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16.250 Parking Areas.
Required garages and parking areas for residential and industrial development will be found under the zoning classification.

(1) Residential Properties. The regulations of this subsection are in addition. to off street parking requirements of specific zones.

(a) When a single-family residence is located on a site inaccessible by automobile due to topographic conditions or excessive grades, a private garage or parking space shall not be required.

(b) Unless otherwise allowed by the zone, and exclusive of recreational vehicles, off street parking shall be limited to passenger cars, vans and pickups of not more than one ton manufacturer's capacity rating or comparable size. This size limitation does not apply to vehicles being used in conjunction with Rural Home Occupations.

(c) Commercial vehicles other than allowed by LC 16.250(b) above may be parked on residential properties only for reasonable periods of time for deliveries, structural repair and similar purposes.

(d) Recreational or utility vehicles, including, but not limited to, boats and boat trailers, campers and residential-type utility trailers, shall not be parked or stored on the property at any time in a location obstructing motorists' vision clearance of roadways.

(e) Unless otherwise allowed by the zone, off street parking areas shall not be used for the dismantling of any vehicle for the purpose of selling, trading or dealing in any manner with components thereof as a primary or secondary business.

(f)

(i) Inoperable vehicles and parts thereof, junk or salvage materials may be visibly stored on the premises unless such storage interferes with the reasonable use and enjoyment of other lots within 300 feet of the lot use for storage. In that event, all automotive parts, junk, salvage material and all but one inoperable vehicle shall be stored in a location not visible from any adjacent road or from ground level of lots within 300 feet which are of similar elevation as the lot upon which the storage is taking place, or shall be screened to prevent such visibility. The allowable inoperable vehicle may be stored within the structural setback area, but shall not be parked or stored at any time in a location obstructing motorists' vision clearance of roadways. Nothing in this subsection shall be construed as allowing storage within the front structural setback area except as otherwise allowed herein.

(ii) Names of residents filing complaints under provisions of LC 16.250(1)(f)(I) above shall be a matter of public record.

(g) Except as allowed by this Chapter, vehicles belonging to persons other than those residing on the lot shall not be stored or repaired for remuneration, traded, sold or offered for sale from the property. This includes vehicles left on consignment and vehicles owned temporarily primarily for resale. The sale of more than two vehicles per family member from one lot within a 12-month period shall be interpreted as "temporary ownership" unless the family member has owned said vehicles longer than 12 months.

(h) Storage of refrigerators, freezers or other airtight compartments containing more than one and one-half cubic feet shall not occur at any time until the doors have been removed or secured, latches removed or other precautions taken so the compartment can be easily opened from the inside. Any appliance stored in violation of this subsection may be removed by the County from the premises and stored elsewhere at the owner's expense, or other remedial action taken to secure immediate compliance.

(2) Nonresidential Private Parking.

(a) Automobile parking space allowing 300 square feet per automobile (parking, plus driving space) shall be provided and maintained for any new or enlarged building as listed below:

(i) Churches, auditoriums, theaters, stadiums, clubs and business schools or similar places of assembly, at least one permanently maintained parking space for every four seats provided in said building or structure; provided that 50 percent of the required number may be supplied by off street parking facilities for other kinds of commercial establishments or uses not normally open, used or operated during the principal operating hours of the place of assembly.

(ii) For hotels and apartment hotels, at least one permanently maintained parking space for each of the first 20 individual guest rooms, and one additional parking space for every three guest rooms in excess of 20.

(iii) Auto courts shall provide at least one parking space for each lodging unit.

(iv) For fraternity, sorority and student houses, at least one parking space for each lodging unit.

(v) For hospitals and welfare institutions, at least one permanently maintained parking space for each 300 square feet of floor area.

(vi) Clinics shall provide at least two parking spaces for each consultation and operating room.

(vii) For business or commercial buildings or structures, at least one permanently maintained parking space for every 300 square feet or fraction thereof of floor space within the building, exclusive of automobile parking space.

(viii) Mortuaries shall provide parking spaces for all people employed therein, plus at least one parking space for each 200 square feet of building floor area.

(b) Parking spaces shall be on the lot with the main building or structure, or located not more than 800 feet there from.

(3) Loading Space. In addition to the 10-foot setback requirement from the centerline of the alley, every hospital, hotel, institution, commercial or industrial building hereafter erected or established which abuts upon an alley or is surrounded on all sides by streets shall have one permanently maintained loading space for commercial vehicles of not less than 10 feet in width and 22 feet in length for each 4,000 square feet of lot area or fraction thereof upon which the building is located; provided that not more than two such loading spaces shall be required.

(4) Public Parking Areas. Land hereafter used for public parking areas shall be developed according to the following standards:

(a) Asphaltic, concrete or other approved type of surfacing.

(b) Bumper guards where needed.

(c) An ornamental fence, wall or hedge enclosing the parking area to a height not less than three feet nor more than six feet, but adhering to the vision clearance and front and side yard setbacks established for the zone district in which it is located. Said fence, wall or hedge shall be maintained in good condition.

(d) When a parking lot adjoins property classified in an "R" Zone, the setback for the parking lot shall conform to the requirements for the adjacent "R" Zone and the ornamental fence, wall or hedge between the “R” Zone and the parking lot shall be six feet in height.

(5) Height.

(a) Height limits established for the various zones refer to the height of the building proper. Roof structures, such as housing for elevators, tanks, ventilating fans, towers, steeples, flagpoles, chimneys, smokestacks, wireless masts or similar structures, may exceed the height limit herein prescribed.

(b) On lots sloping downhill from the street, buildings may have an additional story; provided the ceiling of the lowest story is not more than two feet above the average curb level along the front of the lot.

(6) General Building Setback Requirements.

(a) Side Yard.

(i) No building or structure shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated under the Zone classification, except that eaves or cornices may extend over the required side yard for a distance of not more than two feet.

(ii) Fences, walls or hedges which tend to serve as a wall or yard enclosure may be maintained in a side yard, provided they do not exceed six feet in height.

(7) General Lot Area and Width Requirements.

(a) The site area requirements of Chapter 16 shall not apply to prohibit the erection of a single-family dwelling on a lot separately owned on or before January 8, 1969, or on any numbered lot in an approved and filed major or minor subdivision plat of record on or before January 8, 1969, except for the E-RCP, F-1, RCP and F-2, RCP Zones, where use of preexisting parcels is provided for in a different manner.

(b) The minimum area requirements of Chapter 16 shall not be construed to govern in situations where greater minimum area requirements are imposed or required by State law, State rules and regulations, the provisions of this Code, or other County rules and ordinances.

(c) Refer also to LC 13.050 to 13.105 Design and Development Standards for other lot area, width and depth requirements which may be applicable. . *(Revised by Ordinance 7-87, Effective 6.17.87; 6-10, 9.17.10)*

NONCONFORMING USES
RURAL COMPREHENSIVE PLAN

16.251 Nonconforming Uses.

Except as is hereinafter provided in this Chapter, the lawful use of a building or structure or of any land or premises lawfully existing at the time of the effective date of this Chapter or at the time of a change in the official zoning maps may be continued although such use does not conform with the provisions of this Chapter.

(1) Verification of Nonconforming Use. The verification of a nonconforming use may be obtained subject to Director approval pursuant to LC 14.100. Verification of a nonconforming use is required prior to requesting approval to increase, restore, alter or repair a nonconforming use. When evaluating a request for verification, the following criteria shall apply:

(a) To be valid, a nonconforming use must have been lawfully established prior to the enactment of an ordinance restricting or prohibiting the use.

(b) The use must have been in actual existence prior to the enactment of an ordinance restricting or prohibiting the use or have proceeded so far toward completion that a right to complete and maintain the use is deemed to have vested in the landowner.

(c) The nonuse of a nonconforming use of a structure or property for a period in excess of one year will prohibit the resumption of the nonconforming use. The burden of proof for the verification of a nonconforming use is upon the applicant.

(2) Change in Nonconforming Use. A nonconforming use may be changed only insofar as it applies to the zone in which it is located. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

(3) Increase of Nonconforming Use. A nonconforming use shall not be increased, except that permission to extend the use to any portion of a building or lot

which portion was arranged or designed for such nonconforming use at the time of the passage of this Chapter may be granted subject to Director approval pursuant to LC 14.100.

(4) Vested Right. Nothing contained in this Chapter shall require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of this Chapter, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time construction was commenced.

(5) Discontinuance of Nonconforming Use. When a non-conforming use of a structure or property is discontinued for a period in excess of one year, the structure or property shall not thereafter be used, except in conformance with the zone in which it is located. (Revised by Ordinance 7-87, 6.17.87; 4-91, 5.17.91)

(6) Unlawful Use of a Nonconforming Use. No unlawful use of property existing at the time of passage of this Chapter shall be deemed a nonconforming use.

(7) Restoration of Nonconforming Building or Structure.

(a) A nonconforming building or structure which is damaged by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, may be restored and the occupancy or use of such building or structure or part thereof, which existed at the time of such partial destruction may be resumed; provided that the restoration is commenced within a period of one year and is diligently prosecuted to completion and verification of the nonconforming use has been obtained.

(b) The restoration or reconstruction of a nonconforming building or structure may not increase the floor area or create a greater nonconformance than existed at the time of damage or destruction.

(8) Conveyance of Nonconforming Use. Nothing in this Chapter shall be construed to limit the sale, transfer, other conveyance of property on which exists a nonconforming building, structure or use, so long as such sale, transfer or other conveyance does not otherwise violate the provisions of this Chapter.

(9) Restoration of Conforming Use on Nonconforming Lot. Nothing in this Chapter shall be construed to prevent the reconstruction or replacement of a preexisting building or structure conforming as to use on a nonconforming lot, so long as such lot did not become nonconforming in violation of the provisions of this Chapter.

(10) Repairs of a Nonconforming Use. Repairs of a nonconforming use may be permitted to continue the use in a reasonable manner subject to Director approval pursuant to LC 14.100 and consistent with the intent of ORS 215.130(5-8) and shall be evaluated pursuant to criteria expressed in LC 16.251(12) below.

(11) Alterations of a Nonconforming Use. Alterations of a nonconforming use may be permitted to continue the use in a reasonable manner subject to Director approval pursuant to LC 14.100 and consistent with the intent of ORS 215.130(9), and be evaluated pursuant to criteria expressed in LC 16.251(12) below. Alteration of any such use must be permitted when necessary to comply with any lawful requirement for alteration in the use.

(12) Criteria for Decision. When evaluating a proposal for increase, restoration, alteration or repair, the following criteria shall apply:

(a) The change in the use will be of no greater adverse impact to the neighborhood.

(b) The change in a structure or physical improvements will cause no greater adverse impact to the neighborhood.

(c) Other provisions of this Chapter, such as property development standards, are met.

(13) Conditions of Approval. In order to assure compatibility of the proposed development with the surrounding area, any of the following conditions may be imposed as conditions of approval:

(a) Special yards and spaces.

(b) Fences and walls.

(c) Special parking and/or loading provisions.

(d) Street dedication and improvements or bonds in lieu of improvements.

(e) Control of points of vehicular ingress and egress.

(f) Special provisions for signs.

(g) Landscaping and the maintenance of grounds.

(h) Control of noise, vibration, odors or other similar nuisances.

(i) Limitation of time for certain activities.

(j) A time period in which a proposed use shall be developed.

(k) A limit of total duration of use. *(Revised by Ordinance 7-87, Effective 6.17.87; 4-91, 5.17.91; 14-08, 11.5.14)*

PROCEDURES FOR ZONING, REZONING AND AMENDMENTS TO REQUIREMENTS RURAL COMPREHENSIVE PLAN

16.252 Procedures for Zoning, Rezoning and Amendments to Requirements.

(1) Purpose. As the Rural Comprehensive Plan for Lane County is implemented, changes in zone and other requirements of this chapter will be required. Such Amendments shall be made in accordance with the procedures of this section.

(2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners or the Hearings Official in accordance with the procedures in this section.

(3) Initiation/Application.

(a) By Planning Commission. The zoning of unzoned properties, the rezoning of properties and amendment of this chapter may be initiated by the Planning Commission upon its own motion or upon petition by the Planning Commission upon request of the Board as provided in LC 16.252(3)(b) below.

(b) By Board. The zoning of unzoned properties, the rezoning of properties and the amendment of this chapter may be initiated by the Board in the form of a request to the Planning Commission that it consider the proposed zoning, rezoning or amendment.

(c) By Applicant. Application for the zoning or rezoning of properties may be made by any person as provided in LC 14.050.

(4) Moratorium on Permits and Applications -- Legislative Matters.

(a) After any matter for zoning, rezoning or amendment to this chapter affecting particular property has received tentative action by the Board, but has not yet become final and effective, no Zoning, Land Division or Building Code Application or request shall be accepted, granted, issued or approved, except as herein provided.

(b) After such final action, granting of subsequent Applications or requests shall be in accordance with the requirements of the zoning classification or requirements as amended by the final action.

(c) The provisions of this subsection shall not be applicable to the issuance of Building, Plumbing Permits, or on-site sewage for normal repairs or corrections, nor shall the provisions apply when the proposed Application or request meets both the requirements of the existing zoning requirement and the proposed change or amendment, or to the approval of a final minor partition, a major partition map or subdivision plat.

(5) Planning Commission Public Hearing and Notice -- Legislative Matters.

(a) The Planning Commission shall hold not less than one public hearing on each proposed legislative zoning or rezoning and amendment to the requirements of this chapter.

(b) Notice of the time and place of hearing shall be given at least 10 days in advance by publication in a newspaper of general circulation in the County or in the territory concerned.

(c) The Planning Commission shall review the Application or proposal and shall receive pertinent evidence and testimony as to why or how the proposed change is inconsistent with the criteria provided in LC 16.252(2) above for zoning, rezoning and amendment to the requirements of this chapter. The Commission shall determine whether the testimony at the hearing supports a finding that the proposal does or does not meet the required criteria, and shall recommend to the Board accordingly that the proposal be adopted or rejected. The Planning Commission and Board may hold one concurrent hearing.

(6) Review Procedures. Applications for zoning or rezoning of specific properties shall be heard by the Hearings Official pursuant to LC 14.300.

(7) Action by the Board.

(a) Unless the Board and Planning Commission hold a concurrent hearing, upon receipt of an affirmative Planning Commission recommendation for legislative matters provided in LC 16.252(6) above, the Board shall schedule a public hearing as provided in LC 16.252(7)(b) below. The Board may schedule such a public hearing in the absence of an affirmative Planning Commission recommendation.

(b) Prior to taking any action which would alter or modify a Planning Commission recommendation or Hearings Official's Order, the Board may first refer the proposed alteration or modification to the Planning Commission or Hearings Official for a recommendation. Failure of the Commission or Hearings Official to report within 20 days after the referral, or such longer period as may be designated by the Board, shall be deemed to be approval of the proposed alteration or modification. It shall not be necessary for the Commission or Hearings Official to hold a public hearing on the proposed alteration or modification.

(8) Conditional Approval. The approving authority may impose reasonable conditions if the application is approved to be completed within one year.

(9) Official Zoning Map.

(a) The location and boundaries of the various zones established by this chapter shall be shown and delineated on maps covering portions of the County. These maps, upon their final adoption, shall be known as the Official Zoning Map.

(b) The Zoning Map shall be established by ordinance. Subsequent amendments to the Official Zoning Maps, either for establishing zoning for previously unzoned property or for rezoning may be made by Ordinance or Order of the Hearing Authority in accordance with the provisions of LC 16.014, LC 16.015, and this section.

(10) Error in Legal Description. Notwithstanding any other provision in this chapter, where the sole basis for a zoning or rezoning, whether initiated by Application, the Planning Commission or the Board, is an error in a legal description in the Ordinance or Order zoning or intended to zone the property, the zoning or rezoning shall be referred to the Planning Director for investigation and a report. After such investigation and report, the zoning or rezoning shall be considered in accordance with the procedures for

hearings provided in LC 16.252(5) and (6) above. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 5-08, 7.11.08; 6-10, 9.17.10)*

STREAM RIPARIAN REGULATIONS
RURAL COMPREHENSIVE/METRO PLAN

16.253 Riparian Regulations.

(1) Purpose. The purpose of the Riparian Regulations is to implement the Goal 5 Flora and Fauna policies and the Goal 6 Water Resources policies of the Lane County Rural Comprehensive Plan and the Goal 5 riparian policies of the Eugene-Springfield Metropolitan Area General Plan.

(2) Removal of Vegetation Within the Riparian Setback Area. The following standards shall apply to the maintenance, removal, destruction and replacement of indigenous vegetation within the riparian setback area along Class I streams designated for riparian vegetation protection by the Rural Comprehensive Plan. For purposes of LC 16.253(2)(b)(i) and (iii) below, Resource Zones shall be: LC 16.210 (F-1); LC 16.211 (F-2); LC 16.212 (EFU); LC 16.213 (NR); LC 16.214 (ML); LC 16.215 (PR); LC 16.216 (QM); LC 16.227 (IWC); and LC 16.232 (DR). For purposes of LC 16.253(2)(b)(i) and (iii) below, Nonresource Zones shall be: LC 16.219 (PF); LC 16.220 (C-1); LC 16.221 (C-2); LC 16.222 (C-3); LC 16.223 (C-R);LC 16.224 (M-1); LC 16.225 (M-2); LC 16.226 (M-3); LC 16.229 (RA); LC 16.230 (RG); LC 16.231 (RR); LC 16.290 (RR); LC 16.291 (RC); LC 16.292 (RI); LC 16.294 (RPF); and LC 16.295 (RPR).

(a) A minimum of seventy-five percent (75%) of the total area within the riparian setback area of any legal lot shall remain in an unaltered, indigenous state except as provided in LC 16.253(2)(b)(i) and LC 16.253(5)(b) below; and

(b) Removal of existing vegetation from within the riparian setback area of any legal lot shall not exceed the shoreline linear frontage and square footage limitations calculated as follows:

(i) The maximum allowable removal for any legal lot having frontage of 200 feet or less in length along a Class I stream shall not exceed 50 linear feet along the shoreline and an area not greater than 2,500 square feet within the riparian setback area of a Nonresource Zone, or 5,000 square feet within the riparian setback area of a Resource Zone.

(ii) The maximum allowable removal for any legal lot having frontage of more than 200 feet but less than 400 feet in length along a Class I stream shall not exceed 25 percent of the total linear footage along the shoreline, and an area not greater than 25 percent of the total square footage of the entire area within the riparian setback area.

(iii) The maximum allowable removal for any legal lot having frontage 400 feet or greater in length along a Class I stream shall not exceed 100 linear feet along the shoreline of the Class I stream and an area not greater than 5,000 square feet within the riparian setback area of a Nonresource Zone, or 10,000 square feet within the riparian setback area of a Resource Zone. Removal of indigenous vegetation from within the riparian setback area in excess of 100 linear feet and the square footage of the applicable zone designation, to provide water access for a water-dependent use or to allow selective thinning of indigenous vegetation to provide viewscapes, may occur subject to compliance with LC 16.253(5)(a)(i) below, prior to removal.

(iv) Removal of vegetation from within the riparian setback area in excess of LC 16.253(2)(a) and (b) above, to allow riparian enhancement projects designed to improve or diversify habitat of designated areas within the riparian setback area may occur subject to compliance with LC 16.253(5)(b) below, prior to removal.

(c) Compliance. Removal of vegetation from within the riparian setback area in excess of the removal provisions in LC 16.253(2)(a) or (b) above, without prior

Planning Director approval shall require compliance with the provisions of LC 16.253(4) and LC 16.253(5)(c) below, and may be subject to other remedies available to Lane County for violation of the standards in LC 16.253(2) above.

(d) Exceptions. The following uses and activities are excepted from the riparian setback area removal standards of LC 16.253(2) above and (3) below.

(i) Commercial forest practices regulated by the Oregon Forest Practices Act.

(ii) Removal of dead or diseased vegetation that poses a safety or health hazard, excluding removal of root wads.

(iii) Removal of vegetation necessary for the maintenance or placement of structural shoreline stabilization.

(iv) Normal and accepted farming practices other than buildings or structures occurring on land zoned for exclusive farm use.

(v) Riparian enhancement projects replanted with indigenous vegetation approved by the Soil and Water Conservation District (SWCD) after consultation with the Oregon Department of Fish and Wildlife.

(vi) In areas that are regulated for aquatic species by the federal Endangered Species Act, construction, maintenance, preservation, repair and replacement of road and ancillary facilities, including bridges, culverts, drainage improvements, embankments, retaining walls, revetments, rip-rap and other slope stabilization structures, conducted under the jurisdiction of Lane County, the Oregon Department of Transportation, or Federal Transportation Authorities, when such activity is a public improvement project within a public right-of-way, or within an area being used for the public improvement project including access easements, areas used for construction staging, areas for storage of materials and temporary detours, and further provided that such work is conducted in compliance with the following:

(aa) In the absence of Routine Road Maintenance Best Management Practices (BMP's) pursuant to Section 4(d) of the Endangered Species Act for Limit 10 of take prohibition specifically developed and recognized by the National Oceanic and Atmospheric Administration (NOAA) Fisheries for Lane County, routine road maintenance is conducted in accordance with the Oregon Department of Transportation (ODOT) Routine Road Maintenance Water Quality and Habitat Guide Best Management Practices (BMP's) as published in the Federal Register; or

(bb) Road work other than routine maintenance is conducted in accordance with the Reasonable and Prudent Measures (RPM's) prescribed in the current "Programmatic Biological Opinion and Magnuson - Stevens Act Essential Fish Habitat Consultation for Standard Local Operating Procedures for Endangered Species (SLOPES) for Certain Regulatory and Operational Activities Carried out by the Department of the Army Permits in Oregon;" or

(cc) The road work is conducted in compliance with the requirements described in a site specific Biological Opinion of the National Marine Fisheries Service; or

(dd) Such work is conducted in compliance with other final rules published in the Federal Register, consultation decision or conference decision by the National Marine Fisheries Service, the United States Fish and Wildlife Service, or a successor agency pursuant to the Endangered Species Act.

(3) Modifications. A modification to the applicable riparian setback standard for a structure may be allowed provided the Oregon Department of Fish and Wildlife (hereafter ODF&W) is consulted by the Planning Director at least 10 working days prior to the initial permit decision and an application for a modification to the setback standard has been submitted pursuant to LC 14.050 and approved by the Planning Director pursuant to the requirements of LC 14.100 with findings of compliance addressing the following criteria:

(a) The location of a structure within the riparian setback area shall not result in the removal or the alteration of vegetation within the riparian setback area in excess of the standards of LC 16.253(2) above. For purposes of LC 16.253, altered means to eliminate, significantly reduce or interrupt the natural growth cycle of indigenous vegetation by removal or destruction of the vegetation caused by a person; and

(b) The riparian vegetation does not actually extend all the way into the riparian setback area to the location of the proposed structure. This determination shall include consideration of any evidence of riparian vegetation existing prior to any removal of indigenous vegetation before or during the application review period; or

(c) It can be demonstrated that an unduly restrictive burden would be placed on the property owner if the structure was not allowed to be located within the riparian setback area.

(4) Restoration of Indigenous Vegetation Within the Riparian Setback Area. Any removal or destruction of indigenous vegetation within the riparian setback area in excess of the provisions of LC 16.253(2) without an approved Riparian Setback Area Alteration Plan shall require an application for a Preliminary Investigation pursuant to LC 16.253(4)(a)-(c) below. Potential impacts identified in LC 16.253(4)(a) below, shall be addressed and/or mitigated through the review, approval and implementation of a Riparian Setback Area Restoration Plan pursuant to LC 16.253(5)(c) below.

(a) Preliminary Investigation. A Preliminary Investigation will provide a basis for identifying the area(s) of vegetation removal, alteration or destruction and the potential impacts of the removal in excess of the standards of LC 16.253(2) above. For the purposes of LC 16.253(2) and (4) above, potential adverse impacts shall include the removal or destruction of vegetation in whole or part, which is detrimental to the functions identified in LC 16.253(4)(a)(i)-(iv) below. This investigation shall identify the approval criteria which must be addressed by the property owner in the Riparian Setback Area Restoration Plan pursuant to LC 16.253(5)(c) below and shall include identification of the removed, altered or destroyed indigenous vegetation in excess of the standards of LC 16.253(2)(a) and (b) above, serving one or more of the following functions:

(i) Shading of Class I streams.

(ii) Stabilization of a stream bank or shoreline.

(iii) Habitat for sensitive aquatic or terrestrial wildlife species.

(iv) Habitat for rare, endangered or threatened species.

(b) Notification of Preliminary Investigation Determination. The planning Director shall notify the applicant of the determination of the Preliminary Investigation by certified mail within 10 days of completion of the Preliminary Investigation. The notification shall include a map at the appropriate scale detailing the portions of the parcel or parcels subject to the requirements of the riparian setback area, the area of removal in excess of the standard in LC 16.253(2) above, and shall set forth the determination of the potential adverse impacts identified in LC 16.253(4)(a) above.

(c) Fees for a Preliminary Investigation. To partly defray the expense in performing the Preliminary Investigation, a fee shall be charged the applicant. Such fees shall be as established by order of the Board of County Commissioners.

(5) Riparian Setback Area Alteration Plan Submittal. An application for approval of a Riparian Setback Area Alteration Plan as required by LC 16.253(2)(b) or (c) above, shall be submitted pursuant to one of the following applicable classifications and procedures.

(a) Riparian Setback Area Development Plan. The person proposing the development or removal in excess of the linear and square footage standard of LC 16.253(2)(b)(iii) above, shall submit a Riparian Setback Area Development Plan to the Planning Director pursuant to LC 14.050, which sufficiently identifies the location, nature and scope of the proposed development or removal of vegetation in excess of the provisions of LC 16.253(2)(b)(iii) above, prior to removal. The Riparian Setback Area

Development Plan shall establish compliance with LC 16.253(2)(a) above and the following approval criteria:

(i) Vegetation removal or thinning in excess of the standard of LC 16.253(2)(b)(iii) above, shall be limited in scope to accommodate the approved Riparian Setback Area Development Plan only and shall be subject to conditions of approval set by the Planning Director in accordance with LC 16.253(5)(g) below;

(ii) The proposed development or removal shall not have a substantial adverse impact on significant wildlife habitat;

(iii) The proposed development or removal shall not have a substantial adverse impact on stream bank or shoreline stabilization; and

(iv) The removal or alteration of indigenous vegetation from within the riparian setback area of a legal lot shall not exceed 25 percent of the total square footage of the entire riparian setback area and 25 percent of the total linear footage along the shoreline of a Class I stream.

(b) Riparian Setback Area Enhancement Plan. The person proposing the removal of vegetation from within the riparian setback area in excess of LC 16.253(2)(a) and (b) above, to enhance the riparian setback area by replanting with indigenous vegetation, shall submit a Riparian Setback Area Enhancement Plan to the Planning Director pursuant to LC 14.050, which sufficiently identifies the location, nature and scope of the proposed enhancement of indigenous vegetation within the riparian setback area. The Riparian Setback Area Enhancement plan shall establish compliance with the following approval criteria:

(i) Vegetation removal or thinning in excess of LC 16.253(2)(a) and (b) above shall be limited in scope to accommodate the approved Riparian Setback Area Enhancement Plan only and shall be subject to conditions of approval set by the Planning Director in accordance with LC 16.253(5)(g) below;

(ii) The proposed alteration and enhancement activities shall provide for the diversification of the indigenous vegetation; and

(iii) The proposed alteration and enhancement activities shall maintain stream bank and shoreline stability.

(c) Riparian Setback Area Restoration Plan. Where required by the Preliminary Investigation, the property owner and the person responsible for removal or destruction of vegetation from within the riparian setback area in excess of the provisions of LC 16.253(2) above shall submit a Riparian Setback Area Restoration Plan to the Planning Director pursuant to LC 14.050, which includes a complete inventory of the previously existing indigenous vegetation which was removed or destroyed. The vegetation inventory shall identify previous plant community locations and the maturity and densities of the previously existing plant species. The submitted Riparian Setback Area Restoration Plan shall provide a recovery and restoration planting schedule to include successional plantings, seasonal maintenance, and other management activities that provide for the recovery of the removed or destroyed indigenous vegetation. An approved Riparian Setback Area Restoration Plan shall establish compliance with the following criteria and shall be subject to conditions of approval set by the Planning Director in accordance with LC 16.253(5)(g), below:

(i) Restoration of the riparian setback area shall comply with the indigenous vegetation maintenance, removal and replacement standards established in LC 16.253(2)(b) above;

(ii) Mitigation of adversely impacted significant wildlife habitat identified in the Preliminary Investigation required Pursuant to LC 16.253(4)(a), above; and

(iii) Mitigation of adversely impacted stream bank or shoreline stabilization identified in the Preliminary Investigation required pursuant to LC 16.253(4)(a) above.

(d) Riparian Setback Area Plan Receipt and Referral. Upon receipt and acceptance of the applicable Riparian Setback Area Alteration Plan described in LC 16.253(5)(a), (b) or (c) above, the Planning Director shall refer a copy of the Riparian Setback Area Alteration Plan to the ODF&W for review.

(e) ODF&W Review. Within 10 working days of submittal of the Riparian Setback Alteration Plan to the Planning Director as required in LC 16.253(5)(d) above, the property owner shall provide evidence of consultation with ODF&W. Review of the Riparian Setback Area Alteration Plan and any recommendations by ODF&W to the Planning Director shall be consistent with the provisions of OAR 635-405 (May 1991) and OAR 635-415 (November 1991). Any recommendation from ODF&W addressing the proposed Riparian Setback Area Alteration Plan shall be in writing.

(f) Director Action. The Director may approve the Riparian Setback Area Alteration Plan if there are adequate findings of fact supporting compliance with LC 16.253(2) above and the applicable approval criteria for the proposed Riparian Setback Area Alteration Plan. The Director may impose conditions of approval to assure continued compliance with the applicable criteria. Notice of the written decision shall be provided pursuant to LC 14.100.

(g) Conditions of Approval. Reasonable conditions may be placed upon the approval of a Riparian Setback Area Alteration Plan to mitigate impacts and to assure continued compliance with the protection standards as set forth in the Riparian Setback Area Alteration Plan approved under LC 16.253(5)(f) above. Vegetation removed or destroyed in excess of LC 16.253(2) above shall be replaced or restored and maintained within the next replanting season following the removal or alternation. Required subsequent maintenance and successional plantings shall be identified in the Riparian Setback Area Alteration Plan approved by the Planning Director. Conditions may include but are not limited to the following:

(i) The property owner may be required to enter into a performance agreement to pay all costs associated with implementing the Riparian Setback Area Alteration Plan.

(ii) The Planning Director may require the property owner to record notice of the requirements of the Riparian Setback Area Alteration Plan and performance agreements in the Lane County Deed Records.

(iii) All restored or replaced vegetation plantings within the riparian setback area shall be of an indigenous species as identified in the list of indigenous plant species associated with riparian areas adopted by Board Order and incorporated in Lane Manual.

(6) Metro Area Riparian Setback Regulations. For property located west of Interstate 5 between the Eugene-Springfield Metropolitan Area General Plan Boundary and the Eugene Urban Growth Boundary and east of Interstate 5, outside the Springfield Urban Growth Boundary but within the area previously covered under the Eugene-Springfield Metropolitan Area General Plan prior to the enactment of Ordinance No. PA 1281, the following riparian setback regulations shall apply:

(a) Setback Area. The riparian setback area shall be as follows:

(i) Along all streams with average annual stream flow greater than 1,000 cubic feet per second (cfs), as designated for riparian vegetation protections by the Eugene-Springfield Metropolitan Area General Plan on January 1, 2012, the riparian corridor boundary shall be 75 feet upland from the top of each bank.

(ii) Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cfs, as designated for riparian vegetation protection by the Eugene-Springfield Metropolitan Area General Plan on January 1, 2012, the riparian corridor boundary shall be 50 feet from the top of bank.

(iii) In areas where the top of each bank is not clearly defined, or where the predominant terrain consists of steep cliffs, the provisions of OAR 660-023-0030 shall apply, rather than the provisions of this section.

(b) Removal of Vegetation Within the Riparian Setback Area. The standards of LC 16.253(2) above, shall apply to the maintenance, removal, destruction and replacement of indigenous vegetation within the riparian setback area along streams designated for riparian vegetation protection by the Eugene–Springfield Metropolitan Area General Plan on January 1, 2012. The permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces is prohibited, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:

(i) Streets, roads, and paths;

(ii) Drainage facilities, utilities, and irrigation pumps;

(iii) Water-related and water-dependent uses; and

(iv) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.

(c) Compliance. Removal of vegetation from within the riparian setback area in excess of the removal provisions in LC 16.253(6)(b) above, without prior Planning Director approval, shall require compliance with the provisions of LC 16.253(4) and LC 16.253(5)(c) above, and may be subject to other remedies available to Lane County for violation of the standards in LC 16.253(6) above.

(d) Exceptions. The following uses and activities are excepted from the riparian setback area removal standards of LC 16.253(6)(b) above.

(i) Commercial forest practices regulated by the Oregon Forest Practices Act.

(ii) Removal of dead or diseased vegetation that poses a safety or health hazard, excluding removal of root wads.

(iii) Removal of vegetation necessary for the maintenance or placement of structural shoreline stabilization.

(iv) Normal and accepted farming practices other than buildings or structures occurring on land zoned for exclusive farm use.

(v) Riparian enhancement projects replanted with indigenous vegetation approved by the Soil and Water Conservation District (SWCD) after consultation with the Oregon Department of Fish and Wildlife.

(vi) Removal of non-native vegetation and replacement with native plant species;

(vii) Removal of vegetation necessary for the development of water-related or water-dependent uses.

(ix) Permanent alteration of the riparian area by the placement of structures or impervious surfaces upon a demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor.

(e) Modifications. A modification to the applicable riparian setback standard in LC 16.253(6)(a) for a structure may be allowed provided the ODFW is consulted by the Planning Director at least 10 working days prior to the initial permit decision and an application for a modification to the setback standard has been submitted pursuant to LC 14.050 and approved by the Planning Director pursuant to the requirements of LC 14.100 with findings of compliance addressing the following criteria:

(i) It can be demonstrated that the property was incorrectly identified as meeting the criteria of LC 16.253(6)(a)(i)&(ii), above.

(ii) It can be demonstrated that the lot or parcel has been rendered not developable for the primary use allowed in the base zone, by application of the

riparian setback standards of LC 16.253(6)(a) to a lot or parcel that was lawfully created prior to the adoption of LC 16.253(6)(a). Approval of development under this provision must meet the following standards:

(aa) Due to topography, parcel size or configuration, or significant resource limitations, all options for development outside of the setback area are physically impracticable.

(bb) All development shall be located to the greatest degree practicable outside of the riparian setback area. The request shall be the minimum necessary to render the property developable.

(cc) The modification is not the result of a self–created hardship. After the date of adoption of LC 16.253(6), the reconfiguration of a lot or parcel as a result of a lot or property line adjustment, in whole or part within the riparian setback area, shall be determined to be a self–created hardship by the creator and subsequent property owners.

(dd) Mitigation measures shall be taken to minimize to the greatest degree practicable any impact to habitat units or habitat values of the setback area by development actions in the setback area.

(ee) Permanent alteration of the riparian area by placement of structures or impervious surfaces within the riparian corridor boundary may be authorized upon demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor. *(Revised by Ordinance No. 10-92, Effective 11.12.92; 5-96, 11.29.96; 1-97, 4.4.97; 10-04, 6.4.04; 5-04, 7.1.04; 2-12, 7.4.13)*

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