

Lane County Planning Commission Briefing Memo



February 13, 2018 (Date of Memorandum)
February 20, 2018 (Date of Work Session & Public Hearing)

TO: Lane County Planning Commission

DEPARTMENT: Public Works / Land Management Division

PRESENTED BY: Lindsey Eichner, Senior Planner & Amber Bell, Associate Planner

RE: In the matter of amending Lane Code (LC) 16.090 (Definitions), LC 16.210 (F-1 Zone), LC 16.211 (F-2 Zone), LC 16.212 (EFU Zone), and LC 16.214 (ML Zone) to update to term definitions, modernize terminology, enhance the user experience by simplifying the code, streamline review processes, and align the code more closely with State Law. (509-PA18-05035)

I. PROPOSED MOTION(S):

- 1) Move to forward a recommendation to the Board of County Commissioners (the Board) to adopt the proposed amendments to Lane Code as presented; or
- 2) Move to forward a recommendation that the Board adopt the proposed amendments to Lane Code with specific revisions (state revisions); or
- 3) Move to recommend staff to revise the proposed amendments and to return to the Planning Commission for recommendation to the Board;

II. ISSUE:

As part of the Land Management Division (LMD) Code Modernization Project, updates to the following sections of Lane Code have been developed:

- 16.090 Definitions
- 16.210 Non-Impacted Forest Lands (F-1)
- 16.211 Impacted Forested Lands F-2)
- 16.212 Exclusive Farm Use (EFU)
- 16.214 Marginal Lands (ML)

The proposed updates are intended to modernize Chapter 16, streamline review processes, and align the code more closely with state law.

III. DISCUSSION:

A. Background

The County has not systematically modernized or reformatted Lane Code Chapter 16 since its initial adoption in 1984. While periodic legislative updates have been performed and new code provisions have been added over the years, the regulations have not been comprehensively updated in over 30 years. Needless to say, Chapter 16 is out-of-

date and many areas contain inconsistencies, poor formatting, and are difficult to navigate or interpret.

As a component of the LMD's 2015-2016 Long Range Planning Work Program, the Board directed LMD to scope Lane Code Chapter 16, prioritize needed updates, and develop a strategy for addressing those updates. This task was intended as the first step in a multi-year effort to comprehensively overhaul and modernize the County's outdated land use regulations. This effort is commonly referred to as the Code Modernization Project (CMP). In addition to the proposed resource zone updates, the CMP also includes updates to Lane Code Chapters 13 and 14, which were reviewed and recommended for Board approval by the Planning Commission in summer 2017. In future years, additional sections of Chapter 16 will also be updated with priority being given to the Rural Residential, Rural Commercial, and Rural Industrial Zone regulations.

Concurrent with, but unrelated to the Board's direction to LMD, the Department of Land Conservation and Development (DLCD) allocated a portion of its Technical Assistance grant funds for the 2015-2017 biennium to assist several counties in updating the farm, forest, and marginal lands elements of their zoning regulations. The "Multi County Code Update Project," as it is referred to by DLCD, is financed with State of Oregon General Funds. This is not a grant program or loan, and assistance is provided at no cost to participating counties.

On September 25, 2015, DLCD invited interested counties to submit applications to participate in the Multi County Code Update Project. On October 20, 2015, the Board approved Order No. 10-20-15-05, authorizing the LMD to submit an application for participation in the Multi-County Code Update Project, and on November 11, 2015, Lane County was selected by DLCD to participate in the program.

Staff have since worked extensively, with the assistance of DLCD's appointed consultant, Angelo Planning Group, to tailor a model code provided by DLCD to best meet the needs of Lane County. This code update is necessary to provide more clarity and certainty for the public regarding the resource zones. Additionally, the new code will provide clarity for staff in navigating ever-more complex land use applications. This draft will continue to evolve throughout the public involvement process.

To date, review and noticing of the proposed Chapter 16 resource zone drafts have included:

- On December 5, 2017, a work session was held before the Lane County Planning Commission to give an overview of the project and the major proposed changes.
- On December 22, 2017, a memo was emailed out to a group of interested parties, explaining the project, the proposed amendments, and requesting feedback on the drafts.
- On January 16, 2018, notice of the proposed changes was given to DLCD.
- On January 30, 2018, a Measure 56 notice was mailed to all property owners of land zoned F-1, F-2, EFU, and ML. There was an issue with the mailing list for the Exclusive Farm Use Zone properties and over 3,000 notices were mailed out a week later, on February 8, 2018. ORS 215.503 requires that notice be given to property owners at least 20 days prior to the public hearing. Since the mailing did not comply with ORS 215.503, staff recommends continuing the public hearing to

a date certain to allow property owners to review the proposal and provide comments and avoid a procedural error. Section IV. B. of this report contains staff's formal recommendation.

- Notice of public hearing was published in the Register Guard on January 30, 2018.

B. Overview of Proposed Code Revisions

Lane Code (LC) sections 16.210, 16.211, 16.212, and 16.214 codify the County's zoning regulations for forest land, farm land, and marginal land pursuant to ORS Chapter 197, ORS Chapter 215, OAR Chapter 660-006, OAR Chapter 660-033, and the Lane County Rural Comprehensive Plan. Lane Code 16.090 contains definitions for the entirety of Lane Code Chapter 16.

The proposed amendments to LC Chapter 16 are included as Attachment 1 to this memo. Due to the extensive nature of the proposed revisions it is not practical to display the changes in a legislative (track change) format. Rather, staff will recommend that the current sections of Chapter 16 be repealed in their entirety and replaced with a revised version. Attachment 1 contains spreadsheets that identify and compare the proposed language and the corresponding existing language (where applicable). Highlights of the proposed formatting, approach to the drafts, major amendments, and proposed definitions are summarized below.

i. FORMATTING

- a. A table of contents for each Chapter 16 section has been added.
- b. The EFU zone then has a definitions section, and staff have updated this section as needed for consistency with the LC 16.212 draft. Others Chapter 16 sections rely on LC 16.090 by reference.
- c. Use Table. A Use Table is provided in each zone that lists all uses allowed or conditionally allowed and the applicable review process and approval criteria that correspond with each use. Uses can be Allowed (A), Conditional (C), Prohibited (X)¹. For the EFU zone, the uses are further separated by high value soil and non-high value soil columns, for which separate uses and/or criteria in some instances apply. Procedures include "P" for permitted outright; Type I, Type II, Type III; AL means Assembly license per LC 3.995; X means not allowed. The far right column is the 'subject to' column, which lists the applicable criteria for each use. It is also important to review the introduction to the table in each zone, as some have criteria that apply to all uses (e.g. EFU zone – LC 16.212(15), setbacks, sign code, and riparian setbacks).

¹ For new uses. For certain uses, specific criteria may apply for expansion or alteration of existing lawful uses. Applicability of criteria for these uses is denoted with an asterisk (X*).

Use table example:

Table 16.211-1: Use Table for Impacted Forest Zones I = Type I II = Type II III = Type III P = Permitted Outright AL = Assembly License				
	Use	Use Type	Local Procedure Type	Subject to
1.	Forest, Farm and Natural Resource Uses			
1.1.	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash	A	P	
1.2.	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation	A	P	(5)(b), (6)(c)

ii. MODEL CODE TAILORED

The Model Code provided an option to include a Use Table and/or a more traditional list of uses. Staff elected to only utilize the table to reduce redundancy and create a code that can be more easily navigated.

As described above, optional language in the model code that was more restrictive or discretionary than State law or our existing code has been omitted. One example of model code optional language not included in the draft zones is the agri-tourism definition (see below). After reviewing this optional definition, staff determined it would limit potential agri-tourism uses on properties in farm use in that the language appears to be more specific and restrictive than statute and existing Lane Code language.

Therefore, this language was not included in the draft. There was also optional language in the model code that clarified existing standards or terms.

Agri-tourism: A common, farm-dependent activity that is incidental and subordinate to a working farm and that promotes successful agriculture and generates supplemental income for the owner. Such uses may include hay rides, corn mazes and other similar uses that are directly related to on-site agriculture. Any assembly of persons shall be for the purpose of taking part in agriculturally-based activities such as animal or crop care, tasting farm products or learning about farm or ranch operations. Agri-tourism may include farm-to-plate meals. Except for small, farm-themed parties, regularly occurring celebratory gatherings, weddings, parties or similar uses are not Agri-tourism.

iii. MAJOR CHANGES THROUGHOUT CHAPTER 16 RESOURCE ZONES

a. Siting Standards. At the recommendation of the Planning Commission and direction of the Board clear and objective siting standards that comply with State laws and the County's adopted Goal 5 Big Game Habitat program are being proposed. The addition of clear and objective standards will allow for review through a Type I procedure, provided that the use is a permitted or Type I use. Type II or III uses must still be reviewed through the traditional standard siting

standards required by State law (e.g. justify the best location on the property with the least impact to neighboring farm and forest uses). In general, the proposed clear and objective siting standards require that dwellings and structures be placed:

- Within 150 feet of the existing residential structure or dwelling or existing road or driveway; within 500 feet of residential structure on adjacent property; or vacant parcels, within 500 feet of existing road/driveway;
- At least 100 feet from adjoining F-2, EFU, or residentially developed F-1 parcels;
- At least 500 feet from adjoining vacant F-1 land OR no closer than an existing residential structure on the property, whichever is less;
- Subject to certain exceptions, on an area mapped with a soil type that is least suitable for farm and forest use;
- So as to disturb less than one acre of land for new driveways; and
- So as to disturb less than one acre of land for new structures.

b. In-home Commercial Activity (Minor Home Occupation). The Model Code provides an optional in-home commercial activity or “minor home occupation” use that may be allowed through a Type I procedure after finding certain clear and objective standards are met. While home occupations in the farm and forest zones require a conditional use permit per ORS 215.448, in home commercial activities or ‘minor home occupations’ are indistinguishable from the residential use of a dwelling. A common example is a an internet based service operated out of home office where no customers come to the property. DLCD supports this option in the model code as a Type I procedure.

c. Home Occupation. Lane Code currently requires that an approved home occupation be renewed every two years, in order to verify that the business still complies with the original conditions of approval. The code does not require this renewal of any other conditional use permit, except for temporary medical hardships while is required by statute.

d. Mass Gathering. Lane Code currently only includes outdoor mass gathering and other gathering provisions in LC 16.212. However, these provisions apply to zones other than EFU per ORS 197.015(10)(d) and ORS 433.763. Accordingly, these provisions have been added to each of the draft resource zone sections.

e. Sign illumination. Currently, Lane Code prohibits signs that are illuminated or capable of movement. The draft proposes to allow illuminated signs. Proposed language would still prohibit flashing, blinking, contain scrolling images, or capable of movement.

f. Guest House. Lane Code currently allows accessory uses and development in the F-1, F-2, and EFU zone. The ML zone is silent on accessory structures. It is current policy to allow a property owner to apply for a guest house structure, accessory to their lawfully existing dwelling as an accessory structure. Staff applies the regulations listed in the Rural Residential (RR) Zone, because that is the only zone that contains provisions for guest houses and it seems the farm and forest zones should not be less restrictive than the RR zone. The draft attached to this packet contains the same standards that are found in the RR

zone, plus a couple that DLCD staff suggested (definition of cooking facilities, maximum distance from the dwelling, must share the same driveway).

iv. LC 16.090 – DEFINITIONS

- a. Staff added numbers to each definition, to allow for more specific definition references and to increase the ease of navigating this extremely long section.
- b. This section is the only section shown in track-change view; amendments to LC 16.090 are more limited and technical than the complete overhaul proposed to the resource zone sections. The track changes show where edits were made to existing definitions or additions of new definitions. There are also notes in the margin to provide clarification on why the edit or addition is occurring.
- c. Staff clarified in the draft when the definition only applies to the resource zones (F-1, F-2, EFU). If the definition only applied to the EFU zone, it was included in the EFU zone.
- d. Some new definitions are proposed and some amendments to existing definitions are proposed for consistency with OARs/ORS or included from model code.
 - a. Accessory structure
 - b. Auxiliary
 - c. Biofuel
 - d. Campground
 - e. Date of Creation and Existence
 - f. Dwelling
 - g. Farm Use
 - h. Irrigated
 - i. Outdoor Mass Gathering
 - j. Preparation
 - k. Processed
 - l. Youth Camp
 - m. Yurt
- e. Staff have incorporated revisions to clarify that the definition of “dwelling” does not exclude a manufactured home, as raised in the appeal of template dwelling File No. 509-PA15-05735 (Wolf).
- f. Staff have incorporated revisions to clarify the definition of “building” to not consider retaining walls under 4 ft. and fences under 6 ft. as a structure for the sake of property line setbacks.

v. AMENDMENTS TO LC 16.210 F-1 & LC 16.211 F-2 ZONES

- a. Non-Impacted Forest Lands (F-1) and Impacted Forest Lands (F-2) zones include the same uses, except that no new dwellings are allowed in the F-1 zone per the Rural Comprehensive Plan. Staff will request direction from the Planning Commission on whether:
 - Caretaker residences for public parks/fish hatcheries should be allowed in the F-1 zone. This use is currently a permitted use that requires a complex LUCS, and it is proposed as a Type II application to provide for the evaluation of siting standards and notice to neighbors.
 - Whether private seasonal accommodations should be allowed in the F-1 zone. Currently, this requires Hearings Official review and it is proposed to require a Type II Director review application.
- b. Parking of up to 7 dump trucks. Use 3.4. This use is not currently in LC 16.210 or LC 16.211 and has been added to the proposed drafts. This use is a conditional use in forest lands per OAR 660-006-0025(3)(q) and ORS 215.311(4)-(6).

c. Mining and processing of oil, gas or other subsurface resources as defined in ORS 520 or aggregate and mineral resources as defined in ORS 517. Use 4.3. As proposed, this is listed as Type III use. Currently, the F-1 zone lists this use as a Type III procedure, the F-2 zone lists this use as a Type II procedure, and the model code lists this use as a Type III procedure. The draft proposes this as Type III use.

d. Local distribution lines. Use 6.1. Currently, the F-1 zone lists this as a Type II procedure and the model code lists this as a Type I procedure. The draft proposes this as Type I use.

e. Firearms training facility. Use 7.4. Firearms training facility is currently Type III in the F-1 zone and is now proposed as a Type II use. OAR 660-006 does not require a public hearing for initial review of this use.

f. Tsunami inundation zone structures. Use 7.9. These structures are allowed west of the summit of the Coast Range and used by a public agency or disaster response organization for the storage of emergency supplies to serve communities that are located in tsunami inundation zones. Allowed per OAR 660-006-0025(4)(z).

g. Fire siting standards. Graphics have been added to fire siting standards to clarify in which direction the primary and additional safety zone areas apply.

h. A wildlife habitat conservation and management plan pursuant to ORS 215.804. This use is currently in LC 16.211 and in the proposed draft, has been deleted. It appears this use was allowed per ORS 215.804 that was repealed in 2003. The use will continue to be allowed under use 1.4, 'uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.'

vi. **LC 16.212 – EXCLUSIVE FARM USE ZONE**

a. HV/Non-HV use table organization. As described above, uses and their applicable standards are sorted by high value soils and non-high value soil categories. This reflects the fact that some new uses are prohibited on high value soils and for some uses, distinct criteria apply to high and non-high value soils.

b. Permitted uses proposed as Type I. For uses that require evaluation of certain standards that currently necessitates a Land Use Compatibility Statement or other written documentation to verify the use, the Type I procedure is proposed. In the EFU zone, these uses include for example:

- Use 3.1 - Dog training classes or testing trials
- Use 6.3 - Utility facility service lines
- Use 7.2 - Fire service facilities providing rural fire protection services
- Use 7.3 - On-site filming and activities accessory to onsite filming for 45 days or less
- Use 7.4 – A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary

c. Type II uses proposed as Type III use. Change of review process from Director review (Type II) to Hearings Official review (Type III) for 'commercial dog boarding kennels or certain dog training classes or testing trials' and 'outdoor mass gathering of more than 3,000 persons' uses.

d. Slaughter, processing or selling of less than 1,000 poultry or poultry products as defined in ORS 603.038 within a calendar year. This use was identified as Use 1.6 and has been deleted since the draft was presented to the LCPC on December 5, 2017. This revision was based on DLCD comments indicating that this use is subject to the standards at (4)(a).

e. Facility for farm crop processing. Use 1.6. Given that this use is listed under ORS 215.213(1)(u) and notice is not required, this is proposed as a Type I use. This is an update from the LC 16.212 draft presented to the LCPC on December 5, 2017.

f. Primary farm dwelling. Use 2.1. Added minimum lot or parcel size as criteria for primary dwellings in conjunction with a farm use per ORS 215.213(1)(f). Also, an increase of minimum income test from \$32,500 to \$40,000 for certain primary and accessory farm dwellings per OAR 660-033-0135(3) was added.

g. Woodlot operation dwelling. Use 2.2. In summary, there are two options in statute for a woodlot dwelling in marginal lands counties and these are found at ORS 215.213 (2)(a) and (2)(b). Lane Code currently has both (2)(a) and (2)(b) standards, but does not have a minimum acreage size for the lots to meet either of the minimum income tests and this provision is rarely used. The attached draft utilize ORS 215.213(2)(b) – the \$20,000 annual income test from the production of merchantable trees. Minimum acreages necessary to produce \$20,000 annual gross income over the growing cycle for merchantable trees have been added to provide for certainty and consistency when this use is implemented.

h. Farm stands development standards. Use 3.2. New farm stand development standards, an option of the DLCD Model Code, have been added at LC 16.212(4)(e). This list of fairly straightforward development standards is intended to ensure function of the site. Standards include:

- Adequate parking consistent with LC 16.250
- Surfacing requirements for vehicular circulation areas (paving, gravel, cinders, or bark or wood chips)
- No farm stand or parking permitted in right-of-way
- Ingress egress must be marked
- Obtain facility permit
- Visual clearance areas
- Outdoor light fixture must have full cut off and shielding
- Signs must comply with LC 16.212(15)(c)

i. Commercial dog boarding kennel or dog training classes or testing trials. Use 3.9. This use is not currently allowed through in high value agricultural soil areas. This use is proposed as a Type III use in both high and non-high value soil areas. This is supported by OARs for Agricultural Lands.

j. Commercial activities in conjunction with farm use. Use 3.11. Additional criteria was added to the draft, in response to case law that requires counties to make specific findings when reviewing these uses. The additional criteria requires the applicant to tie the commercial use to a farm use and show it is essential to the practice of agriculture in the local area (summarized).

k. New Telecommunication Tower standards. Use 6.14. Per DLCD comments, applicable criteria have been updated to exclude (5)(a) and (5)(b) and include

(4)(n)(i). Telecommunication towers under 200 feet are considered in State to be synonymous with Use 6.4 'utility facility necessary for public service.'

- I. 2017 Legislative Amendments. Passed in the 2017 legislative session, SB 677 includes provisions for apple and pear cider businesses and HB 2179 includes provisions for onsite treatment of septage prior to application for Use 6.2. These pieces of legislation are in effect or will be in effect prior to the Planning Commission public hearing on the proposed Chapter 16 sections. In summary:
 - o SB 677 added cider businesses to ORS 215.452 for small wineries. Provisions are similar to small winery provisions with some adaptation that considers the different use – apple and pear orchards and cider businesses. Effective 1/1/18. Use 3.3. Standards at LC 16.212(11)(a).
 - o HB 2179 adds to ORS 215.213(1)(y) onsite treatment of septage prior to application of biosolid on exclusive farm use land using treatment facilities that are portable, temporary and transportable by truck trailer during authorized period of time. Effective 5/25/17. Use 6.2. Standards at 16.212(4)(l).
- m. Agri-tourism reorganization. LC 16.212(12). Staff have attempted to reorganize and simplify the agri-tourism provisions. For example, applicable standards have been consolidated with use (i.e. six or less or seven or more event applications) and permit expiration language has been created as a subsection.
- n. A wildlife habitat conservation and management plan pursuant to ORS 215.804 and that complies with LC 16.212(10)(f) through (h). This use is currently in LC 16.212 and in the proposed draft, has been omitted. It appears this use was allowed per ORS 215.804 that was repealed in 2003.
- o. Destination resort use current at 16.212(4)(c-c) omitted as this use is generally not applicable to Lane County.

vii. **LC 16.214 – MARGINAL LANDS (ML) ZONE**

- a. Farm Use. Part-time farms, woodlots, and intensive farm operations are allowed in the ML Zone. Farm use, Use 1.1, is proposed that will cover each of these allowed uses. Farm use is proposed as a Type I use.
- b. Intensive forest operation. Intensive forest operation is allowed in the ML zone. Propagation or harvesting of a forest product, Use 1.2, is proposed that has the same meaning. Propagation or harvesting of a forest product is proposed as a Type I use.
- c. Public park. Use 7.2. Currently, this is a permitted (i.e. Type I) use. Per OAR 660-033-0130, this use should be a Type II use. In the draft, this use has been corrected to be a Type II use.
- d. Public or private school. Use 7.4. Currently, this is a permitted (i.e. Type I) use. However, this should be a Type II use. In the draft, this use has been corrected to be a Type II use.
- e. Site for disposal of solid waste ordered by DEQ has been removed as this use was removed, as it is no longer in state law or rule.

- f. Personal use airport. Use 5.12. Currently, this is a permitted (i.e. Type I) use. However, the model code lists this as a Type III conditional use. In the draft, this use has been corrected to be a Type III use.
- g. New uses. Recreational marijuana uses are not allowed currently in LC 16.214. Marijuana production, wholesale distribution, and research are proposed as allowed Type I uses. Use 1.6-1.8. Marijuana processing is proposed as a conditional Type II use. Use 3.6. At the direction from the Planning Commission, mining uses were added to the ML zone.

viii. TELECOMMUNICATION FACILITIES

- a. Use table. Specific cell tower uses are separately listed in each use table (see Use 6.11 – 6.14 as example in EFU table).
- b. Changeout. Currently allowed as a permitted use, subject to clear and objective standards and limitations at LC 16.264(3)(h). To review a proposal for consistency with requirements of (3)(h), this is proposed as a Type I use.
- c. Collocation pursuant to Section 6409(a) of the Spectrum Act. Currently, collocations require Director review (Type II equivalent). However, per the Section 6409(a) of the Spectrum Act (i.e. the Middle Class Tax Relief and Job Creation Act of 2012), a local government may not deny and shall approve an “eligible facilities request” for a modification of an existing wireless tower or base station that does not substantially change its physical dimensions. In April 2015, the FCC adopted standards implementing the Spectrum Act. The standards define eligible facilities request are clear and objective, mostly numerical standards. Therefore, staff propose to change qualifying Spectrum Act requests to a Type I application. This may require concurrent amendment to the definition of collocation at LC 16.264, which staff will further review prior to the LCPC’s recommendation on the proposed Chapter 16 sections.

C. Policy Issues

As mentioned above, the proposed updates to Lane Code are being presented primarily to modernize the code by enhancing readability, providing more clarity and certainty, and updating unclear language. However, the updates are not strictly limited to housekeeping and formatting changes. The update will present of number of policy considerations for the Planning Commission and Board of County Commissioners.

During the review of Ordinance No. 16-01 in 2016, the Board of Commissioners directed staff to review the farm and forest zone siting standards and develop clear and objective standards to replace the 200 by 200-foot same site area criteria.

Staff included new siting standard standards in this draft language to reflect the Board's policy direction. Listed below are other changes that staff are proposing that include changes to current policy by either adding a new use, changing criteria, or changing the review process. Staff request the LCPC's review and direction on the following:

All four resource zones:

- (a) Allow small in-home businesses, which previously required a Home Occupation Conditional Use Permit;

- (b) Include additional criteria for conditional use permit application.
- (c) Remove the two-year renewal process for home occupation approvals;
- (d) Add criteria for Guest Houses into the four resource zones, codifying the County's practice since the early 1990's. Staff copied the standards currently listed in the Rural Residential Zone for guest houses and for the conversion of a lawfully existing dwelling into a guest house (LC 16.290).
 - i. DLCD staff stated in their comments that guest houses not specifically called out in the statute or rule as a permitted use, but had additional criteria suggestions for defining a 'kitchen' and 'cooking facility', providing a maximum distance from the dwelling, and requiring it to use the same driveway as the dwelling, which staff added in to this draft.
- (e) Allow collocations that meet the 2009 FCC declaratory ruling and Section 6409(a) of Spectrum Act to be reviewed under a Type I process, when it currently requires a Type 2 process.
- (f) Allow signs in the four resource zones to be illuminated.

Non-Impacted Forest Lands (F-1) Zone

- (a) Should the County elevate the review process from a Type I to a Type II use for a new caretaker residence for public parks and public fish hatcheries?
- (b) Include new uses listed in Statute, to allow parking of up to seven dump trucks as a conditional use permit and storage structures for emergency supplies to serve communities located in tsunami inundation zones as a Type II use.
- (c) Firearms training facility is in the current code as a Type III use that requires a public hearing, the proposed language has the use listed as a Type II use which would no include a public hearing.

Impacted Forest Lands (F-2) Zone

- (a) Should the County elevate the review process from a Type I to a Type II use for a new caretaker residence for public parks and public fish hatcheries?
- (b) Include new uses listed in Statute, to allow parking of up to seven dump trucks as a conditional use permit and storage structures for emergency supplies to serve communities located in tsunami inundation zones as a Type II use.
- (c) Should the County review an application for mining and processing of oil, gas, or other subsurface resource a Type III use that requires a public hearing? The use is currently requires a Type II use without a public hearing.

Exclusive Farm Use (EFU) Zone

- (a) Should the County add in new minimum development standards for new farm stands that address circulation, parking, outdoor lighting, etc.?

Marginal Lands (ML) Zone

- (a) Combine the following uses to be allowed under 'farm use': part-time farms, woodlots, and intensive farm operations.

- (b) List and allow recreational marijuana uses in the ML zone.
- (c) A personal use airport is currently listed as a Type I review process, the proposed code has it as a Type III review process and requires a public hearing.

D. Comments Received

On December 22, 2017, staff reached out to a group of local land use professionals and public agency staff and requested comments on the proposed draft language. Staff received comments from DLCD staff Tim Murphy (Exhibit 2.b), land use consultant Mike Evans (Exhibit 2.d), and land use consultant Thom Lanfear (Exhibit 2.e).

After the work session before the Planning Commission on December 5, 2017, Commissioner Thorp stated he would be providing comments. Commissioner Thorp's comments are included as Exhibit 2.c.

As required by the Lane County Rural Comprehensive Plan (RCP) (see Goal 5, Policy 11 below), staff worked closely in coordination with ODF&W staff person, Christopher Yee, to review the proposed siting standard language. Mr. Yee submitted a letter in support of the proposed siting standards (Exhibit 2.a)

RCP Goal 5 Flora and Fauna, Policy 11 states:

“11. Oregon Department of Fish and Wildlife recommendations on overall residential density for protection of big game shall be used to determine the allowable number of residential units within regions of the County. Any density above that limit shall be considered to conflict with Goal 5 and will be allowed only after resolution in accordance with OAR 660-16-000. The County shall work with Oregon Department of Fish and Wildlife officials to prevent conflicts between development and Big Game Range through land use regulation in resource areas, siting requirements, and similar activities which are already a part of the County's rural resources zoning program.”

Lane County staff met with Landwatch Lane County staff on January 17, 2018, to review a few of their preliminary comments on the drafts. No written comments have been submitted as of the date of this report. Without additional justification, only a handful of typos were changed in response to that meeting.

In response to all the comments proposing changes, staff considered all suggestions and incorporated them to the extent consistent with ORS and OAR provisions, the model code, Lane County current policies, and the formatting of the proposed code. If a comment or suggestion involved change to the language required by the ORS or OAR provisions, staff did not make the change.

DLCD staff brought up a potential issue with an existing land division provision in the EFU zone, that staff at this time proposes to keep in the new draft. It allows for the creation of a parcel down to 20 acres if the applicant is farming a horticultural specialty. The allowance for creating a substandard parcel is not within the Statute, but has been within our acknowledged Rural Comprehensive Plan (RCP) Goal 3, Policy 2, since 1984. Staff are working with County Counsel to determine if this exception to minimum parcel size can continue to remain in the EFU zone or if it must be removed. The current citation is LC 16.212(9)(b) and proposed citation is LC 16.212(14)(c) for this provision.

Across the board, comments echoed support of the new format and new use tables at the beginning of each zone.

E. Applicable Criteria

The proposed amendments are subject to the applicable criteria identified in Lane Code 12.005, 12.050, and 16.252(2).

LC 12.005 Purpose.

(1) The board shall adopt a comprehensive plan. The general purpose of the comprehensive plan is the guiding of the social, economic, and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare.

The proposed amendments do not impair the purpose of the Rural Comprehensive Plan as the guiding document for Lane County. The proposed amendments update implementing regulations and follow the laws determined by State of Oregon to best promote the will of the people. Adoption of the proposed amendments will bring the implementing regulations into compliance with State law, promote consistency at the local level with the applicable state laws, and will not affect compliance of the Rural Comprehensive Plan and implementing regulations with the Statewide Planning Goals or other applicable State law.

LC 12.050 Method of Adoption and Amendment

(1) The adoption of the comprehensive plan or an amendment to such plan shall be by an ordinance.

The proposed amendments will be adopted by ordinance when enacted by the Board.

(2) The Board may amend or supplement the comprehensive plan upon a finding of:

- (a) an error in the plan; or***
- (b) changed circumstances affecting or pertaining to the plan; or***
- (c) a change in public policy; or***
- (d) a change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.***

The proposed amendments implement changes to state law and Board policy Direction, as such, meet this provision under (b), (c), and (d) above upon adoption by the Board.

LC 16.252 Procedures for Zoning, Re-zoning, and Amendments to Requirements.

(2) Criteria. [Amendments] shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest.

The proposed amendments implement changes to state law, provide additional clarification, and help implement the Lane County Rural Comprehensive Plan. The proposed amendments will provide consistency with state law. The proposed amendments are not contrary to the public interest in that they implement the laws determined by the State of Oregon to best promote the will of the people.

IV. ACTION:

A. Options

1. Forward a recommendation to the Board of Commissioners to adopt the proposed amendments to Lane Code as presented; or
2. Forward a recommendation that the Board adopt the proposed amendments to Lane Code with revisions (state revisions); or
3. Direct staff to revise the proposed amendments and to return to the Planning Commission for recommendation to the Board of Commissioners;

B. Recommendation

Staff recommends continuing the public hearing to April 3rd at 7pm, to allow additional public testimony to those property owners who received notice late.

C. Follow Up

| After the April 3, 2018 public hearing, should the Planning Commission choose options one or two, staff will schedule a public hearing with the Board of Commissioners. Should the Planning Commission so recommend, staff may revise the proposed amendments as suggested and return for a third public hearing on a date certain set by the Planning Commission.

V. ATTACHMENT

1. Drafts and Comparison Tables (dated February 13, 2018)
 - a. Lane Code Chapter 16.090 Proposed Concept Draft
 - b. Lane Code Chapter 16.090 Comparison Table
 - c. Lane Code Chapter 16.210 Proposed Concept Draft
 - d. Lane Code Chapter 16.210 Comparison Table
 - e. Lane Code Chapter 16.211 Proposed Concept Draft
 - f. Lane Code Chapter 16.211 Comparison Table
 - g. Lane Code Chapter 16.212 Proposed Concept Draft
 - h. Lane Code Chapter 16.212 Comparison Table
 - i. Lane Code Chapter 16.214 Proposed Concept Draft
 - j. Lane Code Chapter 16.214 Comparison Table
2. Public Comment
 - a. Comments from ODFW, Christopher Yee, dated 2/8/2018
 - b. Comments from DLCD, Tim Murphy, dated 2/2/2018
 - c. Comments from Larry Thorp, dated 1/24/2018

d. Comments from Mike Evans

- i. 2/4/2018
- ii. 2/2/2018
- iii. 1/29/2018
- iv. 1/11/2018

e. Comments from Thom Lanfear

- i. 2/5/2018
- ii. 1/12/2018