

**REPORT OF SOURCE DOCUMENTS, DECISIONS,
AND RATIONALE TO SUPPORT ORDINANCE NO. 6-10
LEGISLATIVE AND HOUSEKEEPING AMENDMENTS TO LANE CODE**

This report provides additional detailed information on each of the text amendments included in the Ordinance. It is organized by code chapter, provides the intent behind each amendment and on the housekeeping amendments presents the rationale behind the change and on the legislative amendments provides the source year and ORS reference for the amendment.

**Proposed amendments to the text: Deletions of the text indicated with ~~strikethrough~~.
 Additions to the text indicated with **bold underlined**.**

LANE CODE CHAPTER 13 LAND DIVISIONS

Lane Code 13.010(4) – Housekeeping Correction

Intent: Corrects erroneous reference in the cluster subdivision definition to RCP Policy 23.

Rationale: Existing language contains an erroneous reference that was the result of Ordinance PA 1172, which renumbered RCP Goal 2 policies.

Proposed amendment:

13.010(4):

Cluster Subdivision. A subdivision for which the applicable zoning district allows relaxed lot area, coverage and setback requirements and alternative types of dwellings as specified in LC Chapters 10 and 16. Consistency with the cluster subdivision Policy #2423 set forth under Goal 2, Land Use Planning of the Lane County General Plan Policies is also required by LC Chapter 16.

LANE CODE CHAPTER 14 APPLICATION REVIEW AND APPEAL PROCEDURES

Lane Code 14.015 – Legislative: Definition of “Land Use Decision”

Intent: Adds to the definitions of what a “land use decision” and “limited land use decision” are, and are not.

Source: House Bill 3025 (2007), Amended ORS 197.015 - Definitions

Proposed amendment:

Land Use Decision.

(1) A final decision or determination made by a Lane County **Approval Authority** that concerns the adoption, amendment or application of

(a) The Goals;

- (b) A comprehensive plan provision;
- (c) A land use regulation; or
- (d) A new land use regulation.

(2) A land use decision does not include a decision made by a Lane County **Approval Authority**:

- (a) ~~Which That~~ is made under land use standards which do not require interpretation or the exercise of policy or legal judgment;
- (b) ~~Which That~~ approves or denies a building permit issued under clear and objective land use standards;
- (c) ~~Which That~~ is a limited land use decision;
- (d) ~~Which That~~ 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;
- (e) ~~Which That~~ is an expedited land division as described in ORS 197.360; ~~or~~
- (f) That approves, pursuant to ORS 480-.450(7), the siting, installation, maintenance or removal of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshall under ORS 480.410 to 480.460; or**
- (g) That 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; or**
- (h) That authorizes an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and**
- ~~(i) A~~ land use approval in response to a writ of mandamus.

Limited Land Use Decision.

(1) **Means A** a final decision or determination made by a Lane County Approval Authority, as defined in LC 14.015, pertaining to a site within an urban growth boundary and which concerns:

(+) **(a)** The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

~~(2)-(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 pursuant to the Site Review Procedures of LC 10.335.

(2) Does not mean a final decision made by a Lane County Approval Authority, as defined in LC 14.015, 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.

Lane Code 14.050(3) – Legislative: Application Acceptance Requirements

Intent: Clarify the requirements relating to receipt of an application and adds criteria for determining when an application to LMD for a discretionary permit or zone change is deemed complete for purposes of the statutory time limit for action.

Source: Senate Bill 311(2007), Amended ORS 215.427 - **Final action on permit or zone change application required within 120 or 150 days;**

Proposed amendment:

14.050 Application Requirements, Acceptance and Investigation.

(1) Contents. Applications subject to any of the review procedures of this chapter shall:

(a) Be submitted by any person with a legal interest in the property.

(b) Be completed on the form prescribed by the Department and submitted to the Department.

(c) Address the appropriate criteria for review and approval of the application and shall contain the necessary supporting information.

(d) Be accompanied by the filing fee to help defray the costs of the application.

(2) Combinable Applications. Applications for the same property may be combined and concurrently reviewed as a master application, subject to the following permissible combination schemes and required review procedures:

(a) Applications subject to the review procedures of LC 14.100 below may be combined with other applications subject to the review procedures of LC 14.100 below, and the required review shall be by the Director according to LC 14.100 below.

(b) Applications subject to Hearings Official approval, according to the review procedures of LC 14.300 below, may be combined with other applications subject to Hearings Official approval according to LC 14.300 below and the required review procedure shall be by the Hearings Official according to LC 14.300 below.

(c) Applications subject to the review procedures of LC 14.100 below may be combined with applications subject to Hearings Official approval according LC 14.300 below, and the required review procedure shall be by the Hearings Official according to LC 14.300 below.

(d) A zone change application may be combined with an application for an amendment to the Comprehensive Plan, and the combined application shall be concurrently reviewed by the Planning Commissions and Board according to the review procedures of LC Chapters 12 and 14 for a plan amendment.

(3) Acceptance. Applications subject to any of the review criteria of this chapter:

(a) May be received by the Director at any time and shall not be considered as accepted solely because of having been received;

(b) Shall be, within 30 days of receipt, reviewed by the Director to determine if they meet the requirements of LC 14.050(1) and (2) above and are complete. Applications shall be determined to be complete and shall be accepted by the Director when they include the required information, forms and fees. ~~When the Director determines that an application is not complete, the Director shall mail written notice to the applicant and disclose exactly what information, forms or fees are lacking.~~

(i) If the application for a permit, limited land use decision or zone change is incomplete, the Director shall 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.

~~**(ii) The application shall be deemed complete by the Director upon receipt of the missing information, forms or fees. If the applicant has submitted the required processing fee into the possession of the Director, but refuses to submit the missing information or forms, the application shall be deemed complete for review and action on the 31st day after the Director first received the application upon receipt by the Director of :**~~

~~**(aa) All of the missing information;**~~

~~**(bb) Some of the missing information and written notice from the applicant that no other information will be provided; or**~~

~~**(cc) Written notice from the applicant that none of the missing information will be provided.**~~

(iii) If the application was complete when first submitted or the applicant submits additional information, as described in LC 14.050(3)(b)(ii) above, within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

(iv) The Director shall mail written notice to the applicant when the application is deemed complete or accepted.

(c) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under LC 14.050(3)(b)(i) and has not submitted:

- (i) All of the missing information;
- (ii) Some of the missing information and written notice that no other information, forms and fees will be provided; or
- (iii) Written notice that none of the missing information will be provided.

(d) Within 10 days of acceptance of an application, the Director shall mail information explaining the proposed development to the persons identified in LC 14.100(4) and, if applicable, notice required by LC 14.160. Persons receiving notice pursuant to LC 14.160 shall have 15 days following the date of postmark of the notice to file written objections as required by LC 14.160(1)(c). All other persons shall have 10 days from the date information is mailed to provide the Director with any comments or concerns regarding the proposed development. After the end of the applicable comment period, the Director shall complete the investigation report and mail notice of a decision or schedule a hearing.

(4) Investigation and Reports. The Director shall make, or cause to be made, an investigation to provide necessary information to ensure that the action on each application subject to any review procedure of this chapter is consistent with the criteria established by this chapter and other chapters of Lane Code requiring the review. The report of such investigation shall be included within the application file and, in the event of a hearing, presented to the Approval Authority before or during the hearing.

(5) Timelines for Final Action. For development sites located within an urban growth boundary, except as provided in LC 14.050(5)(a) through (d) below, the Approval Authority shall 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. For development sites located outside an urban growth boundary, except as provided in LC 14.050(5)(a) through (d) below, the Approval Authority shall take final action on an application for a permit, limited land use decision or zone change within 150 days after the application is deemed complete. Except when an applicant requests an extension under LC 14.050(5)(a) below, if Lane County does not take final action on such an application within the required 120 or 150 days after the application is deemed completed, Lane County shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional Lane County land use fees or deposits for the same application incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application. Exceptions to the requirement to take final action on an application within 120 or 150 days are:

(a) When an applicant waives or requests an extension of the required 120-day or 150-day period for final action. The period set in LC 14.050(5) above may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days.

(b) When an application is for an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610(1).

(c) When a decision is not wholly within the authority and control of Lane County.

(d) When parties have agreed to mediation as described in ORS 197.318(2)(b).

Lane Code 14.170 – Legislative: Special Notice Requirements

Intent: Require notice to Oregon Department of Transportation and a "railroad company" when the only access to land that is the subject of an application for a land use decision, is by a railroad-highway crossing.

Source: House Bill 2219 (2003)
Amended ORS 824.236

Proposed amendment:

14.170: Special Notice Requirements When Sole Access to Land Includes a Railroad-Highway Crossing.

(1) If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application for a land use decision, a limited land use decision or an expedited land division, the applicant must indicate that fact in the application submitted to the Planning Director.

(2) The Planning Director shall provide notice to the Department of Transportation and the railroad company whenever the Approval Authority receives the information described in LC 14.170(1) above. For the purposes of LC 14.170, "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.

LANE CODE 16.090 DEFINITIONS

Lane Code 16.090 – Legislative: Revision to Definition of "Agricultural Building"

Intent: Exempts equine facilities from state structural code and from the definition of "significant structure" under that code. Effective: May 16, 2003.

Source: HB 3063 ("Equine facility"), Amended ORS 455.315 & 672.129

Proposed amendment:

~~Agricultural Building. A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a place used by the public.~~

(1) Nothing in this Chapter is intended to authorize the application of a state structural specialty code to any agricultural building or equine facility.

(a) "Agricultural building" means a structure located on a farm and used in the operation of the farm for:

(i) Storage, maintenance or repair of farm machinery and equipment;

(ii) The raising, harvesting and selling of crops;

(iii) The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees;

(iv) Dairying and the sale of dairy products;

(v) Any other agricultural or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use and disposal by marketing or otherwise.

(b) "Agricultural building" does not include:

(i) A dwelling;

(ii) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;

(iii) A structure regulated by the State Fire Marshall pursuant to ORS chapter 476;

(iv) A structure used by the public; or

(v) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

(c) "Equine facility" means a building located on a farm and used by the farm owner or the public for:

(i) Stabling or training equines; or

(ii) Riding lessons and training clinics;

(d) "Equine facility" does not include:

(i) A dwelling;

(ii) A structure in which more than 10 persons are present at any one time;

(iii) A structure regulated by the State Fire Marshall pursuant to ORS chapter 476; or

(iv) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

Lane Code 16.090 – Legislative: Definition of "Biofuel" and "Biomass"

Intent: Add definitions of "biofuel" and "biomass" consistent with State Law.

Source: HB 2210 (2007), Amended 215.213

Proposed amendment:

Biofuel. The liquid, gaseous or solid fuels derived from biomass.

Biomass. The organic matter that is available on a renewable or recurring basis and that is derived from:

(1) Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and reduce uncharacteristic stand replacing wildfire risk;

(2) Wood material from hardwood timber described in ORS 321.267 (3);

(3) Agricultural residues;

(4) Offal and tallow from animal rendering;

(5) Food wastes collected as provided under ORS Chapter 459 or 459A;

(6) Yard or wood debris collected as provided under ORS chapter 459 or 459A;

(7) Wastewater solids; or

(8) Crops grown solely to be used for energy.

Biomass does not mean wood that has been treated with creosote pentachlorophenol, inorganic arsenic or other inorganic chemical compounds.

Lane Code 16.090 – Legislative: Definition of "Current Employment of Land for Farm Use"

Intent: Adds "processing of farm crops into biofuel" to "current employment of land for farm use."

Source: HB 2210 (2007), Amended ORS 215.213

Proposed amendment:Current Employment of Land for Farm Use. Includes:

- (1) Farmland, the operation or use of which is subject to any farm-related government program;
- (2) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- (3) Land planted in orchards or other perennials, other than land specified in LC 16.090(6) below prior to maturity;
- (4) Any land constituting a woodlot not to exceed 20 acres, contiguous to and owned by the owner of land specially valued at true cash value for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
- (5) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
- (6) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
- (7) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213(1)(x) and 215.283(1)(u) **and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213(2)(c) and ORS 215.283 (2)(a);**
- (8) Water impoundments lying in or adjacent to and in common ownership with farm use land;
- (9) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
- (10) Any land described under ORS 321.267(~~43~~)(e) or 321.415(~~5~~)~~824~~(3); and
- (11) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; **and**
- (12) **Land used for the processing of farm crops into biofuel, as defined in LC**

16.090, if:

- (a) **Only the crops of the landowner are being processed;**
- (b) **The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or**
- (c) **The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.**

Lane Code 16.090 – Legislative: Definition of Farm Use as it relates to “Aquaculture”

Intent: Clarifies which type of aquaculture operations qualify as an outright farm use as opposed to a conditional non-farm use. This amendment was moved from LC16.212 (6) to the Farm Use definitions section of the code.

Source: Senate Bill 346 (2005), Amended ORS 215.203

Proposed amendment:Farm Use. Means:

(1) The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, furbearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof;

(2) The preparation, storage and disposal by marketing or otherwise of the products or byproducts raised on such land for human use and animal use;

(3) The propagation, cultivation, maintenance and harvesting of aquatic, **bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission**, to the extent allowed by the **rules adopted by the commission** ~~State Fish and Wildlife Commission.~~

Lane Code 16.090 – Housekeeping: Farm Use Definition Text Correction

Intent: Correct referencce to ORS in the definition of Farm Use.

Rationale: The last sentence of ORS 215.203(2)(a) refers to “land described in ORS 321.267 (3) or 321.824 (3).” This sentence corresponds to subsection (4) of the definition of Farm use in Lane Code, which refers to “land described in ORS 321.267(1)(e) or 321.415(5).” These ORS citations appear to have changed since Lane Code’s definition of Farm Use was last amended.

Proposed amendment:LC 16.090:Farm Use. Means:

(1) The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, furbearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof;

(2) The preparation, storage and disposal by marketing or otherwise of the products or byproducts raised on such land for human use and animal use;

(3) The propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the State Fish and Wildlife Commission;

(4) Not including the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in LC 16.090 above or land described in ORS 321.267(1)(e)(3) or 321.415(5)824(3);

(5) The current employment of land for the primary purpose of making a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows; or

(6) The on-site construction and maintenance of equipment and facilities used for the activities described in this definition.

LANE CODE 16.210 NONIMPACTED FOREST LANDS ZONE (F-1)

Lane Code 16.210(8) – Legislative: NonImpacted Forest Zone Land Division

Intent: Allows division of a lot or parcel into two parcels if one parcel is to be sold to provider of public parks or open space, or not-for-profit land conservation organization, and remaining parcel is large enough to support existing development or uses.

Source: House Bill 2992 (2007), ORS 215.783

Proposed amendment:

(8) Area. The minimum area requirement for the division of land shall be as follows:

(a) 80 acres.

(b) The minimum land division standard in LC 16.210(8)(a) above may be waived to allow a division of forest land involving a dwelling lawfully existing prior to the date of adoption of this rule provided:

(i) The new parcel containing the dwelling is no larger than five acres; and

(ii) The remaining forest parcel, not containing the dwelling, contains 80 acres;

or

(iii) The remaining forest parcel, not containing the dwelling, is consolidated with another parcel which together meet the minimum land division standards of LC 16.210(8)(a) above.

(c) The minimum land division standard in LC 16.210(8)(a) above may be waived to allow uses identified above in: LC 16.210(2)(i); LC 16.210(3)(a) through (k), (t) and (u); and LC 16.210(4)(a) and (b); provided that such uses have been approved in compliance with LC 16.210(5) above.

(d) 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 LC 16.210(d)(i)-(iv), below:

(i) 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:

(aa) 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, or

(bb) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under LC 16.210 based on the size and configuration of the parcel.

(ii) Before approving a proposed division of land under this section, the Planning Director shall 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:

(aa) 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

(bb) 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.

(iii) If a proposed division of land under LC 16.210(8)(d) 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.

(iv) The Planning Director shall maintain a record of parcels that do not qualify for development of the property under restrictions imposed by LC 16.210(8)(d)(ii)(aa) and (bb), above. The record shall be readily available to the public.

(d) (e) Notice of a decision for an application pursuant to LC 16.210(8) above shall occur in compliance with LC 16.100(3).

LANE CODE 16.211 IMPACTED FOREST LANDS ZONE (F-2)

Lane Code 16.211(2)(k) – Housekeeping Correction

Intent: Corrects an erroneous reference in the F-2 permitted mass gathering provision.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.211(2):

(k) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under LC 16.211(3)(~~f-f~~) **(e-e)** below.

Lane Code 16.211(4)(a)(i)(bb) – Housekeeping Clarification

Intent: Clarifies replacement rights provision to specify that an applicant need only prove that the dwelling predates restrictive zoning regulations that specifically pertain to dwellings, rather than proving that the dwelling predates any zoning whatsoever.

Rationale: In demonstrating replacement rights for a dwelling pursuant to these provisions, an applicant need only prove that the dwelling predates restrictive zoning regulations that specifically pertain to dwellings, rather than proving that the dwelling predates any zoning whatsoever. This is because certain historic zoning designations permitted dwellings outright, without the need for land use approval.

Proposed amendment:

LC 16.211(4)(a)(i)

(bb) Records from the Lane County Assessment and Taxation Office indicating that the structure has existed on the property and been taxed on a continuous, annual basis from a date that, as determined by the Director, predates **the zoning that would restrict or regulate the establishment of a dwelling on** of the subject property.

Lane Code 16.211(8)(a)(iii) – Housekeeping Clarification

Intent: Clarifies setback provision in F-2 siting standards for dwellings and structures located near F-2 and EFU Zoned properties.

Rationale: Existing phrase "...and 100 and at least 30 feet from the adjoining lines of property zoned F-2 or EFU" is unclear and can be interpreted in different ways. The phrase "and at least 30" was added in 2002 at the same time the minimum setback for structures established in LC 16.211(8)(a)(v)(bb) was increased from 10 feet to 30 feet. It appears that both of these changes were intended to create consistency with the Fire Siting Standards in LC 16.211(8)(c), perhaps to reflect the need to provide primary fuel breaks. It may also be that "and at least 30" was intended to remove any ambiguity regarding the applicability of LC 16.211(8)(a)(v)(bb) to property lines adjacent to F-2 and EFU zoned lands. In any event, the phrase "and at least 30" confuses the provision and appears to be redundant. In order to remove ambiguity regarding the applicability of the 30 foot setback in LC 16.211(8)(a)(v)(bb), that provision has been reworded to be more specific.

Proposed amendment:

LC 16.211(8)(a)

(iii) Where possible, when considering LC 16.211(8)(a)(i) and (ii) above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 ~~and at least 30~~ feet from the adjoining lines of property zoned F-2 or EFU; and

Lane Code 16.211(8)(a)(v)(bb) – Housekeeping Clarification

Intent: Clarifies that the required 30 foot setback for structures applies to all property lines except those adjacent to a public road right-of-way.

Rationale: Existing phrase in LC 16.211(8)(a)(iii) "...and 100 and at least 30 feet from the adjoining lines of property zoned F-2 or EFU" is unclear and can be interpreted in different ways. The phrase "and at least 30" was added in 2002 at the same time the minimum setback for structures established in LC 16.211(8)(a)(v)(bb) was increased from 10 feet to 30 feet. It appears that both of these changes were intended to create consistency with the Fire Siting Standards in LC 16.211(8)(c), perhaps to reflect the need to provide primary fuel breaks. It may also be that "and at least 30" was intended to remove any ambiguity regarding the applicability of LC 16.211(8)(a)(v)(bb) to property lines adjacent to F-2 and EFU zoned lands. In order to remove ambiguity regarding the applicability of the 30 foot setback in LC 16.211(8)(a)(v)(bb), the provision has been reworded to be more specific.

Proposed amendment:

LC 16.211(8)(a)(v)

(bb) 30 feet from all other property lines other than those described in LC 16.211(8)(a)(v)(aa) above; and

Lane Code 16.211(10)(e) – Legislative: Impacted Forest Zone Land Division

Intent: Allows division of a lot or parcel into two parcels if one parcel is to be sold to provider of public parks or open space, or not-for-profit land conservation organization, and remaining parcel is large enough to support existing development or uses.

Source: House Bill 2992 (2007), ORS 215.783

Proposed amendment:

(e) 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 LC 16.211(e)(i)-(iv), below:

(i) 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:

(aa) 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; or

(bb) If the parcel does not contain a dwelling, the parcel is eligible for siting of a dwelling as may be authorized under LC 16.211(5)-(7), based on the size and configuration of the parcel

(ii) Before approving a proposed division of land under this section, the Planning Director shall 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:

(aa) 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

(bb) 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.

(iii) If a proposed division of land under LC 16.211(10)(e) 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.

(iv) The Planning Director shall maintain a record of lots and parcels that do not qualify for development of the property under restrictions imposed by LC 16.211(10)(e)(ii)(aa) above. The record shall be readily available to the public.

LANE CODE 16.212 EXCLUSIVE FARM USE ZONE (EFU)

Lane Code 16.212(3)(g) – Legislative: "Farm stands"

Intent: (1) Clarify that "processed" crops and livestock grown on the farm operation or from other farm operations in the local agricultural area may be sold at farm stands along with fresh crops and livestock and are not a more limited "retail incidental item"; and
(2) Clarify that farm products from throughout Oregon may be sold.

Source: OAR 660-033-0130(23).

Proposed amendments of the text:

LC 16.212(3)(g)

(iii) As used in LC 16.212, "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. As used in LC 16.212(3)(g), "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.

(iv) As used in LC 16.212, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon County in which the farm stand is located.

Lane Code 16.212(3)(w) – Housekeeping Correction

Intent: Corrects an erroneous reference in the EFU permitted mass gathering provision.

Rationale: Existing language contains an erroneous reference as a result of Ordinance 10-04, which renumbered subsections LC 16.212(3) and LC 16.212(4).

Proposed amendment:

LC 16.212(3):

(w) An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three month period is not a "land use decision" as defined in ORS 197.015(10) or subject to review under LC 16.212(4)(i-i) ~~(f-f)~~ below.

Lane Code 16.212(4)(c) – Legislative: Biofuel

Intent: Expands commercial activities in conjunction with farm use to include on-farm processing of farm crops (biomass) into biofuel.

Source: HB 2210 (2007)
Amended ORS 215.213

Proposed amendments of the text:

16.212(4)

(c) Commercial activities in conjunction with farm use ~~but not including the primary processing of farm crops~~ including the commercial processing of farm crops into biofuel not permitted as a farm use or pursuant to LC 16.212(4)(h) below, that comply with LC 16.212(10)(f) through (g) below.

Lane Code 16.212(4)(h) – Legislative: Biofuel

Intent: Allow on-farm processing of farm crops (biomass) into biofuel.

Source: HB 2210 (2007)
Amended ORS 215.213

Proposed amendments of the text:

16.212(4)

(h) A facility for the primary processing of farm crops, **or the production of biofuel as defined in LC 16.090**, that complies with these requirements:

(i) The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility;

(ii) The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use;

(iii) A processing facility shall comply with applicable requirements in LC 16.212(10)(a) through (e) below. These requirements shall not be applied in a manner that prohibits the siting of the processing facility;

(iv) A land division of a lot or parcel shall not be approved that separates the processing facility from the farm operation on which it is located.

Lane Code 16.212(4)(l-l) – Legislative: Adds Landscaping Business

Intent: Provide for landscaping business in conjunction with a farm.

Source: House Bill 2069 (2005).

Proposed amendment:

LC 16.212(4):

(l-l) A landscaping 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 and that complies with LC 16.212(10)(f) through (g) below.

Lane Code 16.212(5)(a)(i)(bb) – Housekeeping Clarification

Intent: Clarifies replacement rights provision to specify that an applicant need only prove that the dwelling predates restrictive zoning regulations that specifically pertain to dwellings, rather than proving that the dwelling predates any zoning whatsoever.

Rationale: In demonstrating replacement rights for a dwelling pursuant to these provisions, an applicant need only prove that the dwelling predates restrictive zoning regulations that specifically pertain to

dwellings, rather than proving that the dwelling predates any zoning whatsoever. This is because certain historic zoning designations permitted dwellings outright, without the need for land use approval.

Proposed amendment:

LC 16.212(5)(a)(i)

(bb) Records from the Lane County Assessment and Taxation Office indicating that the structure has existed on the property and been taxed on a continuous annual basis from a date that, as determined by the Director, predates the zoning **that would restrict or regulate the establishment of a dwelling on** of the subject property;

Lane Code 16.212(5)(b)(iv) – Legislative: Deferred Replacement Dwellings

Intent: Adds a provision allowing a property owner or their spouse or children to defer actually replacing an existing dwelling after its demolition to some time in the future.

Source: OAR 660-033-0130(8) Senate Bill 863 (2005).
Amended ORS 215.213 and 215.283

Proposed amendments of the text:

LC 16.212(5)(b)

(iv) 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 child of the applicant.

Lane Code 16.212(7)(d) – Housekeeping Correction

Intent: Corrects an erroneous reference in one of the EFU dwelling provisions.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.212(7):

(d) A dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a farm operation or woodlot that is smaller than required under LC 16.212(7)(~~d~~)(c) above is allowed subject to compliance with the following requirements:

LANE CODE 16.213 NATURAL RESOURCE ZONE (NR)

Lane Code 16.213(4) – Housekeeping Correction

Intent: Corrects subsection title for uses subject to Hearings Official approval in the Natural Resources Conservation Combining Zone.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.213:

(4) Special Uses - ~~Director~~ **Hearings** Official Approval. The following uses are subject to approval by the Hearings Official pursuant to LC 14.300:

LANE CODE 16.214 MARGINAL LANDS ZONE (ML)

Lane Code 16.214(2)(b) – Housekeeping Clarification

Intent: Clarifies a reference to the means by which a legal lot is created for the purposes of constructing a dwelling in the Marginal Lands Zone.

Rationale: Existing language can be clarified to spell out that the reference to LC 16.214(6) specifically relates to the creation of the legal lot.

Proposed amendment:

LC 16.214(2):

(b) A dwelling or mobile home on a vacant legal lot **created** pursuant to the requirements of LC 16.214(6) below.

Lane Code 16.214(3)(h) – Legislative: Biofuel

Intent: Expands commercial activities in conjunction with farm use to include on-farm processing of farm crops (biomass) into biofuel.

Source: HB 2210 (2007)
Amended ORS 215.213 and 215.283

Proposed amendment:

LC 16.214(3):

(h) Commercial activities that are in conjunction with farm use including the commercial processing of farm crops into biofuel as defined in LC 16.090 and not permitted as a farm use or pursuant to LC 16.214(3)(j) below.

Lane Code 16.214(3)(j) – Legislative: Biofuel

Intent: Allow on-farm processing of farm crops (biomass) into biofuel.

Source: HB 2210 (2007)
Amended ORS 215.213 and 215.283

Proposed amendment:

LC 16.214(3):

(j) A facility for the primary processing of farm crops, or the production of biofuel as defined in LC 16.090 that complies with these requirements:

(i) The farm on which the processing facility is located must provide at least one-quarter of the farm crops processed at the facility;

(ii) The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm use;

(iii) A processing facility shall comply with applicable requirements in LC 16.212(10)(a) through (e) below. These requirements shall not be applied in a manner that prohibits the siting of the processing facility; and

(iv) A land division of a lot or parcel shall not be approved that separates the processing facility from the farm operation on which it is located.

Lane Code 16.214(3)(k) – Legislative: Adds Landscaping Business

Intent: Provides for a landscaping business in conjunction with a farm.

Source: House Bill 2069 (2005).

Proposed amendment:

LC 16.214(3):

(l) A landscaping 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 and that complies with LC 16.212(10)(f) through (g) below.

LANE CODE 16.233 HISTORIC STRUCTURES OF SITES COMBINING ZONE (/H)

Lane Code 16.233 - Housekeeping Correction

Intent: Corrects the title of the Historic Structures or Sites Combining Zone to be consistent with the original Chapter 11 language from which the Chapter 16 zone was derived.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.233:

**HISTORIC STRUCTURES ~~OF~~ OR SITES COMBINING ZONE (/H-RCP)
RURAL COMPREHENSIVE PLAN**

16.233 Historic Structures ~~of~~ or Sites Combining Zone (/H-RCP).

(I) Purpose. By reason of having a special historical character, an association with historic events or persons, their antiquity, uniqueness or representative style of their architectural design or method of construction, Historic Structures or Sites are deserving of special consideration. This section is intended to allow the County to review building permits or demolition permits to ensure that these and other Historic Structures and Sites identified in the future are preserved.

LANE CODE 16.238 PRIME WILDLIFE SHORELANDS COMBINING ZONE (/PW)

Lane Code 16.238(6)(f) – Housekeeping Correction

Intent: Corrects an erroneous reference to additional setback requirements in the development requirements of the Prime Wildlife Shorelands Combining Zone.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.238(6)(f):

(f) The shoreward half of the setback area specified by LC 16.238(8)(~~7~~) below must be left in indigenous vegetation, except where un-surfaced trails are provided.

LANE CODE 16.243 BEACHES AND DUNES COMBINING ZONE (/BD)

Lane Code 16.243(4)(c)(ii)(cc) – Housekeeping Clarification

Intent: Corrects a scrivener's error and clarifies that a preliminary investigation determines the scope of a site investigation report in the Beaches and Dunes Combining Zone.

Rationale: The existing language contains a citation error that incorrectly references Area Requirements. Per Lane Manual 10.060, any Site Investigation Report requires a Preliminary Investigation (Development Hazard Checklist) beforehand in order to identify the necessary components of the Site Investigation Report. Therefore, LC 16.243(4)(c)(ii)(cc) should reference the Preliminary Investigation provision.

Proposed amendment:

LC 16.243(4)

- (c) (i) Uses. Commercial removal of sand.
- (ii) Criteria.
 - (aa) The area is not an ocean beach.
 - (bb) Historic surplus accumulations of sand exist.
 - (cc) A Site Investigation Report, as **determined by the outcome of a Preliminary Investigation pursuant to specified by LC 16.243(9)(10)** below ~~is conducted~~.

Lane Code 16.243(10) – Housekeeping Clarification

Intent: Corrects Beaches and Dunes Combining Zone preliminary investigation language to be consistent with the Chapter 10 language from which the Chapter 16 zone was derived.

Rationale: Text omitted when zone was adopted from Chapter 10 included in provision.

Proposed amendment:

LC 16.243

(10) Preliminary Investigation Required. Any proposal for development, with the exception of minimal development or timber harvesting **activities as permitted by the respective zone with which the /BD zone is combined**, shall require a Preliminary Investigation (Development Hazards Checklist) by the Planning Director to determine:

LANE CODE 16.246 AIRPORT SAFETY COMBINING ZONE (/AS)

Lane Code 16.246(5)(c) – Housekeeping Correction

Intent: Corrects a scrivener's error in the 'Horizontal Surface' description in the Airport Safety Combining Zone.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.246(5):

(c) Horizontal Surface. A horizontal ~~plan~~ **plane** 150 feet above the airport runway, the perimeter of which is established by swinging arcs of 5,000 feet radii from the center of each end of the Primary Surface and connecting the arcs with tangent lines.

LANE CODE 16.250 PARKING AREAS

Lane Code 16.250(4)(d) – Housekeeping Clarification

Intent: Corrects parking lot screening standards to be consistent with the original Chapter 10 language from which the Chapter 16 provision was derived.

Rationale: Reference to screening was omitted from text.

Proposed amendment:

LC 16.250(4)

(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.**

LANE CODE 16.252 PROCEDURES FOR ZONING, REZONING AND AMENDMENTS
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Lane Code 16.252(3)(b) – Housekeeping Correction

Intent: Updates an outdated reference to multiple Planning Commissions.

Rationale: Existing language contains an outdated reference to multiple Planning Commissions.

Proposed amendment:

LC 16.252(3):

(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 Commissions that **they** **it** consider the proposed zoning, rezoning or amendment.

Lane Code 16.252(4)(c) – Housekeeping Correction

Intent: Corrects a scrivener's error relating to subdivision plats.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.252(4):

(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 **plant plat**.

LANE CODE 16.258 CLEAR LAKE WATERSHED PROTECTION ZONE (CLWP)

Lane Code 16.258(7)(d) – Housekeeping Correction

Intent: Updates an outdated reference to the Uniform Building Code.

Rationale: Existing language contains outdated reference to building code.

Proposed amendment:

LC 16.258(7)(d):

(d) All roofed structures regulated by the ~~Uniform Building Code~~ **Oregon Structural Specialty Code or Oregon Residential Specialty Code** shall have Class A or B roofing as defined by the code and each chimney shall be equipped with a spark arrestor.

LANE CODE 16.264 TELECOMMUNICATION TOWER STANDARDS

Lane Code 16.264(2) – Housekeeping Correction

Intent: Corrects a scrivener's error and clarifies a reference in the telecommunications "changeout" definition.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.264(2):

(2) Definitions. As used in LC 16.264, the following words and phrases mean:

Changeout. Reconstruction or replacement of existing collocations or transmission towers with similar equipment, in conformance with LC 16.264(3)(h) **below**.

Lane Code 16.264(3)(i) – Housekeeping Clarification

Intent: Clarifies that forest fuel break and road standards apply to new or replacement towers and generators.

Rationale: The existing forest fuel break and road standards are contained within subsection (3) Standards Applicable to All Telecommunications Facilities. However, there is not always a clear nexus between proposed antenna collocations on existing structures and fuel break and road/driveway requirements. For example, some collocation proposals do not involve generating equipment, and some collocations are proposed on existing towers accessed by miles of forest roads. In these instances, there is not a clear connection between the proposal and the code requirement. However, when new or

replacement generating equipment or towers are proposed, there is a direct nexus with the forest fuel break and road standards.

Proposed amendment:

LC 16.264(3)

(i) Within a forest zone, the following standards shall apply:

(i) A fuel break shall extend 50 feet surrounding ancillary facilities containing **new or replacement** propane or gas powered generating equipment. Except for trees, vegetation within the fuel break shall be maintained at less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet above ground) branches. Nonflammable materials (i.e., gravel) shall be placed within 30 feet surrounding ancillary facilities that contain propane or gas powered generating equipment.

(ii) Private roads and driveways that provide access to **new or replacement** transmission towers in the forest zones shall comply with the Fire Safety Design Standards of LC 16.211(8)(e)(i) through (vii).

LANE CODE 16.290 RURAL RESIDENTIAL ZONE (RR)

Lane Code 16.290(2)(b)(ii) – Housekeeping Clarification

Intent: Clarifies replacement rights provision to specify that an applicant need only prove that the dwelling predates restrictive zoning regulations that specifically pertain to dwellings, rather than proving that the dwelling predates any zoning whatsoever.

Rationale: In demonstrating replacement rights for a dwelling pursuant to these provisions, an applicant need only prove that the dwelling predates restrictive zoning regulations that specifically pertain to dwellings, rather than proving that the dwelling predates any zoning whatsoever. This is because certain historic zoning designations permitted dwellings outright, without the need for land use approval.

Proposed amendment:

LC 16.290(2)(b)

(ii) The property owner shall submit to the Director a verification of replacement rights application containing records from the Lane County Assessment and Taxation Office indicating that the dwelling or manufactured dwelling has existed on the property and has been taxed on a continuous annual basis from a date that predates the initial zoning **that would restrict or regulate the establishment of a dwelling on** of the subject property. The Director shall determine when ~~the property was initially zoned restrictive zoning was enacted~~ based upon the official zoning records on file with the Department.

Lane Code 16.290(2)(d)(i) – Housekeeping Correction

Intent: Corrects a scrivener's error in the temporary medical hardship application provision of the Rural Residential Zone.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.290(2)(d):

(i) The property owner or authorized representative of the property owner shall submit to the Director an application on the form provided by the Director.

Lane Code 16.290(2)(h)(ix) – Housekeeping Correction

Intent: Updates an outdated reference to the Uniform Building Code.

Rationale: Existing language contains outdated reference to building code.

Proposed amendment:

LC 16.290(2)(h):

(ix) Use of buildings or structures for the home occupation shall not involve the manufacturing, processing, generation or storage of materials that constitute a high fire, explosion or health hazard as defined by Section 307 of the ~~1997 Uniform Building Code~~ **Oregon Structural Specialty Code**.

Lane Code 16.290(4) – Housekeeping Clarification

Intent: Updates uses requiring director approval to reflect proposed housekeeping changes to LC 16.290(4)(a) and the creation of LC 16.290(4)(u).

Rationale: The creation of LC 16.290(4)(u) requires this provision to be revised to reflect the newly created use designation.

Proposed amendment:

LC 16.290(4)

(4) Uses and Development Subject to Approval by the Director. The uses and developments in LC 16.290(4)(a) through (s) **and (u)** below are allowed subject to: submittal of a land use application pursuant to LC 14.050; compliance with the applicable requirements of LC 16.290(5) below and elsewhere in LC Chapter 16; and review and approval of the land use application pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and the opportunity for appeal.

Lane Code 16.290(4)(a) – Housekeeping Clarification

Intent: Clarifies Rural Residential Zone livestock provision requiring director approval and creates a discrete provision for stables, riding academies, and commercial riding (see LC 16.290(4)(u)).

Rationale: The current language is unclear. LC 16.290(2)(i) refers to feeding, breeding and management of livestock, poultry, or fur bearing animals, but does not reference stables, riding academies, or commercial riding. Therefore, under this provision, the latter three uses are in addition to the former uses.

To further clarify this distinction, “stables, riding academies, or commercial riding” have been separated into a distinct provision under 16.290(4)(u).

Proposed amendment:**LC 16.290(4)**

(a) ~~More f~~Feeding, breeding and management of livestock, poultry, or fur bearing animals, **in excess of the standards in LC 16.290(2)(i) above**, ~~as well as stables, riding academies, and commercial riding than allowed in LC 16.290(2)(i) above.~~

Lane Code 16.290(4)(g) – Housekeeping Clarification

Intent: Clarifies that sewage disposal systems in the Rural Residential Zone serving non-residential uses on nearby properties require director approval.

Rationale: Existing language suggests that a sewage disposal system serving any use on a nearby property requires Director Approval. Because residential uses are permitted in the Rural Residential Zone, a sewage disposal system serving a residential use is considered accessory to the permitted use. Such a system located on a nearby residentially zoned property may be allowed without the need for Director Approval, provided necessary easements are recorded. However, because most non-residential uses in the Rural Residential Zone require Director Approval, a sewage disposal system serving a non-residential use on a nearby property is not accessory to a permitted use. Therefore, such a system requires Director Approval, pursuant to this provision.

Proposed amendment:**LC 16.290(4)**

(g) An onsite sewage disposal system for **a non-residential use on a** nearby property in a rural zone.

Lane Code 16.290(4)(u) – Housekeeping Clarification

Intent: Clarifies Rural Residential Zone livestock provision requiring director approval (see LC 16.290(4)(a)) and creates a discrete provision for stables, riding academies, and commercial riding.

Rationale: The current language is unclear. LC 16.290(2)(i) refers to feeding, breeding and management of livestock, poultry, or fur bearing animals, but does not reference stables, riding academies, or commercial riding. Therefore, under this provision, the latter three uses are in addition to the former uses.

To further clarify this distinction, “stables, riding academies, or commercial riding” have been separated into a distinct provision under 16.290(4)(u).

Proposed amendment:

LC 16.290(4)

(u) Stables, riding academies, or commercial riding.

Lane Code 16.290(5) – Housekeeping Clarification

Intent: Updates uses to which approval criteria apply to reflect housekeeping changes to LC 16.290(4)(a) and the creation of LC 16.290(4)(u).

Rationale: The creation of LC 16.290(4)(u) requires this provision to be revised to reflect the newly created use designation.

Proposed amendment:

LC 16.290(5)

(5) Approval Criteria. Uses and development in LC 16.290(4)(a) through (s) **and (u)** above, except for telecommunication facilities allowed in LC 16.290(4)(d) above, shall comply with the requirements in LC 16.290(5) below. Telecommunications facilities allowed by LC 16.290(4)(d) above shall comply with the requirements in LC 16.264.

LANE CODE 16.292 RURAL INDUSTRIAL ZONE (RI)

Lane Code 16.292(3) – Housekeeping Correction

Intent: Corrects a scrivener's error in the use and development standards of the Rural Industrial Zone.

Rationale: Existing language contains a scrivener's error.

Proposed amendment:

LC 16.292:

(3) Uses and Development Subject to Approval by the Director. The uses and development in LC 16.292(3)(a) through (f) below not meeting the conditions in LC 16.292(2)(b) above, and the uses in LC 16.292(3)(g) through (p) below, are allowed subject to: submittal of a land use application for the proposed uses or developments pursuant to LC 14.050; compliance with the applicable land use requirements of LC 16.292(4)(a) through ~~(g)~~ **(i)** below and elsewhere in this chapter of Lane Code; and review and approval of the land use application pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and the opportunity for appeal.

Lane Code 16.292(3) – Housekeeping Correction

Intent: Updates uses subject to director approval to reflect the deletion of LC 16.292(3)(p).

Rationale: LC 16.292(3)(p) was repealed on January 2, 2006, as stated in 16.292(3)(p)(vi), and is proposed to be deleted. As a result of this deletion, the uses listed under Uses and Development Subject to Approval by the Director needs to be updated.

Proposed amendment:

LC 16.292(3)

(3) Uses and Development Subject to Approval by the Director. The uses and development in LC 16.292(3)(a) through (f) below not meeting the conditions in LC 16.292(2)(b) above, and the uses in LC 16.292(3)(g) through (p) ~~(o)~~ below, are allowed subject to: submittal of a land use application for the proposed uses or developments pursuant to LC 14.050; compliance with the applicable land use requirements of LC 16.292(4)(a) through (g) below and elsewhere in this chapter of Lane Code; and review and approval of the land use application pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and the opportunity for appeal.

Lane Code 16.292(3)(m) – Legislative: Rural Industrial Wrecking Yards

Intent: Limit an urban use, "wrecking yards", to within the urban growth boundaries or city limits of incorporated cities, except for those uses existing prior to the application of LC 16.292 in the rural areas of Lane County.

Source: A policy of the Board of County Commissioners that has been applied in each of the five watersheds of Lane County at the time of compliance with the Periodic Review Work Program.

- Countywide in developed & committed exception areas outside "communities"- 2002
- McKenzie Watershed unincorporated rural communities (8) – 2002
- Siuslaw Watershed unincorporated rural communities (9) – 2004
- Long Tom Watershed unincorporated rural communities (8) – 2004
- Coast Fork Willamette Watershed unincorporated rural communities (5) – this ordinance
- Middle Fork Willamette Watershed unincorporated rural communities (4) and urban unincorporated community (1) – this ordinance

Proposed amendment:

16.292(3)

(m) Wrecking yards, if completely enclosed by an approved type of fence, wall or hedge and that shall:

(i) Be limited to land rezoned from Light Industrial (M-2) or Heavy Industrial (M-3) to Rural Industrial (RI);

(ii) If located within ~~the McKenzie, Siuslaw, or Long Tom Watersheds~~ **rural Lane County outside the urban growth boundary of an incorporated city**, be limited to persons who have continuously owned the land from the time it was rezoned from Light Industrial (M-2) or Heavy Industrial (M-3) to Rural Industrial (RI) and to the time of the special use permit application for the wrecking yard;

(iii) Not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity;

- (iv) Not be adversely affected by known natural hazards, such as floods, landslides or erosion;
- (v) Not create a hazardous natural condition such as erosion, landslide or flooding; and
- (vi) Not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.

Lane Code 16.292(3)(o) – Housekeeping Correction

Intent: Updates LC 16.292(3)(o) to reflect the deletion of LC 16.292(3)(p).

Rationale: LC 16.292(3)(p) was repealed on January 2, 2006, as stated in 16.292(3)(p)(vi), and is proposed to be deleted. The language contained in LC 16.292(3)(o) needs to be updated to reflect this deletion.

Proposed amendment:

LC 16.292(3)

(o) Any level of industrial uses, sited on an abandoned or diminished mill site that has been rezoned to Rural Industrial Zone (RI, RCP) pursuant to the plan amendment process of LC 16.400(10). Industrial uses pursuant to LC 16.292(3)(o) can occur outside on the designated site or in a building or combination of buildings of any size or type. For the purposes of LC 16.292(3)(o) and ~~(p)~~ below, "an abandoned or diminished mill site" means a mill, plant or other facility engaged in the processing or manufacturing of wood products, including sawmills and facilities for the production of plywood, veneer, hardwood, panel products, pulp and paper, that:

Lane Code 16.292(3)(p) – Housekeeping Correction

Intent: Deletes an industrial use provision that was repealed on January 2, 2006, and is no longer in effect.

Rationale: This provision was repealed on January 2, 2006, as stated in 16.292(3)(p)(vi). The processing of any pending decisions was not to extend beyond January 2, 2007. Based on the repeal language contained in 16.292(3)(p)(vi), the provision is no longer in effect and should be deleted.

Proposed amendment:

LC 16.292(3)

~~(p) Any level of industrial uses on a parcel or lot that was zoned for industrial uses on June 10, 2003, subject to compliance with the territorial and notice requirements of LC 16.292(3)(p)(i) through (v), below. Industrial uses pursuant to LC 16.292(3)(p) can occur outside on the parcel or lot or in a building or combination of buildings of any size or type.~~

~~(i) The parcel or lot is located outside the Willamette Valley and west of the summit of the Coast Range;~~

~~(ii) The parcel or lot is located more than three miles outside the urban growth boundary of every city with a population of 15,000 individuals or more;~~

~~(iii) The parcel or lot is located outside the urban growth boundary of every city with a population of fewer than 15,000 individuals; and~~

~~(iv) When the Director considers action under LC 16.292(3)(p) on a parcel or lot within 10 miles of the urban growth boundary of any city, the Director shall give written notice to the city at least 21 days prior to issuing a decision; and (v) If the city objects to the authorization of the proposed industrial development, the Director shall negotiate with the city to establish conditions on the industrial development or changes in the development necessary to mitigate concerns raised by the city's objection.~~

~~(vi) LC 16.292(3)(p) is repealed on January 2, 2006. Any submitted application pursuant to LC 16.292(3)(p) received by the Director prior to January 2, 2006, that has been determined to be complete when first submitted or within the time allowed for submission of requested additional material pursuant to LC 14.050, shall be processed by the Director in compliance with LC 14.050(5) and LC 14.100. Processing of timely submitted applications beyond the repeal date of January 2, 2006, shall not extend beyond January 2, 2007.~~

Lane Code 16.292(4) – Housekeeping Correction

Intent: Updates uses listed under LC 16.292(4) Criteria to reflect the deletion of LC 16.292(3)(p).

Rationale: LC 16.292(3)(p) was repealed on January 2, 2006, as stated in 16.292(3)(p)(vi), and is proposed to be deleted. As a result of this deletion, the uses listed under LC 16.292(4) Criteria needs to be updated.

Proposed amendment:

LC 16.292(4)

(4) Criteria. New uses or development allowed by LC 16.292(3)(a) through (k) and (n) through (p) above, except for telecommunications facilities allowed by LC 16.292(3)(h) above, shall comply with the criteria in LC 16.292(4) below. Telecommunications facilities allowed by LC 16.292(3)(h) above shall comply with the requirements in LC 16.264.

Approved
2/16/2010

MINUTES

ATTACHMENT 3

L Lane County Planning Commission
Board of Commissioners Conference Room—125 East 8th Avenue
Eugene, Oregon

March 2, 2010
5:30 p.m.

PRESENT: Robert Noble, Chair; Tony McCown, Vice Chair; Lisa Arkin, Steve Dignam, George Goldstein, Nancy Nichols, Dennis Sandow, Jozef Siekiel-Zdzienicki, John Sullivan, Lane County Planning Commissioners; Kent Howe, Stephanie Schulz, Lane County Land Management Division; Greg Mott, Linda Pauley, City of Springfield.

ABSENT: None.

Mr. Noble convened the Lane County Planning Commission (LCPC) at 5:38 p.m.

WORK SESSION

- 1. Approval of Minutes: October 6, October 20, November 3, November 17, December 1, December 15, 2009; January 26, February 2, 2010.**

Mr. Sullivan, seconded by Ms. Arkin, moved to approve the October 6, 2009 Work Session minutes as submitted. The motion passed, 8:0:1, Commissioners Noble, Arkin, Dignam, Goldstein, McCown, Sandow, Siekiel-Zdzienicki, and Sullivan voting in favor, and Commissioner Nichols abstaining.

Mr. Siekiel-Zdzienicki, seconded by Mr. McCown, moved to approve the October 6, 2009 Public Hearing minutes as submitted. The motion passed unanimously, 9:0.

Mr. McCown, seconded by Mr. Siekiel-Zdzienicki, moved to approve the October 20, 2009 minutes as submitted. The motion passed unanimously, 9:0.

Mr. Siekiel-Zdzienicki offered the following correction to the November 3, 2009 minutes: page 2, paragraph 1, subparagraph 6, should read: The mixed use housing at WestTown on 8th Avenue were subsidized housing ~~and were full~~.

Mr. McCown, seconded by Ms. Nichols, moved to approve the November 3, 2009 minutes as submitted. The motion passed, 8:0:1, Commissioners Noble, Dignam, Goldstein, McCown, Nichols, Sandow, Siekiel-Zdzienicki, and Sullivan voting in favor, and Commissioner Arkin abstaining.

Mr. McCown, seconded by Mr. Siekiel-Zdzienicki, moved to approve the November 17, 2009 minutes as submitted. The motion passed unanimously, 9:0.

3. **Discussion: PA 10-5133: Amending Lane Code Chapter 14 and 16 to Add and Revise Definitions and Regulations to be Consistent with Oregon Revised Statutes and Oregon Administrative Rules and Adopting Savings and Severability Clauses.**

Discussion of PA 10-5133 would occur during the public hearing immediately following the work session.

Mr. Noble closed the work session at 6:53 p.m.

Mr. Noble reconvened the Lane County Planning Commission public hearing at 7:00 p.m.

PUBLIC HEARING

1. **PA 10-5133: In the Matter of Amending Lane Code Chapter 14 and 16 to Add and Revise Definitions and Regulations to be Consistent with Oregon Revised Statutes and Oregon Administrative Rules and Adopting Savings and Severability Clauses. (LC 14.050, LC 14.015, LC 14.110, LC 14.300, LC 14.800, LC 16.090, LC 16.210, LC 16.211, LC 16.212, LC 16.214, LC 16.292)**

Ms. Schultz offered the staff report. She said the Planning Commission would conduct a public hearing on amendments to definitions of terms and implementing regulation in Lane Code (LC) Chapters 14 and 16, for consistency with the Oregon Revised Statutes (ORS) in 2003, 2005, and 2007, and Land Conservation and Development Commission (LCDC) amendments to Oregon Administrative Rules (OARs) in 2004 and 2006. State law mandated that Lane County adopt local regulations that implemented ORS and OAR definitions and regulations. The BCC had directed Land Management staff to prioritize the processing of proposed LC amendments and schedule the first ordinance to include straightforward updates to the code that reflected changes in state laws and regulations. The full text of the amendments and the source of State law were included in the agenda packet. She asked the Planning Commission to review the proposed changes and forward a recommendation to the BCC. Ms. Schultz facilitated a discussion of Attachments A-H in the agenda packet.

- *Attachment A—LC 14.015—Definitions*—no changes were proposed.
- *Attachment B—LC 14.800—Ballot Measure 56 Notice*—no changes were proposed.
- *Attachment C—LC 16.090—Definitions.*

Commissioners Arkin, Goldstein and Siekiel-Zdzienicki expressed concern that the language in LC 16.090 did not adequately protect air quality or public health.

Mr. Goldstein left at 7:25 p.m.

Ms. Arkin, seconded by Mr. Dignam, moved that the language in LC 16.090—Current Employment of Land for Farm Use (8) needed to be rewritten so that there were no environmental or public health impacts. The motion passed unanimously, 8:0.

Mr. Goldstein returned at 7:40 p.m.

Ms. Nichols, seconded by Ms. Arkin, moved that LC 16.090 Current Employment of Land for Farm Use (8) should read: A processing facility shall comply with all applicable siting standards.

Mr. Sullivan suggested conflicts identified by commissioners should be noted and forwarded to the BCC but no further motions should be proposed.

Mr. Noble noted the issue of siting of biomass facilities would be flagged for the BCC.

Following a brief discussion, Ms. Nichols withdrew the motion, and Ms. Arkin withdrew the second to the motion.

Referring to the definition of Agriculture Buildings, Mr. Sullivan asked if anyone in the agriculture or farm bureau community had reviewed the proposed language changes. Such a significant revision would change how the agriculture community thought about its buildings.

Ms. Schultz said this language came from the 2003 legislative session and had a long history.

- *Attachment D—LC 16.210 (8)—Nonimpacted Impacted Forest Land (F-1)*

In response to a question from Ms. Arkin regarding template dwellings, Ms. Schultz said a set of proposed amendments on template dwellings would come before the commission in the future.

Mr. Howe said in 2003, H.B. 3661 addressed issues such as prime farmland and secondary lands and determined secondary lands would no longer be addressed. The ORS incorporated the template dwelling to measure the amount of impact in an area. If there was parcelization surrounding the property and dwelling development, it would be considered an impacted area that would not support normal accepted forest practices, and a dwelling would be allowed. The legislature worked on this issue for a decade.

Ms. Arkin was not comfortable with the change since it would clearly define the boundaries of the 160 acre template, thus weakening the law and allowing any part of a dwelling within the identified template area.

In response to a question from Mr. Goldstein regarding buildings that were not constructed within the property line, Mr. Howe said since the law had passed in 1993, such a siting had occurred only one time.

Mr. McCown suggested staff could address commissioners questions and forward concerns to the BCC.

Mr. Dignam stated the proposed language was a good addition to LC and he would not call it out as questionable.

There was consensus that the issue would be flagged for staff review prior to forwarding to the BCC.

- *Attachment E—LC 16.211—Impacted Forest Land (F-2)—no changes were proposed.*

Responding to a question from Ms. Arkin, Ms. Schultz confirmed the LC 16.211(10)(e)(ii) addressed someone who wished to sell or donate part of their land for use as public parks, open space or not for profit land conservation. The proposed language for LC was taken verbatim from the applicable ORS.

- **Attachment F—LC 16.212 Exclusive Farm Use (EFU)**

Mr. Sullivan wanted to ensure that the proposed LC 16.213(3)(q) language was in compliance with the federal legislation and suggested the language should be reviewed to ensure that compliance. He added the sentence ... " *'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*" needed further clarification.

- **Attachment G—LC 16.292—Rural Industrial (RI)**—no changes were proposed.
- **Attachment H—LC 16.214 Marginal Lands (ML)**

In response to a question from Ms. Nichols regarding monitoring of commercial activities in conjunction with farm use to include on-farm processing of farm crops in biofuel, Mr. Howe said the process was complaint driven.

Mr. Sullivan, seconded by Mr. McCown, moved that the Lane County Planning Commission recommend to the Board of County Commissioners that the BCC adopt PA 10-5133 in the matter of amending Lane Code chapters 14 and 16, and revisions in the revised definitions and regulations to be consistent with the ORS, OAR, and other applicable laws, with the understanding that Lane County staff would clarify for the BCC issues highlighted in the Planning Commission discussion.

Mr. Noble reiterated the list of issues highlighted by the Planning Commission for consideration by the BCC:

- **Attachment C—LC 15.090: Definition of "Biomass".**
 - Farm community has acknowledged this section was being implemented as written.
 - Clarification of use of "shall" and "will" in LC 213.283(1)(u):
- **Attachment E—LC 16.211: Template dwelling concerns.**
 - The BCC will see source document 308A.718, tax assessment provision.
- **Attachment F—LC 16.212(3)(q): Exclusive Farm Use (EFU)**
 - Definition of farm stands related to compliance with federal food safety requirements, and processed versus prepared food.
- **Attachment H—LC 16.214 Marginal Lands:**
 - Farm processing of farm crops in biofuel.

The motion passed unanimously, 9:0.

2. OTHER BUSINESS

Mr. Dignam suggested the Planning Commission discuss the process used by the commission for meeting participation and how the commission worked as a group.

The meeting adjourned at 8:19 p.m.

(Recorded by Linda Henry)

Memorandum Date: February 25, 2010
Work Session Date: March 2, 2010



TO: Lane County Planning Commission
FROM: Stephanie Schulz, Associate Planner
AGENDA TITLE: PA NO. 10-5133 / IN THE MATTER OF AMENDING LANE CODE CHAPTERS 14 AND 16 TO ADD AND REVISE DEFINITONS AND REGULATIONS TO BE CONSISTENT WITH OREGON REVISED STATUTES AND OREGON ADMINISTRATIVE RULES. (LC 14.015, LC 14.050, LC 14.170, LC 16.090, LC 16.210, LC 16.211, LC 16.212, LC 16.292)

I. AGENDA ITEM SUMMARY

The Planning Commission will conduct a public hearing on March 2, 2010 on amendments to definitions of terms and implementing regulations in LC Chapters 14 and 16, for consistency with the Oregon Revised Statutes (ORS's) in 2003, 2005, and 2007 and Land Conservation & Development Commission (LCDC) amendments to Oregon Administrative Rules (OAR's) in 2004 and 2006.

II. BACKGROUND/IMPLICATIONS OF ACTION

A. Background

State law mandates that Lane County adopt local regulations that implement ORS and OAR definitions and regulations. The Board has directed Land Management staff to prioritize the processing of proposed Lane Code amendments and schedule the first Ordinance to include straightforward updates to the code that reflect changes in state laws and regulations. The full text of the amendments and the source of State law mandating the amendments are attached here, organized by applicable code section for each attachment.

A legal ad announcing this Planning Commission Hearing on the topic was published in the Register Guard on January 27, 2010.

B. Analysis

The proposed amendments are presented in the attachments. Revisions are shown using the strikeout, underline, and bold underline format for tracking changes.

ATTACHMENT 'A'

Lane Code 14.015 - Definitions

Intent: Adds to the definitions of what a "land use decision" and "limited land use decision" are, and are not. Adds clarity to the definition of a mass gathering when it is not a land use decision if below a certain size and for a limited duration.

Lane Code 14.050

Intent: Clarify the requirements relating to receipt of an application and adds criteria for determining when an application to LMD for a discretionary permit or zone change is deemed complete for purposes of the statutory time limit for action.

Lane Code 14.170

Intent: (new) Requires notice to Oregon Department of Transportation and a “railroad company” when the only access to land that is the subject of an application for a land use decision, is by a railroad-highway crossing. Corrected ORS reference number.

ATTACHMENT ‘B’

Lane Code 14.800 Ballot Measure 56 Notice

Intent: Clarify the requirements for when written notice to affected property owners is necessary pursuant to Ballot Measure 56.

ATTACHMENT ‘C’

Lane Code 16.090 “Agricultural Building”

Intent: Exempts equine facilities from state structural code and from the definition of “significant structure” under that code.

Lane Code 16.090 “Current Employment of Land for Farm Use”

Intent: Adds “processing of farm crops into biofuel” to “current employment of land for farm use.” Adds ORS 215.283, the marginal lands reference, because Lane County is a marginal lands county where this ORS applies. Also adds the farm use as allowed.

Lane Code 16.090 “Biofuel” and “Biomass”

Intent: Consistency with state law. Adds the ORS definitions for “biofuel” and “biomass” to Lane Code.

At an earlier hearing, some Planning Commissioners raised issue regarding safety and size of the potential production of biofuels on farms. The legislature’s intent is to allow on-farm processing of farm crops into biofuel. The new provisions are designed to encourage the assembling of biomass resources and the production of biofuels for use in fuel blends consisting of gasoline plus biofuel. The bill sets target dates for achieving various fuel blend percentages for all gasoline or diesel sold in Oregon. See Attachment C.a for requirements for biofuel production on a Farm Operation –vs- commercialization

ATTACHMENT ‘D’

Lane Code 16.210(8)

Intent: Allows division of a lot or parcel into two parcels if one parcel is to be sold to provider of public parks or open space, or not-for-profit land conservation organization, and remaining parcel is large enough to support existing development or uses.

ATTACHMENT ‘E’

Lane Code 16.211(5)(c)(i)(bb); 16.211(5)(c)(ii)(bb); and 16.211(5)(c)(iii)(bb) “Template Dwelling”

Intent: Clarify the requirement that the three existing dwellings on the qualifying lots or parcels within the 160-acre template test are “in” the template test area if any part of the dwelling(s) are in the 160-acre test area.

Lane Code 16.211(10)(e)

Intent: Allows division of a lot or parcel into two parcels if one parcel is to be sold to provider of public parks or open space, or not-for-profit land conservation organization, and remaining parcel is large enough to support existing development or uses.

ATTACHMENT 'F'

Lane Code 16.212(3)(p) "Farm stands"

Intent: (1) Clarify that "processed" crops and livestock grown on the farm operation or from other farm operations in the local agricultural area may be sold at farm stands along with fresh crops and livestock and are not a more limited "retail incidental item"; and
(2) Clarify that farm products from throughout Oregon may be sold.

Lane Code 16.212(4)(c)

Intent: Expands commercial activities in conjunction with farm use to include processing of farm crops (biomass) into biofuel.

Lane Code 16.212(4)(h)

Intent: Allows on-farm processing of farm crops (biomass) into biofuel.

Lane Code 16.212(4)(s)

Intent: Clarifies which type of aquaculture operations qualify as an outright farm use as opposed to a conditional non-farm use. Moves 'aquaculture operations' to definitions.

Lane Code 16.212(4)(l-l)

Intent: Provides for a landscaping business in conjunction with a farm. Revision Edits: None.

Lane Code 16.212(4)(m-m)

Intent: Provides for the continuation of an existing county law enforcement facility.

Lane Code 16.212(5)(a)(v)

Intent: Adds a provision allowing a property owner or their spouse or children to defer actually replacing an existing dwelling after its demolition to some time in the future. Eliminated this duplicate amendment, the one below applies.

Lane Code 16.212(5)(b)(iv)

Intent: Adds a provision allowing a property owner or their spouse or children to defer actually replacing an existing dwelling after its demolition to some time in the future

ATTACHMENT 'G'

Lane Code 16.292(3)(m)

Intent: Limit an "urban" use, "wrecking yards", to within the urban growth boundaries or city limits of incorporated cities, except for those uses existing prior to the application of LC 16.292 (Rural Industrial Zone RI) in the rural areas of Lane County. Corrected scrivener's error: "wreaking" to "wrecking".

ATTACHMENT 'H'

This attachment adds applicable amendments to the Marginal Lands Zone (ML). Lane County does have marginal lands, and many of the above amendments also apply to LC 16.214, the Marginal Lands Zone.

Lane Code 16.214(3)(j) "Farm stands"

- Intent:** (1) Clarify that "processed" crops and livestock grown on the farm operation or from other farm operations in the local agricultural area may be sold at farm stands along with fresh crops and livestock and are not a more limited "retail incidental item"; and
(2) Clarify that farm products from throughout Oregon may be sold.

Lane Code 16.214(3)(k)

Intent: Expands commercial activities in conjunction with farm use to include processing of farm crops (biomass) into biofuel.

Lane Code 16.214(3)(l)

Intent: Allows on-farm processing of farm crops (biomass) into biofuel.

The full text of the amendments and the source of State law mandating the amendments are discussed in the attachments.

III. TIMING/IMPLEMENTATION

The Planning Commission could close the hearing, deliberate, and develop a recommendation to the Board at this meeting. The Board timeline expectation for LMD completing this priority project to amend Lane Code has the second public hearing scheduled for March 31, 2010. Issues of concern raised by the PC and the public will be presented to the Board of Commissioners for consideration in their deliberations.

IV. RECOMMENDATION

Staff recommends the Planning Commission forward a recommendation to the Board to adopt the Lane Code revisions at the close of the hearing. If there are any consensus recommendations from the Planning Commission for more restrictive measures than those in state law, those would be included in the recommendation and presented as such to the Board.

V. ATTACHMENTS

- A. Revised Summary of Amendments to LC 14.015, .050, & .170, Notice Process
- B. Revised Summary of Amendments to LC 14.800 Ballot Measure 56 Notice
- C. Revised Summary of Amendments to LC 16.090 Definitions
- D. Revised Summary of Amendments to LC 16.210 Nonimpacted Forest Land (F1).
- E. Revised Summary of Amendments to LC 16.211 Impacted Forest Land (F2).
- F. Revised Summary of Amendments to LC 16.212 Exclusive Farm Use (EFU).
- G. Revised Summary of Amendments to LC 16.2 Rural Industrial Land (RI).
- H. Summary of Amendments to LC 16.214 Marginal Land (ML).

- Summary of amendments to LC 14.015, 14.050, 14.170

Lane Code 14.015 - Definitions

Intent: Adds to the definitions of what a "land use decision" and "limited land use decision" are, and are not.

Source: House Bill 3025 (2007)
Amended ORS 197.015 - Definitions

Proposed amendments of the text: Deletions of the text indicated with ~~strikethrough~~.
Additions to the text indicated with **bold underlined**.

Land Use Decision.

(1) A final decision or determination made by a Lane County Approval Authority that concerns the adoption, amendment or application of

- (a) The Goals;
- (b) A comprehensive plan provision;
- (c) A land use regulation; or
- (d) A new land use regulation.

(2) A land use decision does not include a decision made by a Lane County Approval Authority:

(a) ~~Which That~~ is made under land use standards which do not require interpretation or the exercise of policy or legal judgment;

(b) ~~Which That~~ approves or denies a building permit issued under clear and objective land use standards;

(c) ~~Which That~~ is a limited land use decision;

(d) ~~Which That~~ 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;

(e) ~~Which That~~ is an expedited land division as described in ORS 197.360; ~~or~~

(f) That approves, pursuant to ORS 480-450(7), the siting, installation, maintenance or removal of a liquid petroleum gas container or receptacle regulated exclusively by the State Fire Marshall under ORS 480.410 to 480.460; or

(g) That 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; or

(h) That authorizes an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

~~(i) (1) A land use approval in response to a writ of mandamus.~~

* * *

Limited Land Use Decision.

(1) ~~Means A~~ a final decision or determination made by a Lane County Approval Authority, as defined in LC 14.015, pertaining to a site within an urban growth boundary that concerns:

(1) ~~(a)~~ The approval or denial of a tentative subdivision or partition plan, as described in ORS 92.040 (1).

~~(2)(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 pursuant to the Site Review Procedures of LC 10.335.

(2) Does not mean a final decision made by a Lane County Approval Authority, as defined in LC 14.015, 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.

Lane Code 14.050

Intent: Clarify the requirements relating to receipt of an application and adds criteria for determining when an application to LMD for a discretionary permit or zone change is deemed complete for purposes of the statutory time limit for action.

Source: Senate Bill 311(2007)
Amended ORS 215.427 - **Final action on permit or zone change application required within 120 or 150 days;**

Proposed amendments of the text: Deletions of the text indicated with ~~strikethrough~~.
Additions to the text indicated with **bold underlined**.

14.050 **Application Requirements, Acceptance and Investigation.**

(1) **Contents.** Applications subject to any of the review procedures of this chapter shall:

(a) Be submitted by any person with a legal interest in the property.

(b) Be completed on the form prescribed by the Department and submitted to the Department.

(c) Address the appropriate criteria for review and approval of the application and shall contain the necessary supporting information.

(d) Be accompanied by the filing fee to help defray the costs of the application.

(2) **Combinable Applications.** Applications for the same property may be combined and concurrently reviewed as a master application, subject to the following permissible combination schemes and required review procedures:

(a) Applications subject to the review procedures of LC 14.100 below may be combined with other applications subject to the review procedures of LC 14.100 below, and the required review shall be by the Director according to LC 14.100 below.

(b) Applications subject to Hearings Official approval, according to the review procedures of LC 14.300 below, may be combined with other applications subject to Hearings Official approval according to LC 14.300 below and the required review procedure shall be by the Hearings Official according to LC 14.300 below.

(c) Applications subject to the review procedures of LC 14.100 below may be combined with applications subject to Hearings Official approval according LC 14.300 below, and the required review procedure shall be by the Hearings Official according to LC 14.300 below.

(d) A zone change application may be combined with an application for an amendment to the Comprehensive Plan, and the combined application shall be concurrently reviewed by the Planning Commissions and Board according to the review procedures of LC Chapters 12 and 14 for a plan amendment.

(3) **Acceptance.** Applications subject to any of the review criteria of this chapter:

(a) May be received by the Director at any time and shall not be considered as accepted solely because of having been received;

(b) Shall be, within 30 days of receipt, reviewed by the Director to determine if they meet the requirements of LC 14.050(1) and (2) above and are complete. Applications shall be determined to be complete and shall be accepted by the Director when they include the required information, forms and fees. ~~When the Director determines that an application is not complete, the Director shall mail written notice to the applicant and disclose exactly what information, forms or fees are lacking.~~

(i) If the application for a permit, limited land use decision or zone change is incomplete, the Director shall 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.

~~(ii) The application shall be deemed complete by the Director upon receipt of the missing information, forms or fees. If the applicant has submitted the required processing fee into the possession of the Director, but refuses to submit the missing information or forms, the application shall be deemed complete for review and action on the 31st day after the Director first received the application upon receipt by the Director of :~~

~~(aa) All of the missing information;~~

~~(bb) Some of the missing information and written notice from the applicant that no other information will be provided; or~~

~~(cc) Written notice from the applicant that none of the missing information will be provided.~~

(iii) If the application was complete when first submitted or the applicant submits additional information, as described in LC 14.050(3)(b)(ii) above, within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

~~(iv) The Director shall mail written notice to the applicant when the application is deemed complete or accepted.~~

(v) On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under LC 14.050(3)(b)(i) and has not submitted:

~~(aa) All of the missing information;~~

~~(bb) Some of the missing information and written notice that no other information, forms and fees will be provided; or~~

~~(cc) Written notice that none of the missing information will be provided.~~

(c) Within 10 days of acceptance of an application, the Director shall mail information explaining the proposed development to the persons identified in LC 14.100(4) and, if applicable, notice required by LC 14.160. Persons receiving notice pursuant to LC 14.160 shall have 15 days following the date of postmark of the notice to file written objections as required by LC 14.160(1)(c). All other persons shall have 10 days from the date information is mailed to provide the Director with any comments or concerns regarding the proposed development. After the end of the applicable comment period, the Director shall complete the investigation report and mail notice of a decision or schedule a hearing.

(4) **Investigation and Reports.** The Director shall make, or cause to be made, an investigation to provide necessary information to ensure that the action on each application subject to any review procedure of this chapter is consistent with the criteria established by this chapter and other chapters of Lane Code requiring the review. The report of such investigation shall be included within the application file and, in the event of a hearing, presented to the Approval Authority before or during the hearing.

(5) **Timelines for Final Action.** For development sites located within an urban growth boundary, except as provided in LC 14.050(5)(a) through (d) below, the Approval Authority shall 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. For development sites located outside an urban growth boundary, except as provided in LC 14.050(5)(a) through (d) below, the Approval Authority shall take final action on an application for a permit, limited land use decision or zone change within 150 days after the application is

deemed complete. Except when an applicant requests an extension under LC 14.050(5)(a) below, if Lane County does not take final action on such an application within the required 120 or 150 days after the application is deemed completed, Lane County shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional Lane County land use fees or deposits for the same application incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application. Exceptions to the requirement to take final action on an application within 120 or 150 days are:

(a) When an applicant waives or requests an extension of the required 120-day or 150-day period for final action. The period set in LC 14.050(5) above may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 215 days.

(b) When an application is for an amendment to an acknowledged comprehensive plan or land use regulation or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610(1).

(c) When a decision is not wholly within the authority and control of Lane County.

(d) When parties have agreed to mediation as described in ORS 197.318(2)(b).

Lane Code 14.170 (new)

Intent: Require notice to Oregon Department of Transportation and a “railroad company” when the only access to land that is the subject of an application for a land use decision, is by a railroad-highway crossing.

Source: House Bill 2219 (2003)
Amended ORS 824.236

Proposed amendments of the text: Deletions of the text indicated with ~~strikethrough~~.
Additions to the text indicated with **bold underlined**.

14.170 Special Notice Requirements When Sole Access to Land Includes a Railroad-Highway Crossing.

(1) If a railroad-highway crossing provides or will provide the only access to land that is the subject of an application for a land use decision, a limited land use decision or an expedited land division, the applicant must indicate that fact in the application submitted to the Planning Director.

(2) The Planning Director shall provide notice to the Department of Transportation and the railroad company whenever the Approval Authority receives the information described in LC 14.170(1) above. For the purposes of LC 14.170, “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.

(3) If an objection received within 15 days of the notice specifies that the existing or proposed access is an “unauthorized railroad-highway crossing”, the application shall then be set for hearing pursuant to LC 14.110. For the purposes of LC 14.170, “unauthorized railroad-highway crossing” means a crossing at grade that is actually open and in use, or to be opened and used for travel by the public, and that has not been authorized under ORS 824.204.

(Additional sections of LC 14 were not amended by the enactment of SB 311, HB 3025 or HB 2219)

SOURCE:

LC14.015

197.015 Definitions for ORS chapters 195, 196 and 197. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals.

(2) "Board" means the Land Use Board of Appeals.

(3) "Carport" means a stationary structure consisting of a roof with its supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

(4) "Commission" means the Land Conservation and Development Commission.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide land use planning standards adopted by the commission pursuant to ORS chapters 195, 196 and 197.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation;

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; or

(C) A decision of a county planning commission made under ORS 433.763;

(b) Does not include a decision of a local government:

(A) That is made under land use standards that do not require interpretation or the exercise of policy or legal judgment;

(B) That approves or denies a building permit issued under clear and objective land use standards;

(C) That is a limited land use decision;

(D) That 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;

(E) That is an expedited land division as described in ORS 197.360;

(F) That approves, pursuant to 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;

(G) That 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; or

(H) That a proposed state agency action subject to ORS 197.180 (1) is compatible with the acknowledged comprehensive plan and land use regulations implementing the plan, if:

(i) The local government has already made a land use decision authorizing a use or activity that encompasses the proposed state agency action;

(ii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan; or

(iii) The use or activity that would be authorized, funded or undertaken by the proposed state agency action requires a future land use review under the acknowledged comprehensive plan and land use regulations implementing the plan;

(c) Does not include a decision by a school district to close a school;

(d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and

(e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.429 or 227.179;

(B) Any 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; or

(C) A state agency action subject to ORS 197.180 (1), if:

(i) The local government with land use jurisdiction over a use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action has already made a land use decision approving the use or activity; or

(ii) A use or activity that would be authorized, funded or undertaken by the state agency as a result of the state agency action is allowed without review under the acknowledged comprehensive plan and land use regulations implementing the plan.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12) "Limited land use decision":

(a) Means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

(A) The approval or denial of a tentative 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 and design review.

(b) Does not mean a final decision made by a local government 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.

(13) "Local government" means any city, county or metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

824.230 Installation of protective devices where railroads intersect at grade. (1) In any case where the tracks of two or more railroads cross each other at a common grade in this state, the railroads, when ordered by the Department of Transportation, shall protect such crossings by interlocking or other safety devices, under regulations to be designated by the department, to prevent trains colliding at such crossings. An order may be issued under this section only after notice to the affected railroads and a proceeding under ORS chapter 183 initiated by the department on its own motion or upon application by one of the railroads.

(2) The department in making such order shall designate the manner of such interlocking protection, and shall apportion the cost of installing and maintaining the same between the several railroads, if such railroads are unable to agree upon the same between themselves. [Formerly 763.190; 1997 c.275 §24]

824.232 Forfeiture for noncompliance. Any company, corporation, person or receiver operating any railroad who neglects to comply with any order made by the Department of Transportation pursuant to ORS 824.228 or 824.230 shall forfeit and pay to the state a penalty of \$500 per week for each week of such neglect. [Formerly 763.200]

824.234 Use of findings of department regarding hazards at crossings. The determinations of the Department of Transportation under ORS 824.200 to 824.256 as to hazards at crossings shall not be admissible in any civil action for damages. [Formerly 763.210]

→ **824.236 Protective devices at unauthorized railroad-highway crossing; apportionment to railroad; reimbursement; closure.** (1) Except as provided in subsection (2) of this section, the Department of Transportation may, under ORS 823.033, order a railroad to install and maintain protective devices at an unauthorized railroad-highway crossing and order the public authority in interest to install and maintain stop signs at and other protective devices in advance of an unauthorized railroad-highway crossing.

(2) The department may not order the railroad to install at an unauthorized railroad-highway crossing devices which are activated immediately in advance of, and during, each train movement over the crossing unless the department determines that the railroad intentionally created the unauthorized crossing after June 2, 1995.

(3) Except as provided in subsection (4) of this section, in any proceeding under subsections (1) and (2) of this section, or unless the parties agree otherwise, installation and maintenance costs of protective devices shall be apportioned to the railroad.

(4) The railroad may seek reimbursement or indemnity from third parties.

(5) Under ORS 823.033, the department may open an investigation to consider closure of an unauthorized railroad-highway crossing. If the department decides to open an investigation, it shall post notice of the investigation at the crossing at least 30 days prior to opening the investigation. If the department is unable to complete an investigation within two years from the date it was opened, the department shall order the crossing closed within one year from the expiration of the two-year period allowed for investigation unless closure of the unauthorized railroad-highway crossing would remove the only access to any land. [Formerly 763.220; 2003 c.145 §3]

COST APPORTIONMENTS

824.238 Division of costs between railroad and public authority. The following costs shall be divided between the railroad and the public authority in interest in such proportion as the Department of Transportation finds just and equitable under the circumstances in each case:

(1) That portion of the cost of any alteration or change resulting in the elimination of a grade crossing under ORS 824.206 (1) by reason of relocation of the highway which is directly chargeable to the grade elimination.

(2) The costs of construction, change, alteration, abolition and relocation of any grade crossing

SOURCE:
LC 14.050

(B) Adopt by rule in accordance with ORS chapter 183 any procedures necessary to carry out ORS 215.402 (4)(b) and 227.160 (2)(b).

(C) Review decisions of the Land Use Board of Appeals and land use decisions of the Court of Appeals and the Supreme Court within 120 days of the date the decisions are issued to determine if goal or rule amendments are necessary.

(d) Cooperate with the appropriate agencies of the United States, this state and its political subdivisions, any other state, any interstate agency, any person or groups of persons with respect to land conservation and development.

(e) Appoint advisory committees to aid it in carrying out ORS chapters 195, 196 and 197 and provide technical and other assistance, as it considers necessary, to each such committee.

(2) Pursuant to ORS chapters 195, 196 and 197, the commission shall:

(a) Adopt, amend and revise goals consistent with regional, county and city concerns;

(b) Prepare, collect, provide or cause to be prepared, collected or provided land use inventories;

(c) Prepare statewide planning guidelines;

(d) Review comprehensive plans for compliance with goals;

(e) Coordinate planning efforts of state agencies to assure compliance with goals and compatibility with city and county comprehensive plans;

(f) Insure widespread citizen involvement and input in all phases of the process;

(g) Review and recommend to the Legislative Assembly the designation of areas of critical state concern;

(h) Report periodically to the Legislative Assembly and to the committee;

(i) Review the land use planning responsibilities and authorities given to the state, regions, counties and cities, review the resources available to each level of government and make recommendations to the Legislative Assembly to improve the administration of the statewide land use program; and

(j) Perform other duties required by law.

(3) The requirements of subsection (1)(b) of this section shall not be interpreted as requiring an assessment for each lot or parcel that could be affected by the proposed rule. [1973 c.80 §§9,11; 1977 c.664 §5; 1981 c.748 §22; 1991 c.817 §19; 1993 c.792 §51; 1995 c.299 §1; 2009 c.873 §2]

197.045 Powers of commission. The Land Conservation and Development Commission may:

(1) Apply for and receive moneys from the federal government and from this state or any of its agencies or departments.

(2) Contract with any public agency for the performance of services or the exchange of employees or services by one to the other necessary in carrying out ORS chapters 195, 196 and 197.

(3) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under ORS chapters 195, 196 and 197.

(4) Perform other functions required to carry out ORS chapters 195, 196 and 197.

(5) Assist in development and preparation of model land use regulations to guide state agencies, cities, counties and special districts in implementing goals.

(6) Notwithstanding any other provision of law, review comprehensive plan and land use regulations related to the identification and designation of high-value farmland pursuant to chapter 792, Oregon Laws 1993, under procedures set forth in ORS 197.251. [1973 c.80 §10; 1977 c.664 §6; 1981 c.748 §22a; 1993 c.792 §11]

Note: Legislative Counsel has substituted "chapter 792, Oregon Laws 1993," for the words "this 1993 Act" in section 11, chapter 792, Oregon Laws 1993, which amended 197.045. Specific ORS references have not been substituted, pursuant to 173.160. These sections may be determined by referring to the 1993 Comparative Section Table located in Volume 20 of ORS.

197.047 Notice to local governments and property owners of changes to commission rules or

certain statutes; form; distribution of notice; costs. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) At least 90 days prior to the final public hearing on a proposed new or amended administrative rule of the Land Conservation and Development Commission described in subsection (10) of this section, the Department of Land Conservation and Development shall cause the notice set forth in subsection (3) of this section to be mailed to every affected local government that exercises land use planning authority under ORS 197.175.

(3) The notice required in subsection (2) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of properties in your jurisdiction.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of the rule may change the zoning classification of properties in your jurisdiction or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$ _____.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

(4) A local government that receives notice under subsection (2) of this section shall cause the notice set forth in subsection (5) of this section to be mailed to every owner of real property that will be rezoned as a result of the proposed rule. Notice to an owner under this subsection must be mailed at least 45 days prior to the final public hearing on the proposed rule.

(5) The notice required in subsection (4) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of the rule may

affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$ ____.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

(6) At least 90 days prior to the effective date of a new or amended statute or administrative rule described in subsection (10) of this section, the department shall cause the notice set forth in subsection (7) of this section to be mailed to every affected local government that exercises land use planning authority under ORS 197.175 unless the statute or rule is effective within 90 days of enactment or adoption, in which case the department shall cause the notice to be mailed not later than 30 days after the statute or rule is effective.

(7) The notice required in subsection (6) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

(Check on the appropriate line:)

_____ This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of properties in your jurisdiction; or

_____ This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of properties in your jurisdiction.

(b) Contain substantially the following language in the body of the notice:

(Check on the appropriate line:)

_____ On (date of rule adoption), the Land Conservation and Development Commission adopted administrative rule (number). The commission has determined that this rule may change the zoning classification of properties in your jurisdiction or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of \$ ____.

For additional information, contact the Department of Land Conservation and Development at (telephone number); or

_____ On (date of enactment) the Legislative Assembly enacted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) may change the zoning classification of properties in your jurisdiction or may limit or prohibit land uses previously allowed on properties in your jurisdiction.

A copy of (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of \$ ____.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

(8) A local government that receives notice under subsection (6) of this section shall cause a copy of

the notice set forth in subsection (9) of this section to be mailed to every owner of real property that will be rezoned as a result of adoption of the rule or enactment of the statute, unless notification was provided pursuant to subsection (4) of this section. The local government shall mail the notice to an owner under this subsection at least 45 days prior to the effective date of the rule or statute unless the statute or rule is effective within 90 days of enactment or adoption, in which case the local government shall mail the notice to an owner under this subsection not later than 30 days after the local government receives notice under subsection (6) of this section.

(9) The notice required in subsection (8) of this section must:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

(Check on the appropriate line:)

This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of your property and other properties; or

This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

(Check on the appropriate line:)

On (date of rule adoption), the Land Conservation and Development Commission adopted administrative rule (number). The rule may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of \$_____.

For additional information, contact the Department of Land Conservation and Development at (telephone number); or

On (date of enactment) the Legislative Assembly enacted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A copy of (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of \$_____.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

(10) The provisions of this section apply to all statutes and administrative rules of the Land Conservation and Development Commission that limit or prohibit otherwise permissible land uses or cause a local government to rezone property. For purposes of this section, property is rezoned when the statute or administrative rule causes a local government to:

(a) Change the base zoning classification of the property; or

(b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(11) The Department of Land Conservation and Development shall reimburse the local government for:

(a) The actual costs incurred responding to questions from the public related to a proposed new or

Attachment B – Summary of amendments to LC 14.800: Ballot Measure 56 Notice

Lane Code 14.800 Ballot Measure 56 Notice

Intent: Clarify the requirements when written notice to affected property owners is necessary pursuant to Ballot Measure 56.

Source: ORS 197.047 (2005 Edition) - Senate Bill 516 (2003)

- Applies to BMS6 notices required by actions originating with the Oregon Legislature enactment of proposed new or revisions to existing Oregon Revised Statutes (ORS), or proposed new or amendments to Oregon Administrative Rules (OAR) by the Land Conservation and Development Commission.

ORS 215.503 (2005 Edition)

- Applies to BM56 notices required by proposed ordinances originating with the Board of County Commissioners for adoption of new or amendments to components of the Rural Comprehensive Plan (General Plan Policies, Lane Code, Lane Manual).

Proposed amendments of the text: Deletions of the text indicated with ~~striketrough~~.
Additions to the text indicated with **bold underlined** and **bold underlined**.

14.800 Ballot Measure 56 Notice. Amendments to components of the Rural Comprehensive Plan that may affect the rights of property owners shall require written notice to the property owners prior to the final public hearing by either the Oregon Land Conservation and Development Commission or Lane County. As used in LC 14.800, "property owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(1) The provisions of LC 14.800 apply when Oregon Legislative Assembly statutes or Land Conservation and Development Commission administrative rules are proposed, enacted or adopted that may limit or prohibit otherwise permissible land uses or cause Lane County to rezone property. For purposes of LC 14.800, property is rezoned when the statute or administrative rule causes Lane County to:

(a) Change the base zoning classification of the property: or

(b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.

(2) Notices received by the Director from Land Conservation and Development Commission pursuant to ORS 197.047, shall require notice by the Director to affected property owners. The following requirements and process shall be completed to fulfill this requirement.

(a) Upon receipt of a notice from the Land Conservation and Development Commission for a proposed new or amended administrative rule pursuant to ORS 197.047(2), the Director shall cause the notice set forth in LC 14.800(1)(b) below, to be mailed to every owner of real property that is rezoned or affected as the result of the proposed rule. Notice to an owner under this subsection must be mailed at least 45 days prior to the final public hearing on the proposed rule. The notice required in LC 14.800(1)(a) must:

(i) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of our property and other properties in Lane County.

(ii) Contain substantially the following language in the body of the notice:

On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of this rule may change the zoning classification of properties in Lane County or may limit or prohibit land uses previously allowed on properties in Lane County. ~~affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.~~

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$ _____.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

(b) Upon receipt of a notice from the Land Conservation and Development Commission for a new or amended statute or administrative rule pursuant to ORS 197.047(46) that has been adopted with an effective date of applicability, the Director shall cause the notice set forth below, to be mailed to every owner of real property that was rezoned or affected as the result of the adoption of the rule or enactment of the statute, unless prior notification was provided pursuant to LC 14.800(1)(a). The notice to a owner under this subsection will be mailed at least 45 days prior to the effective date of the rule or statute unless the statute or rule is effective within 90 days of enactment or adoption, in which case the Director shall mail the notice to an owner under this subsection not later than 30 days after the Director receives notice under ORS 197.047(6) and (7). The notice required in LC 14.800(42)(b) must:

(i) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin. (check on the appropriate line:)

This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of your property, and other properties in Lane County; or

This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of your property and other properties in Lane County.

(ii) Contain substantially the following language in the body of the notice:

On (date of rule adoption), the Land Conservation and Development Commission adopted administrative rule (number). The commission has determined that this rule may change the zoning classification of properties in Lane County or may limit or prohibit ~~affect the permissible land uses previously allowed on of your property, and other properties in Lane County. the affected zone, and may change the value of your property.~~

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$ _____.

For additional information, contact the Department of Land Conservation and Development at (telephone number); or

On (date of enactment), the Legislative Assembly enacted House/Senate Bill (number). The Department of Land Conservation and Development has determined that enactment of House/Senate Bill (number) may change the zoning classification of properties in Lane County or may limit or prohibit land uses previously allowed on properties in Lane County. ~~affect the~~

permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A copy of House/Senate Bill (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of House/Senate Bill (number) also is available for purchase at a cost of \$ _____.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

(3) All legislative amendments relating to comprehensive plans, land use planning or zoning adopted by the Board of County Commissioners shall be by ordinance.

(4) Proposed legislative amendments by ordinance shall require the Director to provide notice to affected property owners in the following manner:

(a) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the Director shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(b) In addition to LC 14.800(4)(a) above, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the Director shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(c) The individual notices of land use change required by LC 14.800(4)(a) or (b) shall be describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(i) Contain substantially the following language in boldface type across the top of the face page extending from the left margin to the right margin:

This is to notify you that Lane County has proposed a land use regulation that may affect the permissible uses of your property and other properties in Lane County.

(ii) Contain substantially the following language in the body of the notice:

On (date of public hearing) Lane County will hold a public hearing regarding the adoption of Ordinance Number _____. Lane County has determined that adoption of this ordinance may change the zoning classification of properties in Lane County or may limit or prohibit land uses previously allowed on properties in Lane County. ~~permissible uses of your property, and other properties in the affected zone, and may change the value of your property.~~

Ordinance Number _____ is available for inspection at the Lane County Land Management Division located in the Public Service Building, 125 East Eighth Avenue, Eugene. A copy of the Ordinance Number _____ also is available for purchase at a cost of \$ _____.

For additional information concerning Ordinance Number _____, you may call (planner) in the Lane County Land Management Division at (telephone number).

(5) At least 30 days prior to the adoption of an amendment to of the Rural Comprehensive Plan or land use regulation by the Board of County Commissioners pursuant to a requirement of periodic review of the Rural Comprehensive Plan under ORS 197.628, 197.633, and 197.636, the Director shall cause a written notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption of the amendment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that Lane County has proposed a land use regulation that may affect the permissible uses of your property and other properties in Lane County.

(b) Contain substantially the following language in the body of the notice:

As a result of an order of the Land Conservation and Development Commission, Lane County has proposed Ordinance Number _____. Lane County has determined that the adoption of this ordinance may affect the permissible uses of your property, and or may limit or prohibit land uses previously allowed on your property/other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ will become effective on (date).

Ordinance Number _____ is available for inspection at the Lane County Land Management Division located in the Public Service Building, 125 East Eighth Avenue, Eugene. A copy of the Ordinance Number _____ also is available for purchase at a cost of \$ _____.

For additional information concerning Ordinance Number _____, you may call (planner) in the Lane County Land Management Division at (telephone number).

(6) The requirements of LC 14.800(5) do not apply to legislative amendments/acts of Lane County resulting from action of the Legislative Assembly or the Land Conservation and Development Commission -for which notice is provided under LC 14.800(2) and (4), or resulting from an order of a court of competent jurisdiction.

(7) Lane County is not required to provide more than one notice under LC 14.800 to a person who owns more than one lot or parcel affected by a change to the Rural Comprehensive Plan or land use regulation.

(8) A mortgagee, lienholder, vendor or seller of real property who receives a mailed notice required by LC 14.800 shall promptly forward the notice to the purchaser of the property. Each mailed notice required by LC 14.800 shall contain the following statement: "NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER."

(9) Mailed notices to owners of real property required by LC 14.800 shall be deemed given to those owners named in an affidavit of mailing executed by the Director. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the Director to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.