<i>Feet of Additional Primary Safety Zone Down Slope</i>
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

Figure 16.210-1



(ii) **Secondary Safety Zone.** The secondary safety zone is a fuel break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of the secondary safety zone is to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary safety zone must be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees must be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels must be removed.

- (d) The dwelling must have a fire retardant roof.
- (e) Dwellings or manufactured dwellings must be sited at least 30 feet away from a ravine, ridge, or any slope greater than 40 percent slope.
- (f) If the dwelling has a chimney or chimneys, each chimney must have a spark arrester.

(7) Land Divisions

- (a) The minimum area requirement for the creation of new or adjusted lots or parcels for land designated as Nonimpacted Forest Land (F-1) is 80 acres. The creation of a new or adjusted lot or parcel must comply with LC Chapter 13.

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- (b) New land divisions or adjustments less than the parcel size in Subsection (a) may be approved in accordance with LC Chapter 13 for any of the following circumstances:
  - (i) The following uses in Table 16.210-1 may be approved pursuant to the criteria in Section (4) and provided that the parcel created from the division is the minimum size necessary for the use:
    - (aa) Use 4.1. Exploration for and production of geothermal, gas, oil and other associated hydrocarbons
    - (bb) Use 1.4. Log scaling and weigh stations
    - (cc) Use 3.7. Permanent facility for the primary processing of forest products.
    - (dd) Use 3.8. Permanent logging equipment repair and storage.
    - (ee) Use 4.3. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted, and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
    - (ff) Use 6.2. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
    - (gg) Use 6.4. Television, microwave and radio communication facilities and transmission towers.
    - (hh) Use 6.7. Reservoirs and water impoundments
    - (ii) Use 6.8. Commercial power generating facilities
    - (jj) Use 7.3. Aides to navigation and aviation
    - (kk) Use 7.4. Firearms training facilities
    - (ll) Use 7.5. Fire stations for rural fire protection
    - (mm) Use 7.6. Cemeteries.
    - (nn) Use 7.7. Public parks
    - (oo) Use 7.8. Private parks and campgrounds
  - (ii) For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:
    - (aa) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel cannot be larger than 10 acres; and

- (bb) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:
  - (A) Meets the minimum land division standards of the zone; or
  - (B) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.
  
- (cc) Restrictions
  - (A) An application for the creation of a parcel pursuant to paragraph (7)(b)(ii) or (iii) must provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction must prohibit dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).
  - (B) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.
  
- (iii) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals are based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:
  - (aa) Are not eligible for siting of a new dwelling;
  - (bb) May not serve as the justification for the siting of a future dwelling on other lots or parcels;
  - (cc) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
  - (dd) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

- (A) Facilitate an exchange of lands involving a governmental agency; or
  - (B) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
- (iv) To allow a division of a lot or parcel zoned for forest use if:
- (aa) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - (bb) Each dwelling complies with the criteria for a replacement dwelling under paragraph (3)(a)(i);
  - (cc) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;
  - (dd) At least one dwelling is located on each parcel created under this paragraph; and
  - (ee) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.
  - (ff) A lot or parcel may not be divided if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.
- (v) A division of a lot or parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in (aa) through (dd) below:
- (aa) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

- (A) If the parcel contains a dwelling or another use allowed under LC 16.210, the parcel must be large enough to support continued residential use or other allowed use of the parcel;
  - (B) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705, based on the size and configuration of the parcel.
- (bb) Before approving a proposed division of land under this section, the Planning Director must require as a condition of approval that the provider of public parks or open space, or the not-for-profit conservation organization, present for recording in Lane County Deeds and Records, an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:
- (A) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in LC 16.210 except park or conservation uses; and
  - (B) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (cc) If a proposed division of land under (7)(b)(v) results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the Planning Director may approve the division.
- (dd) The Planning Director is required to maintain a record of lots and parcels that do not qualify for development of the property under restrictions imposed by (7)(b)(v)(aa)(B) above. The record must be readily available to the public.
- (vi) A division of a lawfully established unit of land may occur along an acknowledged urban growth boundary where the parcel remaining outside the urban growth boundary is zoned as F-1 and is smaller than 80 acres, provided that:
- (aa) If the parcel contains a dwelling, it must be large enough to support continued residential use.
  - (bb) If the parcel does not contain a dwelling, the parcel:
    - (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

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- (B) May not be considered in approving or denying an application for siting any other dwelling; and
  - (C) May not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use.
- (c) A landowner allowed a land division under Subsection (b) must record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (d) The Director or hearing authority may not approve a property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists.

(8) Telecommunication Facilities

Telecommunication facilities are allowed subject to compliance with the requirements of LC 16.264 and applicable requirements elsewhere in LC Chapter 16.

*(Revised by Ordinance No. 7-87, Effective 6.17.87; 18-87, 12.25.87; 14-89, 2.2.90; 12-90, 10.11.90; 11-91A, 8.30.91; 17-91, 1.17.92; 10-92, 11.12.92; 4-02, 4.10.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.17.10; 14-08, 11.5.14; 14-09, 12.16.14; 15-3, 04.17.15; 15-08, 12.15.15; 16-01, 2.25.16; 18-02, 8.9.18; 18-08, 2.14.19)*

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**PAGES 16-87 THROUGH 16-91  
ARE RESERVED FOR FUTURE EXPANSION**

**IMPACTED FOREST LANDS ZONE (F-2, RCP)  
RURAL COMPREHENSIVE PLAN**

F-2 Zone Table of Contents

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**16.211 Impacted Forest Lands (F-2, RCP)**

(1) Purpose

The purpose of the Impacted Forest Land (F-2) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The F-2 zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water, and land resources of the county.

The F-2 zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the F-2 zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-006. The minimum parcel size and other standards established by this zone are intended to promote commercial forest operations.

(2) Use Table

Table of Permitted Uses

Table 16.211-1 sets forth the uses allowed in the F-2 zone subject to Type I, II, or III approval processes. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type I, II, or, III process, unless otherwise specified on Table 16.211-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions, siting standards, fire siting standards, and exceptions set forth in LC 16.211.

As used in Table 16.211-1:

- (a) Use Type:
  - (i) "A" means the use is allowed outright or permitted subject to standards.
  - (ii) "C" means the use is a Conditional Use, subject to Section (4) and other listed criteria.
- (b) Local Procedure Type:
  - (i) "P" means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Chapter.
  - (ii) "AL" means Assembly License, subject to LC 3.995.
  - (iii) Type I uses and activities are permitted subject to the general provisions and exceptions set forth by this chapter of Lane Code.
  - (iv) Type II uses may be allowed provided a land use application is submitted and approved by the Director pursuant to LC Chapter 14.
  - (v) Type III uses may be allowed provided a land use application is submitted and approved by the Hearings Official pursuant to LC Chapter 14.
- (c) The "Subject To" column identifies any specific provisions of LC 16.211 to which the use is subject. All uses and development are subject to the development standards provisions of LC 16.211(5)(b) and (6)(c). Residences, dwellings, and structures must comply with LC 16.211(5) and (6). Any new structure subject to LC 16.211(5)(a) is subject to a Type II procedure pursuant to LC Chapter 14.
- (d) A determination by the Director for whether or not a use fits within the classification of uses listed as Type I, Permitted Outright, or Assembly License in the use table may constitute a "permit" as defined by ORS 215.402(4), "...discretionary approval of a proposed development of land..." an owner of land where the use would occur therefore may request to elevate review of a Type I, Permitted Outright, or Assembly License use to a Type II land use application pursuant to LC Chapter 14. The burden of proof in the application will be upon the owner of land to demonstrate that the proposed use fits within the classification.

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
<b>1.</b>	<b>Forest, Farm and Natural Resource Uses</b>			

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
1.1.	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash	A	P	
1.2.	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation	A	I	(5)(b), (6)(c)
1.3.	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities	A	P	
1.4.	Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources	A	P	
1.5.	Farm use as defined in LC 16.090.	A	P	
1.6.	Uninhabitable structures accessory to fish and wildlife enhancement	A	I	(5)(b), (6)(c)
1.7.	Agricultural building	A	I	(5)(b), (6)(c)
1.8.	Log scaling and weigh stations	C	II	(4), (5), (6)
1.9.	Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations	C	II	(4), (5), (6)
1.10.	Marijuana production	A	I	LC 16.420, (5)(b), (6)(c)
1.11.	Marijuana wholesale distribution	A	I	LC 16.420, (5)(b), (6)(c)
1.12.	Marijuana research	A	I	LC 16.420, (5)(b), (6)(c)
<b>2.</b>	<b>Residential Uses</b>			

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
2.1.	Caretaker residences for public parks and public fish hatcheries	A	II	(3)(q), (3)(r), (5), (6)
2.2.	Large tract forest dwelling	A	II	(3)(a), (3)(q), (3)(r), (5), (6)
2.3.	Lot of record dwelling	A	II	(3)(b), (3)(q), (3)(r), (5), (6)
2.4.	Template dwelling	A	II	(3)(c), (3)(q), (3)(r), (5), (6)
2.5.	Alteration, restoration, or replacement of a lawfully established dwelling	A	I or II	(3)(d), (3)(q), (3)(r), (3)(s), (5), (6)
2.6.	Temporary hardship dwelling	C	II	(3)(e), (3)(q), (4), (5), (6)
<b>3.</b>	<b>Commercial Uses</b>			
3.1.	Temporary portable facility for the primary processing of forest products	A	I	(5)(b), (6)(c)
3.2.	Temporary forest labor camps	A	I	(5)(b), (6)(c)
3.3.	Private hunting and fishing operations without any lodging accommodations	A	P or II	(5), (6)
3.4.	Parking of up to seven dump trucks and trailers	C	II	(4)
3.5.	In-home commercial activity (Minor Home Occupation)	A	I	(3)(g)
3.6.	Home occupations	C	II	(3)(f), (4)
3.7.	Permanent facility for the primary processing of forest products	C	II	(3)(l), (4), (5), (6)

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b> I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
3.8.	Permanent logging equipment repair and storage	C	II	(4), (5), (6)
3.9.	Private seasonal accommodations for fee hunting operations	C	II	(3)(h), (4), (5), (6)
3.10.	Private accommodations for fishing occupied on a temporary basis	C	II	(3)(i), (4), (5), (6)
3.11.	Marijuana processing, provided an on-site dwelling is present	C	II	LC 16.420, (4)
<b>4.</b>	<b>Mineral, Aggregate, Oil and Gas Uses</b>			
4.1.	Exploration for aggregate resources as defined in ORS chapter 517	A	P	
4.2.	Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head	A	P	
4.3.	Mining and processing of oil, gas or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted by 4.2 above (e.g. compressors, separators, and storage servicing multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517	C	III	(4), (4)(d)
4.4.	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects	C	II	(4)
<b>5.</b>	<b>Transportation Uses</b>			
5.1.	Climbing and passing lanes within the right of way existing as of July 1, 1987	A	P	
5.2.	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result	A	P	

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b> I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
5.3.	Temporary public road and highway detours that will be abandoned and restored to condition or use in effect prior to construction of the detour at such time as no longer needed	A	P	
5.4.	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways	A	P	
5.5.	Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	
5.6.	Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards	A	P	
5.7.	Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.101 for existing transportation facilities, services, and improvements, including road bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	
5.8.	Changes in the frequency of transit, rail and airport services	A	P	
5.9.	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels	C	II	(4)
5.10.	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels	C	II	(4)
5.11.	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels	C	II	(4)
5.12.	Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road	C	II	(4)
5.13.	Park and ride lots	C	II	(4)
5.14.	Railroad mainlines and branch lines	C	II	(4)

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
5.15.	Pipelines	C	II	(4)
5.16.	Navigation channels	C	II	(4)
5.17.	Realignment as defined in LC 15.010 not otherwise permitted pursuant to this chapter	C	II	(3)(m), (4)
5.18.	Replacement of an intersection with an interchange	C	II	(3)(m), (4)
5.19.	Continuous median turn lanes	C	II	(3)(m), (4)
5.20.	New roads as defined in LC 15.010 that are County Roads functionally classified as Local Roads or Collectors, or are Public Roads or Local Access Roads as defined in LC 15.010(35) in areas where the function of the road is to reduce local access to or local traffic on a state highway	C	II	(3)(m), (4)
5.21.	Transportation facilities, services, and improvements other than those listed in LC 16.211 that serve local travel needs	C	II	(3)(m), (4)
5.22.	Expansion of lawfully existing airports	C	II	(4), (5), (6)
<b>6.</b>	<b>Utility and Power Generation, Solid Waste</b>			
6.1.	Local distribution lines (e.g. electric, telephone, natural gas) & accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups	A	P	
6.2.	Water intake facilities, canals and distribution lines for farm on and ponds	A	P	
6.3.	Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;	C	II	(4), (5), (6)
6.4.	Television, microwave and radio communication facilities and transmission towers	C	II	(4), (5), (6)
6.5.	New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width	C	II	(4)

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
6.6.	Water intake facilities, related treatment facilities, pumping stations and distribution lines	C	II	(4), (5), (6)
6.7.	Reservoirs and water impoundments	C	II	(4)
6.8.	Commercial utility facilities for the purpose of generating power	C	II	(3)(j), (4), (5), (6)
6.9.	Telecommunication tower changeout	A	I	(8)
6.10.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	A	I	(8)
6.11.	Telecommunication tower collocation	A	II	(8)
6.12.	New telecommunication tower or replacement tower	C	III	(4), (5), (6), (8)
<b>7.</b>	<b>Public and Quasi-public Uses</b>			
7.1.	Towers and fire stations for forest fire protection	A	II	(5), (6)
7.2.	Youth camps	A	II	(3)(n), (5), (6)
7.3.	Aids to navigation and aviation	C	II	(4), (5), (6)
7.4.	Firearms training facility as provided in ORS 197.770	C	II	(4), (5), (6)
7.5.	Fire stations for rural fire protection	C	II	(4), (5), (6)
7.6.	Cemeteries	C	II	(4)
7.7.	Public parks and public campgrounds, including those uses specified under OAR 660-034-0035 or OAR 660-034-0040	C	II	(4), (5), (6)
7.8.	Private parks and private campgrounds	C	II	(3)(k), (4), (5), (6)
7.9.	Storage structures for emergency supplies	C	II	(3)(o), (4), (5), (6)

<b>Table 16.211-1: Use Table for Impacted Forest Zones</b> I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
<b>8.</b>	<b>Outdoor Gatherings</b>			
8.1.	An outdoor gathering of fewer than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period	A	P or AL (if over 1,000 persons)	LC 3.995
8.2.	An outdoor mass gathering of more than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period, and which is held primarily in open spaces and not in any permanent structure as provided in ORS 433.735-760	A	III	ORS 433.735-760
8.3.	Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by the Planning Commission under ORS 433.763, notwithstanding Type III Hearings Official review	C	III (LCPC)	(3)(p)
<b>9.</b>	<b>Accessory Uses</b>			
9.1.	Uses and buildings accessory to existing uses and development permitted by LC 16.211.	A	P or II	(3)(s), (5), (6)

(3) Use Standards

- (a) A large tract forest dwelling may be allowed on a lot or parcel zoned for forest use, but it must comply with other provisions of law, including the following:
  - (i) The tract does not include a dwelling.
  - (ii) The tract is at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in Lane County or adjacent counties and zoned for forest use.
    - (aa) A tract cannot be considered to consist of less than 160 acres because it is crossed by a public road or a waterway.
  - (iii) Prior to issuance of a building permit, a deed restriction must be filed for all tracts that are used to meet the acreage requirements of this subsection pursuant to:

- (aa) The applicant must provide evidence that the covenants, conditions, and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions, and restrictions is located.
  - (bb) The covenants, conditions, and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- (b) A lot of record dwelling may be allowed on a lot or parcel zoned for forest use pursuant to the following:
- (i) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph (iv):
    - (aa) Since prior to January 1, 1985; or
    - (bb) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985;
  - (ii) The tract on which the dwelling will be sited does not include a dwelling;
  - (iii) If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;
  - (iv) For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members;
  - (v) The dwelling must be located on a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined in LC Chapter 15 that provides or will provide access to the subject tract. The road must be maintained and either paved or surfaced with rock and cannot be:
    - (aa) A United States Bureau of Land Management road; or
    - (bb) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency;

- (vi) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract must be consolidated into a single lot or parcel when the dwelling is allowed; and
  - (vii) When the lot or parcel on which the dwelling will be sited lies within an area designated in the Rural Comprehensive Plan as habitat of big game, the siting of the dwelling must be consistent with the limitations on density upon which the Rural Comprehensive Plan and land use regulations intended to protect the habitat are based.
- (c) A single family “template” dwelling authorized on a lot or parcel located within a forest zone pursuant to the following:
- (i) If the lot or parcel is predominantly composed of soils that are:
    - (aa) Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:
      - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
      - (B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
    - (bb) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
      - (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
      - (B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
    - (cc) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
      - (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
      - (B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  - (ii) Lots or parcels within urban growth boundaries cannot be used to satisfy the eligibility requirements of subsection (i) above;
  - (iii) A dwelling, as used in subsection (i) above, is considered to be in the 160-acre template if any part of the parcel is in the 160-acre template;

- (iv) Except as provided by subsection (v) below, if the subject tract abuts a road that existed on January 1, 1993, the measurement required in (i) above may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road;
- (v) The following applies where a tract 60 acres or larger abuts a road or perennial stream:
  - (aa) The measurement must be made in accordance with paragraph (iv). However, one of the three required dwellings must be on the same side of the road or stream as the tract, and:
    - (A) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
    - (B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract;
  - (bb) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings must be on the same side of the road as the proposed dwelling;
- (vi) A proposed "template" dwelling under this section is not allowed:
  - (aa) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (3)(a)(iii) for the other lots or parcels that make up the tract are met; or
  - (bb) If the tract on which the dwelling will be sited includes a dwelling;
- (vii) Where other lots or parcels that make up a tract in Subsection (vi):
  - (aa) The applicant must provide evidence that the covenants, conditions, and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions, and restrictions is located;
  - (bb) The covenants, conditions, and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions, and restrictions is located;

- (viii) The Director shall maintain a copy of the covenants, conditions, and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts do not qualify for the siting of a dwelling under the covenants, conditions, and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
- (d) Alteration, restoration, or replacement of a lawfully established dwelling, subject to the following:
  - (i) The dwelling was lawfully established;
  - (ii) The lawfully established dwelling:
    - (aa) Has intact exterior walls and roof structures;
    - (bb) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (cc) Has interior wiring for interior lights; and
    - (dd) Has a heating system;
  - (iii) In the case of replacement, is removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- (e) A temporary hardship dwelling is subject to the following:
  - (i) One manufactured dwelling (MH), recreational vehicle (RV), or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
    - (aa) The hardship dwelling must use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If a public sanitary sewer system is available, the hardship dwelling may connect to the public system and not use a subsurface sewage disposal system;
    - (bb) Except as provided in (3)(i)(cc) below, approval of a temporary hardship dwelling permit is valid until December 31 of the year following the year of original permit approval and may be renewed once every two years until the hardship situation ceases or unless in the opinion of the Lane County Sanitarian the on-site sewage disposal system no longer meets DEQ requirement;

- (cc) Within 90 days of the end of the hardship situation, the MH or RV must be removed from the property or demolished. In the case of an existing building, the building must be removed, demolished, or returned to an allowable nonresidential use or demolished; and
  - (dd) The temporary hardship dwelling will comply with Oregon Department of Environmental Quality review and removal requirements;
  - (ii) As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons; and
  - (iii) A temporary hardship dwelling approved under (3)€ above cannot be eligible for replacement under (3)(d) above.
- (f) A home occupation must:
- (i) Be operated by a resident or employee of a resident of the property on which the business is located;
  - (ii) Employ on the site no more than five full-time or part-time persons at any given time;
  - (iii) Be operated substantially in the dwelling or other buildings normally associated with uses permitted in the F-2 Zone;
  - (iv) Not unreasonably interfere with other uses permitted in LC 16.211;
  - (v) Comply with sanitation and building code requirements prior to start of Home Occupation; and
  - (vi) Not be used as a justification for a zone change.
- (g) An in-home commercial activity must comply with the following requirements:
- (i) Meets the criteria under Section (3)(f)(i), (ii), (iii), (v), and (vi) ;
  - (ii) Is operated by no more than five employees, who all reside in the single-family dwelling;
  - (iii) Is conducted within a dwelling;
  - (iv) Does not occupy more than 25 percent of the combined floor area of the dwelling, including attached garage;
  - (v) Does not serve clients or customers on-site;
  - (vi) Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage; and
  - (vii) Does not include the outside storage of materials, equipment, or products.

- (h) Private seasonal accommodations for fee hunting operations are subject to the following requirements:
  - (i) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted; and
  - (iii) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.
- (i) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:
  - (i) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted;
  - (iii) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
  - (iv) Accommodations must be located within one-quarter mile of fish-bearing Class I waters.
- (j) A commercial utility facility for the purpose of generating power cannot preclude more than 10 acres from use as a commercial forest operation, unless an exception is taken pursuant to OAR 600, Division 4.
- (k) Private Parks and Private Campgrounds.
  - (i) Campgrounds in private parks may be permitted, subject to the following:
    - (aa) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds are not allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4;
    - (bb) A campground must be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;
    - (cc) Campgrounds authorized by this rule cannot include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations;

- (dd) Overnight temporary use in the same campground by a camper or camper's vehicle cannot exceed a total of 30 days during any consecutive six-month period;
  - (ee) Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate sewer, water, or electric service hook-ups cannot be provided to individual camp sites except that electrical service may be provided to yurts allowed by Section (3)(k)(i)(ff); and
  - (ff) A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt must be located on the ground or on a wood floor with no permanent foundation.
- (l) Permanent facility for the primary processing of forest products.
- (i) Located in a building or buildings that do not exceed 10,000 square feet in total floor area; or
  - (ii) Located in an outdoor area that does not exceed one acre excluding laydown and storage yards; or
  - (iii) Located in a proportionate combination of indoor and outdoor areas described in Sections (3)(l)(i) and (ii); and
  - (iv) Adequately separated from surrounding properties to reasonably mitigate noise, odor, and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by Lane County.
- (m) Certain transportation facilities and uses must comply with the following:
- (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
  - (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
  - (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.
- (n) Youth Camps

- (i) The purpose of a youth camp is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. Changes to or expansions of youth camps established prior to June 14, 2000, are subject to the provisions of ORS 215.130.
- (ii) An application for a proposed youth camp must comply with the following:
  - (aa) The number of overnight camp participants that may be accommodated must be determined by Lane County, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (3)(n)(ii)(bb) a youth camp cannot provide overnight accommodations for more than 350 youth camp participants, including staff.
  - (bb) Lane County may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph 0.
  - (cc) Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, cannot exceed 10 percent of the total camper nights offered by the youth camp.
  - (dd) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
  - (ee) A campground as described in Subsection (3)(k) cannot be established in conjunction with a youth camp.
  - (ff) A youth camp cannot be allowed in conjunction with an existing golf course.
  - (gg) A youth camp cannot interfere with the exercise of legally established water rights on adjacent properties.
- (iii) The youth camp must be located on a lawful parcel that is:
  - (aa) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination is based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities.
  - (bb) Is at least 40 acres in size.

- (cc) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers must consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property is 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
    - (A) The proposed setback will prevent conflicts with commercial resource management practices;
    - (B) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
    - (C) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
  - (dd) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate must verify that a proposed youth camp will not result in the need for a sewer system.
- (iv) A youth camp may provide for the following facilities:
- (aa) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses are not allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.
  - (bb) Primary cooking and eating facilities must be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services are limited to the operation of the youth camp and provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.
  - (cc) Bathing and laundry facilities except that they cannot be provided in the same building as sleeping quarters.

- (dd) Up to three camp activity buildings, not including primary cooking and eating facilities.
- (ee) Sleeping quarters including cabins, tents, or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, cannot include kitchen facilities. Sleeping quarters can be provided only for youth camp participants and must not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
- (ff) Covered areas that are not fully enclosed.
- (gg) Administrative, maintenance, and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.
- (hh) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).
- (ii) A caretaker's residence may be established in conjunction with a youth camp, if no other dwelling exists on the subject property.
- (v) A proposed youth camp must comply with the following fire safety requirements:
  - (aa) The fire siting standards in Section (6).
  - (bb) A fire safety protection plan must be developed for each youth camp that includes the following:
    - (A) Fire prevention measures;
    - (B) On site pre-suppression and suppression measures; and
    - (C) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
  - (cc) Except as determined under paragraph (3)(n)(v)(dd), a youth camp's on-site fire suppression capability must at least include:
    - (A) A 1000 gallon mobile water supply that can access all areas of the camp;
    - (B) A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
    - (C) A sufficient number of fire-fighting hand tools; and

- (D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
- (dd) An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability must be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.
- (ee) The provisions of paragraph (3)(n)(v)(dd) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.
- (vi) The Director, or its designate, requires as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (o) Storage structures for emergency supplies located west of the summit of the Coastal Range to serve communities and households located in tsunami inundation zones, as depicted on tsunami inundation maps prepared by Department of Geology and Mineral Industries (DOGAMI):
  - (i) Areas within an urban growth boundary cannot reasonably accommodate the structures;
  - (ii) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI);
  - (iii) Sites where the structure could be co-located with an existing use approved under this section are given preference for consideration;
  - (iv) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
  - (v) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and

- (vi) Notice of application for proposed storage structures is provided according to LC Chapter 14 to Lane County Emergency Management.
- (vii) As used in this section, “storage structures for emergency supplies” means structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.
- (p) Any outdoor gathering of more than 3,000 people for more than 120 hours within any three-month period must comply with the following requirements:
  - (i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;
  - (ii) The proposed gathering is compatible with existing land uses;
  - (iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and
  - (iv) The provisions of ORS 433.755 shall apply to the proposed gathering.
- (q) For single-family dwellings, the landowner must sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (r) For single-family dwellings, the approval is valid for four years from the date of approval. The Director may approve an application for extension of the permit subject to the requirements and limitations of LC 14.090 (6) and (7).
- (s) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.211(5)(a). For the purpose of LC 16.211(3)(s), the “same site” is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

#### (4) Conditional Use Review Criteria

A Conditional Use listed in Table 16.211-1 of this zone that references this section may be allowed provided the following requirements are satisfied. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

- (a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.

- (b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- (c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for Use 2.6, Use 3.6, Use 3.10, Use 6.6, and Use 7.8.
- (d) For Use 4.3: the use will not significantly conflict with the existing uses on adjacent and nearby lands.

#### (5) Siting Standards for Uses, Activities, and Structures

The following siting criteria apply to all new uses, activities, and structures allowed by LC 16.211. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. The Director must consider the criteria in this section together with the requirements of Section (6) to identify the building site.

- (a) Residences, dwellings, and structures must be sited as follows:
  - (i) Near dwellings on other tracts, near existing roads, on the most level part of the tract, on the least suitable portion of the tract for forest use and at least 30 feet from any ravine, ridge or slope greater than 40 percent (40%);
  - (ii) With minimal intrusion into forest areas undeveloped by non-forest uses;
  - (iii) Where possible, when considering LC 16.211(5)(a)(i) and (ii) and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU; and
  - (iv) The amount of forest lands used to site access roads, service corridors, and structures must be minimized.
- (b) Setbacks. Structures other than a fence or sign cannot be located closer than:
  - (i) 20 feet from the right-of-way of a state road, County road, or a local access public road specified in LC Chapter 15.
  - (ii) 30 feet from all property lines other than those described in Section (5)(b)(i).
  - (iii) The minimum distance necessary to comply Sections (5)(a) and (6).

- (iv) Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a riparian modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.
- (c) Domestic Water Supplies. For new dwellings and non-farm structures on vacant land, evidence must be provided that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rule, OAR Chapter 629. If the water supply is unavailable from public sources or sources located entirely on the property, then the applicant must provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. For purposes of LC 16.211(5)(c) above, evidence of domestic water supply means:
  - (i) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - (ii) A water use permit issued by the Water Resources Department for the use described in the application; or
  - (iii) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant must submit the well constructor's report to the Director upon completion of the well.
- (d) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant must provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (e) Approval of a dwelling is subject to the following requirements:
  - (i) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules.
  - (ii) The Director must notify the County Assessor of the above condition at the time the dwelling is approved.
  - (iii) Stocking survey report:

- (aa) If the lot or parcel is more than ten acres, the property owner must submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules; and
  - (bb) Upon notification by the Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, that department will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax.
- (f) Signs.
- (i) Signs cannot extend over a public right-of-way or project beyond the property line;
  - (ii) Signs cannot be illuminated, flashing, blinking, contain scrolling images, or capable of movement; and
  - (iii) Signs are to be limited to 200 square feet in area.

(6) Fire-Siting Standards for Dwellings and Structures. The following fire-siting standards or their equivalent apply to new residences, dwellings, manufactured dwellings, or structures allowed in Lane Code 16.211:

- (a) The dwelling must be located upon a parcel within a fire protection district or must be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant must provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the dwelling must comply with the following fire safety plan requirements:
  - (i) The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
  - (ii) If a water supply is required for fire protection, it must be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;
  - (iii) The applicant must provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use;

- (iv) Road access must be provided to within 15 feet of the water's edge for firefighting pumping units. The road access must accommodate the turnaround of firefighting equipment during the fire season. Permanent signs must be posted along the access route to indicate the location of the emergency water source; and
  - (v) A 100-foot wide primary safety zone and a 100-foot wide secondary safety zone surrounding the perimeter of the dwelling or manufactured dwelling structures must be provided and maintained in perpetuity in compliance with the standards in (6)(c).
- (b) Fire Safety Design Standards for Roads and Driveways.
- (i) Private driveways, roads or bridges accessing only commercial forest uses are not subject to compliance with these fire safety design standards for roads and driveways. The route of access for firefighting equipment, from the fire station to the destination point, across public roads, bridges, private roads or private access easements and driveways must comply with the standards specified below. Evidence of compliance with the standards specified in (6)(b) should include objective information about the firefighting equipment, the physical nature of the access route, the nature of any proposed improvements to the access route, and it may also include a written verification of compliance from the agency providing fire protection, or a written certification of compliance from an Oregon Registered Professional Engineer. As used herein, "road" means a way of access used for more than one use and accessory uses dwelling or manufactured dwelling. As used herein, "driveway" means a way of access used for only one dwelling or manufactured dwelling.
  - (ii) Road and Driveway Surfaces. Roads must have unobstructed widths of at least 20 feet including: travel surfaces with widths of at least 16 feet constructed with gravel to a depth sufficient to provide access for fire fighting vehicles and containing gravel to a depth of at least six-inches or with paving having a crushed base equivalent to six inches of gravel, an unobstructed area two feet in width at right angles with each side of the constructed surface, curve radii of at least 50 feet, and a vertical clearance of at least 13 feet 6 inches. Driveways must have: constructed widths of at least 12 feet with at least six inches of gravel or with paving having a crushed base equivalent to six inches of gravel and must have a vertical clearance of 13 feet 6 inches.
  - (iii) Turnarounds. Any dead-end road over 200 feet in length and not maintained by Lane County must meet these standards for turnarounds. Dead-end roads must have turnarounds spaced at intervals of not more than 500 feet. Turnarounds must comply with these design and construction standards:

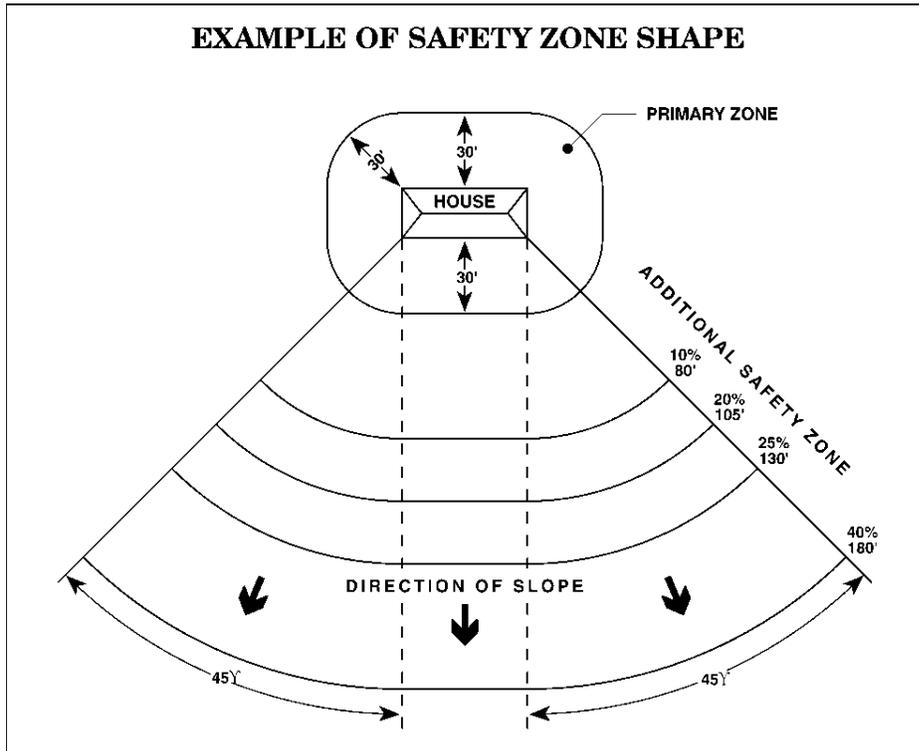
- (aa) Hammerhead Turnarounds. Hammerhead turnarounds (for emergency vehicles to drive into and back out of to reverse their direction on the road) must intersect the road as near as possible at a 90 degree angle and extend from the road at that angle for a distance of at least 20 feet. They must be constructed to the standards for driveways in LC 16.211(6)(b)(i) above and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; or
- (bb) Cul-de-sac Turnarounds. Cul-de-sac turnarounds must have a right-of-way width with a radius of at least 45 feet and an improved surface with a width of at least 36 feet and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; and
- (cc) No cul-de-sacs or hammerhead turnarounds must be allowed to cross any slope which will allow chimney-effect draws unless the dangerous effects of the chimney-effect draws have been mitigated by the location of the road and, where necessary, by the creation of permanent fire breaks around the road.
- (iv) Bridges and Culverts. Bridges and culverts must be constructed to sustain a minimum gross vehicle weight of 50,000 lbs. and to maintain a minimum 16-foot road width surface or a minimum 12-foot driveway surface. The Planning Director may allow a single-span bridge utilizing a converted railroad flatcar as an alternative to the road and driveway surface width requirements, subject to verification from an engineer licensed in the State of Oregon that the structure will comply with the minimum gross weight standard of 50,000 lbs.
- (v) Road and Driveway Grades. Road and driveway grades cannot exceed 16 percent except for short distances when topographic conditions make lesser grades impractical. In such instances, grades up to 20 percent may be allowed for spans not to exceed 100 feet. An applicant must submit information from a Fire Protection District or engineer licensed in the State of Oregon demonstrating that road and driveway grades in excess of eight percent are adequate for the firefighting equipment of the agency providing fire protection to access the use, firefighting equipment and water supply.
- (vi) Identification. Roads must be named and addressed in compliance with LC 15.305 through 15.335.

- (vii) Driveway Vehicle Passage Turnouts. Driveways in excess of 200 feet must provide for a 20-foot long and eight-foot wide passage space (turn out) with six inches in depth of gravel and at a maximum spacing of 400 feet. Shorter or longer intervals between turnouts may be authorized by the Planning Director where the Director inspects the road and determines that topography, vegetation, corners or turns obstruct visibility.
- (viii) Modifications and Alternatives. The standards in (6)(b)(i) through (6)(b)(vii) above may be modified by the approval authority provided the applicant has submitted objective evidence demonstrating that an alternative standard would insure adequate access for firefighting equipment from its point of origination to its point of destination.
- (c) Fuel-Free Breaks. The owners of dwellings and structures must maintain a primary safety zone surrounding all structures and clear and maintain a secondary safety zone on land surrounding the dwelling that is owned or controlled by the owner in compliance with these requirements.
  - (i) Primary Safety Zone. The primary safety zone is a fire break extending a minimum of 30 feet in all directions around dwellings, manufactured dwellings and structures, unless otherwise specifically stated in LC 16.211. The goal within the primary safety zone is to exclude fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone could include green lawns and low shrubs (less than 24 inches in height). Trees must be spaced with greater than 15 feet between the crown and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, and other dead vegetation must be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) must be placed next to the house.
    - (aa) As slope increases, the primary safety zone must increase away from the house, parallel to the slope and down the slope, as shown in the table and figure below:

Table 16.211-2 Minimum Primary Safety Zone

<i>Slope</i>	<i>Feet of Primary Safety Zone</i>	<i>Feet of Additional Primary Safety Zone Down Slope</i>
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

Figure 16.211-1



(ii) **Secondary Safety Zone.** The secondary safety zone is a fuel break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of the secondary safety zone is to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary safety zone must be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees must be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels must be removed.

- (d) The dwelling must have a fire retardant roof.
- (e) Dwellings or manufactured dwellings must be sited at least 30 feet away from a ravine, ridge, or any slope greater than 40 percent slope.
- (f) If the dwelling has a chimney or chimneys, each chimney must have a spark arrester.

(7) Land Divisions

- (a) The minimum area requirement for the creation of new or adjusted lots or parcels for land designated as Impacted Forest Land (F-2) is 80 acres. The creation of a new or adjusted lot or parcel must comply with LC Chapter 13.

- (b) New land divisions or adjustments less than the parcel size in Subsection 0 may be approved in accordance with LC Chapter 13 for any of the following circumstances:
- (i) The following uses in Table 16.211-1 may be approved pursuant to the criteria in Section (4) and provided that the parcel created from the division is the minimum size necessary for the use:
    - (aa) Use 4.1. Exploration for and production of geothermal, gas, oil and other associated hydrocarbons
    - (bb) Use 1.4. Log scaling and weigh stations
    - (cc) Use 3.7. Permanent facility for the primary processing of forest products.
    - (dd) Use 3.8. Permanent logging equipment repair and storage.
    - (ee) Use 4.3. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted, and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
    - (ff) Use 6.2. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
    - (gg) Use 6.3. Television, microwave and radio communication facilities and transmission towers.
    - (hh) Use 6.6. Reservoirs and water impoundments
    - (ii) Use 6.7. Commercial power generating facilities
    - (jj) Use 7.3. Aides to navigation and aviation
    - (kk) Use 7.4. Firearms training facilities
    - (ll) Use 7.5. Fire stations for rural fire protection
    - (mm) Use 7.6. Cemeteries.
    - (nn) Use 7.7. Public parks
    - (oo) Use 7.8. Private parks and campgrounds
  - (ii) For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:
    - (aa) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel cannot be larger than 10 acres; and

- (bb) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:
  - (A) Meets the minimum land division standards of the zone; or
  - (B) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.
- (cc) Restrictions
  - (A) An application for the creation of a parcel pursuant to paragraph (7)(b)(ii) or (iii) must provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction must prohibit dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).
  - (B) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.
- (iii) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals are based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:
  - (aa) Are not eligible for siting of a new dwelling;
  - (bb) May not serve as the justification for the siting of a future dwelling on other lots or parcels;
  - (cc) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
  - (dd) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

- (A) Facilitate an exchange of lands involving a governmental agency; or
  - (B) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
- (iv) To allow a division of a lot or parcel zoned for forest use if:
- (aa) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - (bb) Each dwelling complies with the criteria for a replacement dwelling under paragraph (3)(d)(ii);
  - (cc) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;
  - (dd) At least one dwelling is located on each parcel created under this paragraph; and
  - (ee) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.
  - (ff) A lot or parcel may not be divided if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.
- (v) A division of a lot or parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in (aa) through (dd) below:
- (aa) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

- (A) If the parcel contains a dwelling or another use allowed under LC 16.211, the parcel must be large enough to support continued residential use or other allowed use of the parcel;
  - (B) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705, based on the size and configuration of the parcel.
- (bb) Before approving a proposed division of land under this section, the Planning Director must require as a condition of approval that the provider of public parks or open space, or the not-for-profit conservation organization, present for recording in Lane County Deeds and Records, an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:
- (A) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in LC 16.211 except park or conservation uses; and
  - (B) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (cc) If a proposed division of land under (7)(b)(v) results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the Planning Director may approve the division.
- (dd) The Planning Director is required to maintain a record of lots and parcels that do not qualify for development of the property under restrictions imposed by (7)(b)(v)(aa)(B) above. The record must be readily available to the public.
- (vi) A division of a lawfully established unit of land may occur along an acknowledged urban growth boundary where the parcel remaining outside the urban growth boundary is zoned as F-2 and is smaller than 80 acres, provided that:
- (aa) If the parcel contains a dwelling, it must be large enough to support continued residential use.
  - (bb) If the parcel does not contain a dwelling, the parcel:
    - (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

- (B) May not be considered in approving or denying an application for siting any other dwelling; and
  - (C) May not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use.
- (c) A landowner allowed a land division under Subsection (b) must record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (d) The Director or hearing authority may not approve a property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists.

(8) Telecommunication Facilities.

Telecommunication facilities are allowed subject to compliance with the requirements of LC 16.264 and applicable requirements elsewhere in LC Chapter 16.

*(Revised by Ordinance 7-87, Effective 6.17.87; 18-87, 12.25.87; 12-90, 10.11.90; 11-91A, 8.30.91, 10-92, 11.12.92; 4-02, 4.10.02; 5-02, 5.28.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.17.10; 7-10, 11.25.10; 7-12, 12.28.12; 14-08, 11.5.14; 14-09, 12.16.14; 15-08, 12.15.15; 16-01, 2.15.16; 18-02, 8.9.18; 18-08, 2.14.19)*

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PAGES 16-125 THROUGH 16-130  
ARE RESERVED FOR FUTURE EXPANSION

**EXCLUSIVE FARM USE ZONE (EFU-RCP)**

**RURAL COMPREHENSIVE PLAN**

EFU Zone Table of Contents

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**16.212 Exclusive Farm Use Zone (EFU-RCP)****(1) Purpose**

The purpose of the Exclusive Farm Use (EFU) Zone is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county. It is also the purpose of the EFU zone to qualify farms for farm use valuation under the provisions of ORS Chapter 308.

The EFU zone has been applied to lands designated as Agriculture in the Rural Comprehensive Plan. The provisions of the EFU zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations.

**(2) Definitions**

For the purpose of LC 16.212, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

- (a) Agri-tourism. "Agri-tourism" means a common, farm-dependent activity that promotes agriculture, any income from which is incidental and subordinate to a working farm. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals..
- (b) Associated Transmission Lines. "Associated transmission lines" means transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.
- (c) Farm Operation. "Farm Operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use as defined in ORS 215.203.
- (d) Farm Operator. "Farm Operator" is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.

- (e) Golf course. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of LC 16.212 means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
- (i) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
  - (ii) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
  - (iii) Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
- (f) High Value Farmland. "High value farmland" means land in a tract composed predominantly of soils that are:
- (i) Irrigated and classified prime, unique, Class I or II; or
  - (ii) Not irrigated and classified prime, unique, Class I or II.
  - (iii) In addition to that land described in 0 and 0 above, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, "specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa;
  - (iv) That portion of Lane County lying east of the summit of the Coast Range including tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in 0 and 0 and the following soils:

- (aa) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hultt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;
  - (bb) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);
  - (cc) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and
  - (dd) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.
- (v) In addition to that land described in 0 and 0 above, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in 0 and 0 above and the following soils:
- (aa) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;
  - (bb) Subclassification IIIw, specifically, Brenner and Chitwood;
  - (cc) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and
  - (dd) Subclassification IVw, specifically, Coquille.
- (vi) In addition to that land described in 0 and 0 above, high value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in 0 and 0 above and the following soils:
- (aa) Subclassification IIIw, specifically, Ettersburg Silt Loam and Croftland Silty Clay Loam;
  - (bb) Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

- (cc) Subclassification IVw, specifically, Huffling Silty Clay Loam.
- (vii) Lands designated and zoned by Lane County as Marginal Lands according to the criteria in ORS 215.247 (1991) are excepted from this definition of “high value farmland.”
- (g) Net Metering Power Facility. “Net metering power facility” means a facility for the production of energy that:
  - (i) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow “Farm Use” and 215.213(1)(u) in the Exclusive Farm Use zone;
  - (ii) Is intended to offset part of the customer-generator’s requirements for energy;
  - (iii) Will operate in parallel with a utility’s existing transmission and distribution facilities;
  - (iv) Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations; and
  - (v) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (h) Non-Commercial/Stand Alone Power Generating Facility. “Non-commercial/stand-alone power generating facility” means a facility for the production of energy that:
  - (i) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow “Farm Use” and ORS 215.213(1)(u) in the Exclusive Farm Use zone;
  - (ii) Is intended to provide all of the generator’s requirements for energy for the tract or the specific lawful accessory use that it is connected to;

- (iii) Operates as a standalone power generator not connected to a utility grid; and
  - (iv) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (i) Relative. A child, parent, step-parent, grandchild, grandparent, step-grandparent, sibling, step-sibling, niece, nephew, or first cousin of the farm operator or the farm operator's spouse.

### (3) Use Table

#### Table of Permitted Uses

Table 16.212-1 sets forth the uses allowed subject to Type I, II, or III approval procedures in the farm districts. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require review using Type I, II, or, III procedures, unless otherwise specified on Table 16.212-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this Chapter.

As used in Table 16.212-1:

- (a) Uses:
- (i) "A" means the use is outright allowed or permitted subject to standards.
  - (ii) "C" means the use is a Conditional Use, subject to Section (5)
  - (iii) "X" means use is not allowed.
  - (iv) "HV" means when a property is predominately composed of High Value Soils, as defined in LC 16.212(2)(f).
  - (v) "Non-HV" means when a property is predominately composed of Non-High Value Soils, as defined in LC 16.212(2)(f).
- (b) Procedures:
- (i) "P" means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Chapter.
  - (ii) Type I uses and activities are permitted subject to the general provisions and exceptions set forth by this chapter of Lane Code and LC 14.030(1)(a).

- (iii) Type II uses may be allowed provided a land use application is submitted and approved through the Type II procedure set forth in LC Chapter 14.
  - (iv) Type III uses may be allowed provided a land use application is submitted and approved by the Hearings Official pursuant to LC Chapter 14.
  - (v) "AL" means Assembly License, subject to LC 3.995.
  - (vi) "X" means no new use is allowed.
- (c) The "Subject To" column identifies any specific provisions of LC 16.212 to which the use is subject. All uses and development are subject to the development standard provisions of LC 16.212(15).
- (d) A determination by the Director for whether or not a use fits within the classification of uses listed as Type I, Permitted Outright, or Assembly License in the use table may constitute a "permit" as defined by ORS 215.402(4). "...discretionary approval of a proposed development of land..." An owner of land where the use would occur therefore may request to elevate review of a Type I, Permitted Outright, or Assembly License use to a Type II land use application pursuant to LC Chapter 14. The burden of proof in the application will be upon the owner of land to demonstrate that the proposed use fits within the classification.

<b>Table 16.212-1: Use Table for EFU Zones</b>						
<b>I = Type I II = Type II III = Type III</b>						
<b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
<b>Use</b>		<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
<b>1.</b>	<b>Farm, Forest, and Natural Resource Uses</b>					
1.1.	Farm use	A	P	A	P	
1.2.	Propagation or harvesting of a forest product	A	P	A	P	
1.3.	Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract	A	P	A	P	
1.4.	Nonresidential buildings customarily provided in conjunction with farm use	A	P	A	P	
1.5.	Creation of, restoration of, or enhancement of wetlands	A	P	A	P	

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
1.6.	A facility for the processing of farm crops or the production of biofuel as defined in LC 16.090 or a farm used for an establishment for the slaughter, processing or selling of less than 1,000 poultry or poultry products as defined in ORS 603.038 within a calendar year	A	I	A	I	(4)(a)
1.7.	A facility for the primary processing of forest products	A	II	A	II	(4)(b), (5)
1.8.	The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species	C	II	C	II	(4)(c), (5)
1.9.	Marijuana production	A	I	A	I	LC 16.420
1.10.	Marijuana wholesale distribution	A	I	A	I	LC 16.420
1.11.	Marijuana research	A	I	A	I	LC 16.420
1.12.	Marijuana processing	A	II	A	II	(4)(a), LC 16.420
<b>2.</b>	<b>Residential Uses</b>					
2.1.	Primary farm dwelling	A	II	A	II	(4)(z), (7)
2.2.	Woodlot operation dwelling	X	X	C	II	(4)(z), (7)(g), (7)(h), (5)
2.3.	Relative farm help dwelling	A	II	A	II	(4)(z), (8)(b)

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
2.4.	Accessory farm dwelling for year-round and seasonal farm workers	A	II	A	II	(4)(z), (8)(a)
2.5.	Non-farm dwelling on High Value Farmland	A	II	X	X	(4)(z), (9)
2.6.	Non-farm dwelling on Non-high Value Farmland	X	X	A	II	(4)(z), (10)
2.7.	Alteration, restoration, or replacement of a lawfully established dwelling	A	I or II	A	I or II	(4)(z), (4)(cc), (6)(a)-(d)
2.8.	Replacement dwelling for historic property	A	II	A	II	(4)(z), (6)(e)
2.9.	Temporary hardship dwelling	C	II	C	II	(4)(z), (5), (8)(c)
2.10.	Residential home as defined in ORS 197.660, in existing dwellings	C	II	C	II	(4)(z), (5)
2.11.	Room and board arrangements for a maximum of five unrelated persons in existing residences	C	II	C	II	(4)(z), (5)
<b>3.</b>	<b>Commercial Uses</b>					
3.1.	Dog training classes or testing trials	A	I	A	I	(4)(d)
3.2.	Farm stand	A	I	A	I	(4)(e)
3.3.	Small Winery or Cider Business	A	I or II	A	I or II	(11)(a)
3.4.	Large Winery	A or C	I or II	A or C	I or II	(11)(b)
3.5.	Agri-tourism and other commercial events or activities that are related to and supportive of agriculture	A	II	A	II	(12)
3.6.	Parking of up to seven log trucks	C	II	C	II	(5)

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
3.7.	Home occupations	C	II	C	II	(4)(f), (5)
3.8.	In-home commercial activity	A	I	A	I	(4)(g)
3.9.	Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Use 3.1	C	II	C	II	(5)
3.10.	A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use	C	II	C	II	(5)
3.11.	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Use 1.7, but excluding activities in conjunction with a marijuana crop	C	II	C	II	(4)(bb), (5)
<b>4.</b>	<b>Mineral, Aggregate, Oil and Gas Uses</b>					
4.1.	Operations for the exploration for and production of geothermal resources in accordance with ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head	A	P	A	P	
4.2.	Operations for the exploration for minerals as defined by ORS 517.750	A	P	A	P	
4.3.	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005 not otherwise permitted	C	II	C	II	(5)

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
4.4.	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources	C	II	C	II	(4)(i), (5)
4.5.	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement	C	II	C	II	(4)(h), (5)
4.6.	Processing of other mineral resources and other subsurface resources	C	II	C	II	(5)
<b>5.</b>	<b>Transportation Uses</b>					
5.1.	Climbing and passing lanes within the right of way existing as of July 1, 1987	A	P	A	P	
5.2.	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result	A	P	A	P	
5.3.	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed	A	P	A	P	
5.4.	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways	A	P	A	P	

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
5.5.	Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	A	P	
5.6.	Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.101 for existing transportation facilities, services, and improvements, including road bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	A	P	
5.7.	Changes in the frequency of transit, rail and airport services	A	P	A	P	
5.8.	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels	C	II	C	II	(5)
5.9.	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels	C	II	C	II	(5)
5.10.	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels	C	II	C	II	(5)
5.11.	Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road	C	II	C	II	(5)
5.12.	Park and ride lots	C	II	C	II	(5)

<b>Table 16.212-1: Use Table for EFU Zones</b>						
<b>I = Type I II = Type II III = Type III</b>						
<b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
<b>Use</b>		<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
5.13.	Railroad mainlines and branch lines	C	II	C	II	(5)
5.14.	Pipelines	C	II	C	II	(5)
5.15.	Navigation channels	C	II	C	II	(5)
5.16.	Realignment as defined in LC 15.010 not otherwise permitted pursuant to this chapter	C	II	C	II	(4)(j), (5)
5.17.	Replacement of an intersection with an interchange	C	II	C	II	(4)(j), (5)
5.18.	Continuous median turn lanes	C	II	C	II	(4)(j), (5)
5.19.	New roads as defined in LC 15.010 that are County Roads functionally classified as Local Roads or Collectors, or are Public Roads or Local Access Roads as defined in LC 15.010(35) in areas where the function of the road is to reduce local access to or local traffic on a state highway	C	II	C	II	(4)(j), (5)
5.20.	Transportation facilities, services, and improvements other than those listed in LC 16.211 that serve local travel needs	C	II	C	II	(4)(j), (5)
5.21.	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities	C	II	C	II	(4)(k), (5)
<b>6.</b>	<b>Utility/Solid Waste Disposal Facilities</b>					
6.1.	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505	A	P	A	P	

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
6.2.	Land application of reclaimed water, agricultural or industrial process water or bio solids, or the onsite treatment of septage prior to land application of bio solids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with use allowed by LC 16.212	A	II	A	II	(4)(l)
6.3.	Utility facility service lines	A	I	A	I	(4)(m)
6.4.	Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height	A	II	A	II	(4)(n)
6.5.	Transmission towers over 200 feet in height	C	II	C	II	(5)
6.6.	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities	C	II	C	II	(13)(a), (5)
6.7.	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale	C	II	C	II	(13)(b), (5)
6.8.	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale	C	II	C	II	(13)(c), (5)
6.9.	A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland	X*	X*	C	II	(5) or *(4)(aa)

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
6.10.	Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060	X*	X*	C	II	(4)(o), (5) or  *(4)(o)(ii), (4)(aa)
6.11.	Change out to an existing telecommunication tower	P	I	P	I	(16)
6.12.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	P	I	P	I	FCC 14-153
6.13.	Collocation to an existing telecommunication tower	A	II	A	II	(16)
6.14.	New telecommunication tower or replacement tower not over 200 feet in height	C	III	C	III	(4)(n)(i), (5), (16)
<b>7.</b>	<b>Parks/Public/Quasi-public Uses</b>					
7.1.	Firearms training facility in existence on September 9, 1995	A	II	A	II	(4)(p), (4)(y)
7.2.	Fire service facilities providing rural fire protection services	A	P	A	P	
7.3.	Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306	A	P	A	P	
7.4.	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary	A	I	A	I	(4)(q)
7.5.	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306	C	II	C	II	(5)

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
7.6.	Living history museum	C	II	C	II	(4)(r), (4)(y), (5)
7.7.	Armed Forces Reserve Center	A	II	A	II	(4)(s), (4)(y)
7.8.	Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community	C	II	C	II	(4)(y), (5)
7.9.	Public parks, public playgrounds, and public campgrounds	C	II	C	II	(4)(t), (4)(y), (5)
7.10.	Operations for the extraction and bottling of water	C	II	C	II	(5)
7.11.	Churches and cemeteries in conjunction with ORS 215.441	X*	X*	A	II	(4)(y); or  *(4)(y), (4)(aa)
7.12.	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school	X*	X*	C	II	(4)(u), (4)(y), (5)or  *(4)(y), (4)(aa) or  *(4)(u), (4)(y), (5)
7.13.	Private parks, private playgrounds, and private campgrounds	X*	X*	C	II	(4)(v), (4)(y), (5); or  *(4)(y), (4)(aa)

<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
7.14.	Private Hunting and Fishing Preserves	X*	X*	C	II	(4)(v), (4)(y), (5); or  *(4)(y), (4)(aa)
7.15.	Golf courses not on high-value farmland as defined in LC 16.212(2)(d) and ORS 195.300	X*	X*	C	II	(4)(w), (4)(y), (5); or  *(4)(y), (4)(aa)
<b>8.</b>	<b>Outdoor Gatherings</b>					
8.1.	An outdoor gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period	A	P or AL (if over 1,000 persons)	A	P or AL (if over 1,000 persons)	LC 3.995
8.2.	An outdoor mass gathering of more than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period, and which is held primarily in open spaces and not in any permanent structure as provided in ORS 433.735-760	A	III	A	III	ORS 433.735-760
8.3.	Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763, notwithstanding Type III Hearings Official review	C	III (LCPC)	C	III (LCPC)	(4)(x)
<b>9.</b>	<b>Accessory Uses</b>					
9.1.	Uses and structures accessory to existing uses and development permitted by LC 16.212	A	P or II	A	P or II	(4)(cc)

## (4) Use Standards

- (a) A farm processing facility or an establishment for the slaughter, processing, or selling of less than 1,000 poultry or poultry products within a calendar year must comply with all of the following requirements:
  - (i) The farm on which the farm processing facility is located must provide at least one-quarter of the farm crops processed at the facility. This provision does not apply to a poultry establishment.
  - (ii) If a building is established or used for the farm processing facility or poultry establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use.
  - (iii) A farm processing facility or poultry establishment must comply with all applicable siting standards, but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.
  - (iv) A division of a lot or parcel or a property line adjustment that separates a farm processing facility or poultry establishment from the farm operation on which it is located is prohibited.
- (b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in LC 16.090. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located.
- (c) Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. The Director shall provide notice of all applications under this section to the Oregon Department of Agriculture. Referral notice pursuant to LC Chapter 14 must be provided at least 20 calendar days prior to a decision or initial public hearing on the application.
- (d) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:

- (i) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
  - (ii) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.
- (e) A farm stand may be approved if:
- (i) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
  - (ii) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
  - (iii) As used in this Section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
  - (iv) As used in this Section, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
  - (v) As used in this Section, "local agricultural area" includes Oregon.
  - (vi) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.
  - (vii) Farm Stand Development Standards
    - (aa) Adequate off-street parking will be provided pursuant to provisions of LC 16.250.
    - (bb) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.

- (cc) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
- (dd) No farm stand building or parking is permitted within the right-of-way.
- (ee) Approval is required from the Road Authority regarding adequate egress and access. All egress and access points shall be clearly marked.
- (ff) Vision clearance areas. No visual obstruction (e.g., sign, structure, solid fence, wall, planting or shrub vegetation) may exceed three (3) feet in height within "vision clearance areas" at street intersections.
  - (A) Service drives shall have a minimum clear-vision area formed by the intersection of the driveway centerline, the road right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection.
  - (B) Height is measured from the top of the curb or, where no curb exists, from the established street center line grade.
  - (C) Trees exceeding three (3) feet in height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above grade.
- (gg) All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways.
- (hh) Signs are permitted consistent with LC 16.212(15)(b)(iii).
- (viii) Permit approval is subject to compliance with Lane County Environmental Health or Department of Agriculture requirements and with the development standards of this zone.
- (f) A home occupation must:
  - (i) Be operated by a resident or employee of a resident of the property on which the business is located;
  - (ii) Employ on the site no more than five full-time or part-time persons at any given time;

- (iii) Be operated substantially in the dwelling or other buildings normally associated with uses permitted in the EFU zone;
  - (iv) Not unreasonably interfere with other uses permitted in LC 16.212;
  - (v) Comply with sanitation and building requirements prior to start of Home Occupation; and
  - (vi) Not to be used as a justification for a zone change.
- (g) An in-home commercial activity must comply with the following requirements:
- (i) Meets the criteria under 0, (ii), (iii), (v), and (vi);
  - (ii) Is operated by no more than five employees, who all reside in the single-family dwelling;
  - (iii) Is conducted within a dwelling;
  - (iv) Does not occupy more than 25 percent of the combined floor area of the dwelling, including attached garage;
  - (v) Does not serve clients or customers on-site;
  - (vi) Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage; and
  - (vii) Does not include the outside storage of materials, equipment or products.
- (h) New facilities that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- (i) Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:
- (i) A land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre.
  - (ii) A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the County's adopted inventory in the Rural Comprehensive Plan.
- (j) Transportation facilities and uses shall comply with the following:

- (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
  - (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
  - (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.
- (k) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.
- (l) Land application of reclaimed water, agricultural process or industrial process water or bio solids, or the onsite treatment of septage prior to the land application of bio solids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the EFU zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246 to 215.251. For the purposes of this paragraph, onsite treatment of septage prior to the land application of bio solids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of bio solids is authorized under the license, permit or other approval.
- (m) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
  - (i) A public right of way;

- (ii) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - (iii) The property to be served by the utility.
- (n) A utility facility that is necessary for public service.
- (i) A utility facility is necessary for public service if the facility must be sited in the Exclusive Farm Use zone in order to provide the service.
    - (aa) To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in the Exclusive Farm Use zone due to one or more of the following factors:
      - (A) Technical and engineering feasibility;
      - (B) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned Exclusive Farm Use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
      - (C) Lack of available urban and nonresource lands;
      - (D) Availability of existing rights of way;
      - (E) Public health and safety; and
      - (F) Other requirements of state and federal agencies.
    - (bb) Costs associated with any of the factors listed in Subsection 0 of this subsection may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.

- (cc) The owner of a utility facility approved under Section (4)(n)0 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- (dd) The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
- (ee) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under Table 16.212-1 uses 7.13 or 7.14, or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Section 0 Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request, subject to a Type II review process, shall have no effect on the original approval.
- (ff) In addition to the provisions of Subsection 0 through 0, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of OAR 660-011-0060.
- (gg) Notwithstanding Subsection 0 through 0 above, a utility facility that is a telecommunication facility as defined by LC 16.264(2) shall comply with LC 16.264.
- (hh) The provisions of Subsection 0 through 0 do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.

(ii) In addition to the requirements in LC 16.2120 through 0 above, a utility facility that is a transmission line, as defined by ORS 215.276(1)(c), to be located on high value farmland shall comply with the requirements of (4)(n)(iii) below.

(ii) An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Section (4)(n)(ii)0 or Section (4)(n)(ii)0.

(aa) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

(A) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;

(B) The associated transmission line is co-located with an existing transmission line;

(C) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or

(D) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.

(bb) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections 0 and 0, two or more of the following criteria:

(A) Technical and engineering feasibility;

(B) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

(C) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;

- (D) Public health and safety; or
  - (E) Other requirements of state or federal agencies.
- (cc) As pertains to Section (4)(n)(ii)0, the applicant shall demonstrate how the proposal will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
- (dd) The County may consider costs associated with any of the factors listed in Section (4)(n)(ii)0, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.
- (ee) In addition to the requirements in LC 16.2120 or (bb) above, a utility facility that is an associated transmission line, as defined by ORS 215.274, to be located on high value farmland shall comply with the requirements of section (4)(n)(iii) below.
- (iii) The utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult.
- (o) Composting operations and facilities:
- (i) Composting operations and facilities allowed on land not defined as high-value farmland must meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050, 340-096-0060, and ORS 215.401. Buildings and facilities used in conjunction with the composting operation must only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection 0.

- (aa) Compost facility operators must prepare, implement and maintain a site-specific Odor Minimization Plan that:
  - (A) Meets the requirements of OAR 340-096-0150;
  - (B) Identifies the distance of the proposed operation to the nearest residential zone;
  - (C) Includes a complaint response protocol;
  - (D) Is submitted to the DEQ with the required permit application; and
  - (E) May be subject to annual review by the county to determine if any revisions are necessary.
- (bb) Compost operations subject to Section 0 include:
  - (A) A new disposal site for composting that sells, or offers for sale, resulting product; or
  - (B) An existing disposal site for composting that sells, or offers for sale, resulting product that:
  - (C) Accepts as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or
  - (D) Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.
- (ii) Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
- (p) A firearms training facility in existence on September 9, 1995 shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.

- (i) For the purpose of this Section (p), a firearms training facility is an indoor or outdoor facility that provides training courses and issues certifications required:
  - (aa) For law enforcement personnel;
  - (bb) By State department of Fish and Wildlife; or
  - (cc) By nationally recognized programs that promote shooting matches, target shooting and safety;
  
- (q) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this Section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section. An owner of property used for the purpose authorized in this Section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
  
- (r) A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65. A "living history museum" is defined as a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.
  
- (s) Armed forces reserve center that complies with these requirements:
  - (i) The center is within one-half mile of a community college; and
  - (ii) An "armed forces reserve center" includes an armory or National Guard support facility.
  
- (t) Public parks include:

- (i) Only uses specified under OAR 660-034-0035 or OAR 660-034-0040, whichever is applicable; and
  - (ii) May be established consistently with ORS 195.120
- (u) Schools are subject to the following:
- (i) Schools as formerly allowed pursuant to ORS 215.213 that were established on or before January 1, 2009 may be expanded if the expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot and that was owned by the applicant on January 1, 2009.
  - (ii) Are used primarily for residents of the rural area in which the school is located.
- (v) Private Campgrounds are subject to the following:
- (i) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
  - (ii) A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
  - (iii) Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
  - (iv) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
  - (v) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by Subsection 0.
  - (vi) A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

- (w) Accessory uses provided as part of a golf course shall be limited consistent with the following standards:
- (i) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
  - (ii) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
  - (iii) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.
  - (iv) An existing golf course may be expanded consistent with the requirements of Section 0, but shall not be expanded to contain more than 36 total holes.
- (x) Any outdoor gathering of more than 3,000 people for more than 120 hours within any three-month period must comply with the following requirements:
- (i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;
  - (ii) The proposed gathering is compatible with existing land uses;
  - (iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and

- (iv) The provisions of ORS 433.755 shall apply to the proposed gathering.
- (y) Three-mile setback. For uses subject to this Subsection:
  - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
  - (ii) Any enclosed structures or group of enclosed structures described in Subsection 0 within a tract must be separated by at least one-half mile. For purposes of this Subsection, "tract" means a tract that is in existence as of June 17, 2010.
  - (iii) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this Chapter.
- (z) Single-family dwelling deeds. The landowner shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (aa) Expansion standards. Existing facilities wholly within the Exclusive Farm Use Zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.
- (bb) Commercial activities in conjunction with farm use may be approved when the commercial activity:
  - (i) Is either exclusively or primarily a customer or supplier of farm uses.
  - (ii) Is limited to providing products and services essential to the practice of agriculture directly to surrounding agricultural businesses that are sufficiently important to justify the resulting loss of agricultural land.
  - (iii) Enhances the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates.

- (cc) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.212(15)(a). For the purpose of LC 16.212(4)(cc), the "same site" is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

#### (5) Conditional Use Review Criteria

An applicant for a Conditional Use permitted in Table 16.212-1 of this Chapter must demonstrate compliance with the following criteria.

- (a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

#### (6) Alteration, Restoration or Replacement of a Lawfully-Established Dwelling

- (a) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the approval authority finds to its satisfaction, based on substantial evidence that:
  - (i) The dwelling to be altered, restored or replaced has, or formerly had:
    - (aa) Intact exterior walls and roof structure;
    - (bb) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (cc) Interior wiring for interior lights; and
    - (dd) A heating system.
  - (ii) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for:
    - (aa) The previous five property tax years; or
    - (bb) If the dwelling was constructed within the last five years, the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.
    - (cc) Notwithstanding (ii)(aa) and (bb) above, if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:

- (A) The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or
  - (B) The applicant establishes to the satisfaction of the approval authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the County stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.
- (b) For replacement of a lawfully established dwelling under this section:
- (i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
    - (aa) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
    - (bb) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
    - (cc) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
  - (ii) The applicant must cause to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished, or converted.
  - (iii) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Planning Director, or the Director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.213 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.

- (c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
- (i) The siting standards of Subsection 0 apply when a dwelling qualifies for replacement because the dwelling:
    - (aa) Formerly had the features described in Subsection 0; or
    - (bb) Was removed from the tax roll as described in Subsection(6)(a)(iii).
  - (ii) The replacement dwelling must be sited on the same lot or parcel:
    - (aa) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
    - (bb) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
  - (iii) Replacement dwellings that currently have the features described in Subsection 0 and that have been on the tax roll as described in Subsection 0 may be sited on any part of the same lot or parcel.
- (d) A replacement dwelling permit that is issued under Use 2.7:
- (i) Is a land use decision and subject to review using Type II procedure according to LC Chapter 14 where the dwelling to be replaced:
    - (aa) Formerly had the features described in Subsection 0; or
    - (bb) Was removed from the tax roll as described in Subsection 0;
  - (ii) Is not subject to the time to act limits of LC 14.090 and does not expire; and
- (e) A replacement dwelling for a historic dwelling permit reviewed under Use 2.8 is subject to the following requirements:
- (i) The replacement dwelling must be in conjunction with a farm use.
  - (ii) The existing dwelling is listed on the county and national inventory as historic property as defined in ORS 358.480.

## (7) Dwellings Customarily Provided in Conjunction with Farm Use

- (a) Large Tract Standards. On land not identified as high-value farmland as defined in LC 16.212(2), a dwelling may be considered customarily provided in conjunction with farm use if:
  - (i) The parcel on which the dwelling will be located is at least 160 acres.
  - (ii) The subject tract is currently employed for farm use.
  - (iii) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
  - (iv) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.
  
- (b) Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
  - (i) The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned \$32,500 in gross annual income (the midpoint of the median income range of gross annual sales of farms in Lane County with annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon) from the sale of farms products and:
  - (ii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;
  - (iii) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Section (7)(b)0; and
  - (iv) In determining the gross income required by Section (7)(b)0:
    - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
    - (bb) Only gross income from land owned, not leased or rented, shall be counted; and

- (cc) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
  - (v) The lot or parcel is not smaller than the minimum lot size of the zone.
- (c) Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
  - (i) The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and
  - (ii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and
  - (iii) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Section (7)(c)0;
  - (iv) In determining the gross income required by Section (7)(c)0:
    - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
    - (bb) Only gross income from land owned, not leased or rented, shall be counted; and
    - (cc) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
  - (v) The lot or parcel is not smaller than the minimum lot size of the zone.
- (d) Additional Farm Income Standards.
  - (i) For the purpose of Sections (7)0 or (7)0, noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.

- (ii) Prior to the final approval for a dwelling authorized by Sections (7)0 and (7)0 that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the County clerk the covenants, conditions, and restrictions form provided by the County (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
  - (aa) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
  - (bb) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- (iii) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the County or counties where the property subject to the covenants, conditions and restrictions is located.
- (e) Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by Sections (7)0 or (7)0 above, subject to the following requirements:
  - (i) The subject tract will be employed as a commercial dairy as defined in Subsection 0;
  - (ii) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
  - (iii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
  - (iv) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;
  - (v) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
  - (vi) The Oregon Department of Agriculture has approved the following:

- (aa) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
  - (bb) A Producer License for the sale of dairy products under ORS 621.072.
- (vii) As used in this Section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections (7)0 or (7)0, whichever is applicable, from the sale of fluid milk.
- (f) Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:
- (i) Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection (7)0 or (7)0, whichever is applicable;
  - (ii) The subject lot or parcel on which the dwelling will be located is:
    - (aa) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection (7)0 or (7)0, whichever is applicable; and
    - (bb) The lot or parcel is not smaller than the minimum lot size of the zone.
  - (iii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
  - (iv) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (7)(f)0; and
  - (v) In determining the gross income required by Subsection (7)(f)0 and Subsection (7)(f)0:
    - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
    - (bb) Only gross income from land owned, not leased or rented, shall be counted.

- (g) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling under Section (7).
- (h) Woodlot Operation Dwelling
  - (i) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot is allowed subject to compliance with the following requirements:
    - (aa) If the farm operation or woodlot:
      - (A) Consists of 20 or more acres; and
      - (B) Is not smaller than the average farm or woodlot in Lane County producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot;
    - (bb) The dwelling is located on land not identified as high-value farmland.
  - (ii) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under (i) above is allowed subject to compliance with the following requirements:
    - (aa) If the farm operation or woodlot:
      - (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or
      - (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income;
    - (bb) The dwelling is located on land not identified as high-value farmland.

#### (8) Accessory Dwellings

- (a) Accessory farm dwelling for year-round and seasonal farm workers.

- (i) Accessory dwellings may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:
- (aa) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;
  - (bb) The accessory farm dwelling will be located:
    - (A) On the same lot or parcel as the primary farm dwelling;
    - (B) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;
    - (C) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;
    - (D) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The County shall require all accessory farm dwellings approved under this Subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278, meaning housing limited to occupancy by farmworkers and their immediate families and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing; or

- (E) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in Lane Code 16.212(7)(b) or (c), whichever is applicable; and
- (cc) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
- (ii) In addition to the requirements in Subsection 0, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
  - (aa) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:
    - (A) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
    - (B) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
  - (bb) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

- (cc) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or woodlot that meets the standards of LC 16.212(7)(h); or
- (dd) It is located on a commercial dairy farm as defined in Section 0(vii); and
  - (A) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;
  - (B) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
  - (C) A Producer License for the sale of dairy products under ORS 621.072.
- (iii) No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this Subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this Chapter, a parcel may be created consistent with the minimum parcel size requirements in Subsection 0.
- (iv) An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to uses 0 or 0 in Table 16.212-1 of this Chapter.
- (v) For purposes of this Subsection, "accessory dwelling" includes all types of residential structures allowed by the applicable state building code.
- (vi) Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria of an accessory farm dwelling.
- (b) To qualify for a relative farm help dwelling:
  - (i) A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm.

- (ii) A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.
- (c) A temporary hardship dwelling is subject to the following:
  - (i) One manufactured dwelling, or one recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
    - (aa) The hardship dwelling must use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the hardship dwelling will use a public sanitary sewer system, such condition will not be required;
    - (bb) Approval of a temporary hardship dwelling is valid until December 31<sup>st</sup> of the year following the year the original permit approval. The county shall review the permit authorizing such hardship dwelling every two years; and
    - (cc) Within 90 days of the end of the hardship, the manufactured dwelling or recreational vehicle must be removed or demolished. In the case of an existing building, the building must be removed, demolished, or returned to an allowed nonresidential use.
  - (ii) A temporary residence approved under this Section is not eligible for replacement under Section 0. Department of Environmental Quality review and removal requirements also apply.
  - (iii) As used in this Section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.

(9) Dwellings Not in Conjunction with Farm Use on High Value Farmland

Non-farm dwelling. A non-farm dwelling on High Value Farmland is subject to the following requirements:

- (a) For land located on the east side of the summit of the Coastal Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:
  - (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;

- (ii) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;
- (iii) The dwelling will be sited on a lot or parcel created before January 1, 1993. See the definition of "Date of Creation and Existence" in LC 16.090;
- (iv) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the cumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, the following requirements shall be met:
  - (aa) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or urban or non-resource uses shall not be included in the study area;
  - (bb) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm dwellings that could be approved under Use 2.5 or 2.6 in Table 16.212-1 of this Chapter, including the identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under Sections 0. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings ;

- (cc) Determine whether the approval of the proposed non-farm dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operations due to diminished opportunities to expand, purchase of lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;
  - (v) The dwelling complies with such other conditions as the approval authority considers necessary; and
  - (vi) Land use approval of a permit described in Section(9)(a) is valid for four years from the date of the approval. An application for extension of the timelines for the permit approval may be made and approved pursuant to the requirements and limitations of 14.090(6) and (7).
- (b) For land located west of the summit of the Coast Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:
  - (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
  - (ii) The following are satisfied:
    - (aa) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, in the case of an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

- (bb) A lot or parcel shall not be considered "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or
- (cc) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;
- (iii) The dwelling will not alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, consideration shall be given to the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards in subsections 0 through 0;
- (iv) The dwelling complies with such other conditions as the approval authority considers necessary; and
- (v) Land use approval of a permit described in (9)(b) above is valid for four years from the date of the approval. An application for extension of the timelines for the permit approval may be made and approved pursuant to the requirements and limitations of LC 14.090 (b) and (7).

(10) Dwellings Not in Conjunction with Farm Use on Non-High Value Farmland.

Non-farm dwelling. A non-farm dwelling on Non-high Value Farmland is subject to the following requirements:

- (a) A dwelling not provided in conjunction with farm use may be established on a lot or parcel, subject to compliance with the following requirements:
  - (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
  - (ii) The soils of the lot or parcel are predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture, Soil Conservation Service on October 15, 1983; and
  - (iii) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel will not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.
- (b) The dwelling shall comply with such other conditions as the approval authority considers necessary. A dwelling not provided in conjunction with a farm use, on a lot or parcel that is not larger than three acres is subject to the following requirements:
  - (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
  - (ii) If the lot or parcel is located within the Willamette Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by Lane Code relating specifically to the Willamette Greenway, floodplains or geological hazard areas, whichever is applicable;
  - (iii) The lot or parcel was created between January 1, 1948, and July 1, 1983. See the definition of "Date of Creation and Existence" in LC 16.090. For the purpose of this Section, only one lot or parcel exists if:
    - (aa) The lot or parcel is contiguous to one or more lots or parcels described in this Section.

- (A) "Contiguous" means "lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road."
- (bb) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common; and
- (iv) Notice of application shall occur in compliance with LC Chapter 14.
- (c) Land use approval of a permit described in Section (10)(a) or (10)(b) is invalid for four years from the date of the approval. An application for extension of the timelines for the permit approval described in this Section may be made and approved pursuant to the requirements and limitations of LC 14.090 (6) and (7).
- (d) No final approval of a nonfarm use under this section will be given unless any additional taxes imposed upon the change in use have been paid.
- (e) The dwelling must comply with other conditions considered necessary by the approval authority.

#### (11) Wineries and Cider Businesses

- (a) Small Wineries and Cider Businesses. Small wineries and cider business and their accessory uses are subject to the Type I procedure unless otherwise specified in this section. Small winery and cider businesses are separate uses to which distinct criteria and permitted uses apply and must not be used interchangeably.
  - (i) A small winery or cider business may be established as a permitted use if the proposed winery or cider business will produce wine or cider, respectively, on-site with a maximum annual production of:
    - (aa) Less than 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the winery or cider business:
      - (A) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres;
      - (B) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 15 acres;

- (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 15 acres of a vineyard contiguous to the winery or of an orchard contiguous to the cider business; or
- (D) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection 0, 0, or 0; or
- (bb) At least 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the winery:
  - (A) Owns an on-site vineyard for a winery or orchard for a cider business of at least 40 acres;
  - (B) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 40 acres;
  - (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 40 acres of a vineyard contiguous to the winery or of an orchard contiguous to the cider business;
  - (D) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards for a winery or orchards for a cider business in Oregon that are located within 15 miles of the winery or cider business site; or
  - (E) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection 0, 0, 0 or 0.
- (ii) In addition to producing and distributing wine by a winery or cider by a cider business, a small winery or cider business established under this Section may:
  - (aa) Market and sell wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
  - (bb) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, including:

- (A) Wine or cider tastings in a tasting room or other location on the premises occupied by the winery for wine tastings or cider business for cider tastings;
  - (B) Wine for winery or cider for cider business club activities;
  - (C) Winemaker for winery or cidemaker for cider business luncheons and dinners;
  - (D) Winery and vineyard tours or cider business and orchard tours;
  - (E) Meetings or business activities with winery or cider business suppliers, distributors, wholesale customers and wine or cider industry members;
  - (F) Winery or cider business staff activities;
  - (G) Open house promotions of wine produced in conjunction with the winery or cider produced in conjunction with the cider business; and
  - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
- (cc) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of wine for a winery or cider for a cider business, including food and beverages:
- (A) Required to be made available in conjunction with the consumption of wine or cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
  - (B) Served in conjunction with an activity authorized by Subsection 0 or (a)(ii)0, or (a)(v).
- (dd) Host charitable activities for which the winery or cider business does not charge a facility rental fee.

- (iii) A winery or cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection 0. Food and beverage services authorized under Subsection 0 may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
- (iv) The gross income of the winery or cider business from the sale of incidental items or services provided pursuant to Subsection 0 to 0 and (11)(a)(v) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery or cider produced in conjunction with the cider business. The gross income of a winery or cider business does not include income received by third parties unaffiliated with the winery or cider business. At the request of the County, the winery or cider business shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery or cider business with this Subsection for the previous tax year.
- (v) A winery or cider business may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery, pursuant to Subsection (aa) or (bb) below:
  - (aa) The events on days one (1) through six (6) of the 18-day limit per calendar year must be authorized by the approval authority through the issuance of a renewable multi-year Winery or Cider Business License that:
    - (A) Is reviewed through a Type I procedure to determine necessary conditions pursuant to Section (11)(a)(vi) below;
    - (B) Has a term of five years;
    - (C) If the County issues a license under this subsection, the County must review the license at least once every five years and, if appropriate, renew the license; and
    - (D) Complies with requirements of Section (11)(a)(vi) below.
    - (E) This license is not a land use decision as defined in ORS 197.015 or permit pursuant to ORS 215.402, and is not subject to review by the Land Use Board of Appeals.
  - (bb) Events on days seven (7) through 18 of the 18-day limit per calendar year must be authorized by the County through the issuance of a renewable multi-year permit that:

- (A) Is subject to a Type II procedure and must be reviewed to determine necessary conditions pursuant to Section (11)(a)(vi);
  - (B) Has a term of five years;
  - (C) If the Director issues a permit under this subsection, the Director must review the permit at least once every five years and, if appropriate, may renew the permit; and
  - (D) Complies with requirements of Section (11)(a)(vi) below.
- (vi) As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery or cider business are subordinate to the production and sale of wine at a winery or cider at a cider business and do not create significant adverse impacts to uses on surrounding land, the County may impose conditions on a permit related to:
- (aa) The number of event attendees;
  - (bb) The hours of event operation;
  - (cc) Access and parking;
  - (dd) Traffic management;
  - (ee) Noise management; and
  - (ff) Sanitation and solid waste;
- (vii) A winery or cider business operating under this Section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established or cider business is situated.
- (viii) Prior to the issuance of a permit to establish a winery or cider business under Section 0, the applicant shall show that vineyards for a winery or orchard for a cider business described in Section 0 have been planted or that the contract has been executed, as applicable.
- (ix) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands, the winery or cider business must:
- (aa) Establish a setback of at least 100 feet from all property lines for the winery or cider business and all public gathering places, unless the Director grants a variance allowing a setback of less than 100 feet; and

- (bb) Provide direct road access and internal circulation for the winery or cider business and other on-site public gathering places
- (b) Large Wineries. Large wineries and their accessory uses are subject to the Type I procedure unless otherwise specified in this section.
  - (i) A large winery may be established if:
    - (aa) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;
    - (bb) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in Subsection 0; and
    - (cc) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this Subsection.
  - (ii) In addition to producing and distributing wine, a winery described in Subsection 0(i) may:
    - (aa) Market and sell wine produced in conjunction with the winery;
    - (bb) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
      - (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;
      - (B) Wine club activities;
      - (C) Winemaker luncheons and dinners;
      - (D) Winery and vineyard tours;
      - (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
      - (F) Winery staff activities;
      - (G) Open house promotions of wine produced in conjunction with the winery; and

- (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
- (cc) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:
  - (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
  - (B) Served in conjunction with an activity authorized by Subsection (11)(b)(ii)(bb), (dd), or (ee)0;
- (dd) Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
  - (A) Are directly related to the sale or promotion of wine produced in conjunction with the winery;
  - (B) Are incidental to the retail sale of wine on-site; and
  - (C) Are limited to 25 days or fewer in a calendar year; and
- (ee) Host charitable activities for which the winery does not charge a facility rental fee.
- (iii) Income requirements:
  - (aa) The gross income of the winery from the sale of incidental items pursuant to Subsection 0 and services provided pursuant to Subsection 0 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
  - (bb) At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant that certifies compliance with Subsection 0 for the previous tax year.
- (iv) A winery operating under Subsection (11)0:

- (aa) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
- (bb) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.
- (v) A winery shall be required to obtain a Type II permit when:
  - (aa) The winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection 0 occurring on more than 25 days in a calendar year.
  - (bb) In addition to any other requirements, a local government may approve a permit application under this Subsection if the approval authority finds that the authorized activity:
    - (A) Complies with the standards described in Sections 0 and (5)0;
    - (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
    - (C) Does not materially alter the stability of the land use pattern in the area.
  - (cc) If the local government issues a permit under this Section for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.
- (vi) A winery operating under Section 0 may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events only if the winery received a permit in similar circumstances before August 2, 2011.
- (vii) A person may not have a substantial ownership interest in more than one winery operating a restaurant authorized in Section (11)(b).
- (viii) Prior to the issuance of a permit to establish a winery under Section (11)0, the applicant shall show that vineyards described in Section (11)0(i) have been planted.
- (ix) A winery operating under Subsection 0 shall provide for:

- (aa) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
- (bb) Direct road access and internal circulation.
- (c) As used in Section (11):
  - (i) “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.
  - (ii) “On-site retail sale” includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

#### (12) Agri-tourism and Other Commercial Events

- (a) Six or Fewer Events. Up to six agri-tourism or other commercial events or activities on a tract in a calendar year may be approved. The approval is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The six or fewer agri-tourism or other commercial events or activities must meet local standards and:
  - (i) Be incidental and subordinate to existing farm use on the tract;
  - (ii) Not, individually, exceed a duration of 72 consecutive hours; and
  - (iii) Comply with Section (12)(c) below.
- (b) Seven to 18 Events. Agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with 0 above may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The seven to 18 agri-tourism or other commercial events or activities must comply with local standards and:
  - (i) Be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
  - (ii) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
  - (iii) Not exceed 18 events or activities in a calendar year; and
  - (iv) Comply with Section (12)(c) below.

- (c) All agri-tourism or other commercial events or activities described in 0 and 0 above must:
- (i) Not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
  - (ii) Comply with Section 0 and 0 Conditional Use Criteria;
  - (iii) May not, in combination with other agri-tourism or other commercial events or activities, materially alter the stability of the land use pattern in the area; and
  - (iv) Must comply with conditions established for:
    - (aa) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
    - (bb) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
    - (cc) The location of access and egress and parking facilities to be used in conjunction with the agri-tourism or other commercial events or activities;
    - (dd) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
    - (ee) Sanitation and solid waste.
  - (v) The approval authority may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under 0 or 0. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The County may not approve an alteration to the land in connection with the agri-tourism or other commercial event or activity authorized under 0 or 0, including, but not limited to, grading, filling or paving.
  - (vi) Agri-tourism or other commercial events or activities authorized under this section shall not be allowed at a winery which conducts agri-tourism or other commercial events or activities authorized under Sections 0(a)(v)-(vi) or (11)(b)(v) or (11)(b)(ii)(dd).

- (vii) Event or activities authorized under this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015(10)(a), do not include agri-tourism or other commercial events and activities.
- (d) Expiration of Agri-Tourism Approvals
  - (i) Approvals issued pursuant to 0 shall be valid for two years from the date of the approval, and may be renewed for an additional two years subject to:
    - (aa) An application for renewal; and
    - (bb) Demonstration of compliance with the provisions of Section 0 and conditions that apply to the limited use permit or to the agri-tourism or other commercial events or activities authorized by the permit.
  - (ii) Approvals issued pursuant to 0 shall be valid for four years from the date of the approval. If continued, the permit holder must submit an application for renewal at four year intervals. Upon receipt of a request for renewal, the Director must:
    - (aa) Issue public notice and an opportunity for public comment as part of the review process according to LC Chapter 14; and
    - (bb) Limit review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Section (12)(b).

### (13) Commercial Facilities for Generating Power

- (a) Commercial Power Generating Facility.
  - (i) Permanent features of a power generation facility shall not preclude more than:
    - (aa) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or
    - (bb) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

- (ii) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to Table 16.212-1 uses 7.13 or 7.14 or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to Section (5)(a) and (b) and shall have no effect on the original approval.
  - (iii) Permitting. A commercial power generating facility is not subject to the requirements for a special use permit and the associated review procedure where the facility is compliant with ORS 469.504(b).
- (b) Wind Power Generation Facility.
  - (i) For purposes of this Chapter, a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.
    - (aa) Temporary workforce housing described in Section 0 must be removed or converted to Table 16.212-1 uses 7.13 or 7.14 or other statute or rule when project construction is complete.
    - (bb) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to Section (5)(a) and (b) and shall have no effect on the original approval.
  - (ii) For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the County must find that all of the following are satisfied:

- (aa) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
    - (A) Technical and engineering feasibility;
    - (B) Availability of existing rights of way; and
    - (C) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Subsection 0;
  - (bb) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
  - (cc) Costs associated with any of the factors listed in Subsection 0 may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;
  - (dd) The owner of a wind power generation facility approved under Subsection 0 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
  - (ee) The criteria of Subsection 0 are satisfied.
- (iii) For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

- (aa) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;
  - (bb) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
  - (cc) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
  - (dd) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- (iv) For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection 0 are satisfied.

- (v) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections (13)(b)0 and 0, the approval criteria of Subsection (13)(b)0 shall apply to the entire project.
- (c) Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:
  - (i) “Arable land” means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.
  - (ii) “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of the land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
  - (iii) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
  - (iv) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

- (v) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this Section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1,320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.
- (vi) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:
- (aa) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

- (bb) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and County approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- (cc) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and County approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;
- (dd) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and County approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
- (ee) The project is not located on high-value farmland soils unless it can be demonstrated that:
  - (A) Non high-value farmland soils are not available on the subject tract;
  - (B) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
  - (C) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

- (ff) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
  - (A) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.
  - (B) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the Director or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- (vii) For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The Director must find that:
  - (aa) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
    - (A) Nonarable soils are not available on the subject tract;
    - (B) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
    - (C) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

- (bb) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;
- (cc) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
  - (A) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
  - (B) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
- (dd) The requirements of Subsections 0, 0, 0, and 0 are satisfied.
- (viii) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The Director must find that:
  - (aa) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
    - (A) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

- (B) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
- (bb) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
- (cc) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;
- (dd) The requirements of Subsection 0 are satisfied;
- (ee) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the County's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the County, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing Chapters and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the County is responsible for determining appropriate mitigation measures; and

- (ff) If a proposed photovoltaic solar power generation facility is located on lands where, after the site specific consultation with an Oregon Department of Fish and Wildlife biologist, if it determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or habitat or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or to wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the County is responsible for determining appropriate mitigation, if any, required for the facility.
- (gg) The provisions of Subsection 0 are repealed on January 1, 2022.
- (ix) The project owner shall sign and record at Lane County Deeds & Records a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
- (x) Nothing in this Section shall prevent the County from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

## (14) Land Divisions

- (a) Land within the Exclusive Farm Use District shall be designated as E-25, E-30, E-40 or E-60, consistently with Agricultural Lands Policy #10 of the Lane County Rural Comprehensive Plan. The creation of a lot or parcel shall comply with the requirements in LC Chapter 13 for the submittal and approval of tentative plans and plats and with Section 0.
- (b) The minimum area shall be:
  - (i) E-25: 25 acres
  - (ii) E-30: 30 acres
  - (iii) E-40: 40 acres
  - (iv) E-60: 60 acres
- (c) A division of land may be allowed down to 20 acres for horticultural specialties, berries and grapes. A farm management plan including the factors identified below shall address and establish the suitability of the land for the intended use:
  - (i) Land preparation.
  - (ii) Ripping and plowing.
  - (iii) Fencing.
  - (iv) Surveying.
  - (v) Crop cultivation.
  - (vi) Irrigation.
  - (vii) Herbicide; fungicide and/or fertilizer application.
  - (viii) Machinery.
  - (ix) Accessory farm buildings.
  - (x) Breeding and livestock raising concerns.
  - (xi) Labor.
  - (xii) Projected expenses associated with the above.
  - (xiii) Date by which the farm management plan would be substantially implemented.

- (d) A division of land to accommodate a Conditional Use as permitted by in Table 16.212-1 of this Chapter, except a residential use, smaller than the minimum parcel size provided in Subsection 0 may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (e) For the area of Lane County lying west of the summit of the Coast Range, a division of land to create up to two new parcels smaller than the minimum parcel size required by 0 above, each to contain a dwelling not provided in conjunction with farm use may be approved if these requirements are met:
  - (i) The property owner shall submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of up to two dwellings not in conjunction with farm use;
  - (ii) The non-farm dwellings shall comply with the requirements in 0 or 0 above;
  - (iii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.090;
  - (iv) The remainder of the original lot or parcel that does not contain the dwellings complies with the minimum parcel size established in 0 above;
  - (v) The parcels for the non-farm dwellings are divided from a lot or parcel that complies with the minimum size established in 0 above;
  - (vi) The parcels for the non-farm dwellings are generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel may not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land;
  - (vii) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236; and
  - (viii) The dwelling complies with such other conditions as the approval authority considers necessary.

- (f) For the area of Lane County lying west of the summit of the Coast Range, a division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use may be allowed if these requirements are met:
- (i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with farm use;
  - (ii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.090;
  - (iii) The parcels for the non-farm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size required by 0 above but equal to or larger than 40 acres;
  - (iv) The parcels for the non-farm dwellings are:
    - (aa) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and
    - (bb) Composed of at least 90 percent Class VI through VIII soils;
  - (v) The parcels for the non-farm dwellings do not have established water rights for irrigation;
  - (vi) The parcels for the non-farm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land;
  - (vii) The non-farm dwellings shall comply with LC 16.2120;
  - (viii) The non-farm dwellings shall comply with LC 16.2120(a) and (b);
  - (ix) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236; and
  - (x) The dwelling complies with other conditions considered necessary by the approval authority;

- (g) For the area of Lane County lying east of the summit of the Coast Range, a division of land to divide a lot or parcel for a dwelling not provided in conjunction with farm use may be allowed if these requirements are met:
- (i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with the farm use;
  - (ii) The parcels for the non-farm dwellings are divided from a lot or parcel that:
    - (aa) Is equal to or larger than the minimum size required by 0 above;
    - (bb) Is not stocked to the requirements under ORS 527.610 through 527.770;
    - (cc) Is composed of at least 95 percent Class VI through VIII soils;
    - (dd) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and
    - (ee) The new lot or parcel will not be smaller than 20 acres;
  - (iii) The dwelling to be sited on the new lot or parcel complies with the requirements for dwellings not in conjunction with farm use in Sections (9) and (10); and
  - (iv) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236.
- (h) This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.
- (i) This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- (j) This Section does not allow a division or property line adjustment of a lot or parcel that separates uses 0, 0, or 0 in Table 16.212-1 of this Chapter.

- (k) This Section does not allow a division of a lot or parcel that separates a processing facility from the farm operation specified as use 0 in Table 16.212-1 of this Chapter.
- (l) A division of land may be permitted to create a parcel with an existing dwelling to be used:
  - (i) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section 0 or 0; and
  - (ii) For historic property that meets the requirements of use 0 in Table 16.212-1 of this Chapter.
- (m) Notwithstanding the minimum lot or parcel size described in Subsection (14)(b),
  - (i) A division of land may be approved provided:
    - (aa) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
    - (bb) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
    - (cc) The landowner signs and records in the deed records for the county an irrevocable deed restriction prohibiting the owner, and the owner's successors in interest, from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.
  - (ii) A parcel created pursuant to this Subsection that does not contain a dwelling:
    - (aa) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - (bb) May not be considered in approving or denying an application for siting any other dwelling;
    - (cc) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

- (dd) May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (n) Notwithstanding the minimum lot or parcel size described in Subsection (14)(b), a division of land may be allowed for the purpose of establishing a church, including cemeteries in conjunction with a church provided:
  - (i) The church has been approved as use 7.11 of Table 16.212-1;
  - (ii) The newly created lot or parcel is not larger than five acres;
  - (iii) The new parcel for the church shall meet the minimum size in 0 either by itself or after it is consolidated with another lot or parcel.
- (o) Notwithstanding the minimum lot or parcel size described Subsection 0, a division for a fire service facility provided in use 0 of Table 16.212-1, if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (p) A division of a lot or parcel by partition when a portion of the parcel has been included within an urban growth boundary (UGB) and subject to the following:
  - (i) The portion of the parcel within the UGB has been redesignated for urban uses under the applicable acknowledged comprehensive plan; and
  - (ii) The portion of the parcel that remains outside the UGB is smaller than the minimum parcel size pursuant to 0 above; and
  - (iii) The parcel must be divided along the UGB boundary line; and
  - (iv) If the parcel outside of the UGB contains a dwelling, the parcel must be large enough to support continued residential use.
  - (v) If the parcel outside of the UGB does not contain a dwelling, the parcel:
    - (aa) Is not eligible for siting a dwelling, except as authorized in conjunction with a state or local public park;
    - (bb) May not be considered in approving or denying an application for any other dwelling; and

- (cc) May not be considered in approving a redesignation or re-zoning of forestlands, except to allow a public park, open space or, other natural resource use.
- (vi) A landowner allowed a land division under 0 shall sign and record in the Lane County deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.397.
- (q) Divisions under 0 and 0 shall require that a statement be placed on the face of the plat disclosing that a dwelling is not guaranteed unless the requirements of 0, (7) or (8) above for a dwelling are met.
- (r) The governing body may not approve a division of land for nonfarm use under Subsection 0, 0, 0, 0, 0, 0, 0, or 0 unless any additional tax imposed for the change in use has been paid.
- (s) Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.
- (t) The Director or its designate may not approve a land division of a lot or parcel created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to subsection 0.
- (u) A land division may not be approved for the land application of reclaimed water, agricultural or industrial process water, or bio solids as provided Section 6.2 of Table 16.212-1.

#### (15) Development Standards

All uses or activities allowed by LC 16.212 must comply with the requirements in Section (15)(b). Uses or activities allowed by LC 16.212, except farm use, must comply with the requirements in LC 16.212(15)(a) and (b).

- (a) For approval of a use or activity allowed by LC 16.212 that requires a Type II or Type III review, the Approval Authority must balance the setback requirements of LC 16.212(15)(b) with the applicable approval standards of LC 16.212(3) and (6) through (14) in order to minimize adverse impacts upon nearby farm and forest uses or to assure optimal siting of proposed dwellings to minimize adverse impacts on nearby farm and forest lands.
  - (i) Dwellings and development accessory to residential uses to be siting upon tracts located within an area designated by the Department of Fish and Wildlife Habitat Maps as "Major" must be sited as follows:

- (aa) Near dwellings on other tracts.
  - (bb) With minimal intrusion into forest areas undeveloped by non-forest uses.
  - (cc) Where possible, when considering LC 16.212(15)(a)(i)(aa) and (bb) above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.
- (ii) Dwellings and development accessory to residential uses to be sited upon all of tracts must be sited as follows:
  - (aa) Where possible, in consideration of the dimensions and topography of the tract, at least 500 feet from adjoining lines of property zoned F-1 and 100 feet from adjoining lines of property zoned F-2 or EFU.
  - (bb) On the least valuable farm or forest areas of the tract or located near dwellings on other tracts.
- (b) All uses, activities, and structures allowed by LC 16.212 must comply with:
  - (i) Property Line Setbacks. No structure other than a fence or sign shall be located closer than:
    - (aa) 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15; and
    - (bb) 10 feet from all other property lines except as provided below.
  - (ii) Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a Riparian Modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.
  - (iii) Signs.
    - (aa) Signs cannot extend over a public right-of-way or project beyond the property line.

- (bb) Signs cannot be illuminated, flashing, blinking, contain scrolling images, or capable of movement.
- (cc) Signs are limited to 200 square feet in area.

(16) Telecommunication Facilities.

Telecommunication facilities are allowed subject to compliance with the requirements of Section (15), LC 16.264, and with applicable requirements elsewhere in LC Chapter 16.

*(Revised by Ordinance No. 7-87, Effective 6.17.87; 3-91, 5.17.91; 10-92, 11.12.92; 10-95, 10.17.95; 4-02, 4.10.02; 5-02, 8.28.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.17.10, 7-10, 11.25.10; 7-12, 12.28.12; 14-08, 11.5.14; 14-09, 12.16.14; 15-08, 12.15.15; 16-01, 2.15.16; 18-02, 8.9.18; 18-08, 2.14.19)*

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PAGES 16-208 THROUGH 16-213  
ARE RESERVED FOR FUTURE EXPANSION

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**NONIMPACTED FOREST LANDS ZONE (F-1, RCP)**

**RURAL COMPREHENSIVE PLAN**

F-1 Zone Table of Contents

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**16.210 Nonimpacted Forest Lands (F-1, RCP)**

(1) Purpose

The purpose of the Nonimpacted Forest Land (F-1) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The F-1 zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water, and land resources of the county.

The F-1 zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the F-1 zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-006. The minimum parcel size, prohibition of new dwellings, and other standards established by this zone are intended to promote commercial forest operations.

(2) Use Table

Table of Permitted Uses

Table 16.210-1 sets forth the uses allowed in the F-1 zone subject to Type I, II, or III approval processes. This table applies to all new uses, expansions of existing uses, and changes of use

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when the expanded or changed use would require a Type I, II, or, III process, unless otherwise specified on Table 16.210-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions, siting standards, fire siting standards, and exceptions set forth in LC 16.210.

As used in Table 16.210-1:

- (a) Use Type:
  - (i) "A" means the use is allowed outright or permitted subject to standards.
  - (ii) "C" means the use is a Conditional Use, subject to Section (4) and other listed criteria.
- (b) Local Procedure Type:
  - (i) "P" means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Chapter.
  - (ii) "AL" means Assembly License, subject to LC 3.995.
  - (iii) Type I uses and activities are permitted subject to the general provisions and exceptions set forth by this chapter of Lane Code.
  - (iv) Type II uses may be allowed provided a land use application is submitted and approved by the Director pursuant to LC Chapter 14.
  - (v) Type III uses may be allowed provided a land use application is submitted and approved by the Hearings Official pursuant to LC Chapter 14.
- (c) The "Subject To" column identifies any specific provisions of LC 16.210 to which the use is subject. All uses and development are subject to the development standards provisions of LC 16.210(5)(b) and (6)(c). Residences, dwellings, and structures must comply with LC 16.210(5) and (6). Any new structure subject to LC 16.210(5)(a) is subject to a Type II procedure pursuant to LC Chapter 14.
- (d) A determination by the Director for whether or not a use fits within the classification of uses listed as Type I, Permitted Outright, or Assembly License in the use table may constitute a "permit" as defined by ORS 215.402(4), "...discretionary approval of a proposed development of land..." An owner of land where the use would occur therefore may request to elevate review of a Type I, Permitted Outright, or Assembly License use to a Type II land use application pursuant to LC Chapter 14. The burden of proof in the application will be upon the owner of land to demonstrate that the proposed use fits within the classification.

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<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
<b>1.</b>	<b>Forest, Farm and Natural Resource Uses</b>			
1.1.	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash	A	P	
1.2.	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation	A	I	(5)(b), (6)(c)
1.3.	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities	A	P	
1.4.	Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources	A	P	
1.5.	Farm use as defined in LC 16.090.	A	P	
1.6.	Uninhabitable structures accessory to fish and wildlife enhancement	A	I	(5)(b), (6)(c)
1.7.	Agricultural building	A	I	(5)(b), (6)(c)
1.8.	Log scaling and weigh stations	C	II	(4), (5), (6)
1.9.	Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations	C	II	(4), (5), (6)
1.10.	Marijuana production	A	I	LC 16.420, (5)(b), (6)(c)
1.11.	Marijuana wholesale distribution	A	I	LC 16.420, (5)(b), (6)(c)

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<b>Table 16.210-1: Use Table for Nonimpacted Forest Zones</b>				
<b>I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License</b>				
	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
1.12.	Marijuana research	A	I	LC 16.420, (5)(b), (6)(c)
<b>2.</b>	<b>Residential Uses</b>			
2.1.	Caretaker residences for public parks and public fish hatcheries	A	II	(3)(n), <b>(3)(o)</b> , (5), (6)
2.2.	Alteration, restoration, or replacement of a lawfully established dwelling	A	I or II	(3)(a), (3)(n)-(p), (5), (6)
2.3.	Temporary hardship dwelling	C	II	(3)(b), (3)(n), (4), (5), (6)
<b>3.</b>	<b>Commercial Uses</b>			
3.1.	Temporary portable facility for the primary processing of forest products	A	I	(5)(b), (6)(c)
3.2.	Temporary forest labor camps	A	I	(5)(b), (6)(c)
3.3.	Private hunting and fishing operations without any lodging accommodations	A	P or II	(5), (6)
3.4.	Parking of up to seven dump trucks and trailers	C	II	(4)
3.5.	In-home commercial activity (Minor Home Occupation)	A	I	(3)(d)
3.6.	Home occupations	C	II	(3)(c)(4)
3.7.	Permanent facility for the primary processing of forest products	C	II	(3)(i), (4),(5), (6)
3.8.	Permanent logging equipment repair and storage	C	II	(4),(5), (6)

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3.9.	Private seasonal accommodations for fee hunting operations	C	II	(3)(e), (4), (5), (6)
3.10.	Private accommodations for fishing occupied on a temporary basis	C	II	(3)(f), (4), (5), (6)
3.11.	Marijuana processing, provided an on-site dwelling is present	C	II	LC 16.420, (4)
<b>4.</b>	<b>Mineral, Aggregate, Oil and Gas Uses</b>			
4.1.	Exploration for aggregate resources as defined in ORS chapter 517	A	P	
4.2.	Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head	A	P	
4.3.	Mining and processing of oil, gas or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted by 4.2 above (e.g. compressors, separators, and storage servicing multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517	C	III	(4), (4)(d)
4.4.	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects	C	II	(4)
<b>5.</b>	<b>Transportation Uses</b>			
5.1.	Climbing and passing lanes within the right of way existing as of July 1, 1987	A	P	
5.2.	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result	A	P	

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5.3.	Temporary public road and highway detours that will be abandoned and restored to condition or use in effect prior to construction of the detour at such time as no longer needed	A	P	
5.4.	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways	A	P	
5.5.	Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	
5.6.	Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards	A	P	
5.7.	Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.101 for existing transportation facilities, services, and improvements, including road bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	
5.8.	Changes in the frequency of transit, rail and airport services	A	P	
5.9.	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels	C	II	(4)
5.10.	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels	C	II	(4)
5.11.	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels	C	II	(4)
5.12.	Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road	C	II	(4)
5.13.	Park and ride lots	C	II	(4)

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
5.14.	Railroad mainlines and branch lines	C	II	(4)
5.15.	Pipelines	C	II	(4)
5.16.	Navigation channels	C	II	(4)
5.17.	Realignment as defined in LC 15.010 not otherwise permitted pursuant to this chapter	C	II	(3)(j), (4)
5.18.	Replacement of an intersection with an interchange	C	II	(3)(j), (4)
5.19.	Continuous median turn lanes	C	II	(3)(j), (4)
5.20.	New roads as defined in LC 15.010 that are County Roads functionally classified as Local Roads or Collectors, or are Public Roads or Local Access Roads as defined in LC 15.010(35) in areas where the function of the road is to reduce local access to or local traffic on a state highway	C	II	(3)(j), (4)
5.21.	Transportation facilities, services, and improvements other than those listed in LC 16.210 that serve local travel needs	C	II	(3)(j), (4)
5.22.	Expansion of lawfully existing airports	C	II	(4), (5), (6)
<b>6.</b>	<b>Utility and Power Generation</b>			
6.1.	Local distribution lines (e.g. electric, telephone, natural gas) & accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups	A	P	
6.2.	Water intake facilities, canals and distribution lines for farm irrigation and ponds	A	P	
6.3.	Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;	C	II	(4), (5), (6)
6.4.	Television, microwave and radio communication facilities and transmission towers	C	II	(4), (5), (6)

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
6.5.	New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width	C	II	(4)
6.6.	Water intake facilities, related treatment facilities, pumping stations and distribution lines	C	II	(4), (5), (6)
6.7.	Reservoirs and water impoundments	C	II	(4)
6.8.	Commercial utility facilities for the purpose of generating power	C	II	(3)(g), (4), (5), (6)
6.9.	Telecommunication tower changeout	A	I	(8)
6.10.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	A	I	(8)
6.11.	Telecommunication tower collocation	A	II	(8)
6.12.	New telecommunication tower or replacement tower	C	III	(4), (5), (6), (8)
<b>7.</b>	<b>Public and Quasi-public Uses</b>			
7.1.	Towers and fire stations for forest fire protection	A	II	(5), (6)
7.2.	Youth camps	A	II	(3)(k), (5), (6)
7.3.	Aids to navigation and aviation	C	II	(4), (5), (6)
7.4.	Firearms training facility as provided in ORS 197.770	C	II	(4), (5), (6)
7.5.	Fire stations for rural fire protection	C	II	(4), (5), (6)
7.6.	Cemeteries	C	II	(4)
7.7.	Public parks and public campgrounds, including those uses specified under OAR 660-034-0035 or OAR 660-034-0040	C	II	(4), (5), (6)

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
7.8.	Private parks and private campgrounds	C	II	(3)(h), (4), (5), (6)
7.9.	Storage structures for emergency supplies	C	II	(3)(l), (4), (5), (6)
<b>8.</b>	<b>Outdoor Gatherings</b>			
8.1.	An outdoor gathering of fewer than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period	A	P or AL (if over 1,000 persons)	LC 3.995
8.2.	An outdoor mass gathering of more than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period, and which is held primarily in open spaces and not in any permanent structure as provided in ORS 433.735-760	A	III	ORS 433.735-760
8.3.	Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by the Planning Commission under ORS 433.763, notwithstanding Type III Hearings Official review	C	III (LCPC)	(3)(m)
<b>9.</b>	<b>Accessory Uses</b>			
9.1.	Uses and structures accessory to existing uses and development permitted by LC 16.210.	A	P or II	(3)(p), (5), (6)

(3) Use Standards

- (a) Alteration, restoration, or replacement of a lawfully established dwelling, subject to the following:
  - (i) The dwelling was lawfully established;
  - (ii) The lawfully established dwelling:
    - (aa) Has intact exterior walls and roof structures;
    - (bb) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

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- (cc) Has interior wiring for interior lights; and
- (dd) Has a heating system;
- (iii) In the case of replacement, is removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- (b) A temporary hardship dwelling is subject to the following:
  - (i) One manufactured dwelling (MH), or recreational vehicle (RV), or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
    - (aa) The hardship dwelling must use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If a public sanitary sewer system is available, the hardship dwelling may connect to the public system and not use a subsurface sewage disposal system;
    - (bb) Except as provided in (3)(b)(i)(cc) below, approval of a temporary hardship dwelling permit is valid until December 31 of the year following the year of original permit approval and may be renewed once every two years until the hardship situation ceases or unless in the opinion of the Lane County Sanitarian the on-site sewage disposal system no longer meets DEQ requirement;
    - (cc) Within 90 days of the end of the hardship situation, the MH or RV must be removed from the property or demolished. In the case of an existing building, the building must be removed, demolished, or returned to an allowable nonresidential use; and
    - (dd) The temporary hardship dwelling will comply with Oregon Department of Environmental Quality review and removal requirements;
  - (ii) As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons; and
  - (iii) A temporary hardship dwelling approved under (3)(b) above cannot be eligible for replacement under (3)(a) above.
- (c) A home occupation must:
  - (i) Be operated by a resident or employee of a resident of the property on which the business is located;

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- (ii) Employ on the site no more than five full-time or part-time persons at any given time;
- (iii) Be operated substantially in the dwelling or other buildings normally associated with uses permitted in the F-1 Zone;
- (iv) Not unreasonably interfere with other uses permitted in LC 16.210;
- (v) Comply with sanitation and building code requirements prior to start of Home Occupation; and
- (vi) Not be used as a justification for a zone change.
- (d) An in-home commercial activity must comply with the following requirements:
  - (i) Meets the criteria under Section (3)(c)(i), (ii), (iii), (v), and (vi);
  - (ii) Is operated by no more than five employees, who all reside in the single-family dwelling;
  - (iii) Is conducted within a dwelling;
  - (iv) Does not occupy more than 25 percent of the combined floor area of the dwelling, including attached garage;
  - (v) Does not serve clients or customers on-site;
  - (vi) Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage; and
  - (vii) Does not include the outside storage of materials, equipment, or products.
- (e) Private seasonal accommodations for fee hunting operations are subject to the following requirements:
  - (i) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted; and
  - (iii) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.
- (f) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:

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- (i) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted;
  - (iii) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
  - (iv) Accommodations must be located within one-quarter mile of fish-bearing Class I waters.
- (g) A commercial utility facility for the purpose of generating power cannot preclude more than 10 acres from use as a commercial forest operation, unless an exception is taken pursuant to OAR 600, Division 4.
- (h) Private Parks and Private Campgrounds.
- (i) Campgrounds in private parks may be permitted, subject to the following:
    - (aa) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds are not allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4;
    - (bb) A campground must be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;
    - (cc) Campgrounds authorized by this rule cannot include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations;
    - (dd) Overnight temporary use in the same campground by a camper or camper's vehicle cannot exceed a total of 30 days during any consecutive six-month period;
    - (ee) Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate sewer, water, or electric service hook-ups cannot be provided to individual camp sites except that electrical service may be provided to yurts allowed by Section (3)(h)(i)(ff); and
    - (ff) A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt must be located on the ground or on a wood floor with no permanent foundation.

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- (i) Permanent facility for the primary processing of forest products.
  - (i) Located in a building or buildings that do not exceed 10,000 square feet in total floor area; or
  - (ii) Located in an outdoor area that does not exceed one acre excluding laydown and storage yards; or
  - (iii) Located in a proportionate combination of indoor and outdoor areas described in Sections (3)(i)(i) and (ii); and
  - (iv) Adequately separated from surrounding properties to reasonably mitigate noise, odor, and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by Lane County.
- (j) Certain transportation facilities and uses must comply with the following:
  - (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. Lane County need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
  - (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
  - (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.
- (k) Youth Camps
  - (i) The purpose of a youth camp is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. Changes to or expansions of youth camps established prior to June 14, 2000, are subject to the provisions of ORS 215.130.
  - (ii) An application for a proposed youth camp must comply with the following:

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- (aa) The number of overnight camp participants that may be accommodated must be determined by Lane County, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (3)(k)(ii)(bb) a youth camp cannot provide overnight accommodations for more than 350 youth camp participants, including staff.
- (bb) Lane County may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph (3)(k)(ii)(aa).
- (cc) Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, cannot exceed 10 percent of the total camper nights offered by the youth camp.
- (dd) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- (ee) A campground as described in Subsection (3)(h) cannot be established in conjunction with a youth camp.
- (ff) A youth camp cannot be allowed in conjunction with an existing golf course.
- (gg) A youth camp cannot interfere with the exercise of legally established water rights on adjacent properties.
- (iii) The youth camp must be located on a lawful parcel that is:
  - (aa) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination is based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities.
  - (bb) Is at least 40 acres in size.

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- (cc) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers must consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property is 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
  - (A) The proposed setback will prevent conflicts with commercial resource management practices;
  - (B) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
  - (C) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.
- (dd) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate must verify that a proposed youth camp will not result in the need for a sewer system.
- (iv) A youth camp may provide for the following facilities:
  - (aa) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses are not allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.
  - (bb) Primary cooking and eating facilities must be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services are limited to the operation of the youth camp and provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.

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- (cc) Bathing and laundry facilities except that they cannot be provided in the same building as sleeping quarters.
- (dd) Up to three camp activity buildings, not including primary cooking and eating facilities.
- (ee) Sleeping quarters including cabins, tents, or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, cannot include kitchen facilities. Sleeping quarters can be provided only for youth camp participants and must not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
- (ff) Covered areas that are not fully enclosed.
- (gg) Administrative, maintenance, and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.
- (hh) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).
- (ii) A caretaker's residence may be established in conjunction with a youth camp, if no other dwelling exists on the subject property.
- (v) A proposed youth camp must comply with the following fire safety requirements:
  - (aa) The fire siting standards in Section (6).
  - (bb) A fire safety protection plan must be developed for each youth camp that includes the following:
    - (A) Fire prevention measures;
    - (B) On site pre-suppression and suppression measures; and
    - (C) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
  - (cc) Except as determined under paragraph (3)(k)(v)(dd), a youth camp's on-site fire suppression capability must at least include:
    - (A) A 1000 gallon mobile water supply that can access all areas of the camp;

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- (B) A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
- (C) A sufficient number of fire-fighting hand tools; and
- (D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
- (dd) An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability must be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.
- (ee) The provisions of paragraph (3)(k)(v)(dd) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs Lane County in writing that on-site fire suppression at the camp is not needed.
- (vi) The Director, or its designate, requires as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (l) Storage structures for emergency supplies located west of the summit of the Coastal Range to serve communities and households located in tsunami inundation zones, as depicted on tsunami inundation maps prepared by Department of Geology and Mineral Industries (DOGAMI):
  - (i) Areas within an urban growth boundary cannot reasonably accommodate the structures;
  - (ii) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI);
  - (iii) Sites where the structure could be co-located with an existing use approved under this section are given preference for consideration;

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- (iv) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
- (v) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
- (vi) Notice of application for proposed storage structures is provided according to LC Chapter 14 to Lane County Emergency Management.
- (vii) As used in this section, “storage structures for emergency supplies” means structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.
- (m) Any Outdoor gathering of more than 3,000 people for more than 120 hours within any three-month period must comply with the following requirements:
  - (i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;
  - (ii) The proposed gathering is compatible with existing land uses;
  - (iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and
  - (iv) The provisions of ORS 433.755 shall apply to the proposed gathering.
- (n) For single-family dwellings, the landowner must sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (o) For single-family dwellings, the approval is valid for four years from the date of approval, ~~unless otherwise specified in the approval or by other provisions of Lane Code. Notwithstanding the requirements of LC Chapter 14, an application for a two year extension of the timelines for the permit approval can be made and approved pursuant to LC Chapter 14.~~ The Director may approve an application for extension of the permit, subject to the requirements and limitation of LC 14.090 (6) and (7).

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- (p) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.210(5)(a). For the purpose of LC 16.210(3)(p), the “same site” is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

(4) Conditional Use Review Criteria

A Conditional Use listed in Table 16.210-1 of this zone that references this section may be allowed provided the following requirements are satisfied. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

- (a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- (b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- (c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for Use 2.3, Use 3.6, Use 3.10, Use 6.6, and Use 7.8.
- (d) For Use 4.3: the use will not significantly conflict with the existing uses on adjacent and nearby lands.

(5) Siting Standards for Uses, Activities, and Structures

The following siting criteria apply to all new uses, activities, and structures allowed by LC 16.210. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. The Director must consider the criteria in this section together with the requirements of Section (6) to identify the building site.

- (a) Residences, dwellings, and structures must be sited as follows:
  - (i) Near dwellings on other tracts, near existing roads, on the most level part of the tract, on the least suitable portion of the tract for forest use and at least 30 feet from any ravine, ridge or slope greater than 40 percent (40%);
  - (ii) With minimal intrusion into forest areas undeveloped by nonforest uses;
  - (iii) Where possible, when considering LC 16.210(5)(a)(i) and (ii) and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU; and

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- (iv) The amount of forest lands used to site access roads, service corridors, and structures must be minimized.
- (b) Setbacks. Structures other than a fence or sign cannot be located closer than:
  - (i) 20 feet from the right-of-way of a state road, County road, or a local access public road specified in LC Chapter 15.
  - (ii) 30 feet from all property lines other than those described in Section (5)(b)(i).
  - (iii) The minimum distance necessary to comply Sections (5)(a) and (6).
  - (iv) Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a riparian modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.
- (c) Domestic Water Supplies. For new dwellings and non-farm structures on vacant land, evidence must be provided that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rule, OAR Chapter 629. If the water supply is unavailable from public sources or sources located entirely on the property, then the applicant must provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. For purposes of LC 16.210(5)(c) above, evidence of domestic water supply means:
  - (i) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - (ii) A water use permit issued by the Water Resources Department for the use described in the application; or
  - (iii) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant must submit the well constructor's report to the Director upon completion of the well.

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- (d) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant must provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (e) Approval of a dwelling is subject to the following requirements:
- (i) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules.
  - (ii) The Director must notify the County Assessor of the above condition at the time the dwelling is approved.
  - (iii) Stocking survey report:
    - (aa) If the lot or parcel is more than ten acres, the property owner must submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules; and
    - (bb) Upon notification by the Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, that department will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax.
- (f) Signs.
- (i) Signs cannot extend over a public right-of-way or project beyond the property line;
  - (ii) Signs cannot be illuminated, flashing, blinking, contain scrolling images, or capable of movement; and
  - (iii) Signs are to be limited to 200 square feet in area.

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(6) Fire-Siting Standards for Dwellings and Structures

The following fire-siting standards or their equivalent apply to new residences, dwellings, manufactured dwellings, or structures allowed in Lane Code 16.210:

- (a) The dwelling must be located upon a parcel within a fire protection district or must be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant must provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the dwelling must comply with the following fire safety plan requirements:
  - (i) The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
  - (ii) If a water supply is required for fire protection, it must be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;
  - (iii) The applicant must provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use;
  - (iv) Road access must be provided to within 15 feet of the water's edge for firefighting pumping units. The road access must accommodate the turnaround of firefighting equipment during the fire season. Permanent signs must be posted along the access route to indicate the location of the emergency water source; and
  - (v) A 100-foot wide primary safety zone and a 100-foot wide secondary safety zone surrounding the perimeter of the dwelling or manufactured dwelling structures must be provided and maintained in perpetuity in compliance with the standards in (6)(c).
- (b) Fire Safety Design Standards for Roads and Driveways.

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- (i) Private driveways, roads or bridges accessing only commercial forest uses are not subject to compliance with these fire safety design standards for roads and driveways. The route of access for firefighting equipment, from the fire station to the destination point, across public roads, bridges, private roads or private access easements and driveways must comply with the standards specified below. Evidence of compliance with the standards specified in (6)(b) should include objective information about the firefighting equipment, the physical nature of the access route, the nature of any proposed improvements to the access route, and it may also include a written verification of compliance from the agency providing fire protection, or a written certification of compliance from an Oregon Registered Professional Engineer. As used herein, "road" means a way of access used for more than one use and accessory uses. As used herein, "driveway" means a way of access used for only one dwelling.
- (ii) Road and Driveway Surfaces. Roads must have unobstructed widths of at least 20 feet including: travel surfaces with widths of at least 16 feet constructed with gravel to a depth sufficient to provide access for fire fighting vehicles and containing gravel to a depth of at least six-inches or with paving having a crushed base equivalent to six inches of gravel, an unobstructed area two feet in width at right angles with each side of the constructed surface, curve radii of at least 50 feet, and a vertical clearance of at least 13 feet 6 inches. Driveways must have: constructed widths of at least 12 feet with at least six inches of gravel or with paving having a crushed base equivalent to six inches of gravel and must have a vertical clearance of 13 feet 6 inches.
- (iii) Turnarounds. Any dead-end road over 200 feet in length and not maintained by Lane County must meet these standards for turnarounds. Dead-end roads must have turnarounds spaced at intervals of not more than 500 feet. Turnarounds must comply with these design and construction standards:
  - (aa) Hammerhead Turnarounds. Hammerhead turnarounds (for emergency vehicles to drive into and back out of to reverse their direction on the road) must intersect the road as near as possible at a 90 degree angle and extend from the road at that angle for a distance of at least 20 feet. They must be constructed to the standards for driveways in LC 16.210(6)(b)(i) above and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; or

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- (bb) Cul-de-sac Turnarounds. Cul-de-sac turnarounds must have a right-of-way width with a radius of at least 45 feet and an improved surface with a width of at least 36 feet and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; and
- (cc) Cul-de-sacs or hammerhead turnarounds cannot cross any slope which will allow chimney-effect draws unless the dangerous effects of the chimney-effect draws have been mitigated by the location of the road and, where necessary, by the creation of permanent fire breaks around the road.
- (iv) Bridges and Culverts. Bridges and culverts must be constructed to sustain a minimum gross vehicle weight of 50,000 lbs. and to maintain a minimum 16-foot road width surface or a minimum 12-foot driveway surface. The Planning Director may allow a single-span bridge utilizing a converted railroad flatcar as an alternative to the road and driveway surface width requirements, subject to verification from an engineer licensed in the State of Oregon that the structure will comply with the minimum gross weight standard of 50,000 lbs.
- (v) Road and Driveway Grades. Road and driveway grades cannot exceed 16 percent except for short distances when topographic conditions make lesser grades impractical. In such instances, grades up to 20 percent may be allowed for spans not to exceed 100 feet. An applicant must submit information from a Fire Protection District or engineer licensed in the State of Oregon demonstrating that road and driveway grades in excess of eight percent are adequate for the firefighting equipment of the agency providing fire protection to access: the use, firefighting equipment, and water supply.
- (vi) Identification. Roads must be named and addressed in compliance with LC 15.305 through 15.335.
- (vii) Driveway Vehicle Passage Turnouts. Driveways in excess of 200 feet must provide for a 20-foot long and eight-foot wide passage space (turn out) with six inches in depth of gravel and at a maximum spacing of 400 feet. Shorter or longer intervals between turnouts may be authorized by the Planning Director where the Director inspects the road and determines that topography, vegetation, corners or turns obstruct visibility.
- (viii) Modifications and Alternatives. The standards in (6)(b)(i) through (6)(b)(vii) above may be modified by the approval authority provided the applicant has submitted objective evidence demonstrating that an alternative standard would insure adequate access for firefighting equipment from its point of origination to its point of destination.

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- (c) Fuel-Free Breaks. The owners of dwellings and structures must maintain a primary safety zone surrounding all structures and clear and maintain a secondary safety zone on land surrounding the dwelling that is owned or controlled by the owner in compliance with these requirements.
  - (i) Primary Safety Zone. The primary safety zone is a fire break extending a minimum of 30 feet in all directions around dwellings, manufactured dwellings and structures, unless otherwise specifically stated in LC 16.210. The goal within the primary safety zone is to exclude fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone could include green lawns and low shrubs (less than 24 inches in height). Trees must be spaced with greater than 15 feet between the crown and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, and other dead vegetation must be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) must be placed next to the house.
    - (aa) As slope increases, the primary safety zone must increase away from the house, parallel to the slope and down the slope, as shown in the table and figure below:

Table 16.210-2 Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

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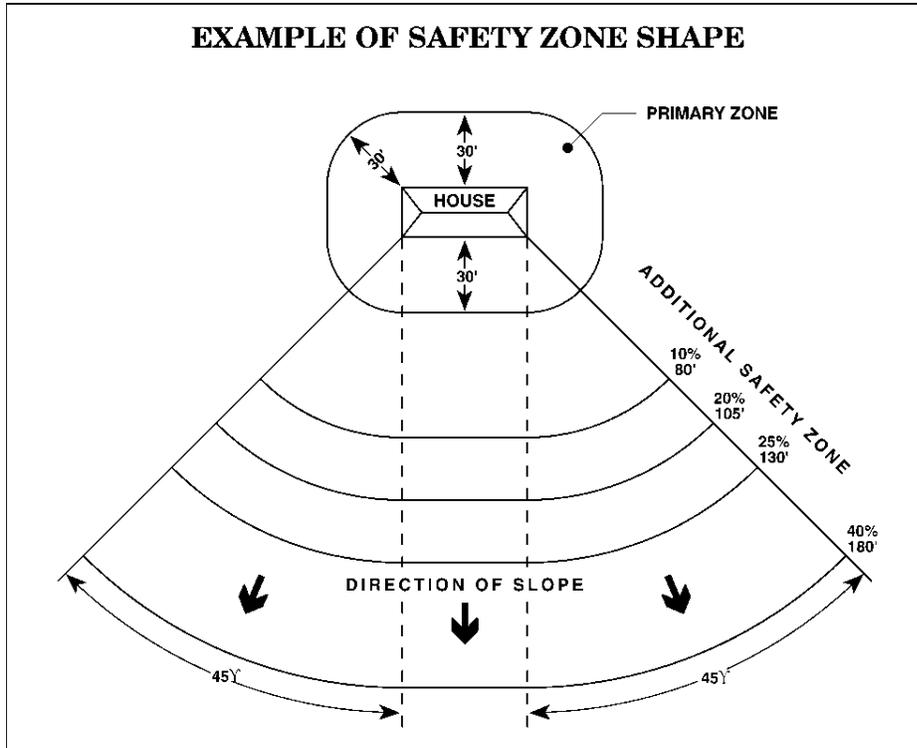
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Figure 16.210-1



(ii) **Secondary Safety Zone.** The secondary safety zone is a fuel break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of the secondary safety zone is to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary safety zone must be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees must be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels must be removed.

- (d) The dwelling must have a fire retardant roof.
- (e) Dwellings or manufactured dwellings must be sited at least 30 feet away from a ravine, ridge, or any slope greater than 40 percent slope.
- (f) If the dwelling has a chimney or chimneys, each chimney must have a spark arrester.

(7) Land Divisions

- (a) The minimum area requirement for the creation of new or adjusted lots or parcels for land designated as Nonimpacted Forest Land (F-1) is 80 acres. The creation of a new or adjusted lot or parcel must comply with LC Chapter 13.

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- (b) New land divisions or adjustments less than the parcel size in Subsection (a) may be approved in accordance with LC Chapter 13 for any of the following circumstances:
- (i) The following uses in Table 16.210-1 may be approved pursuant to the criteria in Section (4) and provided that the parcel created from the division is the minimum size necessary for the use:
- (aa) Use 4.1. Exploration for and production of geothermal, gas, oil and other associated hydrocarbons
  - (bb) Use 1.4. Log scaling and weigh stations
  - (cc) Use 3.7. Permanent facility for the primary processing of forest products.
  - (dd) Use 3.8. Permanent logging equipment repair and storage.
  - (ee) Use 4.3. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted, and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
  - (ff) Use 6.2. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
  - (gg) Use 6.4. Television, microwave and radio communication facilities and transmission towers.
  - (hh) Use 6.7. Reservoirs and water impoundments
  - (ii) Use 6.8. Commercial power generating facilities
  - (jj) Use 7.3. Aides to navigation and aviation
  - (kk) Use 7.4. Firearms training facilities
  - (ll) Use 7.5. Fire stations for rural fire protection
  - (mm) Use 7.6. Cemeteries.
  - (nn) Use 7.7. Public parks
  - (oo) Use 7.8. Private parks and campgrounds
- (ii) For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:

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- (aa) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel cannot be larger than 10 acres; and
- (bb) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:
  - (A) Meets the minimum land division standards of the zone; or
  - (B) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.
- (cc) Restrictions
  - (A) An application for the creation of a parcel pursuant to paragraph (7)(b)(ii) or (iii) must provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction must prohibit dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).
  - (B) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.
- (iii) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals are based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:
  - (aa) Are not eligible for siting of a new dwelling;
  - (bb) May not serve as the justification for the siting of a future dwelling on other lots or parcels;

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- (cc) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
- (dd) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
  - (A) Facilitate an exchange of lands involving a governmental agency; or
  - (B) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
- (iv) To allow a division of a lot or parcel zoned for forest use if:
  - (aa) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - (bb) Each dwelling complies with the criteria for a replacement dwelling under paragraph (3)(a)(i);
  - (cc) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;
  - (dd) At least one dwelling is located on each parcel created under this paragraph; and
  - (ee) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.
  - (ff) A lot or parcel may not be divided if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.

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- (v) A division of a lot or parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in (aa) through (dd) below:
  - (aa) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:
    - (A) If the parcel contains a dwelling or another use allowed under LC 16.210, the parcel must be large enough to support continued residential use or other allowed use of the parcel;
    - (B) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705, based on the size and configuration of the parcel.
  - (bb) Before approving a proposed division of land under this section, the Planning Director must require as a condition of approval that the provider of public parks or open space, or the not-for-profit conservation organization, present for recording in Lane County Deeds and Records, an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:
    - (A) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in LC 16.210 except park or conservation uses; and
    - (B) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
  - (cc) If a proposed division of land under (7)(b)(v) results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the Planning Director may approve the division.
  - (dd) The Planning Director is required to maintain a record of lots and parcels that do not qualify for development of the property under restrictions imposed by (7)(b)(v)(aa)(B) above. The record must be readily available to the public.

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- (vi) A division of a lawfully established unit of land may occur along an acknowledged urban growth boundary where the parcel remaining outside the urban growth boundary is zoned as F-1 and is smaller than 80 acres, provided that:
  - (aa) If the parcel contains a dwelling, it must be large enough to support continued residential use.
  - (bb) If the parcel does not contain a dwelling, the parcel:
    - (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - (B) May not be considered in approving or denying an application for siting any other dwelling; and
    - (C) May not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use.
- (c) A landowner allowed a land division under Subsection (b) must record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (d) The Director or hearing authority may not approve a property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists.

(8) Telecommunication Facilities

Telecommunication facilities are allowed subject to compliance with the requirements of LC 16.264 and applicable requirements elsewhere in LC Chapter 16.

*(Revised by Ordinance No. 7-87, Effective 6.17.87; 18-87, 12.25.87; 14-89, 2.2.90; 12-90, 10.11.90; 11-91A, 8.30.91; 17-91, 1.17.92; 10-92, 11.12.92; 4-02, 4.10.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.17.10; 14-08, 11.5.14; 14-09, 12.16.14; 15-3, 04.17.15; 15-08, 12.15.15; 16-01, 2.25.16; 18-02, 8.9.18; 18-08, 2.14.19)*

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**IMPACTED FOREST LANDS ZONE (F-2, RCP)**

**RURAL COMPREHENSIVE PLAN**

F-2 Zone Table of Contents

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**16.211 Impacted Forest Lands (F-2, RCP)**

(1) Purpose

The purpose of the Impacted Forest Land (F-2) Zone is to protect and maintain forest lands for grazing, and rangeland use and forest use, consistent with existing and future needs for agricultural and forest products. The F-2 zone is also intended to allow other uses that are compatible with agricultural and forest activities, to protect scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water, and land resources of the county.

The F-2 zone has been applied to lands designated as Forest in the Comprehensive Plan. The provisions of the F-2 zone reflect the forest land policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-006. The minimum parcel size and other standards established by this zone are intended to promote commercial forest operations.

(2) Use Table

Table of Permitted Uses

Table 16.211-1 sets forth the uses allowed in the F-2 zone subject to Type I, II, or III approval processes. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require a Type I, II, or, III process, unless otherwise

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specified on Table 16.211-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions, siting standards, fire siting standards, and exceptions set forth in LC 16.211.

As used in Table 16.211-1:

- (a) Use Type:
  - (i) "A" means the use is allowed outright or permitted subject to standards.
  - (ii) "C" means the use is a Conditional Use, subject to Section (4) and other listed criteria.
- (b) Local Procedure Type:
  - (i) "P" means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Chapter.
  - (ii) "AL" means Assembly License, subject to LC 3.995.
  - (iii) Type I uses and activities are permitted subject to the general provisions and exceptions set forth by this chapter of Lane Code.
  - (iv) Type II uses may be allowed provided a land use application is submitted and approved by the Director pursuant to LC Chapter 14.
  - (v) Type III uses may be allowed provided a land use application is submitted and approved by the Hearings Official pursuant to LC Chapter 14.
- (c) The "Subject To" column identifies any specific provisions of LC 16.211 to which the use is subject. All uses and development are subject to the development standards provisions of LC 16.211(5)(b) and (6)(c). Residences, dwellings, and structures must comply with LC 16.211(5) and (6). Any new structure subject to LC 16.211(5)(a) is subject to a Type II procedure pursuant to LC Chapter 14.
- (d) A determination by the Director for whether or not a use fits within the classification of uses listed as Type I, Permitted Outright, or Assembly License in the use table may constitute a "permit" as defined by ORS 215.402(4), "...discretionary approval of a proposed development of land..." an owner of land where the use would occur therefore may request to elevate review of a Type I, Permitted Outright, or Assembly License use to a Type II land use application pursuant to LC Chapter 14. The burden of proof in the application will be upon the owner of land to demonstrate that the proposed use fits within the classification.

**Table 16.211-1: Use Table for Impacted Forest Zones**  
**I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License**

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
<b>1.</b>	<b>Forest, Farm and Natural Resource Uses</b>			
1.1.	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash	A	P	
1.2.	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation	A	I	(5)(b), (6)(c)
1.3.	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities	A	P	
1.4.	Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources	A	P	
1.5.	Farm use as defined in LC 16.090.	A	P	
1.6.	Uninhabitable structures accessory to fish and wildlife enhancement	A	I	(5)(b), (6)(c)
1.7.	Agricultural building	A	I	(5)(b), (6)(c)
1.8.	Log scaling and weigh stations	C	II	(4), (5), (6)
1.9.	Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations	C	II	(4), (5), (6)
1.10.	Marijuana production	A	I	LC 16.420, (5)(b), (6)(c)
1.11.	Marijuana wholesale distribution	A	I	LC 16.420, (5)(b), (6)(c)
1.12.	Marijuana research	A	I	LC 16.420, (5)(b), (6)(c)

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
<b>2.</b>	<b>Residential Uses</b>			
2.1.	Caretaker residences for public parks and public fish hatcheries	A	II	(3)(q), <del>(3)(r)</del> , (5), (6)
2.2.	Large tract forest dwelling	A	II	(3)(a), (3)(q), (3)(r), (5), (6)
2.3.	Lot of record dwelling	A	II	(3)(b), (3)(q), (3)(r), (5), (6)
2.4.	Template dwelling	A	II	(3)(c), (3)(q), (3)(r), (5), (6)
2.5.	Alteration, restoration, or replacement of a lawfully established dwelling	A	I or II	(3)(d), (3)(q), <del>(3)(r)</del> , (3)(s), (5), (6)
2.6.	Temporary hardship dwelling	C	II	(3)(e), (3)(q), (4), (5), (6)
<b>3.</b>	<b>Commercial Uses</b>			
3.1.	Temporary portable facility for the primary processing of forest products	A	I	(5)(b), (6)(c)
3.2.	Temporary forest labor camps	A	I	(5)(b), (6)(c)
3.3.	Private hunting and fishing operations without any lodging accommodations	A	P or II	(5), (6)
3.4.	Parking of up to seven dump trucks and trailers	C	II	(4)
3.5.	In-home commercial activity (Minor Home Occupation)	A	I	(3)(g)

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3.6.	Home occupations	C	II	(3)(f), (4)
3.7.	Permanent facility for the primary processing of forest products	C	II	(3)(l),(4), (5), (6)
3.8.	Permanent logging equipment repair and storage	C	II	(4), (5), (6)
3.9.	Private seasonal accommodations for fee hunting operations	C	II	(3)(h), (4), (5), (6)
3.10.	Private accommodations for fishing occupied on a temporary basis	C	II	(3)(i), (4), (5), (6)
3.11.	Marijuana processing, provided an on-site dwelling is present	C	II	LC 16.420, (4)
<b>4.</b>	<b>Mineral, Aggregate, Oil and Gas Uses</b>			
4.1.	Exploration for aggregate resources as defined in ORS chapter 517	A	P	
4.2.	Exploration for and production of geothermal, gas, oil and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head	A	P	
4.3.	Mining and processing of oil, gas or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted by 4.2 above (e.g. compressors, separators, and storage servicing multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS chapter 517	C	III	(4), (4)(d)
4.4.	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects	C	II	(4)
<b>5.</b>	<b>Transportation Uses</b>			
5.1.	Climbing and passing lanes within the right of way existing as of July 1, 1987	A	P	

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5.2.	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result	A	P	
5.3.	Temporary public road and highway detours that will be abandoned and restored to condition or use in effect prior to construction of the detour at such time as no longer needed	A	P	
5.4.	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways	A	P	
5.5.	Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	
5.6.	Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards	A	P	
5.7.	Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.101 for existing transportation facilities, services, and improvements, including road bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	
5.8.	Changes in the frequency of transit, rail and airport services	A	P	
5.9.	Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels	C	II	(4)
5.10.	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels	C	II	(4)

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
5.11.	Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels	C	II	(4)
5.12.	Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road	C	II	(4)
5.13.	Park and ride lots	C	II	(4)
5.14.	Railroad mainlines and branch lines	C	II	(4)
5.15.	Pipelines	C	II	(4)
5.16.	Navigation channels	C	II	(4)
5.17.	Realignment as defined in LC 15.010 not otherwise permitted pursuant to this chapter	C	II	(3)(m), (4)
5.18.	Replacement of an intersection with an interchange	C	II	(3)(m), (4)
5.19.	Continuous median turn lanes	C	II	(3)(m), (4)
5.20.	New roads as defined in LC 15.010 that are County Roads functionally classified as Local Roads or Collectors, or are Public Roads or Local Access Roads as defined in LC 15.010(35) in areas where the function of the road is to reduce local access to or local traffic on a state highway	C	II	(3)(m), (4)
5.21.	Transportation facilities, services, and improvements other than those listed in LC 16.211 that serve local travel needs	C	II	(3)(m), (4)
5.22.	Expansion of lawfully existing airports	C	II	(4), (5), (6)
<b>6.</b>	<b>Utility and Power Generation, Solid Waste</b>			
6.1.	Local distribution lines (e.g. electric, telephone, natural gas) & accessory equipment (e.g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups	A	P	

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
6.2.	Water intake facilities, canals and distribution lines for farm on and ponds	A	P	
6.3.	Disposal site for solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;	C	II	(4), (5), (6)
6.4.	Television, microwave and radio communication facilities and transmission towers	C	II	(4), (5), (6)
6.5.	New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g. gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width	C	II	(4)
6.6.	Water intake facilities, related treatment facilities, pumping stations and distribution lines	C	II	(4), (5), (6)
6.7.	Reservoirs and water impoundments	C	II	(4)
6.8.	Commercial utility facilities for the purpose of generating power	C	II	(3)(j), (4), (5), (6)
6.9.	Telecommunication tower changeout	A	I	(8)
6.10.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	A	I	(8)
6.11.	Telecommunication tower collocation	A	II	(8)
6.12.	New telecommunication tower or replacement tower	C	III	(4), (5), (6), (8)
<b>7.</b>	<b>Public and Quasi-public Uses</b>			
7.1.	Towers and fire stations for forest fire protection	A	II	(5), (6)
7.2.	Youth camps	A	II	(3)(n), (5), (6)
7.3.	Aids to navigation and aviation	C	II	(4), (5), (6)

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7.4.	Firearms training facility as provided in ORS 197.770	C	II	(4), (5), (6)
7.5.	Fire stations for rural fire protection	C	II	(4), (5), (6)
7.6.	Cemeteries	C	II	(4)
7.7.	Public parks and public campgrounds, including those uses specified under OAR 660-034-0035 or OAR 660-034-0040	C	II	(4), (5), (6)
7.8.	Private parks and private campgrounds	C	II	(3)(k), (4), (5), (6)
7.9.	Storage structures for emergency supplies	C	II	(3)(o), (4), (5), (6)
<b>8.</b>	<b>Outdoor Gatherings</b>			
8.1.	An outdoor gathering of fewer than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period	A	P or AL (if over 1,000 persons)	LC 3.995
8.2.	An outdoor mass gathering of more than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period, and which is held primarily in open spaces and not in any permanent structure as provided in ORS 433.735-760	A	III	ORS 433.735-760
8.3.	Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by the Planning Commission under ORS 433.763, notwithstanding Type III Hearings Official review	C	III (LCPC)	(3)(p)
<b>9.</b>	<b>Accessory Uses</b>			
9.1.	Uses and buildings accessory to existing uses and development permitted by LC 16.211.	A	P or II	(3)(s), (5), (6)

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## (3) Use Standards

- (a) A large tract forest dwelling may be allowed on a lot or parcel zoned for forest use, but it must comply with other provisions of law, including the following:
- (i) The tract does not include a dwelling.
  - (ii) The tract is at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in Lane County or adjacent counties and zoned for forest use.
    - (aa) A tract cannot be considered to consist of less than 160 acres because it is crossed by a public road or a waterway.
  - (iii) Prior to issuance of a building permit, a deed restriction must be filed for all tracts that are used to meet the acreage requirements of this subsection pursuant to:
    - (aa) The applicant must provide evidence that the covenants, conditions, and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions, and restrictions is located.
    - (bb) The covenants, conditions, and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
- (b) A lot of record dwelling may be allowed on a lot or parcel zoned for forest use pursuant to the following:
- (i) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in paragraph (iv):
    - (aa) Since prior to January 1, 1985; or
    - (bb) By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985;
  - (ii) The tract on which the dwelling will be sited does not include a dwelling;
  - (iii) If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract;

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- (iv) For purposes of this subsection, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members;
- (v) The dwelling must be located on a tract that is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined in LC Chapter 15 that provides or will provide access to the subject tract. The road must be maintained and either paved or surfaced with rock and cannot be:
  - (aa) A United States Bureau of Land Management road; or
  - (bb) A United States Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency;
- (vi) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract must be consolidated into a single lot or parcel when the dwelling is allowed; and
- (vii) When the lot or parcel on which the dwelling will be sited lies within an area designated in the Rural Comprehensive Plan as habitat of big game, the siting of the dwelling must be consistent with the limitations on density upon which the Rural Comprehensive Plan and land use regulations intended to protect the habitat are based.
- (c) A single family "template" dwelling authorized on a lot or parcel located within a forest zone pursuant to the following:
  - (i) If the lot or parcel is predominantly composed of soils that are:
    - (aa) Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:
      - (A) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
      - (B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
    - (bb) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

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- (A) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and
  - (B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (cc) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:
- (A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
  - (B) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- (ii) Lots or parcels within urban growth boundaries cannot be used to satisfy the eligibility requirements of subsection (i) above;
- (iii) A dwelling, as used in subsection (i) above, is considered to be in the 160-acre template if any part of the parcel is in the 160-acre template;
- (iv) Except as provided by subsection (v) below, if the subject tract abuts a road that existed on January 1, 1993, the measurement required in (i) above may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road;
- (v) The following applies where a tract 60 acres or larger abuts a road or perennial stream:
- (aa) The measurement must be made in accordance with paragraph (iv). However, one of the three required dwellings must be on the same side of the road or stream as the tract, and:
    - (A) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
    - (B) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract;
  - (bb) If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings must be on the same side of the road as the proposed dwelling;
- (vi) A proposed "template" dwelling under this section is not allowed:

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- (aa) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (3)(a)(iii) for the other lots or parcels that make up the tract are met; or
- (bb) If the tract on which the dwelling will be sited includes a dwelling;
- (vii) Where other lots or parcels that make up a tract in Subsection (vi):
  - (aa) The applicant must provide evidence that the covenants, conditions, and restrictions form adopted as "Exhibit A" in OAR chapter 660, division 6 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions, and restrictions is located;
  - (bb) The covenants, conditions, and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions, and restrictions is located;
  - (viii) The Director shall maintain a copy of the covenants, conditions, and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts do not qualify for the siting of a dwelling under the covenants, conditions, and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
- (d) Alteration, restoration, or replacement of a lawfully established dwelling, subject to the following:
  - (i) The dwelling was lawfully established;
  - (ii) The lawfully established dwelling:
    - (aa) Has intact exterior walls and roof structures;
    - (bb) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
    - (cc) Has interior wiring for interior lights; and
    - (dd) Has a heating system;
  - (iii) In the case of replacement, is removed, demolished, or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- (e) A temporary hardship dwelling is subject to the following:

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- (i) One manufactured dwelling (MH), recreational vehicle (RV), or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
  - (aa) The hardship dwelling must use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If a public sanitary sewer system is available, the hardship dwelling may connect to the public system and not use a subsurface sewage disposal system;
  - (bb) Except as provided in ~~(3)(i)(cc)~~ below, approval of a temporary hardship dwelling permit is valid until December 31 of the year following the year of original permit approval and may be renewed once every two years until the hardship situation ceases or unless in the opinion of the Lane County Sanitarian the on-site sewage disposal system no longer meets DEQ requirement;
  - (cc) Within 90 days of the end of the hardship situation, the MH or RV must be removed from the property or demolished. In the case of an existing building, the building must be removed, demolished, or returned to an allowable nonresidential use or demolished; and
  - (dd) The temporary hardship dwelling will comply with Oregon Department of Environmental Quality review and removal requirements;
- (ii) As used in this section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons; and
- (iii) A temporary hardship dwelling approved under ~~(3)(e)~~ above cannot be eligible for replacement under ~~(3)(d)~~ above.
- (f) A home occupation must:
  - (i) Be operated by a resident or employee of a resident of the property on which the business is located;
  - (ii) Employ on the site no more than five full-time or part-time persons at any given time;
  - (iii) Be operated substantially in the dwelling or other buildings normally associated with uses permitted in the F-2 Zone;
  - (iv) Not unreasonably interfere with other uses permitted in LC 16.211;
  - (v) Comply with sanitation and building code requirements prior to start of Home Occupation; and

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- (vi) Not be used as a justification for a zone change.
- (g) An in-home commercial activity must comply with the following requirements:
  - (i) Meets the criteria under Section (3)(f)(i), (ii), (iii), (v), and (vi) ;
  - (ii) Is operated by no more than five employees, who all reside in the single-family dwelling;
  - (iii) Is conducted within a dwelling;
  - (iv) Does not occupy more than 25 percent of the combined floor area of the dwelling, including attached garage;
  - (v) Does not serve clients or customers on-site;
  - (vi) Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage; and
  - (vii) Does not include the outside storage of materials, equipment, or products.
- (h) Private seasonal accommodations for fee hunting operations are subject to the following requirements:
  - (i) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted; and
  - (iii) Accommodations are occupied temporarily for the purpose of hunting during either or both game bird or big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.
- (i) Private accommodations for fishing occupied on a temporary basis are subject to the following requirements:
  - (i) Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - (ii) Only minor incidental and accessory retail sales are permitted;
  - (iii) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and
  - (iv) Accommodations must be located within one-quarter mile of fish-bearing Class I waters.

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- (j) A commercial utility facility for the purpose of generating power cannot preclude more than 10 acres from use as a commercial forest operation, unless an exception is taken pursuant to OAR 600, Division 4.
- (k) Private Parks and Private Campgrounds.
  - (i) Campgrounds in private parks may be permitted, subject to the following:
    - (aa) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds are not allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4;
    - (bb) A campground must be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;
    - (cc) Campgrounds authorized by this rule cannot include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations;
    - (dd) Overnight temporary use in the same campground by a camper or camper's vehicle cannot exceed a total of 30 days during any consecutive six-month period;
    - (ee) Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle. Separate sewer, water, or electric service hook-ups cannot be provided to individual camp sites except that electrical service may be provided to yurts allowed by Section (3)(k)(i)(ff); and
    - (ff) A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt must be located on the ground or on a wood floor with no permanent foundation.
  - (l) Permanent facility for the primary processing of forest products.
    - (i) Located in a building or buildings that do not exceed 10,000 square feet in total floor area; or
    - (ii) Located in an outdoor area that does not exceed one acre excluding laydown and storage yards; or
    - (iii) Located in a proportionate combination of indoor and outdoor areas described in Sections (3)(l)(i) and (ii); and

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- (iv) Adequately separated from surrounding properties to reasonably mitigate noise, odor, and other impacts generated by the facility that adversely affect forest management and other existing uses, as determined by Lane County.
- (m) Certain transportation facilities and uses must comply with the following:
  - (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
  - (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
  - (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.
- (n) Youth Camps
  - (i) The purpose of a youth camp is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment. Changes to or expansions of youth camps established prior to June 14, 2000, are subject to the provisions of ORS 215.130.
  - (ii) An application for a proposed youth camp must comply with the following:
    - (aa) The number of overnight camp participants that may be accommodated must be determined by Lane County, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by paragraph (3)(n)(ii)(bb) a youth camp cannot provide overnight accommodations for more than 350 youth camp participants, including staff.
    - (bb) Lane County may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under paragraph 0.
    - (cc) Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, cannot exceed 10 percent of the total camper nights offered by the youth camp.

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- (dd) The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- (ee) A campground as described in Subsection (3)(k) cannot be established in conjunction with a youth camp.
- (ff) A youth camp cannot be allowed in conjunction with an existing golf course.
- (gg) A youth camp cannot interfere with the exercise of legally established water rights on adjacent properties.
- (iii) The youth camp must be located on a lawful parcel that is:
  - (aa) Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination is based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp, as well as, the number of overnight participants and type and number of proposed facilities.
  - (bb) Is at least 40 acres in size.
  - (cc) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands. The buffers must consist of forest vegetation, topographic or other natural features as well as structural setbacks from adjacent public and private lands, roads, and riparian areas. The structural setback from roads and adjacent public and private property is 250 feet unless the governing body, or its designate sets a different setback based upon the following criteria that may be applied on a case-by-case basis:
    - (A) The proposed setback will prevent conflicts with commercial resource management practices;
    - (B) The proposed setback will prevent a significant increase in safety hazards associated with vehicular traffic; and
    - (C) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth camp activities from other nearby and adjacent resource lands.

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- (dd) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer system as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the governing body or its designate must verify that a proposed youth camp will not result in the need for a sewer system.
- (iv) A youth camp may provide for the following facilities:
- (aa) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding or swimming that can be provided in conjunction with the site's natural environment. Intensively developed facilities such as tennis courts, gymnasiums, and golf courses are not allowed. One swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is located on the subject property or immediately available for youth camp use.
  - (bb) Primary cooking and eating facilities must be included in a single building. Except in sleeping quarters, the governing body, or its designate, may allow secondary cooking and eating facilities in one or more buildings designed to accommodate other youth camp activities. Food services are limited to the operation of the youth camp and provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants.
  - (cc) Bathing and laundry facilities except that they cannot be provided in the same building as sleeping quarters.
  - (dd) Up to three camp activity buildings, not including primary cooking and eating facilities.
  - (ee) Sleeping quarters including cabins, tents, or other structures. Sleeping quarters may include toilets, but, except for the caretaker's dwelling, cannot include kitchen facilities. Sleeping quarters can be provided only for youth camp participants and must not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.
  - (ff) Covered areas that are not fully enclosed.
  - (gg) Administrative, maintenance, and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.

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- (hh) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).
- (ii) A caretaker's residence may be established in conjunction with a youth camp, if no other dwelling exists on the subject property.
- (v) A proposed youth camp must comply with the following fire safety requirements:
  - (aa) The fire siting standards in Section (6).
  - (bb) A fire safety protection plan must be developed for each youth camp that includes the following:
    - (A) Fire prevention measures;
    - (B) On site pre-suppression and suppression measures; and
    - (C) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.
  - (cc) Except as determined under paragraph (3)(n)(v)(dd), a youth camp's on-site fire suppression capability must at least include:
    - (A) A 1000 gallon mobile water supply that can access all areas of the camp;
    - (B) A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
    - (C) A sufficient number of fire-fighting hand tools; and
    - (D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.
  - (dd) An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability must be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies, and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a local structural fire protection provider.

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- (ee) The provisions of paragraph (3)(n)(v)(dd) may be waived by the governing body, or its designate, if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the camp is not needed.
- (vi) The Director, or its designate, requires as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner's or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (o) Storage structures for emergency supplies located west of the summit of the Coastal Range to serve communities and households located in tsunami inundation zones, as depicted on tsunami inundation maps prepared by Department of Geology and Mineral Industries (DOGAMI):
  - (i) Areas within an urban growth boundary cannot reasonably accommodate the structures;
  - (ii) The structures are located outside tsunami inundation zones and consistent with evacuation maps prepared by Department of Geology and Mineral Industries (DOGAMI);
  - (iii) Sites where the structure could be co-located with an existing use approved under this section are given preference for consideration;
  - (iv) The structures are of a number and size no greater than necessary to accommodate the anticipated emergency needs of the population to be served;
  - (v) The structures are managed by a local government entity for the single purpose of providing for the temporary emergency support needs of the public; and
  - (vi) Notice of application for proposed storage structures is provided according to LC Chapter 14 to Lane County Emergency Management.
  - (vii) As used in this section, "storage structures for emergency supplies" means structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.

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- (p) Any outdoor gathering of more than 3,000 people for more than 120 hours within any three-month period must comply with the following requirements:
- (i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;
  - (ii) The proposed gathering is compatible with existing land uses;
  - (iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and
  - (iv) The provisions of ORS 433.755 shall apply to the proposed gathering.
- (q) For single-family dwellings, the landowner must sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (r) For single-family dwellings, the approval is valid for four years from the date of approval. ~~unless otherwise specified in the approval or by other provisions of Lane Code. Notwithstanding the requirements of LC Chapter 14, an application for a two year extension of the timelines for the permit approval can be made and approved pursuant to LC Chapter 14. The Director may approve an application for extension of the permit subject to the requirements and limitations of LC 14.090 (6) and (7).~~
- (s) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.211(5)(a). For the purpose of LC 16.211(3)(s), the "same site" is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

#### (4) Conditional Use Review Criteria

A Conditional Use listed in Table 16.211-1 of this zone that references this section may be allowed provided the following requirements are satisfied. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

- (a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- (b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

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- (c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for Use 2.6, Use 3.6, Use 3.10, Use 6.6, and Use 7.8.
- (d) For Use 4.3: the use will not significantly conflict with the existing uses on adjacent and nearby lands.

#### (5) Siting Standards for Uses, Activities, and Structures

The following siting criteria apply to all new uses, activities, and structures allowed by LC 16.211. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. The Director must consider the criteria in this section together with the requirements of Section (6) to identify the building site.

- (a) Residences, dwellings, and structures must be sited as follows:
  - (i) Near dwellings on other tracts, near existing roads, on the most level part of the tract, on the least suitable portion of the tract for forest use and at least 30 feet from any ravine, ridge or slope greater than 40 percent (40%);
  - (ii) With minimal intrusion into forest areas undeveloped by non-forest uses;
  - (iii) Where possible, when considering LC 16.211(5)(a)(i) and (ii) and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU; and
  - (iv) The amount of forest lands used to site access roads, service corridors, and structures must be minimized.
- (b) Setbacks. Structures other than a fence or sign cannot be located closer than:
  - (i) 20 feet from the right-of-way of a state road, County road, or a local access public road specified in LC Chapter 15.
  - (ii) 30 feet from all property lines other than those described in Section (5)(b)(i).
  - (iii) The minimum distance necessary to comply Sections (5)(a) and (6).

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- (iv) Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a riparian modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.
- (c) Domestic Water Supplies. For new dwellings and non-farm structures on vacant land, evidence must be provided that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rule, OAR Chapter 629. If the water supply is unavailable from public sources or sources located entirely on the property, then the applicant must provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. For purposes of LC 16.211(5)(c) above, evidence of domestic water supply means:
  - (i) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;
  - (ii) A water use permit issued by the Water Resources Department for the use described in the application; or
  - (iii) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant must submit the well constructor's report to the Director upon completion of the well.
- (d) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant must provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.
- (e) Approval of a dwelling is subject to the following requirements:
  - (i) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules.
  - (ii) The Director must notify the County Assessor of the above condition at the time the dwelling is approved.

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- (iii) Stocking survey report:
  - (aa) If the lot or parcel is more than ten acres, the property owner must submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules; and
  - (bb) Upon notification by the Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, that department will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax.
- (f) Signs.
  - (i) Signs cannot extend over a public right-of-way or project beyond the property line;
  - (ii) Signs cannot be illuminated, flashing, blinking, contain scrolling images, or capable of movement; and
  - (iii) Signs are to be limited to 200 square feet in area.

(6) Fire-Siting Standards for Dwellings and Structures. The following fire-siting standards or their equivalent apply to new residences, dwellings, manufactured dwellings, or structures allowed in Lane Code 16.211:

- (a) The dwelling must be located upon a parcel within a fire protection district or must be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant must provide evidence that the applicant has asked to be included within the nearest such district. If the Director determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the dwelling must comply with the following fire safety plan requirements:
  - (i) The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions;
  - (ii) If a water supply is required for fire protection, it must be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second;

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- (iii) The applicant must provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use;
  - (iv) Road access must be provided to within 15 feet of the water's edge for firefighting pumping units. The road access must accommodate the turnaround of firefighting equipment during the fire season. Permanent signs must be posted along the access route to indicate the location of the emergency water source; and
  - (v) A 100-foot wide primary safety zone and a 100-foot wide secondary safety zone surrounding the perimeter of the dwelling or manufactured dwelling structures must be provided and maintained in perpetuity in compliance with the standards in (6)(c).
- (b) Fire Safety Design Standards for Roads and Driveways.
- (i) Private driveways, roads or bridges accessing only commercial forest uses are not subject to compliance with these fire safety design standards for roads and driveways. The route of access for firefighting equipment, from the fire station to the destination point, across public roads, bridges, private roads or private access easements and driveways must comply with the standards specified below. Evidence of compliance with the standards specified in (6)(b) should include objective information about the firefighting equipment, the physical nature of the access route, the nature of any proposed improvements to the access route, and it may also include a written verification of compliance from the agency providing fire protection, or a written certification of compliance from an Oregon Registered Professional Engineer. As used herein, "road" means a way of access used for more than one use and accessory uses dwelling or manufactured dwelling. As used herein, "driveway" means a way of access used for only one dwelling or manufactured dwelling.
  - (ii) Road and Driveway Surfaces. Roads must have unobstructed widths of at least 20 feet including: travel surfaces with widths of at least 16 feet constructed with gravel to a depth sufficient to provide access for fire fighting vehicles and containing gravel to a depth of at least six-inches or with paving having a crushed base equivalent to six inches of gravel, an unobstructed area two feet in width at right angles with each side of the constructed surface, curve radii of at least 50 feet, and a vertical clearance of at least 13 feet 6 inches. Driveways must have: constructed widths of at least 12 feet with at least six inches of gravel or with paving having a crushed base equivalent to six inches of gravel and must have a vertical clearance of 13 feet 6 inches.

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- (iii) Turnarounds. Any dead-end road over 200 feet in length and not maintained by Lane County must meet these standards for turnarounds. Dead-end roads must have turnarounds spaced at intervals of not more than 500 feet. Turnarounds must comply with these design and construction standards:
- (aa) Hammerhead Turnarounds. Hammerhead turnarounds (for emergency vehicles to drive into and back out of to reverse their direction on the road) must intersect the road as near as possible at a 90 degree angle and extend from the road at that angle for a distance of at least 20 feet. They must be constructed to the standards for driveways in LC 16.211(6)(b)(i) above and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; or
  - (bb) Cul-de-sac Turnarounds. Cul-de-sac turnarounds must have a right-of-way width with a radius of at least 45 feet and an improved surface with a width of at least 36 feet and must be marked and signed by the applicant as "NO PARKING." Such signs must be of metal or wood construction with minimum dimensions of 12 inches by 12 inches; and
  - (cc) No cul-de-sacs or hammerhead turnarounds must be allowed to cross any slope which will allow chimney-effect draws unless the dangerous effects of the chimney-effect draws have been mitigated by the location of the road and, where necessary, by the creation of permanent fire breaks around the road.
- (iv) Bridges and Culverts. Bridges and culverts must be constructed to sustain a minimum gross vehicle weight of 50,000 lbs. and to maintain a minimum 16-foot road width surface or a minimum 12-foot driveway surface. The Planning Director may allow a single-span bridge utilizing a converted railroad flatcar as an alternative to the road and driveway surface width requirements, subject to verification from an engineer licensed in the State of Oregon that the structure will comply with the minimum gross weight standard of 50,000 lbs.
- (v) Road and Driveway Grades. Road and driveway grades cannot exceed 16 percent except for short distances when topographic conditions make lesser grades impractical. In such instances, grades up to 20 percent may be allowed for spans not to exceed 100 feet. An applicant must submit information from a Fire Protection District or engineer licensed in the State of Oregon demonstrating that road and driveway grades in excess of eight percent are adequate for the firefighting equipment of the agency providing fire protection to access the use, firefighting equipment and water supply.

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- (vi) Identification. Roads must be named and addressed in compliance with LC 15.305 through 15.335.
- (vii) Driveway Vehicle Passage Turnouts. Driveways in excess of 200 feet must provide for a 20-foot long and eight-foot wide passage space (turn out) with six inches in depth of gravel and at a maximum spacing of 400 feet. Shorter or longer intervals between turnouts may be authorized by the Planning Director where the Director inspects the road and determines that topography, vegetation, corners or turns obstruct visibility.
- (viii) Modifications and Alternatives. The standards in (6)(b)(i) through (6)(b)(vii) above may be modified by the approval authority provided the applicant has submitted objective evidence demonstrating that an alternative standard would insure adequate access for firefighting equipment from its point of origination to its point of destination.
- (c) Fuel-Free Breaks. The owners of dwellings and structures must maintain a primary safety zone surrounding all structures and clear and maintain a secondary safety zone on land surrounding the dwelling that is owned or controlled by the owner in compliance with these requirements.
  - (i) Primary Safety Zone. The primary safety zone is a fire break extending a minimum of 30 feet in all directions around dwellings, manufactured dwellings and structures, unless otherwise specifically stated in LC 16.211. The goal within the primary safety zone is to exclude fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone could include green lawns and low shrubs (less than 24 inches in height). Trees must be spaced with greater than 15 feet between the crown and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, and other dead vegetation must be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) must be placed next to the house.
    - (aa) As slope increases, the primary safety zone must increase away from the house, parallel to the slope and down the slope, as shown in the table and figure below:

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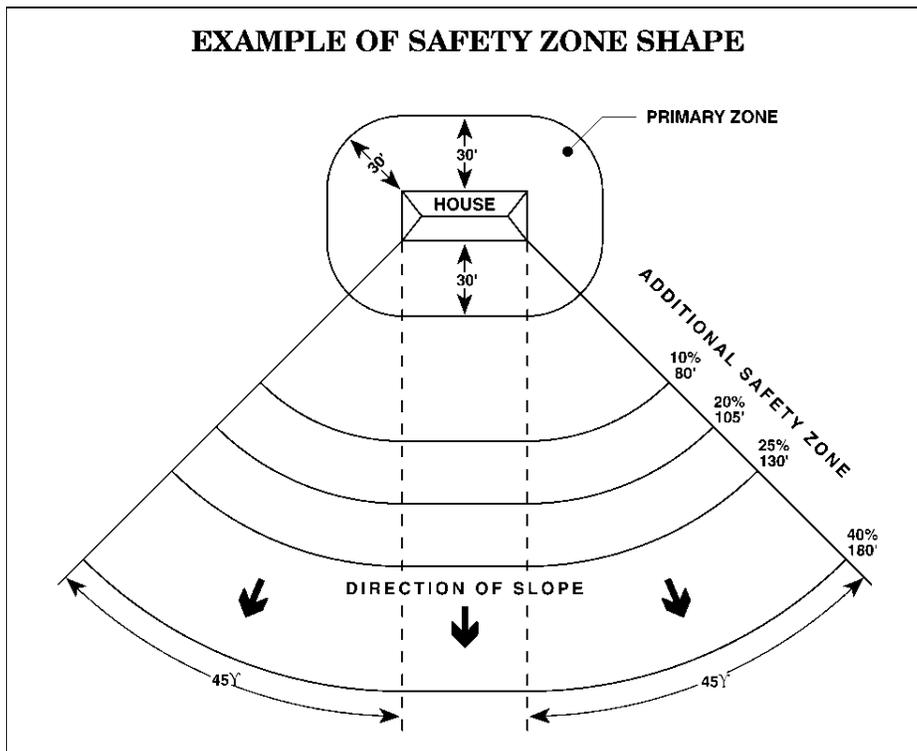
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Table 16.211-2 Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

Figure 16.211-1



- (ii) **Secondary Safety Zone.** The secondary safety zone is a fuel break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of the secondary safety zone is to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary safety zone must be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees must be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels must be removed.

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- (d) The dwelling must have a fire retardant roof.
- (e) Dwellings or manufactured dwellings must be sited at least 30 feet away from a ravine, ridge, or any slope greater than 40 percent slope.
- (f) If the dwelling has a chimney or chimneys, each chimney must have a spark arrester.

(7) Land Divisions

- (a) The minimum area requirement for the creation of new or adjusted lots or parcels for land designated as Impacted Forest Land (F-2) is 80 acres. The creation of a new or adjusted lot or parcel must comply with LC Chapter 13.
- (b) New land divisions or adjustments less than the parcel size in Subsection 0 may be approved in accordance with LC Chapter 13 for any of the following circumstances:
  - (i) The following uses in Table 16.211-1 may be approved pursuant to the criteria in Section (4) and provided that the parcel created from the division is the minimum size necessary for the use:
    - (aa) Use 4.1. Exploration for and production of geothermal, gas, oil and other associated hydrocarbons
    - (bb) Use 1.4. Log scaling and weigh stations
    - (cc) Use 3.7. Permanent facility for the primary processing of forest products.
    - (dd) Use 3.8. Permanent logging equipment repair and storage.
    - (ee) Use 4.3. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted, and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
    - (ff) Use 6.2. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
    - (gg) Use 6.3. Television, microwave and radio communication facilities and transmission towers.
    - (hh) Use 6.6. Reservoirs and water impoundments
    - (ii) Use 6.7. Commercial power generating facilities
    - (jj) Use 7.3. Aides to navigation and aviation
    - (kk) Use 7.4. Firearms training facilities

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- (ll) Use 7.5. Fire stations for rural fire protection
- (mm) Use 7.6. Cemeteries.
- (nn) Use 7.7. Public parks
- (oo) Use 7.8. Private parks and campgrounds
- (ii) For the establishment of a parcel for a dwelling that has existed since before June 1, 1995, subject to the following requirements:
  - (aa) The parcel established may not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel cannot be larger than 10 acres; and
  - (bb) The parcel that does not contain the dwelling is not entitled to a dwelling unless subsequently authorized by law or goal and the parcel either:
    - (A) Meets the minimum land division standards of the zone; or
    - (B) Is consolidated with another parcel, and together the parcels meet the minimum land division standards of the zone.
  - (cc) Restrictions
    - (A) An application for the creation of a parcel pursuant to paragraph (7)(b)(ii) or (iii) must provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk. The restriction must prohibit dwellings unless authorized by law or goal on land zoned for forest use except as permitted under Subsection (b).
    - (B) A restriction imposed under this subsection is irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forest land.

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- (iii) To allow a division of forest land to facilitate a forest practice as defined in ORS 527.620 that results in a parcel that does not meet the minimum area requirements of Subsection (a). Approvals are based on findings that demonstrate that there are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than the minimum area requirements of Subsection (a) in order to conduct the forest practice. Parcels created pursuant to this paragraph:
  - (aa) Are not eligible for siting of a new dwelling;
  - (bb) May not serve as the justification for the siting of a future dwelling on other lots or parcels;
  - (cc) May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and
  - (dd) May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:
    - (A) Facilitate an exchange of lands involving a governmental agency; or
    - (B) Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land.
- (iv) To allow a division of a lot or parcel zoned for forest use if:
  - (aa) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
  - (bb) Each dwelling complies with the criteria for a replacement dwelling under paragraph (3)(d)(ii);
  - (cc) Except for one parcel, each parcel created under this paragraph is between two and five acres in size;
  - (dd) At least one dwelling is located on each parcel created under this paragraph; and

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- (ee) The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph is irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.
- (ff) A lot or parcel may not be divided if an existing dwelling on the lot or parcel was approved under a statute, an administrative rule or a land use regulation as defined in ORS 197.015 that required removal of the dwelling or that prohibited subsequent division of the lot or parcel.
- (v) A division of a lot or parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in (aa) through (dd) below:
  - (aa) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:
    - (A) If the parcel contains a dwelling or another use allowed under LC 16.211, the parcel must be large enough to support continued residential use or other allowed use of the parcel;
    - (B) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705, based on the size and configuration of the parcel.
  - (bb) Before approving a proposed division of land under this section, the Planning Director must require as a condition of approval that the provider of public parks or open space, or the not-for-profit conservation organization, present for recording in Lane County Deeds and Records, an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:
    - (A) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in LC 16.211 except park or conservation uses; and

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- (B) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (cc) If a proposed division of land under (7)(b)(v) results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the Planning Director may approve the division.
- (dd) The Planning Director is required to maintain a record of lots and parcels that do not qualify for development of the property under restrictions imposed by (7)(b)(v)(aa)(B) above. The record must be readily available to the public.
- (vi) A division of a lawfully established unit of land may occur along an acknowledged urban growth boundary where the parcel remaining outside the urban growth boundary is zoned as F-2 and is smaller than 80 acres, provided that:
  - (aa) If the parcel contains a dwelling, it must be large enough to support continued residential use.
  - (bb) If the parcel does not contain a dwelling, the parcel:
    - (A) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;
    - (B) May not be considered in approving or denying an application for siting any other dwelling; and
    - (C) May not be considered in approving a redesignation or rezoning of forest lands, except to allow a public park, open space, or other natural resource use.
- (c) A landowner allowed a land division under Subsection (b) must record with the county clerk an irrevocable deed restriction prohibiting the owner and all successors in interest from pursuing a cause of action or claim of relief alleging injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.
- (d) The Director or hearing authority may not approve a property line adjustment of a lot or parcel in a manner that separates a temporary hardship dwelling or home occupation from the parcel on which the primary residential use exists.

#### (8) Telecommunication Facilities.

Telecommunication facilities are allowed subject to compliance with the requirements of LC 16.264 and applicable requirements elsewhere in LC Chapter 16.

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*(Revised by Ordinance 7-87, Effective 6.17.87; 18-87, 12.25.87; 12-90, 10.11.90; 11-91A, 8.30.91, 10-92, 11.12.92; 4-02, 4.10.02; 5-02, 5.28.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.17.10; 7-10, 11.25.10; 7-12, 12.28.12; 14-08, 11.5.14; 14-09, 12.16.14; 15-08, 12.15.15; 16-01, 2.15.16; 18-02, 8.9.18; 18-08, 2.14.19)*

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ARE RESERVED FOR FUTURE EXPANSION

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**EXCLUSIVE FARM USE ZONE (EFU-RCP)**

**RURAL COMPREHENSIVE PLAN**

EFU Zone Table of Contents

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## **16.212 Exclusive Farm Use Zone (EFU-RCP)**

### (1) Purpose

The purpose of the Exclusive Farm Use (EFU) Zone is to protect and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products. The EFU zone is also intended to allow other uses that are compatible with agricultural activities, to protect forests, scenic resources and fish and wildlife habitat, and to maintain and improve the quality of air, water and land resources of the county. It is also the purpose of the EFU zone to qualify farms for farm use valuation under the provisions of ORS Chapter 308.

The EFU zone has been applied to lands designated as Agriculture in the Rural Comprehensive Plan. The provisions of the EFU zone reflect the agricultural policies of the Comprehensive Plan as well as the requirements of ORS Chapter 215 and OAR 660-033. The minimum parcel size and other standards established by this zone are intended to promote commercial agricultural operations.

### (2) Definitions

For the purpose of LC 16.212, unless otherwise specifically provided, certain words, terms, and phrases are defined as follows:

- (a) Agri-tourism. "Agri-tourism" means a common, farm-dependent activity that promotes agriculture, any income from which is incidental and subordinate to a working farm. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals..
- (b) Associated Transmission Lines. "Associated transmission lines" means transmission lines constructed to connect an energy facility to the first point of junction with either a power distribution system or an interconnected primary transmission system or both or to the Northwest Power Grid.
- (c) Farm Operation. "Farm Operation" means all lots or parcels of land in the same ownership that are used by the farm operator for farm use as defined in ORS 215.203.
- (d) Farm Operator. "Farm Operator" is a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding, and marketing.

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- (e) Golf course. An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of LC 16.212 means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
- (i) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
  - (ii) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
  - (iii) Non-regulation golf courses are not allowed. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this Subsection, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges.
- (f) High Value Farmland. "High value farmland" means land in a tract composed predominantly of soils that are:
- (i) Irrigated and classified prime, unique, Class I or II; or
  - (ii) Not irrigated and classified prime, unique, Class I or II.
  - (iii) In addition to that land described in 0 and 0 above, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. For purposes of this subsection, "specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards but not including seed crops, hay, pasture or alfalfa;
  - (iv) That portion of Lane County lying east of the summit of the Coast Range including tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in 0 and 0 and the following soils:

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- (aa) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hullt, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;
  - (bb) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);
  - (cc) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and
  - (dd) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.
- (v) In addition to that land described in 0 and 0 above, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in 0 and 0 above and the following soils:
- (aa) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;
  - (bb) Subclassification IIIw, specifically, Brenner and Chitwood;
  - (cc) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and
  - (dd) Subclassification IVw, specifically, Coquille.
- (vi) In addition to that land described in 0 and 0 above, high value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in 0 and 0 above and the following soils:
- (aa) Subclassification IIIw, specifically, Ettersburg Silt Loam and Croftland Silty Clay Loam;

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- (bb) Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and
- (cc) Subclassification IVw, specifically, Huffling Silty Clay Loam.
- (vii) Lands designated and zoned by Lane County as Marginal Lands according to the criteria in ORS 215.247 (1991) are excepted from this definition of “high value farmland.”
- (g) Net Metering Power Facility. “Net metering power facility” means a facility for the production of energy that:
  - (i) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow “Farm Use” and 215.213(1)(u) in the Exclusive Farm Use zone;
  - (ii) Is intended to offset part of the customer-generator’s requirements for energy;
  - (iii) Will operate in parallel with a utility’s existing transmission and distribution facilities;
  - (iv) Is consistent with generating capacity as specified in ORS 757.300 and/or OAR 860-039-0010 as well as any other applicable regulations; and
  - (v) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (h) Non-Commercial/Stand Alone Power Generating Facility. “Non-commercial/stand-alone power generating facility” means a facility for the production of energy that:
  - (i) Generates energy using means listed in ORS or OAR such as solar power, wind power, fuel cells, hydroelectric power, landfill gas, digester gas, waste, dedicated energy crops available on a renewable basis or low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues but not including the production of biofuel as authorized by ORS 215.203(2)(b)(K) in all zones which allow “Farm Use” and ORS 215.213(1)(u) in the Exclusive Farm Use zone;

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- (ii) Is intended to provide all of the generator’s requirements for energy for the tract or the specific lawful accessory use that it is connected to;
  - (iii) Operates as a standalone power generator not connected to a utility grid; and
  - (iv) Is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.
- (i) Relative. A child, parent, step-parent, grandchild, grandparent, step-grandparent, sibling, step-sibling, niece, nephew, or first cousin of the farm operator or the farm operator’s spouse.

(3) Use Table

Table of Permitted Uses

Table 16.212-1 sets forth the uses allowed subject to Type I, II, or III approval procedures in the farm districts. This table applies to all new uses, expansions of existing uses, and changes of use when the expanded or changed use would require review using Type I, II, or, III procedures, unless otherwise specified on Table 16.212-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this Chapter.

As used in Table 16.212-1:

- (a) Uses:
- (i) “A” means the use is outright allowed or permitted subject to standards.
  - (ii) “C” means the use is a Conditional Use, subject to Section (5)
  - (iii) “X” means use is not allowed.
  - (iv) “HV” means when a property is predominately composed of High Value Soils, as defined in LC 16.212(2)(f).
  - (v) “Non-HV” means when a property is predominately composed of Non-High Value Soils, as defined in LC 16.212(2)(f).
- (b) Procedures:

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- (i) “P” means the use is permitted outright; uses and activities and their accessory buildings and uses are permitted subject to the general provisions set forth by this Chapter.
  - (ii) Type I uses and activities are permitted subject to the general provisions and exceptions set forth by this chapter of Lane Code and LC 14.030(1)(a).
  - (iii) Type II uses may be allowed provided a land use application is submitted and approved through the Type II procedure set forth in LC Chapter 14.
  - (iv) Type III uses may be allowed provided a land use application is submitted and approved by the Hearings Official pursuant to LC Chapter 14.
  - (v) “AL” means Assembly License, subject to LC 3.995.
  - (vi) “X” means no new use is allowed.
- (c) The “Subject To” column identifies any specific provisions of LC 16.212 to which the use is subject. All uses and development are subject to the development standard provisions of LC 16.212(15).
- (d) A determination by the Director for whether or not a use fits within the classification of uses listed as Type I, Permitted Outright, or Assembly License in the use table may constitute a “permit” as defined by ORS 215.402(4). “...discretionary approval of a proposed development of land...” An owner of land where the use would occur therefore may request to elevate review of a Type I, Permitted Outright, or Assembly License use to a Type II land use application pursuant to LC Chapter 14. The burden of proof in the application will be upon the owner of land to demonstrate that the proposed use fits within the classification.

<b>Table 16.212-1: Use Table for EFU Zones</b>						
<b>I = Type I II = Type II III = Type III</b>						
<b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
	<b>Use</b>	<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
<b>1.</b>	<b>Farm, Forest, and Natural Resource Uses</b>					
1.1.	Farm use	A	P	A	P	
1.2.	Propagation or harvesting of a forest product	A	P	A	P	

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<b>Use</b>		<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
1.3.	Composting limited to accepted farming practice in conjunction with and auxiliary to farm use on the subject tract	A	P	A	P	
1.4.	Nonresidential buildings customarily provided in conjunction with farm use	A	P	A	P	
1.5.	Creation of, restoration of, or enhancement of wetlands	A	P	A	P	
1.6.	A facility for the processing of farm crops or the production of biofuel as defined in LC 16.090 or a farm used for an establishment for the slaughter, processing or selling of less than 1,000 poultry or poultry products as defined in ORS 603.038 within a calendar year	A	I	A	I	(4)(a)
1.7.	A facility for the primary processing of forest products	A	II	A	II	(4)(b), (5)
1.8.	The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species	C	II	C	II	(4)(c), (5)
1.9.	Marijuana production	A	I	A	I	LC 16.420
1.10.	Marijuana wholesale distribution	A	I	A	I	LC 16.420
1.11.	Marijuana research	A	I	A	I	LC 16.420
1.12.	Marijuana processing	A	II	A	II	(4)(a), LC 16.420

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<b>2.</b>	<b>Residential Uses</b>					
2.1.	Primary farm dwelling	A	II	A	II	(4)(z), (7)
2.2.	Woodlot operation dwelling	X	X	C	II	(4)(z), (7)(g), (7)(h), (5)
2.3.	Relative farm help dwelling	A	II	A	II	(4)(z), (8)(b)
2.4.	Accessory farm dwelling for year-round and seasonal farm workers	A	II	A	II	(4)(z), (8)(a)
2.5.	Non-farm dwelling on High Value Farmland	A	II	X	X	(4)(z), (9)
2.6.	Non-farm dwelling on Non-high Value Farmland	X	X	A	II	(4)(z), (10)
2.7.	Alteration, restoration, or replacement of a lawfully established dwelling	A	I or II	A	I or II	(4)(z), (4)(cc), (6)(a)-(d)
2.8.	Replacement dwelling for historic property	A	II	A	II	(4)(z), (6)(e)
2.9.	Temporary hardship dwelling	C	II	C	II	(4)(z), (5), (8)(c)
2.10.	Residential home as defined in ORS 197.660, in existing dwellings	C	II	C	II	(4)(z), (5)
2.11.	Room and board arrangements for a maximum of five unrelated persons in existing residences	C	II	C	II	(4)(z), (5)

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I = Type I II = Type II III = Type III						
P = Permitted Outright AL = Assembly License X = Prohibited						
Use	Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to	
<b>3. Commercial Uses</b>						
3.1. Dog training classes or testing trials	A	I	A	I	(4)(d)	
3.2. Farm stand	A	I	A	I	(4)(e)	
3.3. Small Winery or Cider Business	A	I or II	A	I or II	(11)(a)	
3.4. Large Winery	A or C	I or II	A or C	I or II	(11)(b)	
3.5. Agri-tourism and other commercial events or activities that are related to and supportive of agriculture	A	II	A	II	(12)	
3.6. Parking of up to seven log trucks	C	II	C	II	(5)	
3.7. Home occupations	C	II	C	II	(4)(f), (5)	
3.8. In-home commercial activity	A	I	A	I	(4)(g)	
3.9. Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under Use 3.1	C	II	C	II	(5)	
3.10. A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use	C	II	C	II	(5)	
3.11. Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Use 1.7, but excluding activities in conjunction with a marijuana crop	C	II	C	II	(4)(bb), (5)	
<b>4. Mineral, Aggregate, Oil and Gas Uses</b>						

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	<b>Use</b>	<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
4.1.	Operations for the exploration for and production of geothermal resources in accordance with ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head	A	P	A	P	
4.2.	Operations for the exploration for minerals as defined by ORS 517.750	A	P	A	P	
4.3.	Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005, and oil and gas as defined by ORS 520.005 not otherwise permitted	C	II	C	II	(5)
4.4.	Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources	C	II	C	II	(4)(i), (5)
4.5.	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement	C	II	C	II	(4)(h), (5)
4.6.	Processing of other mineral resources and other subsurface resources	C	II	C	II	(5)
<b>5.</b>	<b>Transportation Uses</b>					
5.1.	Climbing and passing lanes within the right of way existing as of July 1, 1987	A	P	A	P	

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<b>Table 16.212-1: Use Table for EFU Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
Use		Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to
5.2.	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result	A	P	A	P	
5.3.	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed	A	P	A	P	
5.4.	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways	A	P	A	P	
5.5.	Operations, maintenance, and repair as defined in LC 15.010 of existing transportation facilities, services, and improvements, including road, bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	A	P	
5.6.	Preservation as defined in LC 15.010, and rehabilitation activities and projects as defined in LC 15.101 for existing transportation facilities, services, and improvements, including road bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals	A	P	A	P	
5.7.	Changes in the frequency of transit, rail and airport services	A	P	A	P	

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Table 16.212-1: Use Table for EFU Zones						
I = Type I II = Type II III = Type III						
P = Permitted Outright AL = Assembly License X = Prohibited						
Use	Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to	
5.8. Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels	C	II	C	II	(5)	
5.9. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels	C	II	C	II	(5)	
5.10. Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels	C	II	C	II	(5)	
5.11. Bikeways, footpaths, and recreation trails not otherwise allowed as a modification or part of an existing road	C	II	C	II	(5)	
5.12. Park and ride lots	C	II	C	II	(5)	
5.13. Railroad mainlines and branch lines	C	II	C	II	(5)	
5.14. Pipelines	C	II	C	II	(5)	
5.15. Navigation channels	C	II	C	II	(5)	
5.16. Realignment as defined in LC 15.010 not otherwise permitted pursuant to this chapter	C	II	C	II	(4)(j), (5)	
5.17. Replacement of an intersection with an interchange	C	II	C	II	(4)(j), (5)	
5.18. Continuous median turn lanes	C	II	C	II	(4)(j), (5)	

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<b>Table 16.212-1: Use Table for EFU Zones</b>						
<b>I = Type I II = Type II III = Type III</b>						
<b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
	<b>Use</b>	<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
5.19.	New roads as defined in LC 15.010 that are County Roads functionally classified as Local Roads or Collectors, or are Public Roads or Local Access Roads as defined in LC 15.010(35) in areas where the function of the road is to reduce local access to or local traffic on a state highway	C	II	C	II	(4)(j), (5)
5.20.	Transportation facilities, services, and improvements other than those listed in LC 16.211 that serve local travel needs	C	II	C	II	(4)(j), (5)
5.21.	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities	C	II	C	II	(4)(k), (5)
<b>6.</b>	<b>Utility/Solid Waste Disposal Facilities</b>					
6.1.	Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505	A	P	A	P	
6.2.	Land application of reclaimed water, agricultural or industrial process water or bio solids, or the onsite treatment of septage prior to land application of bio solids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with use allowed by LC 16.212	A	II	A	II	(4)(l)
6.3.	Utility facility service lines	A	I	A	I	(4)(m)

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<b>Table 16.212-1: Use Table for EFU Zones</b>						
<b>I = Type I II = Type II III = Type III</b>						
<b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
<b>Use</b>		<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
6.4.	Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height	A	II	A	II	(4)(n)
6.5.	Transmission towers over 200 feet in height	C	II	C	II	(5)
6.6.	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities	C	II	C	II	(13)(a), (5)
6.7.	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale	C	II	C	II	(13)(b), (5)
6.8.	Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale	C	II	C	II	(13)(c), (5)
6.9.	A site for the disposal of solid waste for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland	X*	X*	C	II	(5) or *(4)(aa)
6.10.	Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060	X*	X*	C	II	(4)(o), (5) or *(4)(o)(ii), (4)(aa)
6.11.	Change out to an existing telecommunication tower	P	I	P	I	(16)

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<b>I = Type I II = Type II III = Type III</b>						
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	<b>Use</b>	<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>
6.12.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	P	I	P	I	FCC 14-153
6.13.	Collocation to an existing telecommunication tower	A	II	A	II	(16)
6.14.	New telecommunication tower or replacement tower not over 200 feet in height	C	III	C	III	(4)(n)(i), (5), (16)
<b>7.</b>	<b>Parks/Public/Quasi-public Uses</b>					
7.1.	Firearms training facility in existence on September 9, 1995	A	II	A	II	(4)(p), (4)(y)
7.2.	Fire service facilities providing rural fire protection services	A	P	A	P	
7.3.	Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306	A	P	A	P	
7.4.	A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary	A	I	A	I	(4)(q)
7.5.	Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306	C	II	C	II	(5)
7.6.	Living history museum	C	II	C	II	(4)(r), (4)(y), (5)
7.7.	Armed Forces Reserve Center	A	II	A	II	(4)(s), (4)(y)

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P = Permitted Outright AL = Assembly License X = Prohibited						
Use	Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to	
7.8. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community	C	II	C	II	(4)(y), (5)	
7.9. Public parks, public playgrounds, and public campgrounds	C	II	C	II	(4)(t), (4)(y), (5)	
7.10. Operations for the extraction and bottling of water	C	II	C	II	(5)	
7.11. Churches and cemeteries in conjunction with ORS 215.441	X*	X*	A	II	(4)(y); or *(4)(y), (4)(aa)	
7.12. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school	X*	X*	C	II	(4)(u), (4)(y), (5) or *(4)(y), (4)(aa) or *(4)(u), (4)(y), (5)	
7.13. Private parks, private playgrounds, and private campgrounds	X*	X*	C	II	(4)(v), (4)(y), (5); or *(4)(y), (4)(aa)	

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<b>I = Type I II = Type II III = Type III</b>						
<b>P = Permitted Outright AL = Assembly License X = Prohibited</b>						
<b>Use</b>	<b>Use Type HV</b>	<b>Local Procedure Type HV</b>	<b>Use Type Non-HV</b>	<b>Local Procedure Type Non-HV</b>	<b>Subject to</b>	
7.14. Private Hunting and Fishing Preserves	X*	X*	C	II	(4)(v), (4)(y), (5); or  *(4)(y), (4)(aa)	
7.15. Golf courses not on high-value farmland as defined in LC 16.212(2)(d) and ORS 195.300	X*	X*	C	II	(4)(w), (4)(y), (5); or  *(4)(y), (4)(aa)	
<b>8. Outdoor Gatherings</b>						
8.1. An outdoor gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period	A	P or AL (if over 1,000 persons)	A	P or AL (if over 1,000 persons)	LC 3.995	
8.2. An outdoor mass gathering of more than 3,000 persons, that is not anticipated to continue for more than 120 hours in any three-month period, and which is held primarily in open spaces and not in any permanent structure as provided in ORS 433.735-760	A	III	A	III	ORS 433.735-760	
8.3. Any outdoor gathering of more than 3,000 persons that is anticipated to continue for more than 120 hours in any three-month period is subject to review by a county planning commission under ORS 433.763, notwithstanding Type III Hearings Official review	C	III (LCPC)	C	III (LCPC)	(4)(x)	
<b>9. Accessory Uses</b>						

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P = Permitted Outright AL = Assembly License X = Prohibited						
Use	Use Type HV	Local Procedure Type HV	Use Type Non-HV	Local Procedure Type Non-HV	Subject to	
9.1. Uses and structures accessory to existing uses and development permitted by LC 16.212	A	P or II	A	P or II	(4)(cc)	

(4) Use Standards

- (a) A farm processing facility or an establishment for the slaughter, processing, or selling of less than 1,000 poultry or poultry products within a calendar year must comply with all of the following requirements:
  - (i) The farm on which the farm processing facility is located must provide at least one-quarter of the farm crops processed at the facility. This provision does not apply to a poultry establishment.
  - (ii) If a building is established or used for the farm processing facility or poultry establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use.
  - (iii) A farm processing facility or poultry establishment must comply with all applicable siting standards, but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.
  - (iv) A division of a lot or parcel or a property line adjustment that separates a farm processing facility or poultry establishment from the farm operation on which it is located is prohibited.
- (b) A facility for the primary processing of forest products shall not seriously interfere with accepted farming practices and shall be compatible with farm uses described in LC 16.090. Such facility may be approved for a one-year period that is renewable and is intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products as used in this Section means timber grown upon a tract where the primary processing facility is located.

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- (c) Insect species shall not include any species under quarantine by the Oregon Department of Agriculture or the United States Department of Agriculture. The Director shall provide notice of all applications under this section to the Oregon Department of Agriculture. Referral notice pursuant to LC Chapter 14 must be provided at least 20 calendar days prior to a decision or initial public hearing on the application.
- (d) Dog training classes or testing trials conducted outdoors, or in farm buildings that existed on January 1, 2013, are limited as follows:
- (i) The number of dogs participating in training does not exceed 10 per training class and the number of training classes to be held on-site does not exceed six per day; and
  - (ii) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site does not exceed four per calendar year.
- (e) A farm stand may be approved if:
- (i) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
  - (ii) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.
  - (iii) As used in this Section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area.
  - (iv) As used in this Section, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
  - (v) As used in this Section, "local agricultural area" includes Oregon.

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- (vi) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.
- (vii) Farm Stand Development Standards
  - (aa) Adequate off-street parking will be provided pursuant to provisions of LC 16.250.
  - (bb) Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
  - (cc) All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
  - (dd) No farm stand building or parking is permitted within the right-of-way.
  - (ee) Approval is required from the Road Authority regarding adequate egress and access. All egress and access points shall be clearly marked.
  - (ff) Vision clearance areas. No visual obstruction (e.g., sign, structure, solid fence, wall, planting or shrub vegetation) may exceed three (3) feet in height within “vision clearance areas” at street intersections.
    - (A) Service drives shall have a minimum clear-vision area formed by the intersection of the driveway centerline, the road right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection.
    - (B) Height is measured from the top of the curb or, where no curb exists, from the established street center line grade.
    - (C) Trees exceeding three (3) feet in height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above grade.
  - (gg) All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways.

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- (hh) Signs are permitted consistent with LC 16.212(15)(b)(iii).
- (viii) Permit approval is subject to compliance with Lane County Environmental Health or Department of Agriculture requirements and with the development standards of this zone.
- (f) A home occupation must:
  - (i) Be operated by a resident or employee of a resident of the property on which the business is located;
  - (ii) Employ on the site no more than five full-time or part-time persons at any given time;
  - (iii) Be operated substantially in the dwelling or other buildings normally associated with uses permitted in the EFU zone;
  - (iv) Not unreasonably interfere with other uses permitted in LC 16.212;
  - (v) Comply with sanitation and building requirements prior to start of Home Occupation; and
  - (vi) Not to be used as a justification for a zone change.
- (g) An in-home commercial activity must comply with the following requirements:
  - (i) Meets the criteria under 0, (ii), (iii), (v), and (vi);
  - (ii) Is operated by no more than five employees, who all reside in the single-family dwelling;
  - (iii) Is conducted within a dwelling;
  - (iv) Does not occupy more than 25 percent of the combined floor area of the dwelling, including attached garage;
  - (v) Does not serve clients or customers on-site;
  - (vi) Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage; and
  - (vii) Does not include the outside storage of materials, equipment or products.

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- (h) New facilities that batch and blend mineral and aggregate into asphalt cement may not be authorized within two miles of a planted vineyard. Planted vineyard means one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching and blending is filed.
- (i) Mining, crushing or stockpiling of aggregate and other mineral and subsurface resources are subject to the following:
  - (i) A land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre.
  - (ii) A land use permit for mining of aggregate shall be issued only for a site included on the mineral and aggregate inventory in the County's adopted inventory in the Rural Comprehensive Plan.
- (j) Transportation facilities and uses shall comply with the following:
  - (i) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;
  - (ii) Assess the effects of the identified alternatives on farm and forest practices, considering impacts to farm and forest lands, structures and facilities, considering the effects of traffic on the movement of farm and forest vehicles and equipment and considering the effects of access to parcels created on farm and forest lands; and
  - (iii) Select from the identified alternatives, the one, or combination of identified alternatives that has the least impact on lands in the immediate vicinity devoted to farm or forest use.
- (k) A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.

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- (l) Land application of reclaimed water, agricultural process or industrial process water or bio solids, or the onsite treatment of septage prior to the land application of bio solids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the EFU zone is subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under 468B.095, and with the requirements of ORS 215.246 to 215.251. For the purposes of this paragraph, onsite treatment of septage prior to the land application of bio solids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land applicable of bio solids is authorized under the license, permit or other approval.
- (m) Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:
  - (i) A public right of way;
  - (ii) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or
  - (iii) The property to be served by the utility.
- (n) A utility facility that is necessary for public service.
  - (i) A utility facility is necessary for public service if the facility must be sited in the Exclusive Farm Use zone in order to provide the service.
    - (aa) To demonstrate that a utility facility is necessary, an applicant must show that reasonable alternatives have been considered and that the facility must be sited in the Exclusive Farm Use zone due to one or more of the following factors:
      - (A) Technical and engineering feasibility;
      - (B) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned Exclusive Farm Use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;

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- (C) Lack of available urban and nonresource lands;
  - (D) Availability of existing rights of way;
  - (E) Public health and safety; and
  - (F) Other requirements of state and federal agencies.
- (bb) Costs associated with any of the factors listed in Subsection 0 of this subsection may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities and the siting of utility facilities that are not substantially similar.
- (cc) The owner of a utility facility approved under Section (4)(n)0 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
- (dd) The County shall impose clear and objective conditions on an application for utility facility siting to mitigate and minimize the impacts of the proposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on surrounding farmlands.
- (ee) Utility facilities necessary for public service may include on-site and off-site facilities for temporary workforce housing for workers constructing a utility facility. Such facilities must be removed or converted to an allowed use under Table 16.212-1 uses 7.13 or 7.14, or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Section 0 Conditional Use Review Criteria. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request, subject to a Type II review process, shall have no effect on the original approval.

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- (ff) In addition to the provisions of Subsection 0 through 0, the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of OAR 660-011-0060.
- (gg) Notwithstanding Subsection 0 through 0 above, a utility facility that is a telecommunication facility as defined by LC 16.264(2) shall comply with LC 16.264.
- (hh) The provisions of Subsection 0 through 0 do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- (ii) In addition to the requirements in LC 16.2120 through 0 above, a utility facility that is a transmission line, as defined by ORS 215.276(1)(c), to be located on high value farmland shall comply with the requirements of (4)(n)(iii) below.
- (ii) An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Section (4)(n)(ii)0 or Section (4)(n)(ii)0.
  - (aa) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:
    - (A) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
    - (B) The associated transmission line is co-located with an existing transmission line;
    - (C) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
    - (D) The associated transmission line is located within an existing right of way for a linear facility, such as a transmission line, road or railroad that is located above the surface of the ground.

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- (bb) After an evaluation of reasonable alternatives, an applicant demonstrates that the entire route of the associated transmission line meets, subject to Subsections 0 and 0, two or more of the following criteria:
  - (A) Technical and engineering feasibility;
  - (B) The associated transmission line is locationally-dependent because the associated transmission line must cross high-value farmland, as defined in ORS 195.300, or arable land to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
  - (C) Lack of an available existing right of way for a linear facility, such as a transmission line, road or railroad, that is located above the surface of the ground;
  - (D) Public health and safety; or
  - (E) Other requirements of state or federal agencies.
- (cc) As pertains to Section (4)(n)(ii)0, the applicant shall demonstrate how the proposal will mitigate and minimize the impacts, if any, of the associated transmission line on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmland.
- (dd) The County may consider costs associated with any of the factors listed in Section (4)(n)(ii)0, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.
- (ee) In addition to the requirements in LC 16.2120 or (bb) above, a utility facility that is an associated transmission line, as defined by ORS 215.274, to be located on high value farmland shall comply with the requirements of section (4)(n)(iii) below.

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- (iii) The utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high-value farmland in the planned route for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult.
- (o) Composting operations and facilities:
  - (i) Composting operations and facilities allowed on land not defined as high-value farmland must meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050, 340-096-0060, and ORS 215.401. Buildings and facilities used in conjunction with the composting operation must only be those required for the operation of the subject facility. Onsite sales shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size that are transported in one vehicle. This use is not permitted on high value farmland except that existing facilities on high value farmland may be expanded subject to Subsection 0.
  - (aa) Compost facility operators must prepare, implement and maintain a site-specific Odor Minimization Plan that:
    - (A) Meets the requirements of OAR 340-096-0150;
    - (B) Identifies the distance of the proposed operation to the nearest residential zone;
    - (C) Includes a complaint response protocol;
    - (D) Is submitted to the DEQ with the required permit application; and
    - (E) May be subject to annual review by the county to determine if any revisions are necessary.
  - (bb) Compost operations subject to Section 0 include:

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- (A) A new disposal site for composting that sells, or offers for sale, resulting product; or
  - (B) An existing disposal site for composting that sells, or offers for sale, resulting product that:
  - (C) Accepts as feedstock nonvegetative materials, including dead animals, meat, dairy products and mixed food waste (type 3 feedstock); or
  - (D) Increases the permitted annual tonnage of feedstock used by the disposal site by an amount that requires a new land use approval.
- (ii) Composting operations and facilities allowed on high-value farmland are limited to those that are accepted farming practices in conjunction with and auxiliary to farm use on the subject tract, and that meet the performance and permitting requirements of the Department of Environmental Quality under OAR 340-093-0050 and 340-096-0060. Excess compost may be sold to neighboring farm operations in the local area and shall be limited to bulk loads of at least one unit (7.5 cubic yards) in size. Buildings and facilities used in conjunction with the composting operation shall only be those required for the operation of the subject facility.
- (p) A firearms training facility in existence on September 9, 1995 shall be allowed to continue operating until such time as the facility is no longer used as a firearms training facility.
- (i) For the purpose of this Section (p), a firearms training facility is an indoor or outdoor facility that provides training courses and issues certifications required:
    - (aa) For law enforcement personnel;
    - (bb) By State department of Fish and Wildlife; or
    - (cc) By nationally recognized programs that promote shooting matches, target shooting and safety;

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- (q) Buildings and facilities associated with a site for the takeoff and landing of model aircraft shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this Section. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this Section. An owner of property used for the purpose authorized in this Section may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this Section, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.
- (r) A living history museum shall be related to resource based activities and shall be owned and operated by a governmental agency or a local historical society. A living history museum may include limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of an urban growth boundary. "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS Chapter 65. A "living history museum" is defined as a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events.
- (s) Armed forces reserve center that complies with these requirements:
- (i) The center is within one-half mile of a community college; and
  - (ii) An "armed forces reserve center" includes an armory or National Guard support facility.
- (t) Public parks include:
- (i) Only uses specified under OAR 660-034-0035 or OAR 660-034-0040, whichever is applicable; and
  - (ii) May be established consistently with ORS 195.120
- (u) Schools are subject to the following:

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- (i) Schools as formerly allowed pursuant to ORS 215.213 that were established on or before January 1, 2009 may be expanded if the expansion occurs on the tax lot on which the use was established on or before January 1, 2009 or a tax lot that is contiguous to the tax lot and that was owned by the applicant on January 1, 2009.
- (ii) Are used primarily for residents of the rural area in which the school is located.
- (v) Private Campgrounds are subject to the following:
  - (i) Except on a lot or parcel contiguous to a lake or reservoir, private campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.
  - (ii) A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
  - (iii) Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.
  - (iv) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.
  - (v) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed by Subsection 0.
  - (vi) A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
- (w) Accessory uses provided as part of a golf course shall be limited consistent with the following standards:

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- (i) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
- (ii) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
- (iii) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.
- (iv) An existing golf course may be expanded consistent with the requirements of Section 0, but shall not be expanded to contain more than 36 total holes.
- (x) Any outdoor gathering of more than 3,000 people for more than 120 hours within any three-month period must comply with the following requirements:
  - (i) The applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750;
  - (ii) The proposed gathering is compatible with existing land uses;
  - (iii) The proposed gathering shall not materially alter the stability of the overall land use pattern of the area; and

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- (iv) The provisions of ORS 433.755 shall apply to the proposed gathering.
- (y) Three-mile setback. For uses subject to this Subsection:
  - (i) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.
  - (ii) Any enclosed structures or group of enclosed structures described in Subsection 0 within a tract must be separated by at least one-half mile. For purposes of this Subsection, "tract" means a tract that is in existence as of June 17, 2010.
  - (iii) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this Chapter.
- (z) Single-family dwelling deeds. The landowner shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.
- (aa) Expansion standards. Existing facilities wholly within the Exclusive Farm Use Zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law.
- (bb) Commercial activities in conjunction with farm use may be approved when the commercial activity:
  - (i) Is either exclusively or primarily a customer or supplier of farm uses.
  - (ii) Is limited to providing products and services essential to the practice of agriculture directly to surrounding agricultural businesses that are sufficiently important to justify the resulting loss of agricultural land.
  - (iii) Enhances the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates.

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- (cc) If the proposed structure is located on the same site as the existing dwelling, the application is exempt from LC 16.212(15)(a). For the purpose of LC 16.212(4)(cc), the “same site” is defined as a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

#### (5) Conditional Use Review Criteria

An applicant for a Conditional Use permitted in Table 16.212-1 of this Chapter must demonstrate compliance with the following criteria.

- (a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
- (b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

#### (6) Alteration, Restoration or Replacement of a Lawfully-Established Dwelling

- (a) A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the approval authority finds to its satisfaction, based on substantial evidence that:
- (i) The dwelling to be altered, restored or replaced has, or formerly had:
- (aa) Intact exterior walls and roof structure;
- (bb) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (cc) Interior wiring for interior lights; and
- (dd) A heating system.
- (ii) The dwelling was assessed as a dwelling for purposes of ad valorem taxation for:
- (aa) The previous five property tax years; or
- (bb) If the dwelling was constructed within the last five years, the time when the dwelling was erected upon or affixed to the land and became subject to assessment as described in ORS 307.010.

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- (cc) Notwithstanding (ii)(aa) and (bb) above, if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
  - (A) The destruction (i.e., by fire or natural hazard), or demolition in the case of restoration, of the dwelling; or
  - (B) The applicant establishes to the satisfaction of the approval authority that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the County stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.
- (b) For replacement of a lawfully established dwelling under this section:
  - (i) The dwelling to be replaced must be removed, demolished or converted to an allowable nonresidential use:
    - (aa) Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
    - (bb) If the dwelling to be replaced is, in the discretion of the permitting authority, in such a state of disrepair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
    - (cc) If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approval from the permitting authority for the new location.
  - (ii) The applicant must cause to be recorded in the deed records of the County a statement that the dwelling to be replaced has been removed, demolished, or converted.

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- (iii) As a condition of approval, if the dwelling to be replaced is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county in which the property is located a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Planning Director, or the Director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, Section 2 and ORS 215.213 regarding replacement dwellings have changed to allow the lawful siting of another dwelling.
- (c) A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
  - (i) The siting standards of Subsection 0 apply when a dwelling qualifies for replacement because the dwelling:
    - (aa) Formerly had the features described in Subsection 0; or
    - (bb) Was removed from the tax roll as described in Subsection(6)(a)(iii).
  - (ii) The replacement dwelling must be sited on the same lot or parcel:
    - (aa) Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or another natural boundary of the lot or parcel; and
    - (bb) If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
  - (iii) Replacement dwellings that currently have the features described in Subsection 0 and that have been on the tax roll as described in Subsection 0 may be sited on any part of the same lot or parcel.
- (d) A replacement dwelling permit that is issued under Use 2.7:
  - (i) Is a land use decision and subject to review using Type II procedure according to LC Chapter 14 where the dwelling to be replaced:
    - (aa) Formerly had the features described in Subsection 0; or

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- (bb) Was removed from the tax roll as described in Subsection 0;
- (ii) Is not subject to the time to act limits of LC 14.090 and does not expire;  
and
- (e) A replacement dwelling for a historic dwelling permit reviewed under Use 2.8 is subject to the following requirements:
  - (i) The replacement dwelling must be in conjunction with a farm use.
  - (ii) The existing dwelling is listed on the county and national inventory as historic property as defined in ORS 358.480.

#### (7) Dwellings Customarily Provided in Conjunction with Farm Use

- (a) Large Tract Standards. On land not identified as high-value farmland as defined in LC 16.212(2), a dwelling may be considered customarily provided in conjunction with farm use if:
  - (i) The parcel on which the dwelling will be located is at least 160 acres.
  - (ii) The subject tract is currently employed for farm use.
  - (iii) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the subject tract, such as planting, harvesting, marketing or caring for livestock, at a commercial scale.
  - (iv) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract.
- (b) Farm Income Standards (non-high value). On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
  - (i) The subject tract is currently employed for the farm use on which, in each of the last two years or three of the last five years, or in an average of three of the last five years, the farm operator earned \$32,500 in gross annual income (the midpoint of the median income range of gross annual sales of farms in Lane County with annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon) from the sale of farms products and:

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- (ii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use pursuant to ORS Chapter 215 owned by the farm or ranch operator or on the farm or ranch operation;
- (iii) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Section (7)(b)0; and
- (iv) In determining the gross income required by Section (7)(b)0:
  - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
  - (bb) Only gross income from land owned, not leased or rented, shall be counted; and
  - (cc) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (v) The lot or parcel is not smaller than the minimum lot size of the zone.
- (c) Farm Income Standards (high-value). On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
  - (i) The subject tract is currently employed for the farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years, or in an average of three of the last five years; and
  - (ii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on lands designated for exclusive farm use owned by the farm or ranch operator or on the farm or ranch operation; and
  - (iii) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Section (7)(c)0;
  - (iv) In determining the gross income required by Section (7)(c)0:
    - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
    - (bb) Only gross income from land owned, not leased or rented, shall be counted; and

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- (cc) Gross farm income earned from a lot or parcel that has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
- (v) The lot or parcel is not smaller than the minimum lot size of the zone.
- (d) Additional Farm Income Standards.
  - (i) For the purpose of Sections (7)0 or (7)0, noncontiguous lots or parcels zoned for farm use in the same county or contiguous counties may be used to meet the gross income requirements. Lots or parcels in eastern or western Oregon may not be used to qualify a dwelling in the other part of the state.
  - (ii) Prior to the final approval for a dwelling authorized by Sections (7)0 and (7)0 that requires one or more contiguous or non-contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall complete and record with the County clerk the covenants, conditions, and restrictions form provided by the County (Exhibit A to OAR Chapter 660 Division 33). The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
    - (aa) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
    - (bb) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
  - (iii) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the County or counties where the property subject to the covenants, conditions and restrictions is located.
- (e) Commercial Dairy Farm Standards. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm and capable of earning the gross annual income requirements by Sections (7)0 or (7)0 above, subject to the following requirements:
  - (i) The subject tract will be employed as a commercial dairy as defined in Subsection 0;

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- (ii) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy;
- (iii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
- (iv) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm;
- (v) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and
- (vi) The Oregon Department of Agriculture has approved the following:
  - (aa) A permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
  - (bb) A Producer License for the sale of dairy products under ORS 621.072.
- (vii) As used in this Section, "commercial dairy farm" is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by Subsections (7)0 or (7)0, whichever is applicable, from the sale of fluid milk.
- (f) Relocated Farm Operations. A dwelling may be considered customarily provided in conjunction with farm use if:
  - (i) Within the previous two years, the applicant owned and operated a different farm or ranch operation that earned the gross farm income in each of the last five years or four of the last seven years as required by Subsection (7)0 or (7)0, whichever is applicable;
  - (ii) The subject lot or parcel on which the dwelling will be located is:
    - (aa) Currently employed for the farm use that produced in each of the last two years or three of the last five years, or in an average of three of the last five years the gross farm income required by Subsection (7)0 or (7)0, whichever is applicable; and
    - (bb) The lot or parcel is not smaller than the minimum lot size of the zone.

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- (iii) Except for seasonal farmworker housing approved prior to 2001, there is no other dwelling on the subject tract;
- (iv) The dwelling will be occupied by a person or persons who produced the commodities that grossed the income in Subsection (7)(f)0; and
- (v) In determining the gross income required by Subsection (7)(f)0 and Subsection (7)(f)0:
  - (aa) The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
  - (bb) Only gross income from land owned, not leased or rented, shall be counted.
- (g) Farming of a marijuana crop, and the gross sales derived from selling a marijuana crop, may not be used to demonstrate compliance with the approval criteria for a primary farm dwelling under Section (7).
- (h) Woodlot Operation Dwelling
  - (i) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot is allowed subject to compliance with the following requirements:
    - (aa) If the farm operation or woodlot:
      - (A) Consists of 20 or more acres; and
      - (B) Is not smaller than the average farm or woodlot in Lane County producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot;
    - (bb) The dwelling is located on land not identified as high-value farmland.
  - (ii) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under (i) above is allowed subject to compliance with the following requirements:
    - (aa) If the farm operation or woodlot:
      - (A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three

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calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or

- (B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income;
- (bb) The dwelling is located on land not identified as high-value farmland.

#### (8) Accessory Dwellings

- (a) Accessory farm dwelling for year-round and seasonal farm workers.
  - (i) Accessory dwellings may be considered customarily provided in conjunction with farm use if each accessory farm dwelling meets all the following requirements:
    - (aa) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator;
    - (bb) The accessory farm dwelling will be located:
      - (A) On the same lot or parcel as the primary farm dwelling;
      - (B) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract;
      - (C) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling with a deed restriction. The deed restriction shall be filed with the county clerk and require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. The manufactured dwelling may remain if it is reapproved under these provisions;

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- (D) On any lot or parcel, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farmworker housing as that existing on farm or ranch operations registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. The County shall require all accessory farm dwellings approved under this Subsection to be removed, demolished or converted to a nonresidential use when farmworker housing is no longer required. "Farmworker housing" shall have the meaning set forth in 215.278, meaning housing limited to occupancy by farmworkers and their immediate families and no dwelling unit of which is occupied by a relative of the owner or operator of the farmworker housing; or
- (E) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least the size of the applicable minimum lot size and the lot or parcel complies with the gross farm income requirements in Lane Code 16.212(7)(b) or (c), whichever is applicable; and
- (cc) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling.
- (ii) In addition to the requirements in Subsection 0, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
  - (aa) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use on which, in each of the last two years or three of the last five years or in an average of three of the last five years, the farm operator earned the lower of the following:
    - (A) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

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- (B) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
- (bb) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use on which the farm operator earned at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years or in an average of three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
- (cc) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or woodlot that meets the standards of LC 16.212(7)(h); or
- (dd) It is located on a commercial dairy farm as defined in Section 0(vii); and
  - (A) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm;
  - (B) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and 468B.200 to 468B.230; and
  - (C) A Producer License for the sale of dairy products under ORS 621.072.
- (iii) No division of a lot or parcel for an accessory farm dwelling shall be approved pursuant to this Subsection. If it is determined that an accessory farm dwelling satisfies the requirements of this Chapter, a parcel may be created consistent with the minimum parcel size requirements in Subsection 0.

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- (iv) An accessory farm dwelling approved pursuant to this Section cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to uses 0 or 0 in Table 16.212-1 of this Chapter.
  - (v) For purposes of this Subsection, "accessory dwelling" includes all types of residential structures allowed by the applicable state building code.
  - (vi) Farming of a marijuana crop shall not be used to demonstrate compliance with the approval criteria of an accessory farm dwelling.
- (b) To qualify for a relative farm help dwelling:
- (i) A dwelling shall be occupied by relatives whose assistance in the management and farm use of the existing commercial farming operation is required by the farm operator. However, farming of a marijuana crop may not be used to demonstrate compliance with the approval criteria for a relative farm help dwelling. The farm operator shall continue to play the predominant role in the management and farm use of the farm.
  - (ii) A relative farm help dwelling must be located on the same lot or parcel as the dwelling of the farm operator and must be on real property used for farm use.
- (c) A temporary hardship dwelling is subject to the following:
- (i) One manufactured dwelling, or one recreational vehicle, or the temporary residential use of an existing building may be allowed in conjunction with an existing dwelling as a temporary use for the term of the hardship suffered by the existing resident or relative, subject to the following:
    - (aa) The hardship dwelling must use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the hardship dwelling will use a public sanitary sewer system, such condition will not be required;
    - (bb) Approval of a temporary hardship dwelling is valid until December 31<sup>st</sup> of the year following the year the original permit approval. The county shall review the permit authorizing such hardship dwelling every two years; and

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- (cc) Within 90 days of the end of the hardship, the manufactured dwelling or recreational vehicle must be removed or demolished. In the case of an existing building, the building must be removed, demolished, or returned to an allowed nonresidential use.
- (ii) A temporary residence approved under this Section is not eligible for replacement under Section 0. Department of Environmental Quality review and removal requirements also apply.
- (iii) As used in this Section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.

(9) Dwellings Not in Conjunction with Farm Use on High Value Farmland

Non-farm dwelling. A non-farm dwelling on High Value Farmland is subject to the following requirements:

- (a) For land located on the east side of the summit of the Coastal Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:
  - (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
  - (ii) The dwelling will be sited on a lot or parcel that is predominantly composed of Class IV through VIII soils that would not, when irrigated, be classified as prime, unique, Class I or II soils;
  - (iii) The dwelling will be sited on a lot or parcel created before January 1, 1993. See the definition of “Date of Creation and Existence” in LC 16.090;
  - (iv) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, the cumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated shall be considered. To address this standard, the following requirements shall be met:

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- (aa) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or urban or non-resource uses shall not be included in the study area;
- (bb) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm dwellings that could be approved under Use 2.5 or 2.6 in Table 16.212-1 of this Chapter, including the identification of predominant soil classifications, the parcels created prior to January 1, 1993, and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under Sections 0. The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings ;
- (cc) Determine whether the approval of the proposed non-farm dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operations due to diminished opportunities to expand, purchase of lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area;
- (v) The dwelling complies with such other conditions as the approval authority considers necessary; and

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- (vi) Land use approval of a permit described in Section ~~(9)(a)~~ **is** shall be valid for four years from the date of the approval. ~~Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii),~~ **An** application for ~~a two-year~~ extension of the timelines for the permit approval may be made and approved pursuant to the requirements and limitations of 14.090(6) and (7). ~~LC 14.700(2).~~
- (b) For land located west of the summit of the Coast Range, a single family dwelling not provided in conjunction with farm use is allowed subject to compliance with the following requirements:
  - (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
  - (ii) The following are satisfied:
    - (aa) The dwelling, including essential or accessory improvements or structures, is situated upon a lot or parcel, in the case of an existing lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and
    - (bb) A lot or parcel shall not be considered "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

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(cc) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable". If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(iii) The dwelling will not alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, consideration shall be given to the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards in subsections 0 through 0;

(iv) The dwelling complies with such other conditions as the approval authority considers necessary; and

(v) Land use approval of a permit described in ~~(9)(b)0~~ above ~~is~~ shall be valid for four years from the date of the approval. ~~Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii),~~ ~~An~~ application for ~~a two-year~~ extension of the timelines for the permit approval may be made and approved pursuant to the requirements and limitations of LC 14.090 (b) and (7). ~~LC 14.700(2).~~

#### (10) Dwellings Not in Conjunction with Farm Use on Non-High Value Farmland.

Non-farm dwelling. A non-farm dwelling on Non-high Value Farmland is subject to the following requirements:

- (a) A dwelling not provided in conjunction with farm use may be established on a lot or parcel, subject to compliance with the following requirements:

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- (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
  - (ii) The soils of the lot or parcel are predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture, Soil Conservation Service on October 15, 1983; and
  - (iii) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel will not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.
- (b) The dwelling shall comply with such other conditions as the approval authority considers necessary. A dwelling not provided in conjunction with a farm use, on a lot or parcel that is not larger than three acres is subject to the following requirements:
- (i) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;
  - (ii) If the lot or parcel is located within the Willamette Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by Lane Code relating specifically to the Willamette Greenway, floodplains or geological hazard areas, whichever is applicable;
  - (iii) The lot or parcel was created between January 1, 1948, and July 1, 1983. See the definition of "Date of Creation and Existence" in LC 16.090. For the purpose of this Section, only one lot or parcel exists if:
    - (aa) The lot or parcel is contiguous to one or more lots or parcels described in this Section.
      - (A) "Contiguous" means "lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road."

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- (bb) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common; and
- (iv) Notice of application shall occur in compliance with LC Chapter 14.
- (c) Land use approval of a permit described in Section (10)(a) or (10)(b) ~~is~~**shall be** valid for four years from the date of the approval. ~~Notwithstanding the requirements in LC 14.700(2)(d)(ii) and (iii),~~ **An** application for ~~a two-year~~ extension of the timelines for the permit approval described in this Section may be made and approved pursuant to the requirements and limitations of LC 14.090 (6) and (7).~~LC 14.700(2).~~
- (d) No final approval of a nonfarm use under this section will be given unless any additional taxes imposed upon the change in use have been paid.
- (e) The dwelling must comply with other conditions considered necessary by the approval authority.

(11) Wineries and Cider Businesses

- (a) Small Wineries and Cider Businesses. Small wineries and cider business and their accessory uses are subject to the Type I procedure unless otherwise specified in this section. Small winery and cider businesses are separate uses to which distinct criteria and permitted uses apply and must not be used interchangeably.
  - (i) A small winery or cider business may be established as a permitted use if the proposed winery or cider business will produce wine or cider, respectively, on-site with a maximum annual production of:
    - (aa) Less than 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the winery or cider business:
      - (A) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres;
      - (B) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 15 acres;

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- (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 15 acres of a vineyard contiguous to the winery or of an orchard contiguous to the cider business; or
- (D) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection 0, 0, or 0; or
- (bb) At least 50,000 gallons of wine for a winery or 100,000 gallons of cider for a cider business and the winery:
  - (A) Owns an on-site vineyard for a winery or orchard for a cider business of at least 40 acres;
  - (B) Owns a contiguous vineyard for a winery or orchard for a cider business of at least 40 acres;
  - (C) Has a long-term contract for the purchase of all of the grapes for a winery or apples or pears for a cider business from at least 40 acres of a vineyard contiguous to the winery or of an orchard contiguous to the cider business;
  - (D) Owns an on-site vineyard for a winery or orchard for a cider business of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards for a winery or orchards for a cider business in Oregon that are located within 15 miles of the winery or cider business site; or
  - (E) Obtains grapes for a winery or apples or pears for a cider business from any combination of Subsection 0, 0, 0 or 0.
- (ii) In addition to producing and distributing wine by a winery or cider by a cider business, a small winery or cider business established under this Section may:
  - (aa) Market and sell wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
  - (bb) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, including:

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- (A) Wine or cider tastings in a tasting room or other location on the premises occupied by the winery for wine tastings or cider business for cider tastings;
  - (B) Wine for winery or cider for cider business club activities;
  - (C) Winemaker for winery or cidemaker for cider business luncheons and dinners;
  - (D) Winery and vineyard tours or cider business and orchard tours;
  - (E) Meetings or business activities with winery or cider business suppliers, distributors, wholesale customers and wine or cider industry members;
  - (F) Winery or cider business staff activities;
  - (G) Open house promotions of wine produced in conjunction with the winery or cider produced in conjunction with the cider business; and
  - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery or cider produced in conjunction with the cider business.
- (cc) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery or cider produced in conjunction with the cider business, the marketing and sale of which is incidental to on-site retail sale of wine for a winery or cider for a cider business, including food and beverages:
- (A) Required to be made available in conjunction with the consumption of wine or cider on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
  - (B) Served in conjunction with an activity authorized by Subsection 0 or (a)(ii)0, or (a)(v).
- (dd) Host charitable activities for which the winery or cider business does not charge a facility rental fee.

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- (iii) A winery or cider business may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in Subsection 0. Food and beverage services authorized under Subsection 0 may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public.
- (iv) The gross income of the winery or cider business from the sale of incidental items or services provided pursuant to Subsection 0 to 0 and (11)(a)(v) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery or cider produced in conjunction with the cider business. The gross income of a winery or cider business does not include income received by third parties unaffiliated with the winery or cider business. At the request of the County, the winery or cider business shall submit a written statement that is prepared by a certified public accountant and certifies the compliance of the winery or cider business with this Subsection for the previous tax year.
- (v) A winery or cider business may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery, pursuant to Subsection (aa) or (bb) below:
  - (aa) The events on days one (1) through six (6) of the 18-day limit per calendar year must be authorized by the approval authority through the issuance of a renewable multi-year Winery or Cider Business License that:
    - (A) Is reviewed through a Type I procedure to determine necessary conditions pursuant to Section (11)(a)(vi) below;
    - (B) Has a term of five years;
    - (C) If the County issues a license under this subsection, the County must review the license at least once every five years and, if appropriate, renew the license; and
    - (D) Complies with requirements of Section (11)(a)(vi) below.
    - (E) This license is not a land use decision as defined in ORS 197.015 or permit pursuant to ORS 215.402, and is not subject to review by the Land Use Board of Appeals.

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- (bb) Events on days seven (7) through 18 of the 18-day limit per calendar year must be authorized by the County through the issuance of a renewable multi-year permit that:
  - (A) Is subject to a Type II procedure and must be reviewed to determine necessary conditions pursuant to Section (11)(a)(vi);
  - (B) Has a term of five years;
  - (C) If the Director issues a permit under this subsection, the Director must review the permit at least once every five years and, if appropriate, may renew the permit; and
  - (D) Complies with requirements of Section (11)(a)(vi) below.
- (vi) As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery or cider business are subordinate to the production and sale of wine at a winery or cider at a cider business and do not create significant adverse impacts to uses on surrounding land, the County may impose conditions on a permit related to:
  - (aa) The number of event attendees;
  - (bb) The hours of event operation;
  - (cc) Access and parking;
  - (dd) Traffic management;
  - (ee) Noise management; and
  - (ff) Sanitation and solid waste;
- (vii) A winery or cider business operating under this Section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established or cider business is situated.
- (viii) Prior to the issuance of a permit to establish a winery or cider business under Section 0, the applicant shall show that vineyards for a winery or orchard for a cider business described in Section 0 have been planted or that the contract has been executed, as applicable.

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- (ix) For the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands, the winery or cider business must:
  - (aa) Establish a setback of at least 100 feet from all property lines for the winery or cider business and all public gathering places, unless the Director grants a variance allowing a setback of less than 100 feet; and
  - (bb) Provide direct road access and internal circulation for the winery or cider business and other on-site public gathering places
- (b) Large Wineries. Large wineries and their accessory uses are subject to the Type I procedure unless otherwise specified in this section.
  - (i) A large winery may be established if:
    - (aa) The winery owns and is sited on a tract of 80 acres or more, at least 50 acres of which is a vineyard;
    - (bb) The winery owns at least 80 additional acres of planted vineyards in Oregon that need not be contiguous to the acreage described in Subsection 0; and
    - (cc) The winery has produced annually, at the same or a different location, at least 150,000 gallons of wine in at least three of the five calendar years before the winery is established under this Subsection.
  - (ii) In addition to producing and distributing wine, a winery described in Subsection 0(i) may:
    - (aa) Market and sell wine produced in conjunction with the winery;
    - (bb) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
      - (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;
      - (B) Wine club activities;
      - (C) Winemaker luncheons and dinners;

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- (D) Winery and vineyard tours;
- (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;
- (F) Winery staff activities;
- (G) Open house promotions of wine produced in conjunction with the winery; and
- (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery;
- (cc) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to retail sale of wine on-site, including food and beverages:
  - (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
  - (B) Served in conjunction with an activity authorized by Subsection (11)(b)(ii)(bb), (dd), or (ee)0;
- (dd) Provide services, including agri-tourism or other commercial events, hosted by the winery or patrons of the winery, at which wine produced in conjunction with the winery is featured, that:
  - (A) Are directly related to the sale or promotion of wine produced in conjunction with the winery;
  - (B) Are incidental to the retail sale of wine on-site; and
  - (C) Are limited to 25 days or fewer in a calendar year; and
- (ee) Host charitable activities for which the winery does not charge a facility rental fee.
- (iii) Income requirements:

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- (aa) The gross income of the winery from the sale of incidental items pursuant to Subsection 0 and services provided pursuant to Subsection 0 may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.
- (bb) At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement, prepared by a certified public accountant that certifies compliance with Subsection 0 for the previous tax year.
- (iv) A winery operating under Subsection (11)0:
  - (aa) Shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.
  - (bb) May operate a restaurant, as defined in ORS 624.010, in which food is prepared for consumption on the premises of the winery.
- (v) A winery shall be required to obtain a Type II permit when:
  - (aa) The winery operates a restaurant that is open to the public for more than 25 days in a calendar year or provides for agri-tourism or other commercial events authorized under Subsection 0 occurring on more than 25 days in a calendar year.
  - (bb) In addition to any other requirements, a local government may approve a permit application under this Subsection if the approval authority finds that the authorized activity:
    - (A) Complies with the standards described in Sections 0 and (5)0;
    - (B) Is incidental and subordinate to the retail sale of wine produced in conjunction with the winery; and
    - (C) Does not materially alter the stability of the land use pattern in the area.
  - (cc) If the local government issues a permit under this Section for agri-tourism or other commercial events, the local government shall review the permit at least once every five years and, if appropriate, may renew the permit.

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- (vi) A winery operating under Section 0 may receive a permit to host outdoor concerts for which admission is charged, facility rentals or celebratory events only if the winery received a permit in similar circumstances before August 2, 2011.
- (vii) A person may not have a substantial ownership interest in more than one winery operating a restaurant authorized in Section (11)(b).
- (viii) Prior to the issuance of a permit to establish a winery under Section (11)0, the applicant shall show that vineyards described in Section (11)0(i) have been planted.
- (ix) A winery operating under Subsection 0 shall provide for:
  - (aa) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places; and
  - (bb) Direct road access and internal circulation.
- (c) As used in Section (11):
  - (i) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.
  - (ii) "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.

## (12) Agri-tourism and Other Commercial Events

- (a) Six or Fewer Events. Up to six agri-tourism or other commercial events or activities on a tract in a calendar year may be approved. The approval is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The six or fewer agri-tourism or other commercial events or activities must meet local standards and:
  - (i) Be incidental and subordinate to existing farm use on the tract;
  - (ii) Not, individually, exceed a duration of 72 consecutive hours; and
  - (iii) Comply with Section (12)(c) below.

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- (b) Seven to 18 Events. Agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with 0 above may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The seven to 18 agri-tourism or other commercial events or activities must comply with local standards and:
- (i) Be incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;
  - (ii) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;
  - (iii) Not exceed 18 events or activities in a calendar year; and
  - (iv) Comply with Section (12)(c) below.
- (c) All agri-tourism or other commercial events or activities described in 0 and 0 above must:
- (i) Not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;
  - (ii) Comply with Section 0 and 0 Conditional Use Criteria;
  - (iii) May not, in combination with other agri-tourism or other commercial events or activities, materially alter the stability of the land use pattern in the area; and
  - (iv) Must comply with conditions established for:
    - (aa) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration or the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;
    - (bb) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;
    - (cc) The location of access and egress and parking facilities to be used in conjunction with the agri-tourism or other commercial events or activities;

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- (dd) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and
- (ee) Sanitation and solid waste.
- (v) The approval authority may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under 0 or 0. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The County may not approve an alteration to the land in connection with the agri-tourism or other commercial event or activity authorized under 0 or 0, including, but not limited to, grading, filling or paving.
- (vi) Agri-tourism or other commercial events or activities authorized under this section shall not be allowed at a winery which conducts agri-tourism or other commercial events or activities authorized under Sections 0(a)(v)-(vi) or (11)(b)(v) or (11)(b)(ii)(dd).
- (vii) Event or activities authorized under this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015(10)(a), do not include agri-tourism or other commercial events and activities.
- (d) Expiration of Agri-Tourism Approvals
  - (i) Approvals issued pursuant to 0 shall be valid for two years from the date of the approval, and may be renewed for an additional two years subject to:
    - (aa) An application for renewal; and
    - (bb) Demonstration of compliance with the provisions of Section 0 and conditions that apply to the limited use permit or to the agri-tourism or other commercial events or activities authorized by the permit.
  - (ii) Approvals issued pursuant to 0 shall be valid for four years from the date of the approval. If continued, the permit holder must submit an application for renewal at four year intervals. Upon receipt of a request for renewal, the Director must:

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- (aa) Issue public notice and an opportunity for public comment as part of the review process according to LC Chapter 14; and
- (bb) Limit review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by Section (12)(b).

(13) Commercial Facilities for Generating Power

- (a) Commercial Power Generating Facility.
  - (i) Permanent features of a power generation facility shall not preclude more than:
    - (aa) 12 acres from use as a commercial agricultural enterprise on high value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4; or
    - (bb) 20 acres from use as a commercial agricultural enterprise on land other than high-value farmland unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.
  - (ii) A power generation facility may include on-site and off-site facilities for temporary workforce housing for workers constructing a power generation facility. Such facilities must be removed or converted to Table 16.212-1 uses 7.13 or 7.14 or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request. A minor amendment request shall be subject to Section (5)(a) and (b) and shall have no effect on the original approval.
  - (iii) Permitting. A commercial power generating facility is not subject to the requirements for a special use permit and the associated review procedure where the facility is compliant with ORS 469.504(b).
- (b) Wind Power Generation Facility.

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- (i) For purposes of this Chapter, a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind power generation facility.
  - (aa) Temporary workforce housing described in Section 0 must be removed or converted to Table 16.212-1 uses 7.13 or 7.14 or other statute or rule when project construction is complete.
  - (bb) Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to Section (5)(a) and (b) and shall have no effect on the original approval.
- (ii) For wind power generation facility proposals on high-value farmland soils, as described at ORS 195.300(10), the County must find that all of the following are satisfied:
  - (aa) Reasonable alternatives have been considered to show that siting the wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route considering the following factors:
    - (A) Technical and engineering feasibility;
    - (B) Availability of existing rights of way; and
    - (C) The long-term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under Subsection 0;

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- (bb) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils;
  - (cc) Costs associated with any of the factors listed in Subsection 0 may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary;
  - (dd) The owner of a wind power generation facility approved under Subsection 0 shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this Subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration; and
  - (ee) The criteria of Subsection 0 are satisfied.
- (iii) For wind power generation facility proposals on arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:
- (aa) The proposed wind power facility will not create unnecessary negative impacts on agricultural operations conducted on the subject property. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing wind farm components such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices;

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- (bb) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
- (cc) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and
- (dd) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval.
- (iv) For wind power generation facility proposals on nonarable lands, meaning lands that are not suitable for cultivation, the requirements of Subsection 0 are satisfied.
- (v) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in Subsections (13)(b)0 and 0, the approval criteria of Subsection (13)(b)0 shall apply to the entire project.
- (c) Photovoltaic Solar Power Generation Facility. A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:
  - (i) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

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- (ii) “Arable soils” means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of the land use application, but “arable soils” does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.
- (iii) “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.
- (iv) “Nonarable soils” means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.
- (v) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this Section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1,320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

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- (vi) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The governing body or its designate must find that:
- (aa) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;
  - (bb) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and County approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval;
  - (cc) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and County approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

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- (dd) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and County approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;
- (ee) The project is not located on high-value farmland soils unless it can be demonstrated that:
  - (A) Non high-value farmland soils are not available on the subject tract;
  - (B) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
  - (C) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and
- (ff) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:
  - (A) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

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- (B) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the Director or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland or acquire water rights, or will reduce the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.
- (vii) For arable lands, a photovoltaic solar power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The Director must find that:
- (aa) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
- (A) Nonarable soils are not available on the subject tract;
- (B) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
- (C) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;
- (bb) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to 197.732 and OAR chapter 660, division 4;
- (cc) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

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- (A) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.
- (B) When at least 80 acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the local government or its designate must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and
- (dd) The requirements of Subsections 0, 0, 0, and 0 are satisfied.
- (viii) For nonarable lands, a photovoltaic solar power generation facility shall not preclude more than 320 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. The Director must find that:
  - (aa) The project is not located on high-value farmland soils or arable soils unless it can be demonstrated that:
    - (A) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
    - (B) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
  - (bb) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

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- (cc) No more than 20 acres of the project will be sited on arable soils unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4;
- (dd) The requirements of Subsection 0 are satisfied;
- (ee) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the County's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the County, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing Chapters and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the County is responsible for determining appropriate mitigation measures; and

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- (ff) If a proposed photovoltaic solar power generation facility is located on lands where, after the site specific consultation with an Oregon Department of Fish and Wildlife biologist, if it determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive), or habitat or to wildlife species of concern identified and mapped by the Oregon Department of Fish and Wildlife (including big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs), the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or to wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the County is responsible for determining appropriate mitigation, if any, required for the facility.
- (gg) The provisions of Subsection 0 are repealed on January 1, 2022.
- (ix) The project owner shall sign and record at Lane County Deeds & Records a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
- (x) Nothing in this Section shall prevent the County from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

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(14) Land Divisions

- (a) Land within the Exclusive Farm Use District shall be designated as E-25, E-30, E-40 or E-60, consistently with Agricultural Lands Policy #10 of the Lane County Rural Comprehensive Plan. The creation of a lot or parcel shall comply with the requirements in LC Chapter 13 for the submittal and approval of tentative plans and plats and with Section 0.
- (b) The minimum area shall be:
  - (i) E-25: 25 acres
  - (ii) E-30: 30 acres
  - (iii) E-40: 40 acres
  - (iv) E-60: 60 acres
- (c) A division of land may be allowed down to 20 acres for horticultural specialties, berries and grapes. A farm management plan including the factors identified below shall address and establish the suitability of the land for the intended use:
  - (i) Land preparation.
  - (ii) Ripping and plowing.
  - (iii) Fencing.
  - (iv) Surveying.
  - (v) Crop cultivation.
  - (vi) Irrigation.
  - (vii) Herbicide; fungicide and/or fertilizer application.
  - (viii) Machinery.
  - (ix) Accessory farm buildings.
  - (x) Breeding and livestock raising concerns.
  - (xi) Labor.
  - (xii) Projected expenses associated with the above.

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- (xiii) Date by which the farm management plan would be substantially implemented.
- (d) A division of land to accommodate a Conditional Use as permitted by in Table 16.212-1 of this Chapter, except a residential use, smaller than the minimum parcel size provided in Subsection 0 may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (e) For the area of Lane County lying west of the summit of the Coast Range, a division of land to create up to two new parcels smaller than the minimum parcel size required by 0 above, each to contain a dwelling not provided in conjunction with farm use may be approved if these requirements are met:
  - (i) The property owner shall submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of up to two dwellings not in conjunction with farm use;
  - (ii) The non-farm dwellings shall comply with the requirements in 0 or 0 above;
  - (iii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.090;
  - (iv) The remainder of the original lot or parcel that does not contain the dwellings complies with the minimum parcel size established in 0 above;
  - (v) The parcels for the non-farm dwellings are divided from a lot or parcel that complies with the minimum size established in 0 above;
  - (vi) The parcels for the non-farm dwellings are generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel may not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land;
  - (vii) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236; and

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- (viii) The dwelling complies with such other conditions as the approval authority considers necessary.
- (f) For the area of Lane County lying west of the summit of the Coast Range, a division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use may be allowed if these requirements are met:
  - (i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with farm use;
  - (ii) The parcels for the non-farm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001. See the definition of "Date of Creation and Existence" in LC 16.090;
  - (iii) The parcels for the non-farm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size required by 0 above but equal to or larger than 40 acres;
  - (iv) The parcels for the non-farm dwellings are:
    - (aa) Not capable of producing more than at least 50 cubic feet per acre per year of wood fiber; and
    - (bb) Composed of at least 90 percent Class VI through VIII soils;
  - (v) The parcels for the non-farm dwellings do not have established water rights for irrigation;
  - (vi) The parcels for the non-farm dwellings are generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract. A parcel may not be considered unsuitable based solely on size or location if the parcel can reasonably be put to farm or forest use in conjunction with other land;
  - (vii) The non-farm dwellings shall comply with LC 16.2120;
  - (viii) The non-farm dwellings shall comply with LC 16.2120(a) and (b);

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- (ix) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236; and
- (x) The dwelling complies with other conditions considered necessary by the approval authority;
- (g) For the area of Lane County lying east of the summit of the Coast Range, a division of land to divide a lot or parcel for a dwelling not provided in conjunction with farm use may be allowed if these requirements are met:
  - (i) The property owner must submit to the Director two completed applications, one application for preliminary partition approval and another application for approval of the dwellings not in conjunction with the farm use;
  - (ii) The parcels for the non-farm dwellings are divided from a lot or parcel that:
    - (aa) Is equal to or larger than the minimum size required by 0 above;
    - (bb) Is not stocked to the requirements under ORS 527.610 through 527.770;
    - (cc) Is composed of at least 95 percent Class VI through VIII soils;
    - (dd) Is composed of at least 95 percent soils not capable of producing 50 cubic feet per acre per year of wood fiber; and
    - (ee) The new lot or parcel will not be smaller than 20 acres;
  - (iii) The dwelling to be sited on the new lot or parcel complies with the requirements for dwellings not in conjunction with farm use in Sections (9) and (10); and
  - (iv) The parcel approved for a non-farm dwelling shall be disqualified for special assessment at value for farm use and any additional tax imposed as a result of disqualification shall be paid out in compliance with ORS 215.236.
- (h) This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.

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- (i) This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- (j) This Section does not allow a division or property line adjustment of a lot or parcel that separates uses 0, 0, or 0 in Table 16.212-1 of this Chapter.
- (k) This Section does not allow a division of a lot or parcel that separates a processing facility from the farm operation specified as use 0 in Table 16.212-1 of this Chapter.
- (l) A division of land may be permitted to create a parcel with an existing dwelling to be used:
  - (i) As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section 0 or 0; and
  - (ii) For historic property that meets the requirements of use 0 in Table 16.212-1 of this Chapter.
- (m) Notwithstanding the minimum lot or parcel size described in Subsection (14)(b),
  - (i) A division of land may be approved provided:
    - (aa) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
    - (bb) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
    - (cc) The landowner signs and records in the deed records for the county an irrevocable deed restriction prohibiting the owner, and the owner's successors in interest, from pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which no claim or action is allowed under ORS 30.936 or 30.937.
  - (ii) A parcel created pursuant to this Subsection that does not contain a dwelling:
    - (aa) Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;

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- (bb) May not be considered in approving or denying an application for siting any other dwelling;
  - (cc) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and
  - (dd) May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.
- (n) Notwithstanding the minimum lot or parcel size described in Subsection (14)(b), a division of land may be allowed for the purpose of establishing a church, including cemeteries in conjunction with a church provided:
- (i) The church has been approved as use 7.11 of Table 16.212-1;
  - (ii) The newly created lot or parcel is not larger than five acres;
  - (iii) The new parcel for the church shall meet the minimum size in 0 either by itself or after it is consolidated with another lot or parcel.
- (o) Notwithstanding the minimum lot or parcel size described Subsection 0, a division for a fire service facility provided in use 0 of Table 16.212-1, if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.
- (p) A division of a lot or parcel by partition when a portion of the parcel has been included within an urban growth boundary (UGB) and subject to the following:
- (i) The portion of the parcel within the UGB has been redesignated for urban uses under the applicable acknowledged comprehensive plan; and
  - (ii) The portion of the parcel that remains outside the UGB is smaller than the minimum parcel size pursuant to 0 above; and
  - (iii) The parcel must be divided along the UGB boundary line; and
  - (iv) If the parcel outside of the UGB contains a dwelling, the parcel must be large enough to support continued residential use.
  - (v) If the parcel outside of the UGB does not contain a dwelling, the parcel:

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- (aa) Is not eligible for siting a dwelling, except as authorized in conjunction with a state or local public park;
- (bb) May not be considered in approving or denying an application for any other dwelling; and
- (cc) May not be considered in approving a redesignation or re-zoning of forestlands, except to allow a public park, open space or, other natural resource use.
- (vi) A landowner allowed a land division under 0 shall sign and record in the Lane County deed records a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.397.
- (q) Divisions under 0 and 0 shall require that a statement be placed on the face of the plat disclosing that a dwelling is not guaranteed unless the requirements of 0, (7) or (8) above for a dwelling are met.
- (r) The governing body may not approve a division of land for nonfarm use under Subsection 0, 0, 0, 0, 0, 0, 0, or 0 unless any additional tax imposed for the change in use has been paid.
- (s) Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.
- (t) The Director or its designate may not approve a land division of a lot or parcel created before January 1, 1993, on which a nonfarm dwelling was approved pursuant to subsection 0.
- (u) A land division may not be approved for the land application of reclaimed water, agricultural or industrial process water, or bio solids as provided Section 6.2 of Table 16.212-1.

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## (15) Development Standards

All uses or activities allowed by LC 16.212 must comply with the requirements in Section (15)(b). Uses or activities allowed by LC 16.212, except farm use, must comply with the requirements in LC 16.212(15)(a) and (b).

- (a) For approval of a use or activity allowed by LC 16.212 that requires a Type II or Type III review, the Approval Authority must balance the setback requirements of LC 16.212(15)(b) with the applicable approval standards of LC 16.212(3) and (6) through (14) in order to minimize adverse impacts upon nearby farm and forest uses or to assure optimal siting of proposed dwellings to minimize adverse impacts on nearby farm and forest lands.
  - (i) Dwellings and development accessory to residential uses to be siting upon tracts located within an area designated by the Department of Fish and Wildlife Habitat Maps as "Major" must be sited as follows:
    - (aa) Near dwellings on other tracts.
    - (bb) With minimal intrusion into forest areas undeveloped by non-forest uses.
    - (cc) Where possible, when considering LC 16.212(15)(a)(i)(aa) and (bb) above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.
  - (ii) Dwellings and development accessory to residential uses to be sited upon all of tracts must be sited as follows:
    - (aa) Where possible, in consideration of the dimensions and topography of the tract, at least 500 feet from adjoining lines of property zoned F-1 and 100 feet from adjoining lines of property zoned F-2 or EFU.
    - (bb) On the least valuable farm or forest areas of the tract or located near dwellings on other tracts.
- (b) All uses, activities, and structures allowed by LC 16.212 must comply with:
  - (i) Property Line Setbacks. No structure other than a fence or sign shall be located closer than:
    - (aa) 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15; and

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- (bb) 10 feet from all other property lines except as provided below.
- (ii) Riparian Setback Area. A riparian setback area applies to the area between a line that is 100 feet from and parallel to the ordinary high water of a Class I stream designated in the Rural Comprehensive Plan. No structure other than a fence may be located closer than 100 feet from the ordinary high water of a Class I stream unless a Riparian Modification application is approved in accordance with LC 16.253(3). Vegetation maintenance, removal, and replacement standards and exceptions to these setbacks are found in LC 16.253.
- (iii) Signs.
  - (aa) Signs cannot extend over a public right-of-way or project beyond the property line.
  - (bb) Signs cannot be illuminated, flashing, blinking, contain scrolling images, or capable of movement.
  - (cc) Signs are limited to 200 square feet in area.

#### (16) Telecommunication Facilities.

Telecommunication facilities are allowed subject to compliance with the requirements of Section (15), LC 16.264, and with applicable requirements elsewhere in LC Chapter 16.

*(Revised by Ordinance No. 7-87, Effective 6.17.87; 3-91, 5.17.91; 10-92, 11.12.92; 10-95, 10.17.95; 4-02, 4.10.02; 5-02, 8.28.02; 10-04, 6.4.04; 5-04, 7.1.04; 6-10, 9.17.10, 7-10, 11.25.10; 7-12, 12.28.12; 14-08, 11.5.14; 14-09, 12.16.14; 15-08, 12.15.15; 16-01, 2.15.16; 18-02, 8.9.18; 18-08, 2.14.19)*

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PAGES 16-208 THROUGH 16-213  
ARE RESERVED FOR FUTURE EXPANSION

**Ordinance No. 19-03**  
**Exhibit B**  
**Findings of Fact & Conclusions**

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**LC 12.005 Purpose.**

**(1) The board shall adopt a comprehensive plan. The general purpose of the comprehensive plan is the guiding of the social, economic, and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare.**

The proposed amendments do not impair the purpose of the Rural Comprehensive Plan as the guiding document for Lane County. The proposed amendments update implementing regulations and follow the laws determined by State of Oregon to best promote the will of the people. Adoption of the proposed amendments will bring the implementing regulations into compliance with State law, promote consistency at the local level with the applicable state laws, and will not affect compliance of the Rural Comprehensive Plan and implementing regulations with the Statewide Planning Goals or other applicable State law.

**LC 12.050 Method of Adoption and Amendment**

**(1) The adoption of the comprehensive plan or an amendment to such plan shall be by an ordinance.**

The proposed amendments will be adopted by ordinance when enacted by the Board.

**(2) The Board may amend or supplement the comprehensive plan upon a finding of:**  
**(a) an error in the plan; or**  
**(b) changed circumstances affecting or pertaining to the plan; or**  
**(c) a change in public policy; or**  
**(d) a change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.**

The proposed amendments make corrections to Lane Code Chapter 14 as required by a LUBA Final Opinion and Order remanding Ordinance No. 18-02 to the County and as such, meet the provision under (a) above upon adoption by the Board as it pertains to amendments to land use regulations. No amendments to the comprehensive plan are proposed.

**LC 16.252 Procedures for Zoning, Re-zoning, and Amendments to Requirements.**

**(2) Criteria. [Amendments] shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest.**

The proposed Lane Code amendments are intended to comply with State law, provide additional clarification on procedures for applications and appeals, and as applicable, help implement the Lane County Rural Comprehensive Plan. The proposed amendments are not contrary to the

public interest in that they implement the laws determined by the State of Oregon to best promote the will of the people.

80th OREGON LEGISLATIVE ASSEMBLY--2019 Regular Session

**Enrolled**  
**House Bill 2106**

Sponsored by Representative CLEM; Representative SMITH DB (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to land use; amending ORS 215.213 and 215.417; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 215.213, as amended by section 1, chapter 119, Oregon Laws 2018, is amended to read:

215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

- (a) Churches and cemeteries in conjunction with churches.
- (b) The propagation or harvesting of a forest product.
- (c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:
  - (A) ORS 215.275; or
  - (B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.
- (d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.
- (e) Nonresidential buildings customarily provided in conjunction with farm use.
- (f) Subject to ORS 215.279, primary or accessory dwellings customarily provided in conjunction with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.
- (g) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent

to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under paragraph (q) of this subsection.

(j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(k) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(m) Minor betterment of existing public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(o) Creation, restoration or enhancement of wetlands.

(p) A winery, as described in ORS 215.452 or 215.453.

(q) Subject to section 2, chapter 462, Oregon Laws 2013, alteration, restoration or replacement of a lawfully established dwelling.

(r) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(s) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility.

(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is

used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.

(v) Fire service facilities providing rural fire protection services.

(w) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

(x) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.

(y) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

(z) Dog training classes or testing trials, which may be conducted outdoors or in [preexisting] farm buildings **in existence on January 1, 2019**, when:

(A) The number of dogs participating in training does not exceed 10 dogs per training class and the number of training classes to be held on-site does not exceed six per day; and

(B) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

(aa) A cider business, as described in ORS 215.451.

(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use subject to ORS 215.296:

(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or woodlot:

(A) Consists of 20 or more acres; and

(B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

(b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under paragraph (a) of this subsection, if the lot or parcel:

(A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or

(B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income.

(c) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(u) of this section.

(d) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community, hunting and fishing preserves, public and private parks, playgrounds and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). A public park or campground may be established as provided under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447.

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

- (k)(A) Commercial dog boarding kennels; or
- (B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of this section.
- (L) Residential homes as defined in ORS 197.660, in existing dwellings.
- (m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.
- (n) Home occupations as provided in ORS 215.448.
- (o) Transmission towers over 200 feet in height.
- (p) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.
- (q) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.
- (r) Improvement of public road and highway related facilities such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.
- (s) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.
- (t) Room and board arrangements for a maximum of five unrelated persons in existing residences.
- (u) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of the metropolitan urban growth boundary. As used in this paragraph:
  - (A) "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and
  - (B) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.
- (v) Operations for the extraction and bottling of water.
- (w) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.
- (x) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.
- (y) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.
- (z) Equine and equine-affiliated therapeutic and counseling activities, provided:
  - (A) The activities are conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and
  - (B) All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

(3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), a single-family residential dwelling not provided in conjunction with farm use may be established on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval of the governing body or its designee in any area zoned for exclusive farm use upon written findings showing all of the following:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

(b) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designee considers necessary.

(4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), one single-family dwelling, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that is not larger than three acres upon written findings showing:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

(b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by local ordinances relating specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is applicable; and

(c) The dwelling complies with other conditions considered necessary by the governing body or its designee.

(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing body shall notify:

(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be established; and

(b) Persons who have requested notice of such applications and who have paid a reasonable fee imposed by the county to cover the cost of such notice.

(6) The notice required in subsection (5) of this section shall specify that persons have 15 days following the date of postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is received, the governing body or its designee shall approve or disapprove the application. If an objection is received, the governing body shall set the matter for hearing in the manner prescribed in ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1, 1948, and July 1, 1983. For the purposes of this section:

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

(B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common.

(b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road.

(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

(9) No final approval of a nonfarm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

(10) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(11) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

(a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(G) The agri-tourism or other commercial event or activity complies with conditions established for:

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not begin before 6 a.m. or end after 10 p.m.;

(C) May not involve more than 100 attendees or 50 vehicles;

(D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

(E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(G) Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not, individually, exceed a duration of 72 consecutive hours;

(C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

(D) Must comply with ORS 215.296;

(E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(F) Must comply with conditions established for:

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(D) Do not exceed 18 events or activities in a calendar year.

(12) A holder of a permit authorized by a county under subsection (11)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (11)(d) of this section.

(13) For the purposes of subsection (11) of this section:

(a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (11) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (11) of this section, including, but not limited to, grading, filling or paving.

(b) The county may issue the limited use permits authorized by subsection (11)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (11)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(c) The authorizations provided by subsection (11) of this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

**SECTION 2.** ORS 215.213, as amended by section 7, chapter 462, Oregon Laws 2013, section 2, chapter 148, Oregon Laws 2017, section 4, chapter 253, Oregon Laws 2017, section 4, chapter 504, Oregon Laws 2017, and section 2, chapter 119, Oregon Laws 2018, is amended to read:

215.213. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

(a) Churches and cemeteries in conjunction with churches.

(b) The propagation or harvesting of a forest product.

(c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in:

(A) ORS 215.275; or

(B) If the utility facility is an associated transmission line, as defined in ORS 215.274 and 469.300.

(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator’s spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(e) Nonresidential buildings customarily provided in conjunction with farm use.

(f) Subject to ORS 215.279, primary or accessory dwellings customarily provided in conjunction with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

(g) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-

view of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under paragraph (q) of this subsection.

(j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(k) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(m) Minor betterment of existing public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(o) Creation, restoration or enhancement of wetlands.

(p) A winery, as described in ORS 215.452 or 215.453.

(q) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structure;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement:

(i) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and

(ii) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

(r) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-

motional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(s) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, “armed forces reserve center” includes an armory or National Guard support facility.

(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator’s cost to maintain the property, buildings and facilities. As used in this paragraph, “model aircraft” means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(u) A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.

(v) Fire service facilities providing rural fire protection services.

(w) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505.

(x) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.

(y) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids, or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

(z) Dog training classes or testing trials, which may be conducted outdoors or in *[preexisting]* farm buildings **in existence on January 1, 2019**, when:

(A) The number of dogs participating in training does not exceed 10 dogs per training class and the number of training classes to be held on-site does not exceed six per day; and

(B) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

(aa) A cider business, as described in ORS 215.451.

(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use subject to ORS 215.296:

(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or woodlot:

(A) Consists of 20 or more acres; and

(B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

(b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under paragraph (a) of this subsection, if the lot or parcel:

(A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or

(B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income.

(c) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(K) or subsection (1)(u) of this section.

(d) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community, hunting and fishing preserves, public and private parks, playgrounds and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). A public park or campground may be established as provided under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

(g) Commercial utility facilities for the purpose of generating power for public use by sale. If the area zoned for exclusive farm use is high-value farmland, a photovoltaic solar power generation facility may be established as a commercial utility facility as provided in ORS 215.447.

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip re-

stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(k)(A) Commercial dog boarding kennels; or

(B) Dog training classes or testing trials that cannot be established under subsection (1)(z) of this section.

(L) Residential homes as defined in ORS 197.660, in existing dwellings.

(m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

(p) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(q) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(r) Improvement of public road and highway related facilities such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(s) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(t) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(u) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of the metropolitan urban growth boundary. As used in this paragraph:

(A) "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and

(B) “Local historical society” means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

(v) Operations for the extraction and bottling of water.

(w) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler’s permit to sell or provide fireworks.

(x) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

(y) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

(z) Equine and equine-affiliated therapeutic and counseling activities, provided:

(A) The activities are conducted in existing buildings that were lawfully constructed on the property before January 1, 2019, or in new buildings that are accessory, incidental and subordinate to the farm use on the tract; and

(B) All individuals conducting therapeutic or counseling activities are acting within the proper scope of any licenses required by the state.

(3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), a single-family residential dwelling not provided in conjunction with farm use may be established on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval of the governing body or its designee in any area zoned for exclusive farm use upon written findings showing all of the following:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

(b) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designee considers necessary.

(4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), one single-family dwelling, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that is not larger than three acres upon written findings showing:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;

(b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by local ordinances relating specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is applicable; and

(c) The dwelling complies with other conditions considered necessary by the governing body or its designee.

(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing body shall notify:

(a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be established; and

(b) Persons who have requested notice of such applications and who have paid a reasonable fee imposed by the county to cover the cost of such notice.

(6) The notice required in subsection (5) of this section shall specify that persons have 15 days following the date of postmark of the notice to file a written objection on the grounds only that the

dwelling or activities associated with it would force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is received, the governing body or its designee shall approve or disapprove the application. If an objection is received, the governing body shall set the matter for hearing in the manner prescribed in ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1, 1948, and July 1, 1983. For the purposes of this section:

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

(B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common.

(b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road.

(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

(9) No final approval of a nonfarm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

(10) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993.

(11) The following agri-tourism and other commercial events or activities that are related to and supportive of agriculture may be established in any area zoned for exclusive farm use:

(a) A county may authorize a single agri-tourism or other commercial event or activity on a tract in a calendar year by an authorization that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract, if the agri-tourism or other commercial event or activity meets any local standards that apply and:

(A) The agri-tourism or other commercial event or activity is incidental and subordinate to existing farm use on the tract;

(B) The duration of the agri-tourism or other commercial event or activity does not exceed 72 consecutive hours;

(C) The maximum attendance at the agri-tourism or other commercial event or activity does not exceed 500 people;

(D) The maximum number of motor vehicles parked at the site of the agri-tourism or other commercial event or activity does not exceed 250 vehicles;

(E) The agri-tourism or other commercial event or activity complies with ORS 215.296;

(F) The agri-tourism or other commercial event or activity occurs outdoors, in temporary structures, or in existing permitted structures, subject to health and fire and life safety requirements; and

(G) The agri-tourism or other commercial event or activity complies with conditions established for:

(i) Planned hours of operation;

(ii) Access, egress and parking;

(iii) A traffic management plan that identifies the projected number of vehicles and any anticipated use of public roads; and

(iv) Sanitation and solid waste.

(b) In the alternative to paragraphs (a) and (c) of this subsection, a county may authorize, through an expedited, single-event license, a single agri-tourism or other commercial event or activity on a tract in a calendar year by an expedited, single-event license that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. A decision concerning an expedited, single-event license is not a land use decision, as defined in ORS 197.015. To approve an expedited, single-event license, the governing body of a county or its designee must determine that the proposed agri-tourism or other commercial event or activity meets any local standards that apply, and the agri-tourism or other commercial event or activity:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not begin before 6 a.m. or end after 10 p.m.;

(C) May not involve more than 100 attendees or 50 vehicles;

(D) May not include the artificial amplification of music or voices before 8 a.m. or after 8 p.m.;

(E) May not require or involve the construction or use of a new permanent structure in connection with the agri-tourism or other commercial event or activity;

(F) Must be located on a tract of at least 10 acres unless the owners or residents of adjoining properties consent, in writing, to the location; and

(G) Must comply with applicable health and fire and life safety requirements.

(c) In the alternative to paragraphs (a) and (b) of this subsection, a county may authorize up to six agri-tourism or other commercial events or activities on a tract in a calendar year by a limited use permit that is personal to the applicant and is not transferred by, or transferable with, a conveyance of the tract. The agri-tourism or other commercial events or activities must meet any local standards that apply, and the agri-tourism or other commercial events or activities:

(A) Must be incidental and subordinate to existing farm use on the tract;

(B) May not, individually, exceed a duration of 72 consecutive hours;

(C) May not require that a new permanent structure be built, used or occupied in connection with the agri-tourism or other commercial events or activities;

(D) Must comply with ORS 215.296;

(E) May not, in combination with other agri-tourism or other commercial events or activities authorized in the area, materially alter the stability of the land use pattern in the area; and

(F) Must comply with conditions established for:

(i) The types of agri-tourism or other commercial events or activities that are authorized during each calendar year, including the number and duration of the agri-tourism or other commercial events and activities, the anticipated daily attendance and the hours of operation;

(ii) The location of existing structures and the location of proposed temporary structures to be used in connection with the agri-tourism or other commercial events or activities;

(iii) The location of access and egress and parking facilities to be used in connection with the agri-tourism or other commercial events or activities;

(iv) Traffic management, including the projected number of vehicles and any anticipated use of public roads; and

(v) Sanitation and solid waste.

(d) In addition to paragraphs (a) to (c) of this subsection, a county may authorize agri-tourism or other commercial events or activities that occur more frequently or for a longer period or that do not otherwise comply with paragraphs (a) to (c) of this subsection if the agri-tourism or other commercial events or activities comply with any local standards that apply and the agri-tourism or other commercial events or activities:

(A) Are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area;

(B) Comply with the requirements of paragraph (c)(C), (D), (E) and (F) of this subsection;

(C) Occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size; and

(D) Do not exceed 18 events or activities in a calendar year.

(12) A holder of a permit authorized by a county under subsection (11)(d) of this section must request review of the permit at four-year intervals. Upon receipt of a request for review, the county shall:

(a) Provide public notice and an opportunity for public comment as part of the review process; and

(b) Limit its review to events and activities authorized by the permit, conformance with conditions of approval required by the permit and the standards established by subsection (11)(d) of this section.

(13) For the purposes of subsection (11) of this section:

(a) A county may authorize the use of temporary structures established in connection with the agri-tourism or other commercial events or activities authorized under subsection (11) of this section. However, the temporary structures must be removed at the end of the agri-tourism or other event or activity. The county may not approve an alteration to the land in connection with an agri-tourism or other commercial event or activity authorized under subsection (11) of this section, including, but not limited to, grading, filling or paving.

(b) The county may issue the limited use permits authorized by subsection (11)(c) of this section for two calendar years. When considering an application for renewal, the county shall ensure compliance with the provisions of subsection (11)(c) of this section, any local standards that apply and conditions that apply to the permit or to the agri-tourism or other commercial events or activities authorized by the permit.

(c) The authorizations provided by subsection (11) of this section are in addition to other authorizations that may be provided by law, except that “outdoor mass gathering” and “other gathering,” as those terms are used in ORS 197.015 (10)(d), do not include agri-tourism or other commercial events and activities.

**SECTION 3.** ORS 215.417 is amended to read:

215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit *[shall be]* **is** valid for four years.

(2) An extension of a permit described in subsection (1) of this section *[shall be]* **is** valid for two years. **A county may approve no more than five additional one-year extensions of a permit if:**

**(a) The applicant makes a written request for the additional extension prior to the expiration of an extension;**

**(b) The applicable residential development statute has not been amended following the approval of the permit; and**

**(c) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.**

**(3) An extension of a permit under subsection (2) of this section is not a land use decision as defined in ORS 197.015.**

*[(3)] (4) [For the purposes of] As used in this section, “residential development” [only includes the] means* dwellings provided for under ORS 215.213 (3) and (4), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

**SECTION 3a.** If House Bill 2225 becomes law, ORS 215.417, as amended by section 3 of this 2019 Act, is amended to read:

215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.

(2) An extension of a permit described in subsection (1) of this section is valid for two years. A county may approve no more than five additional one-year extensions of a permit if:

(a) The applicant makes a written request for the additional extension prior to the expiration of an extension;

(b) The applicable residential development statute has not been amended following the approval of the permit, **except the amendments to ORS 215.750 by section 1, chapter \_\_\_\_, Oregon Laws 2019 (Enrolled House Bill 2225)**; and

(c) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.

(3) An extension of a permit under subsection (2) of this section is not a land use decision as defined in ORS 197.015.

(4) As used in this section, “residential development” means dwellings provided for under ORS 215.213 (3) and (4), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

**SECTION 4.** ORS 215.417, as amended by section 9, chapter 462, Oregon Laws 2013, is amended to read:

215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit *[shall be]* **is** valid for four years.

(2) An extension of a permit described in subsection (1) of this section *[shall be]* **is** valid for two years. **A county may approve no more than five additional one-year extensions of a permit if:**

**(a) The applicant makes a written request for the additional extension prior to the expiration of an extension;**

**(b) The applicable residential development statute has not been amended following the approval of the permit; and**

**(c) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.**

**(3) An extension of a permit under subsection (2) of this section is not a land use decision as defined in ORS 197.015.**

*[(3)]* (4) *[For the purposes of]* **As used in** this section, “residential development” *[only includes the]* **means** dwellings provided for under ORS 215.213 (1)(q), (3) and (4), 215.283 (1)(p), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

**SECTION 4a.** If House Bill 2225 becomes law, ORS 215.417, as amended by section 9, chapter 462, Oregon Laws 2013, and section 4 of this 2019 Act, is amended to read:

215.417. (1) If a permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit is valid for four years.

(2) An extension of a permit described in subsection (1) of this section is valid for two years. A county may approve no more than five additional one-year extensions of a permit if:

(a) The applicant makes a written request for the additional extension prior to the expiration of an extension;

(b) The applicable residential development statute has not been amended following the approval of the permit, **except the amendments to ORS 215.750 by section 1, chapter \_\_\_\_, Oregon Laws 2019 (Enrolled House Bill 2225)**; and

(c) An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.

(3) An extension of a permit under subsection (2) of this section is not a land use decision as defined in ORS 197.015.

(4) As used in this section, "residential development" means dwellings provided for under ORS 215.213 (1)(q), (3) and (4), 215.283 (1)(p), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3).

**SECTION 5. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.**

**Passed by House April 18, 2019**

**Received by Governor:**

**Repassed by House June 11, 2019**

.....M,....., 2019

**Approved:**

.....  
Timothy G. Sekerak, Chief Clerk of House

.....M,....., 2019

.....  
Tina Kotek, Speaker of House

.....  
Kate Brown, Governor

**Passed by Senate June 6, 2019**

**Filed in Office of Secretary of State:**

.....M,....., 2019

.....  
Peter Courtney, President of Senate

.....  
Bev Clarno, Secretary of State

**MOTIONS AND VOTE RESULTS****LANE COUNTY PLANNING COMMISSION****DATE: TUESDAY, MAY 28, 2019****TIMES: 7:00 P.M. Public Hearing**

Item(s)	
<p>In the Matter of Amending Lane Code Chapter 14, Application Review and Appeal Procedures, to Add, Revise, and Delete Provisions to Update LC 14.080 Appeals and LC 14.100 LUBA Remand Procedures and Make Other Clarifications and Corrections. (File No. 509-PA19-05297)</p>	
<p><b>Motion Language:</b> Move to forward a recommendation to the Board of Commissioners to adopt the proposed amendments to Lane Code Chapter 14 as presented with conceptual changes to paragraph LC 14.080(5)(a) regarding criteria for Planning Director referral to Board of Commissioners.</p>	<p><b>Motion By:</b> Dignam</p>
<p><b>Amendments to the Motion:</b> None, specifically; however, the LCPC requested that conceptual changes referenced in the motion be incorporated into the staff report to the Board of Commissioners.</p>	<p><b>Second By:</b> Hledik</p>
<p><b>In Favor:</b> Hledik, Rose, Kaylor, Dignam, Lemler, Coon (Unanimous)</p>	
<p><b>Opposed:</b> None</p>	
<p><b>Abstained:</b> None</p>	
<p><b>Number of people who provided testimony at the Public Hearing:</b> 0</p>	

<p><b>LCPC Attendance:</b></p>
<p><b>Present:</b> Hledik, Rose, Kaylor, Dignam, Lemler, Coon</p>
<p><b>Absent:</b> Thorp, Weeks, Schultz</p>

**Sean T. Malone**  
**Attorney at Law**

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June 11, 2019

Via hand delivery

Lane County Hearings Official  
c/o Lane County Planning Department  
Land Management Division  
3050 North Delta Highway  
Eugene OR 97408

RECEIVED AT HEARING  
P.A. NO. PA19-05317 / Ord. NO. 19-03  
DATE 6/11/19 EXHIBIT NO. —

Re: LandWatch Testimony regarding Lane County Amendments to  
Chapter 14 on Remand.

On behalf of LandWatch Lane County, please accept this testimony on the County's  
Chapter 14 amendments on remand.

While the amendment to LC 14.080(c)(i) is not necessarily controversial, the signature requirement should be clarified to allow those with power of attorney or those acting as agent for the appellant. For example, if an organization or business is the appellant, then an agent will necessarily have to file the appeal and sign the appeal form. I do not understand this requirement to preclude an agent or attorney from signing the appeal form on behalf of the appellant, but the County should clarify this issue.

The County is also proposing to add an option to allow the Planning Director to request review of a Hearings Official decision by the Board, subject to certain criteria. The County cannot appeal the decision of the County. LUBA has rejected such attempts in the past because state statutes are "undermined to a considerable extent if the petitioner and respondent can be the same party, as it would allow what are essentially sham appeals to LUBA involving non-adverse 'parties,' contrary to the legislative policy that 'time is of the essence in reaching final decisions in matters involving land use' and that land use decisions 'be made consistently with sound principles governing judicial review.'" *Multnomah County v. Multnomah County*, \_\_\_ Or LUBA \_\_\_ (LUBA No. 2003-175, Feb. 4, 2004). Therefore, the proposed amendment to allow the Planning Director to appeal a decision of the hearings official violates state law.

Sincerely,

A handwritten signature in cursive script that reads "Sean T. Malone". The signature is written in black ink and is positioned above the printed name.

Sean T. Malone  
Attorney for LandWatch Lane County

Cc:  
Client