

**MARGINAL LANDS ZONE (ML-RCP)**  
**RURAL COMPREHENSIVE PLAN**

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**16.214 Marginal Lands Zone (ML-RCP)**

(1) Purpose

The purpose of the Marginal Lands Zone (ML) is to provide an alternative to more restrictive farm and forest zoning; provide opportunities for persons to live in a rural environment and to conduct farm or forest operations. The ML Zone is applied to specific properties consistent with the requirements of ORS 197.005 to 197.430 and the policies of Lane County Rural Comprehensive Plan.

(2) Use Table

Table of Permitted Uses

Table 16.214-1 sets forth the uses allowed subject to Type I, II, or III approval procedures in the marginal lands districts. 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 review, unless otherwise specified on Table 16.214-1. All uses and their accessory buildings are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in LC 16.214.

As used in Table 16.214-1:

- (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 (4).
- (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 ordinance.
  - (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 16.214 to which the use is subject. All uses and development are subject to the development standard provisions of LC 16.214(7)

<b>Table 16.214-1: Use Table for ML Zones</b> <b>I = Type I II = Type II III = Type III</b> <b>P = Permitted Outright AL = Assembly License</b>				
	Use	Use Type	Local Procedure Type	Subject to
<b>1.</b>	<b>Farm, Forest, and Natural Resource Uses</b>			
1.1.	<del>Intensive farm or forest operations, including but not limited to "farm use" as defined in LC 16.090</del>	A	P	
1.2.	Propagation or harvesting of a forest product	A	P	
<del>1.3.</del>	<del>Part-time farms</del>	<del>A</del>	<del>P</del>	
<del>1.4.</del>	<del>Woodlots</del>	<del>A</del>	<del>P</del>	
<del>4.3-1.5</del>	Nonresidential buildings customarily provided in conjunction with farm use	A	I	
<del>4.4-1.6</del>	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 within a calendar year	A	II	(3)(b)
<del>4.5-1.7</del>	A facility for the primary processing of forest products	C	II	(3)(c), (4)
<del>4.6-1.8</del>	Marijuana production	A	I	LC 16.420
<del>4.7-1.9</del>	Marijuana wholesale distribution	A	I	LC 16.420
<del>4.8-1.1</del>	Marijuana research	A	I	LC 16.420
<b>2.</b>	<b>Residential Uses</b>			
2.1.	Dwelling on a vacant lot or parcel created before July 1, 1983	A	P	(3)(a), (3)(o)
2.2.	Dwelling on a vacant lot or parcel created pursuant to LC 16.214(6)	A	P	(3)(o)
2.3.	Temporary hardship dwelling	A	P	(3)(o), (3)(p)

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
<b>3.</b>	<b>Commercial Uses</b>			
3.1.	In-home commercial activity (Minor Home Occupation)	A	I	(3)(e)
3.2.	Home occupation	C	II	(3)(d), (4)
3.3.	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	(4)
3.4.	Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under Use 1.4, but excluding activities in conjunction with a marijuana crop	C	II	(4)
3.5.	Marijuana processing	C	II	LC 16.420, (3)(b), (4)
<b>4.</b>	<b>Mineral, Aggregate, Oil and Gas Uses</b>			
4.1.	Operations for the exploration of geothermal resources as defined by ORS 522.005	A	I	
4.2.	Operations for the exploration for minerals as defined by ORS 517.750	A	I	
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	III	(4)
4.4.	Operations for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources	C	III	(3)(g), (4)
4.5.	Processing as defined by ORS 517.750 of aggregate into asphalt or Portland cement	C	III	(3)(f), (4)

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	Use	Use Type	Local Procedure Type	Subject to
4.6.	Processing of other mineral resources and other subsurface resources	C	III	(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	I	
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	I	
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	I	
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	I	
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	I	
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	I	

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5.7.	Changes in the frequency of transit, rail and airport services	A	I	
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	(4)
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	(4)
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	(4)
5.11.	Transportation improvements on rural lands allowed by and subject to the requirements of OAR 660-012-0065	C	II	(3)(h), (4)
5.12.	Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities	C	III	(3)(i), (4)
<b>6.</b>	<b>Utility/Solid Waste Disposal Facilities</b>			
6.1.	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	I	(3)(j)
6.2.	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	(5), (4)

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</b>
6.3.	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	C	II	(4)
6.4.	Changeout to an existing telecommunication tower	A	I	(8)
6.5.	Collocation to an existing telecommunication tower: Spectrum Act exemption eligible	A	I	FCC 14-153
6.6.	Collocation to an existing telecommunication tower	C	II	(8)
6.7.	New telecommunications tower or replacement tower	C	III	(4), (8)
<b>7.</b>	<b>Parks/Public/Quasi-public Uses</b>			
7.1.	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	(3)(q), (4)
7.2.	Public parks, public playgrounds, and public campgrounds	C	II	(3)(k), (3)(q), (4)
7.3.	Churches and cemeteries in conjunction with churches	A	II	(3)(q)
7.4.	Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school	C	II	(3)(q), (4)
7.5.	Private parks, private playgrounds, and private campgrounds	C	II	(3)(l), (3)(q), (4)
7.6.	Golf courses	C	II	(3)(m), (3)(q), (4)
<b>8.</b>	<b>Outdoor Gatherings</b>			

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	<b>Use</b>	<b>Use Type</b>	<b>Local Procedure Type</b>	<b>Subject to</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 433.750
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)(n)
<b>9.</b>	<b>Accessory Uses</b>			
9.1.	Uses and buildings accessory to existing uses and development permitted by LC 16.214.	A	P	
9.2.	Guest house and conversion of lawfully existing dwelling into a guest house.	A	P	(3)(r)

(3) Use Standards

- (a) A dwelling or mobile home on a vacant legal lot created before July 1, 1983. If the legal lot is located within the Willamette Greenway, a flood plain area or a geological hazard area, approval of the mobile home or dwelling is subject to the provisions of Lane Code relating to the Willamette Greenway, floodplain or geological hazards, whichever is applicable.
- (b) 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 facility or establishment is located must provide at least one-quarter of the farm crops processed at the facility.
  - (ii) 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.
  - (iii) 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.
  - (iv) A county may not approve any division of a lot or parcel or a property line adjustment that separates a processing facility or establishment from the farm operation on which it is located.
- (c) 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.
- (d) 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 ML Zone;
  - (iv) Not unreasonably interfere with other uses permitted in the zone in which the property is located;

- (v) Comply with sanitation and building code requirements prior to start of Home Occupations; and
  - (vi) Not be used as justification for a zone change.
- (e) An in-home commercial activity must comply with the following requirements:
- (i) Meets the criteria under (3)(d)(i), (ii), (iii), (v), and (vi);
  - (ii) Is operated by no more than five employees, who all reside in the dwelling;
  - (iii) Does not occupy more than 25% of the combined floor area of the dwelling or accessory structure, including attached garage and one accessory structure;
  - (iv) Does not serve clients or customers on-site;
  - (v) Does not include the on-site advertisement, display or sale of stock in trade, other than vehicle or trailer signage; and
  - (vi) Does not include the outside storage of materials, equipment; or products.
- (f) 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.
- (g) 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 martial 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.
- (h) 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.
- (i) 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.
- (j) 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 marginal lands 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 an marginal lands zone due to one or more of the following factors:
      - (i) Technical and engineering feasibility;

- (ii) The proposed facility is locationally-dependent. A utility facility is locationally-dependent if it must cross land in one or more areas zoned for marginal land in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
  - (iii) Lack of available urban and nonresource lands;
  - (iv) Availability of existing rights of way;
  - (v) Public health and safety; and
  - (vi) Other requirements of state and federal agencies.
- (bb) Costs associated with any of the factors listed in Subsection (aa) 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 Subsection (i) 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 the ML Zone or other statute or rule when project construction is complete. Off-site facilities allowed under this Subsection are subject to Section (4) 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 shall have no effect on the original approval.
  - (ff) In addition to the provisions of Subsection (3)(j)(i)(aa) through (dd), the establishment or extension of a sewer system as defined by OAR 660-011-0060(1)(f) shall be subject to the provisions of 660-011-0060.
  - (gg) In addition to the requirements in LC 16.214(3)(j)(i)(aa) through (ff) above, a utility facility that is a telecommunication facility shall comply with LC 16.264;
  - (hh) In addition to the requirements in LC 16.214(3)(j)(i)(aa) through (gg) above, a utility facility that is a transmission line, as defined by ORS 215.276(1)(b), to be located on high value farmland shall comply with the requirements of ORS 215.276; and
  - (ii) The provisions of Subsection (i) do not apply to interstate natural gas pipelines and associated facilities authorized by and subject to regulation by the Federal Energy Regulatory Commission.
- (ii) An associated transmission line is necessary for public service upon demonstration that the associated transmission line meets either the following requirements of Subsection (aa) or Subsection (bb) of this Subsection.
- (aa) An applicant demonstrates that the entire route of the associated transmission line meets at least one of the following requirements:

- (i) The associated transmission line is not located on high-value farmland, as defined in ORS 195.300, or on arable land;
  - (ii) The associated transmission line is co-located with an existing transmission line;
  - (iii) The associated transmission line parallels an existing transmission line corridor with the minimum separation necessary for safety; or
  - (iv) 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 (3)(j)(ii)(cc) and (dd), two or more of the following criteria:
- (i) Technical and engineering feasibility;
  - (ii) 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;
  - (iii) 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;
  - (iv) Public health and safety; or
  - (v) Other requirements of state or federal agencies.

- (cc) As pertains to Subsection (bb), the applicant shall demonstrate how the applicant 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 (3)(j)(ii)(bb) above, but consideration of cost may not be the only consideration in determining whether the associated transmission line is necessary for public service.
- (k) Public parks include:
- (i) Only uses specified under OAR 660-034-0035; and
  - (ii) May be established consistently with ORS 195.120
- (l) 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. 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. Campgrounds shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. 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.
  - (ii) 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 (iii).

- (iii) 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.
- (m) 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.
- (n) 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.
- (o) 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.
- (p) A temporary hardship dwelling is subject to the following:
- (i) One manufactured dwelling, ~~or 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 ~~manufactured dwelling or recreational vehicle~~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 ~~manufactured home or recreational vehicle~~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 ~~manufactured homes or recreational vehicles~~hardship dwelling every two years; and

- (cc) Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished. or, convertedIn the case of an existing building, the building must be removed, demolished, or returned to an allowed nonresidential use.
- (ii) As used in this Section “hardship” means a medical hardship or hardship for the care of an aged or infirm person or persons.
- (q) Three-mile setback. For uses subject to this Section:
- (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 (i) within a tract must be separated by at least one-half mile. For purposes of this section, “tract” means a tract that is in existence as of June 17, 2010.
- (iii) Existing facilities wholly within the marginal lands zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structure within the marginal lands zone may not be expanded beyond the requirements of (3)(q).
- (r) Guest house or conversion of a lawfully established dwelling into a guest house.
- (i) A guest house must be accessory to a lawfully existing dwelling. It is a structure that contains area for residential use or occupancy that includes a toilet or bathroom and complies with these requirements:
- (aa) The total floor area of the structure, or residential portion of a structure utilized for a guest house, is limited to a maximum of 850 square feet;

- (bb) The structure must be located within 150 feet of the lawfully existing dwelling;
  - (cc) The structure does not contain a kitchen or cooking facilities;
  - (dd) The structure is located on a lot or parcel that has at least one but no more than one lawfully existing dwelling on it;
  - (ee) Besides one lawfully existing dwelling, the structure can only be located on a lot or parcel that does not have any other structures used for residential habitation, including temporary medical hardship dwellings, existing guest houses, or secondary dwellings;
  - (ff) Sewage disposal for the structure is connected to the same onsite sewage disposal system, or community or public sewer connection, and the same electrical meter as the lawfully existing dwelling on the same lot or parcel;
  - (gg) Sinks will be limited to single basin and may only be located in rooms containing a toilet or a clothes washing machine;
  - (hh) The structure must use the same driveway for access as the lawfully existing dwelling;
  - (ii) The structure cannot have an address;
  - (jj) The structure cannot be rented separately from the lawfully existing dwelling; and
  - (kk) The property owner must sign a covenant with the Lane County Clerk disclosing that a kitchen sink or cooking facilities cannot be placed in the guest house and that it is an accessory residential use that cannot be separated from the remainder of the parcel that contains the dwelling and may not be rented on either a temporary or long term basis.
- (ii) The conversion of a lawfully existing dwelling into a guest house must comply with the following:
- (aa) The dwelling for the conversion must be a lawful dwelling existing on the date of the adoption of this requirement;

- (bb) The kitchen sink and cooking facilities must be removed from the existing dwelling and not replaced. When, the kitchen sink is removed, the plumbing must be capped-off at the wall, and the kitchen sink cannot be replaced. When the cooking facilities are removed, the power source must be removed. Any 220 circuits used for the cooking facilities must be disconnected at the circuit box and approval of any required electrical permits for the disconnection must be obtained, and the electrical circuit and cooking facilities cannot be replaced. Except for a bathroom and/or a laundry sink, a sink or cooking facilities cannot be located elsewhere in the guest house structure;
  - (cc) The address must be removed from the guesthouse and not replaced;
  - (dd) The property owner must sign a covenant with the Lane County Clerk disclosing that a kitchen sink or cooking facilities cannot be placed in the guest house and that it is an accessory residential use that cannot be separated from the remainder of the parcel that contains the dwelling and may not be rented on either a temporary or long term basis.
- (iii) As used in section (3)(r) above:
- (aa) Kitchen. A room where food is prepared and cooked using cooking facilities.
  - (bb) Cooking Facilities. Facilities used or designed to be used for cooking or preparation of food, including any stove, oven, hotplate, microwave oven or electric griddle, as well as any wiring or piping containing energy or power source for such facilities.

#### (4) Conditional Use Review Criteria

An applicant for a Conditional Use permitted in Table 16.214-1 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.
- (c) The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this Chapter and the following general criteria:
  - (i) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
  - (ii) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;
  - (iii) The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and
  - (iv) The use is or can be made compatible with existing uses and other allowable uses in the area.

#### (5) Commercial Facilities for Generating Power

- (a) Permanent features of a power generation facility shall not preclude more than:
  - (i) 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
  - (ii) 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.
- (b) 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 an allowed use under OAR 660-033-0130(19) 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 660-033-0130(5) and shall have no effect on the original approval.

- (c) 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.

#### (6) Land Divisions

Land in a Marginal Land zone may be divided as follows:

- (a) Into lots or parcels containing at least 10 acres if the lots or parcels are not adjacent to land zoned Exclusive Farm Use (E), Nonimpacted Forest Land (F- 1), Impacted Forest Land (F-2), or if it is adjacent to such land, the land qualifies for designation as marginal land pursuant to ORS Chapter 197.
- (b) Into lots or parcels containing 20 acres or more if the lots or parcels are adjacent to land zoned Exclusive Farm Use (E), Nonimpacted Forest Land (F-1) or Impacted Forest Land (F-2), and that land does not qualify as marginal land pursuant to ORS Chapter 197.
- (c) A parcel of any size necessary to accommodate any of the nonresidential uses listed below:
  - (i) Use 6.1. 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.
  - (ii) Use 6.2. 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.
  - (iii) Use 6.3. 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.
  - (iv) Use 7.1. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
  - (v) Use 7.3. Churches and cemeteries in conjunction with churches.

- (vi) Use 7.4. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school.
- (vii) Use 7.5. Private parks, playgrounds, and campgrounds.

#### (7) Development Standards

All uses or activities permitted or conditionally permitted in this Chapter shall be subject to the following development standards.

- (a) Property Line Setbacks. No structure other than a fence or sign shall 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; and
  - (ii) 10 feet from all other property lines except as provided below.
- (b) 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) Signs.
  - (i) Signs cannot extend over a public right-of-way or project beyond the property line.
  - (ii) Signs cannot be flashing, blinking, contain scrolling images, or capable of movement.
  - (iii) Signs are limited to 200 square feet in area.
- (d) Parking. Off street parking shall be provided in accordance with LC 16.250.

#### (8) Telecommunication Facilities.

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

