

(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

amended administrative rule of the Land Conservation and Development Commission and to notice of the proposed rule; and

(b) All usual and reasonable costs of providing the notices required under subsection (4) or (8) of this section. [1999 c.1 §5; 2003 c.668 §1]

197.050 Interstate agreements and compacts; commission powers. Except as provided in ORS 196.150 and 196.155, if an interstate land conservation and development planning agency is created by an interstate agreement or compact entered into by this state, the Land Conservation and Development Commission shall perform the functions of this state with respect to the agreement or compact. If the functions of the interstate planning agency duplicate any of the functions of the commission under ORS 195.020 to 195.040, ORS chapter 197 and ORS 469.350, the commission may:

(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency; and

(2) Cooperate with the interstate planning agency in the performance of its functions. [1973 c.80 §12; 1977 c.664 §8; 1987 c.14 §6; 2001 c.672 §5]

197.055 [1973 c.80 §16; repealed by 1977 c.664 §42]

197.060 Biennial report; draft submission to legislative committee; contents. (1) Prior to the end of each even-numbered year, the Department of Land Conservation and Development shall prepare a written report for submission to the Legislative Assembly of the State of Oregon describing activities and accomplishments of the department, Land Conservation and Development Commission, state agencies, local governments and special districts in carrying out ORS chapters 195, 196 and 197.

(2) A draft of the report required by subsection (1) of this section shall be submitted to the appropriate legislative committee at least 60 days prior to submission of the report to the Legislative Assembly. Comments of the committee shall be incorporated into the final report.

(3) Goals and guidelines adopted by the commission shall be included in the report to the Legislative Assembly submitted under subsection (1) of this section.

(4) The department shall include in its biennial report:

(a) A description of its activities implementing ORS 197.631; and

(b) An accounting of new statutory, land use planning goal and rule requirements and local government compliance with the new requirements pursuant to ORS 197.646. [1973 c.80 §56; 1977 c.664 §9; 1981 c.748 §21b; 2005 c.829 §9; 2007 c.354 §6]

197.065 Biennial report analyzing uses of certain land; annual local government reports. (1) Prior to each legislative session, the Land Conservation and Development Commission shall submit to the appropriate legislative committee a written report analyzing applications approved and denied for:

(a) New and replacement dwellings under:

(A) ORS 215.213 (1)(d) and (f), (2)(a) and (b), (3) and (4), 215.283 (1)(d) and (e), 215.284 and 215.705; and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

(b) Divisions of land under:

(A) ORS 215.263 (2), (4) and (5); and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland;

(c) Dwellings and land divisions approved for marginal lands under:

(A) ORS 215.317 or 215.327; and

(B) Any land zoned for forest use under any statewide planning goal that relates to forestland; and

(d) Such other matters pertaining to protection of agricultural or forest land as the commission deems appropriate.

(2) The governing body of each county shall provide the Department of Land Conservation and Development with a report of its actions involving those dwellings, land divisions and land designations

SOURCE
LC.14800

- (a) Establishment of a setback, not to exceed 100 feet, from all property lines for the winery and all public gathering places; and
- (b) Provision of direct road access, internal circulation and parking.
- (5) A local government shall also apply local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access, airport safety or other regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources. [1989 c.525 §4; 1993 c.704 §6; 1997 c.249 §61; 2001 c.613 §20; 2009 c.850 §11]

215.455 Effect of approval of winery on land use laws. Any winery approved under ORS 215.213, 215.283, 215.284 and 215.452 is not a basis for an exception under ORS 197.732 (2)(a) or (b). [1989 c.525 §5; 2007 c.71 §73]

215.457 Youth camps allowed in forest zones and mixed farm and forest zones. A person may establish a youth camp on land zoned for forest use or mixed farm and forest use, consistent with rules adopted by the Land Conservation and Development Commission under section 3, chapter 586, Oregon Laws 1999. [1999 c.586 §2]

215.459 Private campground in forest zones and mixed farm and forest zones; yurts; rules. (1) (a) Subject to the approval of the county governing body or its designee, a private campground may be established in an area zoned for forest use or mixed farm and forest use. Subject to the approval of the county governing body or its designee, the campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

(b) A public park or campground may be established as provided in ORS 195.120 in an area zoned for forest use or mixed farm and forest use.

(2) Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1).

(3) As used in this section, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance. [1999 c.758 §4]

215.460 [1963 c.619 §15; repealed by 1971 c.13 §1]

NOTICE TO PROPERTY OWNERS

215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions. (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) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.

(3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, 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 governing body of a county 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.

(4) In addition to the notice required by ORS 215.223 (1), 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 governing body of a county 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.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice 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 (governing body of the county) has proposed a land use regulation that 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), (governing body) will hold a public hearing regarding the adoption of Ordinance Number _____. The (governing body) has determined that adoption of this ordinance may affect the 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 _____ County Courthouse located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (governing body) Planning Department at _____ - _____.

(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the governing body of the county shall cause a written individual 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 or enactment. 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 (governing body of the county) has proposed a land use that may affect the permissible uses of your property and other properties.

(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, (governing body) has proposed Ordinance Number _____. (Governing Body) has determined that the adoption of this ordinance may affect the permissible uses of your property, and 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 _____ County Courthouse located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (governing body) Planning Department at _____ - _____.

(7) Notice provided under this section may be included with the tax statement required under ORS 311.250.

(8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.

(9) For purposes of this section, property is rezoned when the governing body of the county:

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

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

(10) The provisions of this section do not apply to legislative acts of the governing body of the county resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047, or resulting from an order of a court of competent jurisdiction.

(11) The governing body of the county is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.

(12) The Department of Land Conservation and Development shall reimburse the governing body of a county for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section. [1977 c.664 §37; 1999 c.1 §1; 1999 c.348 §10; 2003 c.668 §2]

215.505 [1969 c.324 §1; repealed by 1977 c.664 §42]

215.508 [1977 c.664 §38; repealed by 1999 c.1 §8]

215.510 [1969 c.324 §2; 1973 c.80 §47; repealed by 1977 c.664 §42]

215.513 Forwarding of notice to property purchaser. (1) A mortgagee, lienholder, vendor or seller of real property who receives a mailed notice required by this chapter shall promptly forward the notice to the purchaser of the property. Each mailed notice required by this chapter shall contain the following statement: "NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER."

(2) Mailed notices to owners of real property required by this chapter shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county 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. [1977 c.664 §39]

215.515 [1969 c.324 §3; 1973 c.80 §48; repealed by 1977 c.766 §16]

215.520 [1969 c.324 §4; repealed by 1977 c.664 §42]

215.525 [1969 c.324 §6; repealed by 1977 c.664 §42]

215.530 [1969 c.324 §7; repealed by 1977 c.664 §42]

215.535 [1969 c.324 §5; 1973 c.80 §49; repealed by 1977 c.664 §42]

Attachment C – Summary of amendments to LC 16.090 - DefinitionsLane Code 16.090 “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”)

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

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, nor 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 "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)

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

16.090

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)(e) 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(1)(e) or 321.415(5); 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.

Lane Code 16.090 "Biofuel" and "Biomass"

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

Source: HB 2210 (2007)

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

16.090

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(6)

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 to the definitions section of the code.

Source: Senate Bill 346 (2005).

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

(6) The propagation, cultivation, maintenance and harvesting of aquatic, ~~bird and animal species that are not under the jurisdiction of the State Fish and Wildlife Commission,~~ to the extent allowed by the rules adopted by the commission.

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

(D) A structure used by the public; or

(E) 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) "Agricultural grading" means grading related to a farming practice as defined in ORS 30.930.

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

for:

(A) Stabling or training equines; or

(B) Riding lessons and training clinics.

(e) "Equine facility" does not mean:

(A) A dwelling;

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

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

(D) 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.

(3) Notwithstanding the provisions of subsection (1) of this section, incorporated cities may regulate agricultural buildings and equine facilities within their boundaries pursuant to this chapter. [Formerly 456.758 and then 456.917; 1995 c.783 §1; 2003 c.74 §1; 2005 c.288 §3]

455.320 Owner-built dwellings exempt from certain structural code provisions; recording of exemption. (1) As used in this section, unless the context requires otherwise:

(a) "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 assessment roll which person has not taken advantage of the exemptions under subsection (2) of this section during the five years prior to applying for an exemption under this section.

(b) "Owner-built dwelling and outbuildings" means a single-family residence and adjacent auxiliary structures the structural components of which are constructed entirely by the owner who intends to occupy the structures or by that owner and friends and relatives of the owner assisting on an unpaid basis.

(2) Owner-built dwellings and outbuildings shall be exempt from any requirements of the structural code for ceiling heights, room sizes and the maintenance of specific temperature levels in those structures. The exemption shall apply to the new construction, renovation, remodeling or alteration of an owner-built dwelling or outbuilding.

(3) A building permit issued for an owner-built dwelling or outbuilding shall note whether the owner-built dwelling or outbuilding complies with the requirements it is exempted from under subsection (2) of this section. If the dwelling or other structure does not comply with these requirements, the owner-builder shall file a copy of the building permit with the county clerk, who shall make the permit a part of the permanent deed record of the property. The owner shall provide the county clerk with a description of the property sufficient if it were contained in a mortgage of the property to give constructive notice of the mortgage under the law of this state.

(4) Noncompliance with subsection (3) of this section shall not affect, in any manner, any conveyance of interest in property subject to this section. [Formerly 456.920]

(Exemptions in Rural Areas)

~~455.325 Definitions for ORS 455.325 to 455.350. As used in ORS 455.325 to 455.350, unless the context requires otherwise:~~

~~(1) "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 assessment roll.~~

~~(2) "Owner-built dwelling and outbuildings" means a single-family residence and adjacent auxiliary structures the components of which, that are exempted from the structural code under ORS 455.330, are constructed entirely by the owner who intends to occupy the structures or by that owner and friends and~~

(1) For a residential prefabricated structure manufactured in this state and intended for delivery in another state, the Director of the Department of Consumer and Business Services may not require that:

- (a) The prefabricated structure conform to the state building code.
- (b) An inspector provide plan approvals and inspections pursuant to ORS 455.715 to 455.740.
- (c) A person licensed under ORS 479.630, 693.060 or 693.103 perform electrical or plumbing installations in the prefabricated structure.

(2) Nothing in subsection (1) of this section exempts a person that is renting, leasing, selling, exchanging, installing or offering for rent, lease, sale, exchange or installation a residential prefabricated structure from meeting the insignia of compliance or certification stamp requirements prescribed under ORS 455.705 if the prefabricated structure is delivered in or relocated to this state. [2005 c.310 §2; 2005 c.758 §42b]

Note: 455.312 was added to and made a part of ORS chapter 455 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 6 and 8, chapter 310, Oregon Laws 2005, provide:

Sec. 6. (1) The Department of Consumer and Business Services shall collect the information, if any, supplied by industry sources in this state regarding the manufacture of prefabricated structures intended for delivery in other states. The types of information to be collected by the department shall include:

- (a) The applied and potential capacity of manufacturers to produce residential prefabricated structures in this state;
- (b) The number of persons the manufacturer employs in this state to produce residential prefabricated structures intended for delivery in other states;
- (c) The number of residential prefabricated structures produced in this state intended for delivery in other states; and
- (d) Any information the department determines to be useful for assessing the effect or potential effect of section 2 of this 2005 Act [455.312] on employment levels in this state.

(2) The department shall biennially report any information collected by the department under this section to the Legislative Assembly. The department shall submit the report to the Legislative Assembly as provided in ORS 192.245 no later than October 1 of each even-numbered year. [2005 c.310 §6]

Sec. 8. Section 6 of this 2005 Act is repealed January 2, 2012. [2005 c.310 §8]

455.315 Exemption of agricultural buildings, agricultural grading and equine facilities. (1)

Nothing in this chapter is intended to authorize the application of a state structural specialty code to any agricultural building, agricultural grading or equine facility.

(2) As used in this section:

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

- (A) Storage, maintenance or repair of farm machinery and equipment;
- (B) The raising, harvesting and selling of crops;
- (C) The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees;
- (D) Dairying and the sale of dairy products; or
- (E) 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 mean:

- (A) A dwelling;
- (B) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;
- (C) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;

for registration as a professional land surveyor, an applicant shall:

- (1) Successfully pass the fundamentals in land surveying examination;
- (2) Successfully pass a professional land surveyor's examination as may be prescribed by the State Board of Examiners for Engineering and Land Surveying; and
- (3) Have a work record of four or more years of active practice in land surveying work satisfactory to the board. [Formerly 672.094]

672.118 Qualifications for land surveying examination; rules; form of examination. (1) As minimum evidence of qualification for the fundamentals examination in land surveying, an applicant shall provide evidence of graduation in an approved land surveying or photogrammetric mapping curriculum of four years or more from a school or college approved by the State Board of Examiners for Engineering and Land Surveying.

(2) Notwithstanding the provisions of subsection (1) of this section, the board shall adopt rules to consider an applicant's work experience, or other relevant factors, in lieu of a degree as qualification for the fundamentals in land surveying examination.

(3) The fundamentals in land surveying examination shall be prescribed by the board and shall be devoted to basic land surveying subjects. The examination shall be written, or written and oral. [Formerly 672.099; 2009 c.259 §8]

672.120 [Amended by 1959 c.336 §11; 1971 c.751 §14; renumbered 672.157 in 2005]

672.123 Qualifications for registration as photogrammetrist. As minimum evidence of qualification for registration as a photogrammetrist, an individual must:

- (1) Pass the fundamentals of land surveying examination;
- (2) Pass a professional photogrammetric mapping examination administered by the State Board of Examiners for Engineering and Land Surveying; and
- (3) Have four or more years of experience acceptable to the board as an active practitioner of photogrammetric mapping. [2005 c.445 §3; 2009 c.259 §9]

672.125 [1971 c.751 §19; 1981 c.143 §8; 1991 c.221 §2; renumbered 672.148 in 2005]

672.127 Temporary permit to practice photogrammetric mapping; fee. The State Board of Examiners for Engineering and Land Surveying may issue a temporary permit to a person to practice photogrammetric mapping in this state, without an examination, for a period not to exceed six months. The board may not issue a temporary permit to the person more than once. The board may issue the temporary permit only if the person:

- (1) Pays the appropriate fee;
- (2) Is an applicant for registration under ORS 672.002 to 672.325;
- (3) Has, in the judgment of the board, met all qualifications for registration under ORS 672.002 to 672.325 other than passing an examination; and
- (4) Is authorized to practice photogrammetric mapping in another jurisdiction in the United States or a foreign country, by a jurisdiction having authorization standards that the board considers equivalent to the standards for practicing photogrammetric mapping in this state. [2005 c.445 §5a]

~~**672.129** [1999 c.744 §2; 2003 c.74 §2; 2005 c.144 §1; renumbered 672.107 in 2005]~~

672.130 [Amended by 1953 c.98 §1; repealed by 1971 c.751 §39]

672.135 [1971 c.751 §18; 1997 c.41 §1; renumbered 672.109 in 2005]

672.140 [Repealed by 1971 c.751 §39]

Equine facility

Examiners for Engineering and Land Surveying; and

(3) Have a work record of four years or more of active practice in engineering work satisfactory to the board. [Formerly 672.092]

672.105 Qualifications for engineering examination; rules; form of examination. (1) As minimum evidence of qualification for the fundamentals in engineering examination, an applicant shall provide evidence of graduation in an approved engineering curriculum of four years or more from a school or college approved by the State Board of Examiners for Engineering and Land Surveying.

(2) Notwithstanding the provisions of subsection (1) of this section, the board shall adopt rules to consider an applicant's work experience, education or other relevant factors, in lieu of a degree in engineering as qualification for the fundamentals in engineering examination.

(3) The fundamentals in engineering examination shall be prescribed by the board and shall be devoted to basic engineering subjects. The examination shall be written or written and oral. [Formerly 672.097]

672.107 Structural engineer registration for performing engineering services on significant structures; rules. (1) For purposes of this section:

(a) "Significant structure" means:

(A) Hazardous facilities and special occupancy structures, as defined in ORS 455.447;

(B) Essential facilities, as defined in ORS 455.447, that have a ground area of more than 4,000 square feet or are more than 20 feet in height;

(C) Structures that the Director of the Department of Consumer and Business Services determines to have irregular features; and

(D) Buildings that are customarily occupied by human beings and are more than four stories or 45 feet above average ground level.

(b) "Significant structure" does not mean:

(A) One-family and two-family dwellings and accompanying accessory structures;

→ (B) Agricultural buildings or equine facilities, both as defined in ORS 455.315; or

(C) Buildings located on lands exempt from Department of Consumer and Business Services enforcement of building code regulations.

(2) Consistent with ORS 672.255, the State Board of Examiners for Engineering and Land Surveying shall adopt rules establishing standards of competence in structural engineering analysis and design relating to seismic influence.

(3) An engineer may not provide engineering services for significant structures unless the engineer possesses a valid professional structural engineer certificate of registration issued by the board. [Formerly 672.129]

672.109 Temporary permit to practice engineering; fee. (1) Upon payment of the required fee, the State Board of Examiners for Engineering and Land Surveying may without examination issue a temporary permit to a person to practice engineering in this state for a period not to exceed six months. A temporary permit may only be issued if the person has made application for registration and, in the judgment of the board, has the other necessary qualifications for registration under ORS 672.002 to 672.325.

~~(2) A temporary permit to practice engineering may be issued only once to a person and may only be issued to a person authorized to practice engineering in another state, territory or possession of the United States, the District of Columbia or a foreign country if the standards for such authorization are equivalent to those in Oregon, as determined by the board. [Formerly 672.135]~~

672.110 [Amended by 1971 c.751 §13; renumbered 672.159 in 2005]

672.115 Qualifications for registration as land surveyor. As minimum evidence of qualification

county-wide maps that show the diversity of Oregon's rural lands. The database shall include, at a minimum, information on soil classifications, forest capabilities, irrigated lands, croplands, actual farm use, and plan and zone designations. To create the database, the department shall use the most current soils information from the United States Natural Resources Conservation Service, or its successor agency, and may use any other related information that is readily available. [1999 c.1014 §3]

Note: 215.209 was added to and made a part of ORS chapter 215 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

215.210 [Amended by 1955 c.652 §6; renumbered 215.305]

215.213 Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993; rules. (1) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use:

(a) Churches and cemeteries in conjunction with churches.

(b) The propagation or harvesting of a forest product.

(c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in ORS 215.275.

(d) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm operator does or will require the assistance of the relative in the management of the farm use and the dwelling is located on the same lot or parcel as the dwelling of the farm operator. Notwithstanding ORS 92.010 to 92.192 or the minimum lot or parcel size requirements under ORS 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the homesite to create a new parcel.

(e) Nonresidential buildings customarily provided in conjunction with farm use.

(f) Primary or accessory dwellings customarily provided in conjunction with farm use. For a primary dwelling, the dwelling must be on a lot or parcel that is managed as part of a farm operation and is not smaller than the minimum lot size in a farm zone with a minimum lot size acknowledged under ORS 197.251.

(g) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(i) One manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered ~~by the existing resident or a relative of the resident. Within three months of the end of the hardship, the~~ manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use. The governing body or its designee shall provide for periodic review of the hardship claimed under this paragraph. A temporary residence approved under this paragraph is not eligible for replacement under paragraph (q) of this subsection.

(j) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(k) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.

(m) Minor betterment of existing public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

(n) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.

(o) Creation, restoration or enhancement of wetlands.

(p) A winery, as described in ORS 215.452.

(q) Alteration, restoration or replacement of a lawfully established dwelling that:

(A) Has intact exterior walls and roof structure;

(B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(C) Has interior wiring for interior lights;

(D) Has a heating system; and

(E) In the case of replacement:

(i) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county where the property is located a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The county planning director or the director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph; and

(ii) For which the applicant has requested a deferred replacement permit, is removed or demolished within three months after the deferred replacement permit is issued. A deferred replacement permit allows construction of the replacement dwelling at any time. If, however, the established dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction. A deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant.

(r) Farm stands if:

(A) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sale of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(B) The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops or livestock and does not include structures for banquets, public gatherings or public entertainment.

(s) An armed forces reserve center, if the center is within one-half mile of a community college. For purposes of this paragraph, "armed forces reserve center" includes an armory or National Guard support facility.

(t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility preexisted the use approved under this paragraph. The site shall not include an aggregate surface or hard surface area unless the surface preexisted the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

→ (u) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. 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 uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility.

(v) Fire service facilities providing rural fire protection services.

(w) Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.

(x) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

(A) A public right of way;

(B) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

(C) The property to be served by the utility.

(y) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

(2) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), the following uses may be established in any area zoned for exclusive farm use subject to ORS 215.296:

(a) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot if the farm operation or woodlot:

(A) Consists of 20 or more acres; and

(B) Is not smaller than the average farm or woodlot in the county producing at least \$2,500 in annual gross income from the crops, livestock or forest products to be raised on the farm operation or woodlot.

~~(b) A primary dwelling in conjunction with farm use or the propagation or harvesting of a forest product on a lot or parcel that is managed as part of a farm operation or woodlot smaller than required under paragraph (a) of this subsection, if the lot or parcel:~~

(A) Has produced at least \$20,000 in annual gross farm income in two consecutive calendar years out of the three calendar years before the year in which the application for the dwelling was made or is planted in perennials capable of producing upon harvest an average of at least \$20,000 in annual gross farm income; or

(B) Is a woodlot capable of producing an average over the growth cycle of \$20,000 in gross annual income.

(c) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(u) of this section.

(d) Operations conducted for:

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, not otherwise permitted under subsection (1)(g) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

(D) Processing of other mineral resources and other subsurface resources.

(e) Community centers owned by a governmental agency or a nonprofit community organization and operated primarily by and for residents of the local rural community, hunting and fishing preserves, public and private parks, playgrounds and campgrounds. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Land Conservation and Development Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the commission determines that the increase will comply with the standards described in ORS 215.296 (1). A public park or campground may be established as provided under ORS 195.120. As used in this paragraph, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal cooking appliance.

(f) Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.

(g) Commercial utility facilities for the purpose of generating power for public use by sale.

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.

(i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(j) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.

(k) Dog kennels.

(L) Residential homes as defined in ORS 197.660, in existing dwellings.

(m) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species shall not include any species under quarantine by the State Department of Agriculture or the United States Department of Agriculture. The county shall provide notice of all applications under this paragraph to

the State Department of Agriculture. Notice shall be provided in accordance with the county's land use regulations but shall be mailed at least 20 calendar days prior to any administrative decision or initial public hearing on the application.

(n) Home occupations as provided in ORS 215.448.

(o) Transmission towers over 200 feet in height.

(p) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels.

(q) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.

(r) Improvement of public road and highway related facilities such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels.

(s) A destination resort that is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.

(t) Room and board arrangements for a maximum of five unrelated persons in existing residences.

(u) A living history museum related to resource based activities owned and operated by a governmental agency or a local historical society, together with limited commercial activities and facilities that are directly related to the use and enjoyment of the museum and located within authentic buildings of the depicted historic period or the museum administration building, if areas other than an exclusive farm use zone cannot accommodate the museum and related activities or if the museum administration buildings and parking lot are located within one quarter mile of the metropolitan urban growth boundary. As used in this paragraph:

(A) "Living history museum" means a facility designed to depict and interpret everyday life and culture of some specific historic period using authentic buildings, tools, equipment and people to simulate past activities and events; and

(B) "Local historical society" means the local historical society, recognized as such by the county governing body and organized under ORS chapter 65.

(v) Operations for the extraction and bottling of water.

(w) An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.

(x) A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

(y) Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.

(3) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), a single-family residential dwelling not provided in conjunction with farm use may be established on a lot or parcel with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983. A proposed dwelling is subject to approval of the governing body or its designee in any area zoned for exclusive farm use upon written findings showing all of the following:

(a) The dwelling or activities associated with the dwelling will not force a significant change in or ~~significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.~~

(b) The dwelling is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(c) Complies with such other conditions as the governing body or its designee considers necessary.

(4) In counties that have adopted marginal lands provisions under ORS 197.247 (1991 Edition), one

single-family dwelling, not provided in conjunction with farm use, may be established in any area zoned for exclusive farm use on a lot or parcel described in subsection (7) of this section that is not larger than three acres upon written findings showing:

- (a) The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use;
- (b) If the lot or parcel is located within the Willamette River Greenway, a floodplain or a geological hazard area, the dwelling complies with conditions imposed by local ordinances relating specifically to the Willamette River Greenway, floodplains or geological hazard areas, whichever is applicable; and
- (c) The dwelling complies with other conditions considered necessary by the governing body or its designee.

(5) Upon receipt of an application for a permit under subsection (4) of this section, the governing body shall notify:

- (a) Owners of land that is within 250 feet of the lot or parcel on which the dwelling will be established; and
- (b) Persons who have requested notice of such applications and who have paid a reasonable fee imposed by the county to cover the cost of such notice.

(6) The notice required in subsection (5) of this section shall specify that persons have 15 days following the date of postmark of the notice to file a written objection on the grounds only that the dwelling or activities associated with it would force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use. If no objection is received, the governing body or its designee shall approve or disapprove the application. If an objection is received, the governing body shall set the matter for hearing in the manner prescribed in ORS 215.402 to 215.438. The governing body may charge the reasonable costs of the notice required by subsection (5)(a) of this section to the applicant for the permit requested under subsection (4) of this section.

(7) Subsection (4) of this section applies to a lot or parcel lawfully created between January 1, 1948, and July 1, 1983. For the purposes of this section:

(a) Only one lot or parcel exists if:

(A) A lot or parcel described in this section is contiguous to one or more lots or parcels described in this section; and

(B) On July 1, 1983, greater than possessory interests are held in those contiguous lots, parcels or lots and parcels by the same person, spouses or a single partnership or business entity, separately or in tenancy in common.

(b) "Contiguous" means lots, parcels or lots and parcels that have a common boundary, including but not limited to, lots, parcels or lots and parcels separated only by a public road.

(8) A person who sells or otherwise transfers real property in an exclusive farm use zone may retain a life estate in a dwelling on that property and in a tract of land under and around the dwelling.

(9) No final approval of a nonfarm use under this section shall be given unless any additional taxes imposed upon the change in use have been paid.

(10) Roads, highways and other transportation facilities and improvements not allowed under subsections (1) and (2) of this section may be established, subject to the approval of the governing body or its designee, in areas zoned for exclusive farm use subject to:

(a) Adoption of an exception to the goal related to agricultural lands and to any other applicable goal with which the facility or improvement does not comply; or

(b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development Commission as provided in section 3, chapter 529, Oregon Laws 1993. [~~1963 c.577 §3; 1963 c.619 §1a, 1969 c.258 §1; 1973 c.503 §4; 1975 c.551 §1; 1975 c.552 §32; 1977 c.766 §8; 1977 c.788 §2; 1979 c.480 §6; 1979 c.773 §10; 1981 c.748 §44; 1983 c.743 §3; 1983 c.826 §6; 1983 c.827 §27b; 1985 c.544 §2; 1985 c.583 §1; 1985 c.604 §3; 1985 c.717 §5; 1985 c.811 §12; 1987 c.227 §1; 1987 c.729 §5; 1987 c.886 §9; 1989 c.224 §25; 1989 c.525 §1; 1989 c.564 §7; 1989 c.648 §59; 1989 c.739 §1; 1989 c.837 §26; 1989 c.861 §1; 1989 c.964 §10; 1991 c.459 §345; 1991 c.866 §1; 1991 c.950 §2; 1993 c.466 §1; 1993 c.469 §5; 1993 c.704 §2; 1993 c.792 §29a; 1995 c.435 §1; 1995 c.528 §1; 1997 c.249 §59; 1997~~

may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use. When a temporary restraining order is granted in a suit instituted by a person who is not exempt from furnishing bonds or undertakings under ORS 22.010, the person shall furnish undertaking as provided in ORCP 82 A(1).

(2) The court may allow the prevailing party reasonable attorney fees and expenses in a judicial proceeding authorized by this section that involves a dwelling approved to relieve a temporary hardship. However, if the court allows the plaintiff reasonable attorney fees or expenses, such fees or expenses shall not be charged to the county if the county did not actively defend itself or the landowner in the proceeding.

(3) Nothing in this section requires the governing body of a county or a person whose interest in real property in the county is or may be affected to avail itself of a remedy allowed by this section or by any other law. [1955 c.439 §7; 1963 c.619 §12; 1977 c.766 §6; 1981 c.898 §48; 1983 c.826 §5; 2001 c.225 §1]

215.190 Violation of ordinances or regulations. No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of an ordinance or regulation authorized by ORS 215.010 to 215.190 and 215.402 to 215.438. [1955 c.439 §9; 1963 c.619 §13]

215.200 [1957 s.s. c.11 §1; renumbered 215.285]

AGRICULTURAL LAND USE

(Exclusive Farm Use Zones)

215.203 Zoning ordinances establishing exclusive farm use zones; definitions. (1) Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only when such zoning is consistent with the comprehensive plan.

(2)(a) As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing 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. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes 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. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

(b) "Current employment" of land for farm use includes:

- (A) Farmland, the operation or use of which is subject to any farm-related government program;
- (B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
- (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D) of

this paragraph, prior to maturity;

(D) 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;

(E) 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;

(F) 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)(u) and 215.283 (1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

(G) Water impoundments lying in or adjacent to and in common ownership with farm use land;

(H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

(I) 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;

(J) Any land described under ORS 321.267 (3) or 321.824 (3);

(K) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; and

→ (L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

(i) Only the crops of the landowner are being processed;

(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or

(iii) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

(c) As used in this subsection, "accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(3) "Cultured Christmas trees" means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation. [1963 c.577 §2; 1963 c.619 §1(2), (3); 1967 c.386 §1; 1973 c.503 §3; 1975 c.210 §1; 1977 c.766 §7; 1977 c.893 §17a; 1979 c.480 §1; 1981 c.804 §73; 1983 c.826 §18; 1985 c.604 §2; 1987 c.305 §4; 1989 c.653 §1; 1989 c.887 §7; 1991 c.459 §344; 1991 c.714 §4; 1993 c.704 §1; 1995 c.79 §75; 1995 c.211 §1; 1997 c.862 §1; 2001 c.613 §18; 2003 c.454 §117; 2003 c.621 §67a; 2005 c.354 §1; 2007 c.739 §34; 2009 c.850 §4]

~~215.205 [1957 s.s. c.11 §2; renumbered 215.295]~~

~~215.207 [1989 c.653 §2; repealed by 1999 c.314 §94]~~

215.209 Department of Land Conservation and Development database; rural land maps; contents. The Department of Land Conservation and Development shall develop, in conjunction with local governments and other state agencies, a computerized database that is capable of producing

Requirements for Production of Bio-fuel located on a Farm Operation

1. Applicable Entities

Entity looking to have a facility for the processing of farm crop biomass, for the production of bio-fuel located on a farm operation in rural areas ("**Rural area**" means an area in the state that is not within the urban growth boundary of a city with a population of 30,000 or more) within Rural Renewable Energy Development Zones that provides:

1. Provides at least one quarter (25%) of the farm crop from an agricultural producer ("**agricultural producer**": means a person that produces biomass that is used in Oregon as bio-fuel or to product bio fuel) in the creation of organic bio-mass ("**bio-mass**": organic matter that is available on a renewable or recurring basis that is derived from forest or rangeland woody debris from harvesting or thinning), also:

- A. Wood material from hardwood timber described in ORS 321.267(3)
- B. Agricultural residues
- C. Offal and tallow from animal rendering
- D. Food wastes collected provided under ORS chapter 459 or 459A
- E. Wastewater solids
- F. Crops grown solely to be used for energy.

shall be the types of bio-mass needed for the creation of bio-fuel for processing at a facility ("**Bio-fuel**": means liquid, gaseous or solid fuels derived from bio-mass)

2. A Bio-Collector (means a person that collects biomass to be used in Oregon as Bio-fuel or to produce bio-fuel) needs the creation of a Building establishing a Processing Facility for the bio-mass into bio-fuel and such building shall not exceed 10,000 sq. ft. of floor area designed for the preparation, storage, or "other farm use" of the bio-mass holding area or devote more than 10,000 sq. ft. of processing activities of the bio-mass into bio-fuel within another building supporting these farm uses when creating bio-mass to bio-fuel.

2. Commercialization

A. Commercialization of bio-fuel can only happen by **agricultural producers** and **bio-collectors** if the bio-mass of the entity siting the bio-mass processing facility uses the agricultural collector's or bio-collector's **own** bio-mass from his own land to be processed in the processing facility.

B. A agricultural collector or bio-collector can purchase bio-mass material for the processing of such bio-mass into bio-fuel on the farm of the land owner or

C. The bio-collector (prime landowner for the holding and processing of bio-mass into bio-fuel) within an area create a "cooperative" for the processing of bio-mass into bio-fuel for use by those that participate within this cooperative for use *or* for sale.

-- Summary of amendments to LC 16.210 Nonimpacted Impacted Forest Land (F1)

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.

Source: House Bill 2992 (2007)
ORS 215.78

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

(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).

Page 02 of 03
Source!
16.210(8)

removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.650 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

(7) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use. [1993 c.792 §7; 1995 c.700 §1; 1999 c.348 §14; 2001 c.531 §1; 2007 c.143 §3; 2009 c.850 §12]

→ **215.783 Land division to preserve open space or park; qualification for special assessment. (1)** The governing body of a county or its designee may approve a proposed division of land in a forest zone or a mixed farm and forest zone to create two parcels 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 this section.

(2) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or

(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(3) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:

(a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and

(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(4) If a proposed division of land under this section 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 county may approve the division. [2007 c.143 §2]

(Review of Lands Zoned for Farm and Forest Use)

215.788 Legislative review of lands zoned for farm and forest use; criteria. (1) For the purposes of correcting mapping errors made in the acknowledgment process and updating the designation of farmlands and forestlands for land use planning, a county may conduct a legislative review of lands in the county to determine whether the lands planned and zoned for farm use, forest use or mixed farm and forest use are consistent with the definitions of "agricultural lands" or "forest lands" in goals relating to agricultural lands or forestlands.

(2) A county may undertake the reacknowledgment process authorized by this section only if the Department of Land Conservation and Development approves a work plan, from the county, describing the expected scope of reacknowledgment. The department may condition approval of a work plan for reacknowledgment under this section to reflect the resources needed to complete the review required by ORS 197.659 and 215.794. The work plan of the county and the approval of the department are not final orders for purposes of review.

(3) A county that undertakes the reacknowledgment process authorized by this section shall provide an opportunity for all lands planned for farm use, forest use or mixed farm and forest use and all lands subject to an exception under ORS 197.732 to a goal relating to agricultural lands or forestlands to be included in the review.

(4) A county must plan and zone land reviewed under this section:

(a) For farm use if the land meets the definition of "agricultural land" in a goal relating to agricultural lands;

(b) For forest use if the land meets the definition of "forest land" used for comprehensive plan amendments in the goal relating to forestlands;

(c) For mixed farm and forest use if the land meets both definitions;

(d) For nonresource use, consistent with ORS 215.794, if the land does not meet either definition; or

(e) For a use other than farm use or forest use as provided in a goal relating to land use planning process and policy framework and subject to an exception to the appropriate goals under ORS 197.732 (2).

(5) A county may consider the current land use pattern on adjacent and nearby lands in determining whether land meets the appropriate definition. [2009 c.873 §5]

Note: 215.788 to 215.794 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.791 Review of nonresource lands for ecological significance; inventory and protection of ecologically significant nonresource lands; criteria. (1) If a county amends its comprehensive plan or a land use regulation mapping zoning designations under ORS 215.788 to 215.794, the county shall review lands that are planned or rezoned as nonresource lands to determine whether the lands contain ecologically significant natural areas or resources. The county shall consider appropriate goals and the "Oregon Conservation Strategy" prepared in September of 2006 by the State Department of Fish and Wildlife.

(2) The county shall maintain an inventory in the comprehensive plan of nonresource lands that contain ecologically significant natural areas or resources and establish a program to protect the areas or resources from the adverse effects of new uses allowed by the planning or zoning changes. The county may use nonregulatory programs to protect the resources including, but not limited to, programs for the transfer of severable development interests to other lands that do not contain ecologically significant resources.

- Summary of amendments to LC 16.211 Impacted Forest Land (F2)

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.

Source: House Bill 2992 (2007)
ORS 215.783

Proposed amendments of the text:

LC 16.211(10) Area:

(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.

removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.650 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

(7) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use. [1993 c.792 §7; 1995 c.700 §1; 1999 c.348 §14; 2001 c.531 §1; 2007 c.143 §3; 2009 c.850 §12]



215.783 Land division to preserve open space or park; qualification for special assessment. (1)

The governing body of a county or its designee may approve a proposed division of land in a forest zone or a mixed farm and forest zone to create two parcels 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 this section.

(2) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or

(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(3) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:

(a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and

(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(4) If a proposed division of land under this section 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 county may approve the division. [2007 c.143 §2]

(Review of Lands Zoned for Farm and Forest Use)

215.788 Legislative review of lands zoned for farm and forest use; criteria. (1) For the purposes of correcting mapping errors made in the acknowledgment process and updating the designation of farmlands and forestlands for land use planning, a county may conduct a legislative review of lands in the county to determine whether the lands planned and zoned for farm use, forest use or mixed farm and forest use are consistent with the definitions of "agricultural lands" or "forest lands" in goals relating to agricultural lands or forestlands.

(2) A county may undertake the reacknowledgment process authorized by this section only if the Department of Land Conservation and Development approves a work plan, from the county, describing the expected scope of reacknowledgment. The department may condition approval of a work plan for reacknowledgment under this section to reflect the resources needed to complete the review required by ORS 197.659 and 215.794. The work plan of the county and the approval of the department are not final orders for purposes of review.

(3) A county that undertakes the reacknowledgment process authorized by this section shall provide an opportunity for all lands planned for farm use, forest use or mixed farm and forest use and all lands subject to an exception under ORS 197.732 to a goal relating to agricultural lands or forestlands to be included in the review.

(4) A county must plan and zone land reviewed under this section:

(a) For farm use if the land meets the definition of "agricultural land" in a goal relating to agricultural lands;

(b) For forest use if the land meets the definition of "forest land" used for comprehensive plan amendments in the goal relating to forestlands;

(c) For mixed farm and forest use if the land meets both definitions;

(d) For nonresource use, consistent with ORS 215.794, if the land does not meet either definition; or

(e) For a use other than farm use or forest use as provided in a goal relating to land use planning process and policy framework and subject to an exception to the appropriate goals under ORS 197.732 (2).

(5) A county may consider the current land use pattern on adjacent and nearby lands in determining whether land meets the appropriate definition. [2009 c.873 §5]

Note: 215.788 to 215.794 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.791 Review of nonresource lands for ecological significance; inventory and protection of ecologically significant nonresource lands; criteria. (1) If a county amends its comprehensive plan or a land use regulation mapping zoning designations under ORS 215.788 to 215.794, the county shall review lands that are planned or rezoned as nonresource lands to determine whether the lands contain ecologically significant natural areas or resources. The county shall consider appropriate goals and the "Oregon Conservation Strategy" prepared in September of 2006 by the State Department of Fish and Wildlife.

(2) ~~The county shall maintain an inventory in the comprehensive plan of nonresource lands that contain ecologically significant natural areas or resources and establish a program to protect the areas or resources from the adverse effects of new uses allowed by the planning or zoning changes. The county may use nonregulatory programs to protect the resources including, but not limited to, programs for the transfer of severable development interests to other lands that do not contain ecologically significant resources.~~

→ **308A.718 Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation; remediation plan notification.** (1) The county assessor shall send notice as provided in this section if land is disqualified under any of the following special assessment programs:

- (a) Farm use special assessment under ORS 308A.050 to 308A.128.
- (b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.
- (c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.
- (d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.
- (e) Small tract forestland special assessment under ORS 321.700 to 321.754.
- (f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.
- (g) Conservation easement special assessment under ORS 308A.450 to 308A.465.

(2) Notwithstanding that a change in use described in this section is not a disqualification, the assessor shall send notice as provided in this section when the highest and best use of land changes from forestland to a different highest and best use.

(3) Within 30 days after the date that land is disqualified from special assessment, the assessor shall notify the taxpayer in writing of the disqualification and shall state the reason for the disqualification.

(4) Following receipt of the notification, the taxpayer may appeal the assessor's determination to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

(5)(a) When any land has been granted special assessment under any of the special assessment laws listed in subsection (1) of this section and the land is disqualified from such special assessment, the county assessor shall furnish the owner with a written explanation summarizing:

- (A) ORS 308A.706 (1)(d) (relating to change in special assessment);
- (B) ORS 308A.727 (relating to change in use to open space use special assessment for certain golf courses);
- (C) The administrative act necessary under ORS 308A.724 to change the property to another classification described in this paragraph; and

(D) The imposition of any penalties that would result from the disqualification if no requalification or reclassification is made under one of the other special assessment laws listed in this paragraph.

(b) The written explanation required by this subsection shall be given in conjunction either with the notice of disqualification required under this section or with an order or notice of disqualification otherwise provided by law.

(c)(A) If no notice of disqualification is required to be made by this section or other provision of law, the written explanation required by this subsection shall be made by the county assessor.

(B) A written explanation made under this paragraph shall be made by the assessor within 30 days of the effective date of the disqualification.

(6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

- (a) The result of a request for disqualification by the property owner; or
- (b) Because the property is being acquired by a government or tax-exempt entity.

(7) Within 30 days after the date the notification required under subsection (3) of this section is mailed, a taxpayer intending to implement a remediation plan as defined in ORS 308A.053 on the disqualified land that is the subject of the notification must notify the assessor in writing of the taxpayer's intention to seek certification for the remediation plan. [1999 c.314 §39; 2003 c.454 §38; 2003 c.539 §18; 2003 c.621 §89; 2007 c.809 §12; 2009 c.776 §7]

308A.721 [1999 c.314 §40; repealed by 2003 c.454 §81 and 2003 c.621 §49]

(Change of Special Assessment)

308A.724 Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates; limitation on special assessments for disqualified wildlife habitat and conservation easement land. (1)(a) In order for additional taxes

- Summary of amendments to LC 16.211 Impacted Forest Land (F2)

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.

Source: House Bill 2992 (2007)
ORS 215.783

Proposed amendments of the text:

LC 16.211(10) Area:

(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.

removal of the dwelling or that prohibited subsequent division of the lot or parcel; or

(b) A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under a statewide planning goal protecting forestland.

(5) A county with a minimum lot or parcel size acknowledged by the commission pursuant to ORS 197.251 after January 1, 1987, or acknowledged pursuant to periodic review requirements under ORS 197.628 to 197.650 that is smaller than those prescribed in subsection (1) of this section need not comply with subsection (2) of this section.

(6)(a) An applicant for the creation of a parcel pursuant to subsection (2)(b) of this section shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded with the county clerk of the county where the property is located. An applicant for the creation of a parcel pursuant to subsection (2)(d) of this section shall provide evidence that a restriction on the newly created parcel has been recorded with the county clerk of the county where the property is located. The restriction shall allow no dwellings unless authorized by law or goal on land zoned for forest use except as permitted under subsection (2) of this section.

(b) A restriction imposed under this subsection shall be irrevocable unless a statement of release is signed by the county planning director of the county where the property is located indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to agricultural land or forestland.

(c) The county planning director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this subsection. The record shall be readily available to the public.

(7) A landowner allowed a land division under subsection (2) of this section shall sign a statement that shall be recorded with the county clerk of the county in which the property is located, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use. [1993 c.792 §7; 1995 c.700 §1; 1999 c.348 §14; 2001 c.531 §1; 2007 c.143 §3; 2009 c.850 §12]

➔ **215.783 Land division to preserve open space or park; qualification for special assessment. (1)** The governing body of a county or its designee may approve a proposed division of land in a forest zone or a mixed farm and forest zone to create two parcels 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 this section.

(2) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or

(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(3) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:

(a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and

(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(4) If a proposed division of land under this section 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 county may approve the division. [2007 c.143 §2]

(Review of Lands Zoned for Farm and Forest Use)

215.788 Legislative review of lands zoned for farm and forest use; criteria. (1) For the purposes of correcting mapping errors made in the acknowledgment process and updating the designation of farmlands and forestlands for land use planning, a county may conduct a legislative review of lands in the county to determine whether the lands planned and zoned for farm use, forest use or mixed farm and forest use are consistent with the definitions of "agricultural lands" or "forest lands" in goals relating to agricultural lands or forestlands.

(2) A county may undertake the reacknowledgment process authorized by this section only if the Department of Land Conservation and Development approves a work plan, from the county, describing the expected scope of reacknowledgment. The department may condition approval of a work plan for reacknowledgment under this section to reflect the resources needed to complete the review required by ORS 197.659 and 215.794. The work plan of the county and the approval of the department are not final orders for purposes of review.

(3) A county that undertakes the reacknowledgment process authorized by this section shall provide an opportunity for all lands planned for farm use, forest use or mixed farm and forest use and all lands subject to an exception under ORS 197.732 to a goal relating to agricultural lands or forestlands to be included in the review.

(4) A county must plan and zone land reviewed under this section:

(a) For farm use if the land meets the definition of "agricultural land" in a goal relating to agricultural lands;

(b) For forest use if the land meets the definition of "forest land" used for comprehensive plan amendments in the goal relating to forestlands;

(c) For mixed farm and forest use if the land meets both definitions;

(d) For nonresource use, consistent with ORS 215.794, if the land does not meet either definition; or

(e) For a use other than farm use or forest use as provided in a goal relating to land use planning process and policy framework and subject to an exception to the appropriate goals under ORS 197.732 (2).

(5) A county may consider the current land use pattern on adjacent and nearby lands in determining whether land meets the appropriate definition. [2009 c.873 §5]

Note: 215.788 to 215.794 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 215 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

215.791 Review of nonresource lands for ecological significance; inventory and protection of ecologically significant nonresource lands; criteria. (1) If a county amends its comprehensive plan or a land use regulation mapping zoning designations under ORS 215.788 to 215.794, the county shall review lands that are planned or rezoned as nonresource lands to determine whether the lands contain ecologically significant natural areas or resources. The county shall consider appropriate goals and the "Oregon Conservation Strategy" prepared in September of 2006 by the State Department of Fish and Wildlife.

(2) The county shall maintain an inventory in the comprehensive plan of nonresource lands that contain ecologically significant natural areas or resources and establish a program to protect the areas or resources from the adverse effects of new uses allowed by the planning or zoning changes. The county may use nonregulatory programs to protect the resources including, but not limited to, programs for the transfer of severable development interests to other lands that do not contain ecologically significant resources.

→ **308A.718 Assessor to send notice upon disqualification or forestland change in use; deadline; appeal; change in special assessment explanation; remediation plan notification.** (1) The county assessor shall send notice as provided in this section if land is disqualified under any of the following special assessment programs:

- (a) Farm use special assessment under ORS 308A.050 to 308A.128.
- (b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.
- (c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.
- (d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.
- (e) Small tract forestland special assessment under ORS 321.700 to 321.754.
- (f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.
- (g) Conservation easement special assessment under ORS 308A.450 to 308A.465.

(2) Notwithstanding that a change in use described in this section is not a disqualification, the assessor shall send notice as provided in this section when the highest and best use of land changes from forestland to a different highest and best use.

(3) Within 30 days after the date that land is disqualified from special assessment, the assessor shall notify the taxpayer in writing of the disqualification and shall state the reason for the disqualification.

(4) Following receipt of the notification, the taxpayer may appeal the assessor's determination to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

(5)(a) When any land has been granted special assessment under any of the special assessment laws listed in subsection (1) of this section and the land is disqualified from such special assessment, the county assessor shall furnish the owner with a written explanation summarizing:

(A) ORS 308A.706 (1)(d) (relating to change in special assessment);

(B) ORS 308A.727 (relating to change in use to open space use special assessment for certain golf courses);

(C) The administrative act necessary under ORS 308A.724 to change the property to another classification described in this paragraph; and

(D) The imposition of any penalties that would result from the disqualification if no requalification or reclassification is made under one of the other special assessment laws listed in this paragraph.

(b) The written explanation required by this subsection shall be given in conjunction either with the notice of disqualification required under this section or with an order or notice of disqualification otherwise provided by law.

(c)(A) If no notice of disqualification is required to be made by this section or other provision of law, the written explanation required by this subsection shall be made by the county assessor.

(B) A written explanation made under this paragraph shall be made by the assessor within 30 days of the effective date of the disqualification.

(6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

(a) The result of a request for disqualification by the property owner; or

(b) Because the property is being acquired by a government or tax-exempt entity.

(7) Within 30 days after the date the notification required under subsection (3) of this section is mailed, a taxpayer intending to implement a remediation plan as defined in ORS 308A.053 on the disqualified land that is the subject of the notification must notify the assessor in writing of the taxpayer's intention to seek certification for the remediation plan. [1999 c.314 §39; 2003 c.454 §38; 2003 c.539 §18; 2003 c.621 §89; 2007 c.809 §12; 2009 c.776 §7]

308A.721 [1999 c.314 §40; repealed by 2003 c.454 §81 and 2003 c.621 §49]

(Change of Special Assessment)

308A.724 Application for change of special assessment following disqualification; time for meeting farm use income requirements; application due dates; limitation on special assessments for disqualified wildlife habitat and conservation easement land. (1)(a) In order for additional taxes

Summary of amendments to LC 16.211 Impacted Forest Land (F2)

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.

Source: OAR 660-006-027(7) (2006)

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

LC 16.211(5)(c)(i)(bb):

(bb) At least three dwellings or manufactured dwellings existed on January 1, 1993, **in the 160-acre square or rectangle**, on the other lots or parcels described in LC 16.211(5)(c)(i)(aa) above. **A dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle**. If the measurement is made pursuant to LC 16.211(5)(c)(i)(aa)(B) above and if a road crosses the subject tract, then at least one of the three required dwellings or manufactured dwellings shall be located:

LC 16.211(5)(c)(ii)(bb):

(bb) At least three dwellings or manufactured dwellings existed on January 1, 1993, **in the 160-acre square or rectangle**, on the other lots or parcels described in LC 16.211(5)(c)(ii)(aa) above. **A dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle**. If the measurement is made pursuant to LC 16.211(5)(c)(ii)(aa)(B) above and if a road crosses the subject tract, then at least one of the three required dwellings or manufactured dwellings shall be located:

LC 16.211(5)(c)(iii)(bb):

(bb) At least three dwellings or manufactured dwellings existed on January 1, 1993, **in the 160-acre square or rectangle**, on the other lots or parcels described in LC 16.211(5)(c)(iii)(aa) above. **A dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle**. If the measurement is made pursuant to LC 16.211(5)(c)(iii)(aa)(B) above and if a road crosses the subject tract, then at least one of the three required dwellings or manufactured dwellings shall be located:

- Summary of Amendments to LC 16.212 Exclusive Farm Use (EFU)

Lane Code 16.212(3)(q) "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: Deletions of the text indicated with ~~strikethrough~~.
Additions to the text indicated with **bold underlined**.

LC 16.212(3)(q) (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)(q), "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(4)(c) Commercial activities in conjunction with . . .

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

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** pursuant to LC 16.212(4)(h)(v) below, that comply with LC 16.212(10)(f) through (g) below.

Lane Code 16.212(4)(h) A facility for the primary processing of . . .

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

Source: HB 2210 (2007)
Amended ORS 215.213

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

16.212(4)

(h) A facility for the primary processing of farm crops, **or the production of biofuel as defined in LC 16.090 pursuant to LC 16.212(4)(h)(v) below**, 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; **and**

(v) **For the production of biofuel as provided for in LC 16.212(4)(h) above, if:**
(aa) Only the crops of the landowner are being processed;
(bb) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or

(cc) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

This section is moved to LC 16.090, Definitions.

Lane Code 16.212(4)(l-l)

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

Source: House Bill 2069 (2005).
Amended ORS 215.213 and 215.283

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

(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(4)(m-m)

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

Source: House Bill 3117 (2005).
Amended ORS 215.283

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

(p-p) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(2) and that comply with LC 16.212(10)(a) through (h) below.

This amendment is repeated twice, and the applicable place for this amendment is under (b), where the Director has the option to conduct a hearing and provide written notice of the decision and an opportunity for appeal.

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.

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

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

(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.

Approved
7/6/10

MINUTES

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

May 18, 2010
5:30 p.m.

PRESENT: Robert Noble, Chair; Steve Dignam, George Goldstein, Nancy Nichols, Dennis Sandow, John Sullivan, Lane County Planning Commissioners; Kent Howe, Kier Miller, Rafael Sebba, Lane County Land Management Division; Mark Bernard, Lane County Transportation Planning and Traffic; visitors.

ABSENT: Tony McCown, Vice Chair; Lisa Arkin, Jozef Siekiel-Zdzienicki Commissioners.

Mr. Noble convened the Lane County Planning Commission (LCPC) at 5:35 p.m. Mr. Noble noted consensus to revise the agenda order from the original published agenda.

WORK SESSION

1. PA 10-5259—In the Matter of Amending Chapters 13 and 16 to Correct Scrivener’s Errors, Update References and Citations, Clarify Confusing or Ambiguous Language, and Adopting Savings and Severability Clauses (LC 13.010, 16.090, 16.212, 16.213, 16.214, 16.233, 16.238, 16.243, 16.264, 16.250, 16.264, 16.290, and 16.292).

Mr. Dignam arrived at 5:38 p.m.

The Planning Commission took a short break.

Mr. Sebba offered the staff report. The commission was asked to review amendments to Chapters 13 and 16 of Lane Code (LC) that would correct scriveners’ errors, update references and citations, and clarify confusing or ambiguous language. The proposed amendments were a necessary part of updating and modernizing LC, did not constitute changes in policy, and would update certain code provisions to reflect current practice. The proposed amendments were consistent with LC 16.252(2), as they supported the general purpose of Chapter 16, were in the public interest, and would improve the code’s usability for the public and staff. Staff recommended that the commission forward a recommendation to the Board of Commissioners (BCC) to adopt the amendments to LC as proposed. He reviewed a memorandum dated May 17, 2010 which summarized a conversation he had with Tom Lanfear.

In response to a question from Mr. Goldstein, Mr. Sebba said the revised code language LC 16.264(3) was intended to require fuel breaks around any generator brought to a forest zone.

Referring to LC 16.212(7), Exclusive Farm Use Zone Dwelling Test correction, Mr. Goldstein opined the State of Oregon allowed a dwelling on newly created farm land during the initial period of time when the

farm was under development and before it generated income, but the proposed changes would prohibit that.

Mr. Noble suggested such policies issues should be addressed by the Lane Land Use Task Force.

Mr. Dignam requested that Mr. Goldstein's issue regarding Exclusive Farm Use Zone Dwelling Test be put on the Planning Commission's workplan for discussion in the future, noting he recently had a problem with this issue.

Mr. Sebba explained the task force had initially been charged with reviewing six groups of proposals forward by the Goal 1 Coalition, and several proposals had subsequently been added. He explained the process noting everything reviewed by the task force would eventually be seen by the Planning Commission.

Mr. Dignam, as a member of the public and the Planning Commission, asked that Exclusive Farm use Zone Dwelling Test be added to the topics under review by the land use task force.

In response to a question from Mr. Goldstein, Mr. Sebba deferred to Planning Director Kent Howe to advise the commission regarding how the County would deal with a recent U.S. District Court decision related to Ballot Measure (B.M.) 37.

Mr. Sullivan recalled the BCC, through the Planning Director, stipulated three years ago that the Planning Commission was not to be involved in B.M. 37 claims. He opined the land use task force had received the same direction. The public forum for B.M. 37 claims was directly through the BCC.

Mr. Sebba noted legislative amendments had been the first in a series of Planning Commission actions related to a series of code amendments. The process would include public hearings before the Planning Commission and BCC.

Mr. Howe arrived at 6:25 p.m.

2. Training: Role of PC, By Laws, Quasijudicial v Legislative

Following a brief discussion, there was consensus to defer the training to a future meeting.

3. Other Planning Commission Business

Mr. Noble stated Commissioner Rob Handy had requested that there be representation by the Planning Commission at the BCC meeting at which the City of Springfield 2030 Refinement Plan was discussed. Following a brief discussion, there was consensus for Mr. Noble to contact BCC Chair Bill Fleenor for specifics on how the BCC preferred to handle the question. Mr. Noble would advise Planning Commissioners if a specific date and time were established for Planning Commissioners' attendance at a BCC meeting on June 8 or June 9.

Mr. Noble asked Mr. Howe for information on the scope and process of the Lane Land Use Task Force.

Mr. Howe explained the BCC received proposed recommendations authored by Jim Just from the Goal 1 Coalition to amend LC, primarily related to home occupations, developed and committed exception

areas, template dwelling regulations on forest lands, elimination of rezoning from F-1 to F-2, clarifying impacted and non-impacted forest land characteristics in Goal 4 polices, and eliminating the ability to rezone land from resource to non-resource land. The BCC established by order a land use task force comprised of attorneys, land use consultants, 1000 Friends of Oregon, Goal 1 Coalition, and Lane County Land Watch. The task force consisted of ten members, two appointed by each commissioner. Additional proposals had been accepted which staff were compiling for review by the BCC. Those proposals which the BCC deemed had merit would be added to those already under consideration by the task force. The task team's recommendations would go to the Planning Commission and then the BCC in the fall.

Mr. Noble adjourned the work session at 7:00 p.m.

PUBLIC HEARING

Mr. Noble convened the public hearing at 7:00 p.m.

1. PA 10-5259—In the Matter of Amending Chapters 13 and 16 to Correct Scrivener's Errors, Update References and Citations, Clarify Confusing or Ambiguous Language, and Adopting Savings and Severability Clauses (LC 13.010, 16.090, 16.212, 16.213, 16.214, 16.233, 16.238, 16.243, 16.264, 16.250, 16.264, 16.290, and 16.292).

Mr. Noble opened the public hearing and stated the purpose of the public hearing was for the Planning Commission to make a recommendation to the Board of Commissioners (BCC) regarding the proposed amendments to LC Chapters 13 and 16.

Mr. Sebba provided the staff report. The proposed amendments were a necessary part of updating and modernizing LC, did not constitute changes in policy, and would update certain code provisions to reflect current practice. The proposed amendments were consistent with LC 16.252(2), as they supported the general purpose of Chapter 16, were in the public interest, and would improve the code's usability for the public and staff. Staff recommended that the commission forward a recommendation to the Board of Commissioners (BCC) to adopt the amendments to LC as proposed. He noted a memorandum dated May 17, 2010 which summarized a conversation from Tom Lanfear and additional information identified by staff since the staff report had been prepared had been forwarded to commissioners on May 17, 2010. A key issue raised in the memorandum was that the amendment proposed in Attachment A-7 was not warranted; thus staff suggested a modification to clarify the provision. It was also suggested that Items B-1 and B-6 could be further clarified. Mr. Lanfear was expected to provide testimony tonight. The additional item was a provision in the Rural Industrial Zone that was repealed on January 6, 2006 and was no longer in effect. There was more repackaging of the information that could occur.

Mr. Sebba asked the Planning Commission to answer the following questions:

- Which changes identified in the memorandum, work session and public hearing were desirable?
- Did the Planning Commission prefer that staff make the changes and take them directly to the BCC or would the Planning Commission prefer to hold the record open or continue the public hearing to provide staff an opportunity to bring the changes back to the commission for review?

Tom Lanfear, 38019 Lobo Lane, Dexter. Although he was a member of the Lane Land Use Task Force, he was representing only himself this evening. He had worked as a Lane County staff member for

over 20 years to his retirement. He was challenged for 20 years to explain confusing language confusion that could be corrected by the proposed corrections before the commission. He had a vested interest in seeing the code brought up to a reasonable standard of understanding for the general public and to work efficiently. The purpose of the project was to modernize and streamline the code. Quick fixes related to court cases and legislative demands led to bad references in related portions of the code creating interpretation problems. The LC was cumbersome and it would take a lot of work to get it into shape. The process before the commission had been directed by the BCC and may not be the most efficient to use. Some housekeeping changes proposed tonight could be wiped out by formatting changes suggested later in the process because the basic format of the code could be modernized. The changes in the agenda packets were appropriate for the present time and should move forward from the Planning Commission to the BCC. He did not favor holding the record open for additional changes. He encouraged the Planning Commission to generate its own list of changes for the code update process. He opined the BCC would be open to extending the time to take suggested changes. He averred the best way to review and update LC would be to have community meetings similar to those held during periodic review if sufficient time was available. Mr. Lanfear offered specific suggestions:

- B-1—Language related to replacement dwellings could be made similar throughout LC.
- B-6—Related to stables, riding academies, and commercial uses. LC used to allow farm use in the residential zone as a permitted use. During periodic review requirements for rural communities in 2002, the “farm use” was replaced with “growing and harvesting of crops” in the residential zone, and added some animal provisions. Boarding of horses for profit, which had always been a special use in a residential zone, was inadvertently removed as a permitted use in a residential zone because State law had changed to allow commercial riding, stables, and schooling academies in the definition of farm use. The stables and riding academies needed to be a special use but did not need to be in the same provision with feeding, breeding and management of live stock.
- A-6—Replacing “Director” with “Hearings Official” was appropriate and what was intended. He suggested the Planning Commission recommend it to the BCC. In the mid to late 1990’s, it was determined that was inefficient and costly for the County to process all zone changes through a Hearings Official and they were changed to Director level special uses. He knew of no reason why these issues had to remain at a Hearings Official level when the process for Director approval worked well. This had a subsequent policy implication which should be addressed at a later time.
- A-7—Marginal lands. The code language matched the statute language. This would correct one bad code reference. This had a subsequent policy implication which should be addressed at a later time.
- A-5—Provision for farm dwellings. The change recommended by staff matched the statute. The statute, which had not changed since 1983, referred to an average size farm that produced \$2,500 in goods. In 1983, the County analyzed farms, to determine which produced over \$2,500 in income, by farm type, which was an appropriate action. The provision as written today required every applicant to analyze their farm type and to determine the average size of all farms in the County of that type making more than \$2,500. It was difficult and expensive for a single applicant to get the data. In 1984, the County addressed the provision by determining farm group sizes and eliminated the need for people to complete the unwieldy and costly analysis through working papers. This was subsequently acknowledged by the State Department of Land Conservation and Development (DLCD) in 1984. When the farm zone was changed to match statutory provisions in 2002, the results of the working papers were overlooked and the provision was changed to match the statute. However, the old provision satisfied the statutory requirement

adopted and acknowledged in 1984. He suggested Lane County adopt the old provision and the reference to the farm group sizes in the future which was still in the code.

Mr. Lanfear addressed the issue raised earlier related to the requirement to provide proof of income to be able to have a dwelling on farm property before a house was constructed. There used to be provisions in the code that would allow a person to have a farm management plan which could allow placement of a mobile home for up to five years. After a five year period, if the plan was implemented, the home would become permanent. The State eliminated that provision in H.B. 3661 in 1996, and the provision was no longer available.

Mr. Dignam expressed appreciation for Mr. Lanfear's input as a private citizen, and for taking the time to review the code language.

Mr. Dignam, seconded by Ms. Nichols, moved that the public hearing be closed. The motion passed unanimously, 6:0.

Mr. Noble said there was no requirement to keep the record open and closed the record.

Mr. Sullivan suggested there were three areas the commission needed to consider:

- The set of recommendations in staff report.
- New information submitted after the staff report was prepared which may contain one or two policy issues.
- Identification of a list of policy issues for consideration by the BCC.

Mr. Noble had no objections to recommendations in the staff packet, noting most of the discussion was centered on the memorandum which iterated issues the commission could address. He asked commissioners if there were issues that needed further discussion and if there were those that could move forward to the BCC as submitted to the Planning Commission.

Mr. Dignam, seconded by Mr. Sullivan, moved for approval of the staff recommendations in PA 10-5259. The motion passed unanimously, 6:0.

Mr. Sullivan, seconded by Mr. Dignam, moved that the Planning Commission recommend to the BCC that in conjunction with the previous motion, the Planning Commission noted potential for policy change issues specifically in A-5 of the memorandum dated May 17, 2010 and in expert testimony from Tom Lanfear regarding A-6 and A-7, and in comments from Mr. Goldstein, as specified in the minutes for this meeting.

Mr. Sullivan stated the Planning Commission had heard from Mr. Goldstein and Tom Lanfear, an expert, who testified that there may be additional policy issues that should be addressed.

Mr. Dignam asserted A-6 was in the staff memorandum rather than in the May 17, 2010 memorandum. He said although he had raised the issue of the farm income test at the beginning of this meeting, Mr. Lanfear had clarified this was not an issue that the Planning Commission could deal with because of State law. He was withdrew his previously expressed concern.

Mr. Sullivan accepted Mr. Dignam's correction to the motion.

Mr. Noble offered an amendment to the motion that deleted references to specific sections, i.e., A-5, A-6, and A-7, in the motion, and maintained the language that the issues raised by Tom Lanfear and Mr. Goldstein remain in the motion. The amendment further added language that proposed policy change issues in the staff memorandum be included, as specified in the minutes. Mr. Sullivan seconded the amendment.

In response to Mr. Goldstein's assertion that Lane County was a home rule county, Mr. Noble explained that when tested in court, State law had been ruled to take precedent over home rule.

Mr. Dignam said he would vote in favor of the motion, expressing concern the language would become more clear.

Mr. Noble opined his interest and those of the commission were related to being able to advance concerns about policy rather than only housekeeping and scrivener errors discussed today.

Mr. Dignam suggested the commission communicate to the BCC that the commission thought correcting scriveners' errors was simply scratching the surface and there were significant policy issues raised that needed additional attention.

Mr. Noble restated the motion. Mr. Sullivan, seconded by Mr. Dignam, moved that the Planning Commission forward a recommendation to the BCC that acknowledged a number of policy issues that were identified for future action during the review of the housekeeping amendments to Chapters 13 and 16 offered by Commissioner Goldstein, included in the staff memorandum and included in expert testimony from Tom Lanfear.

Mr. Dignam asserted he would not support the motion because the commission would be approving policy.

Mr. Sullivan withdrew the motion.

Mr. Noble withdrew the amendment to the motion.

Mr. Dignam withdrew the second to the motion.

Mr. Dignam, seconded by Mr. Sullivan, moved that the Planning Commission recommend approval of PA 10-5259 as presented in the staff report and as modified in the memorandum dated May 17, 2010, which modifies A-7 and B-6, and adds the deletion of LC 16.292(3)(p). This motion superseded any previous motion related to this agenda item. The motion passed unanimously, 6:0.

The Planning Commission took a break from 7:50 p.m. to 7:58 p.m.

2. PA 07-6215—Plan Amendment, from Rural land to Rural Commercial land, and a Rezone from Rural Residential/RR-2 (LC 16.290) to Rural Commercial/RC (LC 16.291) for 12.3 acres of land located within the rural community of Blue River.

Map 16-45-28-20, tax lots 300 and 400

STAFF MEMO



DATE: May 18, 2010 (Date of Public Hearing)

TO: LANE COUNTY PLANNING COMMISSION

DEPARTMENT: Public Works Department/Land Management Division

LAND MANAGEMENT DIVISION
http://www.LaneCounty.org/PW_LMD/

FROM: Rafael Sebba, Associate Planner

ITEM TITLE: PA 10-5259 - IN THE MATTER OF AMENDING LANE CODE CHAPTERS 13 AND 16 TO CORRECT SCRIVENER'S ERRORS, UPDATE REFERENCES AND CITATIONS, CLARIFY CONFUSING OR AMBIGUOUS LANGUAGE, AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (LC 13.010, 16.090, 16.211, 16.212, 16.213, 16.214, 16.233, 16.238, 16.243, 16.264, 16.250, 16.258, 16.264, 16.290, AND 16.292). (FILE PA 10-5259)

I. ISSUE

The Lane County Planning Commission is being asked to review amendments to Chapters 13 and 16 of Lane Code (LC) that would correct scrivener's errors, update references and citations, and clarify confusing or ambiguous language.

II. DISCUSSION

A. Background

On February 3, 2010, the Board of Commissioners directed staff to bring a number of proposed amendments to Lane Code and the Rural Comprehensive Plan to a stakeholder group (the Land Use Task Force) for review. The proposed amendments were prepared by the Goal One Coalition and generally fall under the Long Range Planning work program project *Modernize & Streamline of Lane Code/Manual*.

At the February 3, 2010, meeting, the Commissioners also expressed an interest in hearing from others regarding possible updates to Lane Code. Staff took this opportunity to compile a summary of known issues and concerns staff has with the code. These range from correcting simple typographical errors to completely restructuring and modernizing the zoning code.

On February 10, 2010, staff presented the Board with a spreadsheet summarizing both the Goal One Coalition's proposed amendments and staff's issues and concerns. The Board twice directed staff to regroup and reorganize the spreadsheet. At this time, the most recent spreadsheet is titled "Preliminary List of Code Amendments and Policy

Issues 02/19/2010” (see Attachment C). On the spreadsheet, staff’s issues are grouped into “Housekeeping” (see page 3 of Attachment C) and “Clarifications requiring direction” (see pages 4 and 5 of Attachment C)

On February 17, 2010, Commissioners expressed interest in bringing the simplest and least controversial “Housekeeping” items to the Land Use Task Force. On February 24, 2010, the Board directed staff to assemble these items into a package for review.

On March 17, 2010, the Board instructed staff to forward the “Housekeeping” items directly to the Planning Commission without preliminary review by the Land Use Task Force.

B. Criteria

The proposed amendments to Lane Code have been initiated by the Board of Commissioners pursuant to Lane Code 16.252(3)(b). The proposed amendments are subject to the criteria identified in Lane Code 16.252(2).

LC 16.252(2) Criteria. Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners or the Hearings Official in accordance with the procedures in this section.

C. Analysis

The proposed “Housekeeping” amendments fall into two categories. The first category corrects scrivener’s errors and updates outdated language (See Attachment A: Text Corrections). These amendments mainly correct typographical errors, but also update references to the state statutes, the building code, and other sections within Lane Code that have changed since the provision was originally adopted.

The second category clarifies confusing or ambiguous language (See Attachment B: Text Clarifications). These amendments consist of changes to the text of the code that clarify sometimes problematic provisions and bring them in line with Land Management Division practices.

In Attachments A and B, each proposed amendment includes an intent statement, the rationale behind the proposed amendment, and the proposed amendment. Additionally, excerpts from Lane Code as it currently exists and cited sections of Lane Code, state statutes, and Rural Comprehensive Plan policies have been provided for reference.

Since assembling the original list of issues and concerns, six additional items have been identified by staff and are included in this set of proposals. The first corrects a citation error in one of the dwelling provisions in the Exclusive Farm Use Zone (See Item 5 in Attachment A). The second and third items correct scrivener's errors in Procedures for Zoning, Rezoning, and Amendments to Requirements (See Items 12 and 13 in Attachment A). The fourth corrects a scrivener's error in the temporary medical hardship provision of the Rural Residential Zone (See Item 16 in Attachment A). The fifth clarifies a setback provision in the F-2 zone (See Item 2 in Attachment B). The sixth corrects a citation error in the Beaches and Dunes Combining Zone (See Item 3 in Attachment B).

Five "Housekeeping" items initially identified in the spreadsheet have not been included in this set of proposals. The first relates to references throughout the Code to the seemingly redundant phrase "dwellings and manufactured dwellings." This is actually a part of a larger issue addressed in the spreadsheet under "Clarifications requiring direction" that calls for standardizing terms and definitions, and using terms in a consistent manner throughout the Code. The second item not included in this set of proposed amendments is a citation in a provision referencing woodlots in the EFU zone. Upon further investigation, this citation does not require correction. The third item is a sign reference in the RI zone. The existing language is adequate, but could be clarified if all sign provisions are revised, as suggested in the spreadsheet under "Clarifications requiring direction." The fourth item clarified the Home Occupation and Rural Home Business renewal language. This clarification has been included in a broader examination by the Land Use Task Force of the Home Occupation and Rural Home Business provisions. The last item not included involved changes to the Chapter 16 Table of Contents, which can be made administratively and do not constitute actual amendments to the code.

D. Summary

The proposed amendments are a necessary part of updating and modernizing Lane Code, do not constitute changes in policy, and will update certain code provisions to reflect current practice. The proposed amendments are consistent with Lane Code 16.252(2), as they support the general purpose of Chapter 16, are in the public interest, and will improve Lane Code's usability for the public and staff alike.

III. ACTION

A. Alternatives

The Planning Commission may:

1. Forward a recommendation to the Board of Commissioners to adopt the amendments to Lane Code as proposed herein; or

2. Continue the public hearing, or hold the public record open, in order to make revisions to the proposed amendments, followed by a recommendation to the Board; or
3. Forward a recommendation to the Board not to adopt the amendments to Lane Code, and provide an explanation for why the Planning Commission does not support the proposal.

B. Recommendation

Staff recommends Alternative 1.

IV. ATTACHMENTS

- A. Text Corrections
- B. Text Clarifications
- C. Preliminary List of Code Amendments and Policy Issues 02/19/2010