

Lane Code  
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**GREENWAY DEVELOPMENT PERMIT  
RURAL COMPREHENSIVE PLAN**

**16.254 Greenway Development Permit.**

(1) Purpose. To establish Greenway Development procedures for certain land use activities as required by the Statewide Willamette River Greenway Goal and the Lane County Willamette River Greenway Plan.

(2) Definitions. For the purposes of this section, except as otherwise provided below, the definitions provided in LC 16.090 and the Goal adopted by the Oregon Land Conservation and Development Commission shall be used:

(a) Ordinary High Water. The high water level is defined as that high level of a river which is attained during mean annual flood. It does not include levels attained during exceptional or catastrophic floods. It is often identifiable by physical characteristics such as a clear natural line impressed on the bank, shelving, changes in character in the soil, destruction or absence of vegetation not adapted for life in saturated soils or the presence of flotsam and debris. In the absence of identifying physical characteristics, ordinary high water may be determined by Step backwater analysis upon a two-year frequency flood as determined by the U. S. Army Corps of Engineers.

(b) Ordinary Low Water. The low watermark of a river is that point to which the waters normally recede when the volume of water is at its low level, not determined by the extraordinary year, and further means the line to which the Willamette River ordinarily recedes annually in season even though the elevation of that line may be higher as a result of the Corps of Engineers flood control structures than would otherwise be the case without such structures. Submersible lands are also considered that land or bank area between the ordinary low and high waterline.

(c) Water Dependent Use. A use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.

(d) Water Related Use. Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water dependent land or waterway use, and which, if not located adjacent to water, would result in public loss of quality in the goods or services offered. Except as necessary for water dependent or water related uses or facilities, residences, parking lots, spoil or dump sites, roads and highways, restaurants, businesses, factories and trailer parks are not generally considered dependent on or related to water location needs.

(e) Greenway Development Permit; Permit. A permit authorized pursuant to this section or pursuant to a permit authorized in accordance with the provisions of prior Greenway Permit Ordinance Nos. 4-76 and 11-76.

(f) Change of Use. Making a different use of the land or water than that which existed on December 5, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit has been issued as of December 5, 1975. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building. Landscaping, construction of driveways, modifications of existing structures or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this section.

(g) Intensification. Any additions which increase or expand the area or amount of an existing use or the level of activity. Remodeling of the exterior of a structure is an intensification when it will substantially alter the appearance of the structure.

Intensification shall not include the completion of a structure for which a valid permit was issued as of December 5, 1975.

(h) Develop. To construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels or to create or terminate rights of access.

(i) Development. To act, process or result of developing.

(j) Boundaries. The boundaries for the Willamette River Greenway are those adopted by the Land Conservation and Development Commission in 1977, together with any changes when and as approved by LCDC.

(3) Uses and Activities Subject to Greenway Development Permits. Greenway Development Permits shall be required for new intensifications, change of use or developments allowed in applicable zones, including public improvements and including partitions and subdivisions as defined and reviewed according to LC Chapter 13 procedures, which are proposed for lands within the boundaries of the Willamette River Greenway adopted and as revised from time to time by the Oregon Land Conservation and Development Commission, except as provided below:

(a) Customary dredging and channel maintenance conducted under permit from the State of Oregon.

(b) Seasonal increases in gravel operations as provided under permit from the State of Oregon.

(c) The placing by a public agency of signs, markers, aids, etc. to serve the public.

(d) Activities to protect, conserve, enhance and maintain public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require review as provided by this section.

(e) Erosion control operations required in emergency situations for the safety and protection of property.

(f) Construction or use of a building other than a dwelling whether or not within 150 feet of the ordinary low waterline when the building is customarily provided in conjunction with a farm use; provided the structure does not exceed 12 feet in height nor exists for longer than six months.

(g) Farm use.

(h) Reasonable emergency procedures necessary for the safety or protection of property.

(i) Maintenance and repair usual and necessary for the continuance of an existing use. Landscaping, construction of driveways, modification of existing structures or facilities adjacent to a residence as are usual and necessary to such use and enjoyment.

(j) The propagation of timber or the cutting of timber which is done for public safety or personal noncommercial use.

(k) Irrigation pumps and water intakes and other utility lines in conjunction with an agricultural use.

(l) Uses which are pursuant to one of the following Lane County Land Development actions when such action has been approved or adopted consistent with the Greenway Development Permit approval requirements of 16.254(4) below and notification requirements of LC 16.254(7) below.

(i) Planned Unit Developments, as provided in 10.700.

(ii) Unzoned Area Development Permits, as provided in LC 9.700.

(4) Greenway Development Permit Approval. A decision to approve a Greenway Development Permit shall require findings that the proposed intensification, change of use or development conforms to the following criteria, and setback requirements:

(a) Criteria.

(i) The development protects or enhances the existing vegetative fringe between the activity and the river. Where such protective action is shown to be impractical under the circumstances, the maximum landscaped area or open space shall be provided between the activity and the river and the development provides for the reestablishment of vegetative cover where it will be significantly removed during the process of land development.

(ii) Public access to and along the river either is not necessary or the necessary access will be provided by appropriate legal means.

(iii) Preserve and maintain land inventoried as "agriculture" in the adopted Willamette River Greenway Plan for farm use, as provided for in Goal 3 and minimize interference with the long-term capacity of lands for farm use.

(iv) Protect, conserve or preserve significant scenic areas, viewpoints and vistas.

(v) Harvest timber in a manner that wildlife habitat, riparian and other significant vegetation and the natural scenic qualities of the Greenway will be preserved, conserved or restored and otherwise result in only the partial harvest of timber beyond the vegetative fringe.

(vi) Minimize vandalism and trespass.

(vii) Locate development away from the river to the greatest possible degree.

(viii) Protect significant fish, wildlife habitat and natural areas.

(ix) Is compatible with the Willamette River Greenway based upon the following considerations:

(aa) A development which is a mining or a mineral extraction and/or processing operation must include mining or extraction and/or processing methods which are designed to minimize adverse effects upon water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety and to guarantee necessary reclamation.

(bb) Protection, preservation, rehabilitation, reconstruction or restoration of significant historic and archeological resources.

(cc) Preserve areas of annual flooding, floodplains and wetlands.

(dd) Protection, conservation or preservation of areas along the alluvial bottomlands and lands with severe soil limitations from intensive development.

(ee) Consideration of the impacts from consumptive uses of water (i.e., domestic, agriculture, industrial) and non-consumptive uses (i.e., recreation and natural resources) in efforts of maintaining sufficient flows to support water users.

(ff) Sustenance and enhancement of water quality by managing or controlling sources of water pollution from uses, such as domestic and industrial wastes, agricultural and timber runoff, septic tank seepage, gravel operations and other intermittent sources.

(gg) Maintenance and sustenance of natural riparian vegetation found upon the lower alluvial bottomlands and upper terraces bordering the river for the following reasons: provide habitat, food and shade for wildlife; protect natural areas; anchor river bank soils and protect agricultural land from seasonal erosion; ensure scenic quality and screening of uses from the river; control trespass; and to control pollution sources to the river.

(hh) Protection from erosion.

(ii) Protection and conservation of lands designated as aggregate resources within the adopted Willamette Greenway Plan.

(b) Setback Requirement; Exceptions. New intensifications, developments and changes of use shall be set back 100 feet from ordinary high waterline of the river, Except for a water related or water dependent use.

(5) Conditions. Reasonable conditions may be imposed in connection with a Greenway Development Permit as necessary to meet the purposes of this section. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, requiring:

- (a) Special yards and spaces.
- (b) Fences and walls.
- (c) Special off street parking and loading requirements.
- (d) Street and road dedications and improvements (or bonds).
- (e) Control of points of vehicular ingress and egress.
- (f) Special provisions on signs.
- (g) Landscaping and maintenance thereof.
- (h) Maintenance of grounds.
- (i) Control of noise vibration, odors or other similar nuisances.
- (j) A time period within which the proposed use shall be developed.
- (k) A limit on total duration of use.
- (l) Control of scale, bulk and coverage of proposal.

(6) Application and Review Procedure. Application for a Greenway Development Permit shall be made pursuant to the Type II procedures of LC Chapter 14.

(7) Additional Notice. Immediate notice of an application shall be given the State Department of Transportation by certified mail, return receipt requested, and provision shall be made to provide notice to any individual or group requesting notice in writing. Notice of the action taken by Lane County on an application shall be furnished by regular mail to the State Department of Transportation.

(8) Conflicting Provisions. In the case of any conflict between the provisions of this section and other provisions in Lane Code, the more restrictive provisions shall apply.

(9) Nonauthority for Public Use of Private Property. Nothing in this section is intended to authorize public use of private property. Public use of private property is a trespass unless appropriate easements and access have been acquired in accordance with law to authorize such use.

(10) Nonconforming Uses. Except as modified in this section, LC 16.251(1) to (8) shall apply to properties within the Willamette Greenway Boundaries. Any change or intensification as those terms discussed in LC 16.254(2)(f) and (g) above of a nonconforming use shall be prohibited unless a Greenway Development Permit is issued for it. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 5-96, 11.29.96; 18-07, 12.21.18; 20-05, 6.16.20)*

## **TEMPORARY PERMITS RURAL COMPREHENSIVE PLAN**

### **16.255 Temporary Permits.**

(1) Purpose. The purpose of the Temporary Permit procedure is to allow on an interim basis:

- (a) Temporary uses in undeveloped areas of the County not otherwise allowable in the applicable zone.
- (b) Use of existing structures designed and intended for a use not allowable in a zone and not otherwise a nonconforming use, and
- (c) Erection of Temporary structures for activities necessary for the general welfare of an area; provided such uses and activities are consistent with the intent of this chapter.

No Temporary Permit can be granted which would have the effect of permanently rezoning and granting a special privilege not shared by other property in the same zone.

(2) Allowable Temporary Uses, Criteria and Limitations.

(a) The following are allowable Temporary Uses and may be permitted in any zone, subject to the following criteria and limitations:

(i) A different use for existing structures or structures and premises in a combination which are occupied or have been occupied by a nonconforming use; provided it is determined by the Hearings Official that the character and nature of the proposed use will be less incompatible to the surrounding vicinity than the existing or previous nonconforming use.

(ii) Use of existing structures and premises which are designed and intended for a use which is not allowable in the applicable zone and new structures and premises and use thereof necessary for the physical and economic welfare of an area; provided it is determined by the Hearings Official that the location, size, design and operating characteristics of the proposed use and new structure, if applicable:

(aa) Will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity; and

(bb) Will not be adversely affected by the development of abutting properties and the surrounding vicinity.

(iii) Open land uses which do not involve structures with a combined value in excess of \$1,000; provided it is determined by the Hearings Official that the location, size, design and operating characteristics of the proposed use:

(aa) Will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding vicinity, and

(bb) Will not be adversely affected by the development of abutting properties and the surrounding vicinity.

(b) In applying the criteria for allowable temporary uses provided in LC 16.255(2)(a)(i) and(ii) above, consideration may be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets and roads; and to any other relevant impact of the use.

(c) No structural alterations may be made to a nonconforming structure to be utilized by a temporary use which would materially prolong the economic life of the structure.

(d) Where new structures and use thereof and new open land uses are permitted, the premises shall be required to be restored to the prior state within three months of the termination of the permit. A performance bond shall be required, if determined necessary by the Hearings Official, at the time of approval in sufficient amount to cover the estimated cost such restoration.

(e) Temporary Permits for any one permit shall be approved for a maximum of five years.

(3) Conditions. Reasonable conditions may be imposed in this section. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, requiring:

(a) Special yards and spaces.

(b) Fences and walls.

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

(d) Special provisions on signs.

(e) Landscaping and maintenance thereof.

(f) Maintenance of the grounds.

(g) Control of noise, vibrations, odors or other similar nuisances.

(h) Limitation of time for certain activities.

(i) A time period within which the proposed use shall be developed.

(j) A limit on total duration of use.

(4) Application. Application for a Temporary Permit shall be made as provided by LC 14.050.

(5) Review Procedure. Applications for Temporary Permits shall be reviewed by the Hearings Official pursuant to LC 14.300. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

## VARIANCES RURAL COMPREHENSIVE PLAN

### 16.256 Variances.

(1) Scope. Variances to a requirement of this chapter with respect to dimensions, setback, yard uses, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be approved by the Planning Director if:

- (a) An application is submitted pursuant to LC 14.050.
- (b) The application is reviewed pursuant to LC 14.100.
- (c) The application complies with the criteria of LC 16.256(2) below.

(2) Criteria.

(a) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity which result from lot size or shape, topography or other circumstances over which the property owner, since the enactment of this chapter, has had no control.

(b) The variance is necessary for the preservation of a property right of the applicant which is the same as that enjoyed by other property owners in the same zones in the area.

(c) The variance would conform with the purposes of this chapter and would not be materially detrimental to property in the same zone or vicinity in which the property is located, or otherwise conflict or reasonably be expected to conflict with the Rural Comprehensive Plan.

(d) The variance requested is the minimum variance which would alleviate the difficulty.

(e) The variance is not the result of a self-created hardship.

(f) The variance would not have the effect of rezoning and granting a special privilege not shared by other property in the same zone. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

## SITE REVIEW PROCEDURES RURAL COMPREHENSIVE PLAN

### 16.257 Site Review Procedures.

(1) Purpose. It is the purpose of this section to establish a Site Review Permit procedure for specified uses or applications requiring comprehensive review of proposed site development in order to encourage the most appropriate development of the site compatible with the neighborhood, to prevent undue traffic and pedestrian hazards or congestion, to reduce adverse impacts upon public facilities and services, and to provide a healthful, stable, efficient and pleasant on-site environment.

(2) Site Review Permits Required. A Site Review Permit shall be required when:

(a) Nonresidential uses, except those customarily provided in conjunction with farm uses, are proposed for properties where the proposed uses and/or structures are within 200 feet of the boundaries of an RR-RCP; RA-RCP; R-2-RCP; RG-RCP or RP-RCP zone.

(b) Incidental to conditional approval to rezone as provided in this chapter.

(c) Incidental to any Zoning or Rezoning Application approval when it is determined by the Board, Planning Commission or Hearings Official that a Site Review Permit would be necessary to ensure that such approval would be consistent with the intent and purposes of this chapter.

(d) Incidental to an expansion of a nonconforming use of land and structures as permitted in this chapter.

(e) Superceded provisions of this chapter for property zoned with an Architectural Control ("X") suffix require approval of initial plans, or approval of a modification of or addition to approved plans.

(f) A zone in this chapter specifically requires a Site Review Permit for uses permitted outright or conditionally in said zone.

(i) Any properties requiring a Site Review Permit pursuant to LC 16.257(2)(c) above shall be designated "SR" in the amending ordinance or order, on a map attached as an exhibit to the ordinance or order, and on the Zoning Map, as applicable.

(ii) No Building Permit shall be issued until a Site Review Permit has been obtained as required by this section. Further, said Building Permit can be issued only for development as approved according to the Site Review Permit requirements.

(3) Site Review Permits Not Required. It is not necessary to require a Site Review Permit when:

(a) The proposed uses or improvements are for a residential use or a use customarily provided in conjunction with a farm use.

(b) A Conditional Use Permit or Special Use Permit is required for the proposed uses or improvements.

(c) The proposed uses or improvements are located at least 200 feet from all exterior boundaries of the subject property.

(d) The proposed improvement is a sign for a use permitted by the parent zone and such sign is not illuminated, does not occupy more than 100 square feet in sign surface area on one side, is of no greater height than the primary buildings on the same property, and is not within the structural setback area designated by LC Chapters 10 and 15.

(e) When the proposed use or improvement is a minor addition to an existing commercial or industrial use or improvement where the minor addition does not exceed 25 percent of the area of the existing use and will not be closer to a property line than the closest portion of the existing structures meeting legal setbacks required by the appropriate zone. For purposes of this section, the area of the existing use shall be calculated by including all improvements, on-site private drives and outside areas which are a part of the use (such as off street parking and loading areas and outside storage areas.)

(f) The proposed use is a transportation facility or use listed in LC 16.265(3)(a) through (m).

(4) Criteria for Site Review Evaluation. The following minimum criteria should be considered in evaluating Site Review Applications:

(a) That the location, design, size, shape and arrangement of the uses and structures are sufficient for the proposal intent and are compatible with the surrounding vicinity.

(b) That there is no unnecessary destruction of existing healthy trees or other major vegetation, and that due consideration is given to the preservation of distinctive historical or natural features.

(c) That the quantity, location, height and materials of walls, fences, hedges, screen planting and landscape areas are such that they serve their intended purpose and have no undue adverse effect on existing or contemplated abutting land use.

(d) That suitable planting of ground cover or other surfacing is provided to prevent erosion and reduce dust.



(e) That the location, design and size of the uses are such that the residents or establishments to be accommodated will be adequately served by community facilities and services or by other facilities suitable for the intended uses.

(f) That, based on anticipated traffic generation, adequate additional right-of-way, road improvements, and on-site vehicular, bicycle and pedestrian improvements connecting directly to off-site roads, paths and sidewalks must be provided by the development in order to promote traffic safety and reduce traffic congestion.

(i) Consideration shall be given to the need and feasibility of widening and improving abutting streets to specifications of LC Chapter 15, "Roads," and also to the necessity for such additional improvements as lighting, sidewalks, bicycle lane and path connections, and turn and deceleration/acceleration lanes. Improvements shall be consistent with access management, spacing standards, and other requirements of LC Chapter 15.

(g) That there is a safe and efficient circulation pattern within the boundaries of the development. Consideration shall include the layout of the site with respect to the location and dimensions of vehicular, bicycle, and pedestrian entrances, exists, drives, walkways, buildings and other related facilities.

(h) That there are adequate off street parking and loading/unloading facilities provided in a safe, efficient and pleasant manner. Consideration shall include the layout of the parking and loading/unloading facilities and their surfacing, lighting and landscaping.

(i) That all signs and illumination are in scale and harmonious with the site and area.

(j) That adequate methods are provided to ensure continued maintenance and normal replacement of facilities, landscaping and other improvements, etc. that are required by Site Review Permit.

(5) Conditions. Reasonable conditions may be established in connection with a Site Review Permit as deemed necessary to secure the purpose and requirements of this section. Guarantees, evidence, dedications or bonding may be required to ensure that such conditions will be met.

(6) Application. Application for a Site Review shall be made as provided by LC 14.050.

(7) Review Procedure. Applications for Site Reviews shall be reviewed by the Director pursuant to LC 14.100. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 10-04, 6.4.04; 7-12, 12.28.12)*

### **CLEAR LAKE WATERSHED PROTECTION ZONE (CLWP-RCP)**

#### **16.258 Clear Lake Watershed Protection Zone (CLWP-RCP).**

(1) Purpose. The Clear Lake Watershed has been recognized as an area deserving protection in order to maintain high water quality in Clear Lake as a domestic water supply source. The Oregon Environmental Quality Commission has adopted regulations to protect the water quality of Clear Lake. The Clear Lake Watershed is made up of properties, a substantial majority of which are in private ownership. The general purpose of the Clear Lake Watershed Protection Zone is to protect the quality of the Watershed, and at the same time, protect the rights of private property owners to make reasonable use of their land. The specific purposes of the Clear Lake Watershed Protection Zone are:

(a) To protect the aquifer and surface waters (the Lakes) of the Clear Lake Watershed;

(b) To help achieve the water quality standards set-forth in OAR 340-41-270 and to ensure that all uses within the Clear Lake Watershed are consistent with the objective of achieving these water quality standards; and

(c) To provide clear and objective development standards necessary to meet water quality standards and avoid land use litigation.

(2) Applicability and Definitions.

(a) The Clear Lake Watershed Protection Zone (CLWP-RCP) shall be applied to those parcels or portions of parcels, and all subdivision lots located in whole or in part within the Clear Lake Watershed as identified in the Clear Lake Watershed legal description and map (Appendix "A"), except Lot 28 of Mercer Lake Heights, 1st Addition.

(b) Terms, phrases and words shall be construed as specified in LC 16.090 except, as used in this section only, the following words and phrases shall have the meaning ascribed below and shall supercede definitions otherwise provided in this Code unless the context clearly indicates a contrary meaning:

Drainage. Water from precipitation, surface or subterranean water from any source, but not sewage.

Farming or Farm Use. The act of farming, as defined in ORS 215.203(2).

Forestland. Land designated as forest land in the Lane County Rural Comprehensive Plan, excluding subdivision lots.

Forest Operations. All activities related to forest management including, but not limited to: harvesting, forestry-related road construction and maintenance, site preparation for reforestation, tree planting, application of insecticides, herbicides, rodenticides, fertilizers or other chemical substances, slash disposal and pre-commercial thinning.

Lakes. Clear Lake and Collard Lake located in western Lane County, Oregon.

Legal Lot. A unit of land created by a subdivision or partition of land in compliance with all applicable planning, zoning and partitioning ordinances and regulations, or by deed or land sale contract if there were no applicable planning, zoning or partitioning ordinances or regulations at the time of such creation.

Parcel. Any legal lot or parcel that is not a subdivided lot or subdivision lot as set forth below.

Removal/Remove. The act of mechanically or manually disrupting or dislodging the root structure of vegetation, in a manner that will result in the death of the vegetation. Removal does not in any context include normal harvesting, trimming or pruning of vegetation which does not cause the death of the vegetation.

Riparian Area/Riparian Setback. The area shoreward and parallel to the ordinary high-water mark of the Lakes. For parcels, the setback area shall be 100 feet in width; for subdivision lots, the setback area shall be 50 feet in width.

Sewage. A combination of water-carried human, animal or industrial waste. While it may include some drainage, it is substantially septic in its characteristics.

Sewage Disposal System. Any device or system used in the collection, transport, storage, treatment, recycling, and reclamation of sewage, including, but not limited to tanks, pipelines, drain fields, pumps, lagoons and treatment plants, chemical treatments and maintenance practices.

Subdivided Lot/Subdivision Lot. Any legal lot totally or partially within the Collard Lake portion of the Watershed, located in the following subdivisions: Mercer Lake Heights; Mercer Lake Heights, 1st Addition except Lot 28; Mercer Lake Heights, 2nd Addition; Collard Lake Heights; Collard Lake Heights, 1st Addition; Collard Lake Acres.

Tract. One or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway.

Watershed. A geographic area within the boundary generally described as the drainage basin for the Lakes from the top of the basin ridge of the Lakes, and including the land and water within the area as identified in the Clear Lake Watershed legal description and map (Appendix "A"), except Lot 28 of Mercer Lake Heights, 1st Addition.

(3) Permitted Uses. The following structures and uses are permitted, without notice and opportunity to appeal, as hereinafter specifically provided for by this section.

(a) Alteration, restoration or replacement of a lawfully established dwelling when the foundation is located wholly or partially on the same site and the application complies with the following nondiscretionary requirements:

(i) The dwelling was lawfully established on the subject property based upon the following information on record with Lane County:

(aa) One or more building permits or inspections indicating that the dwelling was established on the subject property in compliance with these permits; or

(bb) Department of Assessment and Taxation records indicating the structure is assessed as a dwelling and has been annually assessed as a dwelling from a date prior to any zoning regulations on record with the Department of Public Works, Land Management Division that would have prohibited the dwelling or that would have required conditional or special use permits for the dwelling.

(ii) The established dwelling has the following improvements:

(aa) Intact exterior walls and roof structure;

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

(cc) Interior wiring for interior lights; and

(dd) A heating system.

(iii) For purposes of this section, the "same site" is defined as wholly or partially within a square with dimensions of 200 feet which is centered on the footprint of the established dwelling.

(iv) The lawfully established dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(b) Maintenance, repair, additions to or replacement of any existing improvements including, but not limited to, roadways, footpaths, structures (except dwellings set forth in LC 16.258(3)(a), 16.258(4)(b) and 16.258(5)(a)) and open space.

(c) Harvesting of wild crops.

(d) Non-commercial recreation.

(e) Shore-secured floating moorages, mooring buoys, docks, boat houses, piers and dolphins.

(f) Forest operations and forest practices.

(g) Farming located on a parcel when the farming is more than 300 feet measured horizontally from the ordinary high water mark of the Lakes.

(h) Nonresidential or agricultural buildings in conjunction with uses allowed in LC 16.258.

(i) Local distribution lines (e.g., electric, telephone, natural gas, water) and accessory equipment (e.g., electrical distribution transformers, poles, meter cabinets, terminal boxes, pedestals, water lines, pumps), or equipment which provides service hookups, including water service hookups.

(j) On subdivision lots:

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

(ii) Bed and breakfast accommodations.

(iii) A guest house.

(k) Transportation facilities and uses as specified in LC 16.265(3)(a) through (m).

(4) Permitted Uses Subject to Objective Standards. The following structures and uses are permitted, without notice or opportunity to appeal, subject to the objective standards outlined in LC 16.258(7) and (8) below, which provide assurance that the use is consistent with the protection of water quality and natural values specified in the Rural Comprehensive Plan and the Coastal Resources Management Plan within the boundaries of the CLWP-RCP zoning district.

(a) A single-family dwelling and accessory structures in conjunction with such use on a legal lot or parcel; provided, however, that dwellings and accessory structures sited on tax lots 200, 300 and 301, Lane County Assessor's map no. 18-12-12, are subject to the following additional requirements, as may be applicable:

(i) The dwelling or structure is sited on a tract containing at least 160 contiguous acres; or

(ii) The dwelling or structure is sited on a tract containing at least 200 acres in one ownership containing parcels that are not contiguous but located in Lane County or an adjacent county and zoned for forest use; and

(iii) the owner of two or more parcels required to meet the minimum acreage requirements of LC 16.258(4)(a)(i) or (ii) above shall submit proof that nonrevocable deed restrictions in the form attached as Appendix "B" have been recorded in the county deed records which shall contain covenants, conditions and restrictions that:

(aa) Shall be irrevocable, unless a statement of release is signed by the Director;

(bb) May be enforced by the Department of Land Conservation and Development or by Lane County; and

(cc) Shall, together with a map or other record depicting any tracts which do not qualify for a dwelling under the recorded deed restrictions, be maintained in the Department records and be readily accessible to the public.

(iv) The failure to follow the requirements of LC 16.258(4)(a)(iii) above relating to the recording of the deed restrictions shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is the subject of the covenants, conditions and restrictions required by this subsection.

(b) Alteration, restoration or replacement of a lawfully established dwelling when the foundation is not located wholly or partially on the same site and the application complies with the following nondiscretionary requirements:

(i) The dwelling was lawfully established on the subject property based upon the following information on record with Lane County:

(aa) One or more building permits or inspections indicating that the dwelling was established on the subject property in compliance with these permits; or

(bb) Department of Assessment and Taxation records indicate that the structure is assessed as a dwelling and has been annually assessed as a dwelling from a date prior to any zoning regulations on record with the Department of Public Works, Land Management Division that would have prohibited the dwelling or that would have required conditional or special use permits for the dwelling.

(ii) The established dwelling has the following improvements:

(aa) Intact exterior walls and roof structure;

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

- (cc) Interior wiring for interior lights, and;
- (dd) A heating system.

(iii) For purposes of this section, the “same site” is defined as wholly or partially within a square with dimensions 200 feet which is centered on the footprint of the established dwelling.

(iv) The lawfully established dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(c) Water intake facilities, related filtration, treatment and/or transmission facilities, pumping stations and distribution lines owned and operated in conjunction with a public or private domestic water supply system, as may be applicable.

(5) Discretionary Uses Subject to Director Approval. The following uses may be allowed provided a land use application is submitted pursuant to LC 14.050 and approved by the Planning Director pursuant to LC 14.100, upon the determination that the standards contained in this section and LC 16.258(7) and (8), as may be applicable, have been satisfied which will provide assurance that the use is consistent with standards adopted for the protection of water quality and natural values as specified in the Rural Comprehensive Plan and the Coastal Resources Management Plan within the CLWP-RCP zoning district.

(a) Alteration, restoration or replacement of a lawfully established dwelling that complies with the following requirements:

(i) The dwelling was lawfully established on the subject property, and the applicant has provided sufficient evidence, other than the evidence required in LC 16.258(3)(a)(i), that the dwelling was lawfully established.

(ii) The dwelling has the following improvements:

- (aa) Intact exterior walls and roof structure;
- (bb) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (cc) Interior wiring for interior lights, and;
- (dd) A heating system.

(iii) The lawfully established dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

(b) Home occupations under the following conditions:

(i) The home occupation will be operated by a resident or employee of a resident of the property on which the business is located;

(ii) The home occupation will employ on the site no more than five full or part-time persons;

(iii) The home occupation will be operated substantially in the dwelling or in a structure normally associated with uses permitted in LC 16.258. Any structure that would not otherwise be allowed in this zone shall not be allowed for use as a home occupation, unless such structure is a verified nonconforming use under LC 16.251(1)(a) through (c);

(iv) The home occupation will not unreasonably interfere with other uses permitted in LC 16.258 and will comply with any additional conditions of approval;

(v) The home occupation remains and operates in compliance with LC 16.258(5)(b) and with the conditions upon which approval of the home occupation was granted.

(c) Exhibitions of the natural conditions of shorelands, dunelands, forested areas, streams and lakes, marshlands or similar areas of unique value, and the vegetation and wildlife supported by such waters, artificial stream bank, shoreline stabilization or lake level maintenance (e.g. dams) adjacent to the Lakes, and stabilization necessary to protect lawful structures; provided, however, that such activities shall not

endanger water quality, and surface, subsurface and aquifer waters are protected from pollution and sedimentation.

(d) One temporary mobile home in conjunction with an existing dwelling or mobile home subject to compliance with the following conditions:

(i) A resident of the existing dwelling or mobile home and a resident of the mobile home are family members.

(ii) One of the residents mentioned above suffers a hardship and needs the care of the other above-mentioned resident and family member.

(iii) Satisfactory evidence of the family member's hardship is furnished which shall include:

(aa) A written statement, on a form provided by the Department, from the family member's physician, therapist or other professional counselor, disclosing the existence and general nature of the hardship.

(bb) A written statement, on the form provided by the Department, disclosing the family relationship of the person with the hardship and the person who will provide care.

(iv) The temporary mobile home will be located on the same legal lot as the existing dwelling or mobile home

(v) The temporary mobile home will be connected to the same on-site sewage disposal system serving the existing dwelling or mobile home.

(vi) The temporary mobile home will comply with sanitation and building code requirements.

(vii) Approval of temporary mobile home permits shall be valid until December 31 of the year following the year of original permit approval and may be renewed once every two years until the hardship situations cease.

(viii) Within three months of the end of the hardship, the temporary mobile home shall be removed from the property or demolished. A temporary mobile home approved under LC 16.258(5)(d) shall not be eligible for replacement under LC 16.258(3)(a), 16.258(4)(b) and 16.258(5)(a) above.

(e) Parks, playgrounds and community centers on subdivision lots, provided:

(i) The proposed use will not significantly impact existing uses on adjacent and nearby lands and other uses permitted in LC 16.258; and

(ii) Where necessary, measures are taken to minimize potential negative impacts on adjacent and nearby lands.

(f) Transportation facilities and uses as specified in LC 16.265(3)(n) through (q).

(6) Prohibited Uses. Except as allowed in LC 16.258(3)(e) and LC 16.258(5)(c) above, the following uses and activities are specifically prohibited:

(a) Fill or extraction in the Lakes.

(b) Fill or extraction in freshwater marsh areas located below the ordinary high water mark of the Lakes.

(c) Development within a riparian area, except for:

(i) Pedestrian paths not to exceed five feet in width;

(ii) Access to launch sites on the Lakes not to exceed 15 feet in width;

(iii) Maintenance of existing roadways, footpaths, and open space;

(iv) Maintenance, repairs, additions to or replacement of any existing structures or improvements; and

(v) Vegetation removal consistent with LC 16.258(11).

(vi) Necessary clearing, grading and construction of surface or subsurface utilities to serve water intake, filtration, distribution and/or transmission facilities.

(d) Application of petroleum products on graveled surfaces, except as used as preparation for an asphalt concrete or like surface.

(e) Using or storing materials within the Watershed in a manner that poses a significant threat to water quality in the Lakes.

(f) Constructing or installing in the Lakes any structure, including but not limited to, shore-secured floating moorages, mooring buoys, docks, boat houses, piers and dolphins, with materials that pose a significant threat to water quality in the Lakes, such as railroad ties treated with creosote or other materials treated with hazardous substances on a list published by DEQ.

(g) Engaging in an activity or allowing a situation to exist on property within the Watershed which will cause erosion resulting in sediments and materials being deposited in the Lakes which pose a significant threat to water quality in the Lakes. The owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of the property or a construction project on the property which will cause erosion prohibited by LC 16.258(6)(g) shall take precautions to prevent that erosion during the permitted activity and thereafter. Such precautions may include, but are not limited to:

(i) Temporary or permanent soil stabilization structures or practices, or both;

(ii) Temporary or permanent sediment control devices or both;

(iii) Avoiding unnecessary excavation and removal of indigenous vegetation; and

(iv) Replacement of removed vegetation within 60 days following completion of the construction activity

(7) Objective Standards for Structures. A plot plan shall be submitted by the applicant with necessary detail showing conformance with the following objective standards:

(a) No structure other than a fence or sign shall be located closer than 20 feet from the right-of-way of a state, county or local public access road specified in LC Chapter 15.

(b) No structure other than a fence or sign shall be located closer than 10 feet to an adjoining property line, except that for any lot one acre or less in size in a subdivision recorded prior to March 30, 1984, the structural setback for property lines other than front-yard shall be five feet.

(c) Cornices, canopies and eaves may extend two feet into any required setback area.

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

(e) New dwellings, or replacement dwellings on a different site as authorized by LC 16.258(4)(b) and 16.258(5)(a), located on forestland parcels shall be sited to provide fuel breaks as required by LC 16.258(12) on land surrounding the dwelling that is owned or controlled by the owner.

(8) Objective Development Standards for Dwellings.

(a) Applicant Responsibility A plot plan and any necessary supporting documentation shall be submitted by the applicant with necessary detail showing conformance with the following objective standards:

(i) Fire Suppression Water Supplies. Dwellings and habitable structures shall be located within a fire protection district or shall be provided with residential fire protection by contract with the nearest district. If the dwelling or habitable structure is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If inclusion within a fire protection district or contracting for residential fire protection is impractical, an

adequate fire suppression system meeting the requirements of LC 16.258(12)(c) shall be provided.

(ii) Domestic Water Supply. Each new dwelling on forestland shall have a domestic water supply from a source authorized in accordance with the Water Resources Department administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR Chapter 629). Evidence of domestic water supply shall include:

(aa) Verification from a water purveyor that the dwelling will be served by the purveyor under the purveyor's rights to appropriate water; or

(bb) A water use permit issued by the Water Resources Department for the dwelling; or

(cc) Verification from the Water Resources Department that a water use permit is not required for the dwelling. If the water supply is from a well and is exempt from permitting requirements under ORS 537.545, the well constructor's report shall be submitted to the county upon completion of the well.

(iii) Connection to Public Sewage Disposal System. Each new dwelling on a subdivision lot shall connect to a public sewage disposal system where such system is legally and physically available. In the event that a public sewage disposal system is not legally or physically available, the owner shall sign and record in county deed records an irrevocable petition and agreement binding upon the owner, and successors in interest, agreeing to connect to a public sewage disposal system when it does become legally and physically available as required by LC 16.258(8)(b)(viii).

(iv) Drain Field Location. Any new sewage disposal drain field installed on a parcel shall be located outside the Watershed or at least 100 feet measured horizontally from the ordinary high water mark of the Lakes.

(v) Tree Stocking. The owner of each new dwelling on forestland shall establish a sufficient number of trees on the tract to meet the minimum stocking requirements of the Forest Practices Act. The following requirements will apply:

(aa) The owner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in the Department of Forestry administrative rules;

(bb) The Planning Director shall notify the county assessor of the stocking requirement;

(cc) If the lot is more than 10 acres, the property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules;

(dd) Upon notification by the assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.

(vi) Forest Practices Declaration. The owner of each new dwelling on forest land shall provide evidence of a document signed and recorded in the county deed records binding the owner, and the owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(b) Certified Engineer's, Architect's or Geologist's Report. A plot plan or statement, as may be applicable, shall be submitted by an engineer, architect, or geologist licensed by the State of Oregon, as may be applicable, with necessary detail showing compliance with the following standards:



(i) Runoff from any proposed impervious structure shall not be discharged off site over the surface of the lot or parcel. For the purposes of this paragraph, “structure” shall include that which is framed, erected, constructed or placed to stand temporarily or permanently on a tract of land, including a building, dwelling, mobile home, manufactured home and accessories, and above ground gas or liquid storage tanks. Roadways, driveways, walks and pedestrian paths shall not be considered structures for purposes of this paragraph.

(ii) Dwellings shall be restricted to slopes of less than 40 percent

(iii) Where dune forms exist, certification that the development shall result in the least topographical modification to the site as practicable.

(iv) For development proposed on a dune land form, a determination identifying the type of land form involved and whether compressible subsurface areas exist on the development site. If compressible subsurface areas exist on the development site, foundations shall be engineered.

(v) Where dune forms exist, sand stabilization shall be required during all phases of construction and post-construction as specified by standards set forth in the LM 10.056 and 10.060.

(vi) If the proposal for development includes the construction of new roads or driveways within the boundaries of the CLWP-RCP Zoning District, a determination that the construction of the new road or driveway will not have an adverse impact on any of the following:

(aa) Water quality;

(bb) Identified hazards associated with activities on the development site or presented by conditions on adjacent sites;

(cc) Historical or archaeological sites as identified in the Lane County Rural Comprehensive Plan;

(dd) Critical fish or wildlife habitat as identified in the Lane County Coastal Inventory;

(ee) Adjacent areas of geologic instability, if any, which have a direct impact on water quality or on shoreline stability;

(ff) Existing Class I streams on the legal lot or parcel;

(gg) Areas of significant shoreland and wetland biological habitat composed of freshwater marshes located below the ordinary high water mark of the Lakes and areas included in the Lane County Coastal Inventory as significant natural areas, or other areas which the Lane County Board of Commissioners may deem significant natural areas based on newly adopted inventory information.

(vii) Fire Safety Design Standards for Roads. Notwithstanding LC Chapter 15, construction of roads and driveways within the Watershed providing access to dwellings shall comply with the standards of this section. In the event the standards of LC Chapter 15 and this section are inconsistent, the standards of this section shall take precedence.

(aa) Definitions. As used herein, “road” means a way of access providing, or proposed to provide, access for more than three dwellings, and “driveway” means a way of access providing access, or proposed to provide access, for three dwellings or less.

(bb) Existing Roads and Driveways.

(i-i) For the purposes of limiting reconstruction of existing roads and driveways and thereby minimizing potential erosion within the Watershed, a road or driveway existing as of the date of adoption and application of these provisions to the property on which the road is located, including a road or driveway from which a new road or driveway extension is proposed, shall not be considered a new road or driveway.

(ii-ii) Use of existing roads and driveways for access to new development shall be made where practicable.

(cc) Location and Design. To the extent practicable, new access roads and driveways shall be located and designed to minimize sediment entering the Lakes by minimizing:

(i-i) the length between the public road and the dwelling site;

(ii-ii) the removal of indigenous vegetation in forested areas;

(iii-iii) the disturbance of the natural topography; and

(iv-iv) the number of crossings over drainage courses including streams.

(dd) Methods of Compliance - Fire Design Standards. New roads and driveways shall be designed and constructed at the minimum width necessary to accommodate fire suppression vehicles. Applicants may establish compliance with this standard by obtaining written verification of compliance from the agency providing fire protection, or applicants may include in the plot plan or statement required by LC 16.258(8)(b) information showing that the following minimum standards have been addressed:

(i-i) Road Dimensions. New roads shall have an unobstructed travel surface width of at least 15 feet; or, if the new road has vehicle passage turnouts 20 feet in length and eight feet in width at intervals of not less than 400 feet, the new road may have an unobstructed travel surface of at least 10 feet,

(ii-ii) Driveway Dimensions. New driveways shall have an unobstructed travel surface width of at least 10 feet.

(iii-iii) Road and Driveway Surfaces. New roads and driveways shall be constructed with travel surfaces with a gravel depth of not less than six inches.

(iv-iv) Additional Road and Driveway Standards. New roads and driveways shall have an additional unobstructed clearance area one foot along each side of the constructed surface, curve radii of at least 50 feet, and a vertical clearance of at least 13 feet, 6 inches.

(v-v) Hammerhead Turnarounds. Any new private, dead-end road or driveway more than 500 feet in length shall include a hammerhead turnaround at the home site, and an additional hammerhead turnaround at the entry to the property if the home site is located more than 400 feet from the entry to the property. Hammerheads shall have an improved surface with a minimum turning radius of 20 feet, an overall depth of at least 60 feet, and a width of at least 20 feet. Hammerheads on private roads shall be marked and signed by applicants as "NO PARKING," and such signs shall be of metal or wood construction with minimum dimensions of 12 inches by 12 inches.

(vi-vi) Bridges and Culverts. New bridges and culverts shall be constructed to sustain a minimum gross vehicle weight of 50,000 lbs. and to maintain a minimum 15 foot road width surface or a minimum 10 foot driveway surface. Railway flat bed cars of narrower widths are acceptable for short bridges on private roads and driveways with written verification from an engineer licensed in the State of Oregon attesting that the railway car has sufficient strength to maintain a minimum gross weight of 50,000 lbs.

(vii-vii) Road and Driveway Grades. Road and driveway travel surface grades shall not exceed 16 % (percent) except for short distances when topographic conditions make compliance impractical.

(ee) Identification. Roads shall be named and addressed in compliance with LC 15.305 -15.335.

(viii) Access Easement and Petition. All owners proposing development on a subdivision lot, subject to the standards in LC 16.258(7) and (8), shall execute the following documents which shall be recorded in the official deed records of Lane County:

(aa) An irrevocable petition consenting to the construction of a public sewage disposal system to serve the subdivision lot and agreeing to connect thereto when such system becomes legally and physically available at the same cost as that charged to other similarly situated subdivision lot owners; and

(bb) A perpetual easement providing access to any public drainage or sewage disposal system constructed on the legal lot for purposes of insuring drainage disposal and sewage treatment and disposal consistent with the regulations of local and state agencies concerned with sewage treatment and disposal, and water quality in the Lakes. This easement shall be given to the local governmental unit providing drainage or sanitary sewer service, as may be applicable, and shall allow the employees and agents of the grantee to perform their official duties regarding the inspection, operation and maintenance of such facilities.

(9) Site Investigation Reports (SIR). If any of the factors listed in LC 16.258(8)(b)(vi)(aa-gg) above are identified and exist where they will be adversely impacted by the road or driveway:

(a) A Site Investigation Report (SIR) is required. The form and content of the SIR is as specified by LM 10.060. The SIR is designed to provide in-depth information concerning hazards and potential adverse impacts associated with the proposed road or driveway and to suggest methods for minimizing or mitigating the impacts.

(b) Preparation of a SIR, if required under the provisions of LC 16.258(9)(a), is the responsibility of the applicant. All costs borne in preparation shall be paid by the applicant.

(c) The SIR shall be prepared by a qualified person or team of persons having expertise and familiarity with the area. The applicant shall choose a person or team of persons from a current list of qualified persons or firms to be compiled and maintained by the Department of Public Works, Land Management Division, based on standards approved by the Board of County Commissioners.

(d) Based on the information and recommendations provided in the SIR, the Planning Director may impose conditions upon the proposed development of the road or driveway for the purpose of minimizing or mitigating hazards or adverse impacts and preserving the water quality of the Lakes.

(e) An applicant may appeal the determination of, or the imposition of conditions based on the SIR, in the manner for such appeal as provided by LC 14.500.

(10) Area. The minimum area requirement for the division of land is 80 acres, except as follows:

(a) A division of forestland, as designated in the Lane County Rural Comprehensive Plan, to facilitate a forest practice as defined in ORS 527.620 may be allowed to create a parcel containing less than 80 acres, provided findings demonstrating that there are unique property specific characteristics present in the proposed parcels that require an amount of land smaller than 80 acres in order to conduct the forest practice and the following requirements are met:

(i) The new parcels shall not be eligible for siting an additional dwelling;

(ii) The parcels shall not serve as the justification for the siting of a future dwelling on other lots or parcels;

(iii) The parcels shall not, as a result of the land division, be used to justify the redesignation or rezoning of resource lands;

(iv) The parcels shall not contain less than 35 acres except:

(aa) Where the purpose of the land division is to facilitate an exchange of lands involving a governmental agency, or;

(bb) Where the purpose of the land division is to allow transactions in which at least one person is a person with cumulative ownership of at least 2,000 acres of forestland; and

(v) If associated with the creation of a parcel where a dwelling is involved, the parcel where the dwelling is involved shall not contain less than 80 acres.

(b) A parcel may be created for an existing dwelling on land designated forestland in the Lane County Rural Comprehensive Plan, subject to the following requirements:

(i) The parcel established for the existing dwelling shall not be larger than five acres, except as necessary to recognize physical features such as roads or streams, in which case the parcel shall be no larger than 10 acres;

(ii) The dwelling must be lawfully existing since prior to June 1, 1995.

(iii) The remaining parcel not containing a dwelling must contain 80 acres, or, the remaining parcel not containing the dwelling, must be consolidated with another parcel, and together the parcels must contain 80 acres;

(iv) The remaining parcel not containing a dwelling is not entitled to a new dwelling unless subsequently authorized by law or goal;

(v) The landowner shall provide evidence that a restriction on the remaining parcel, not containing the dwelling, has been recorded in the official deed records of Lane County. The restriction shall allow no new dwellings unless authorized by law or goal on lands zoned for forest use. This restriction shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the Lane County Rural 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 state-wide planning goals pertaining to agricultural land or forestland. The Planning Director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under restrictions imposed by this section. The record shall be readily available to the public.

(vi) The landowner shall complete and record a Forest Management Agreement in the Lane County deed records, recognizing the rights of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules and declaring that the owner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

(c) For those lands that are subdivided lots, the minimum area requirement for the division of land is one acre.

(d) For those lands that qualify for marginal land zoning under ORS 197.247 (1991 Edition), the minimum area required for the division of land is:

(i) Ten acres if the lot or parcel is not adjacent to land zoned for exclusive farm use or forest use, or if it is adjacent to such land, the adjacent land qualifies for designation as marginal land under ORS 197.247 (1991 Edition).

(ii) Twenty acres if the lot or parcel is adjacent to land zoned for forest use or exclusive farm use and that adjacent land does not qualify for designation as marginal land under ORS 197.247 (1991 Edition).

(11) Restoration of Vegetation Within Riparian Areas. Except as allowed by LC 16.258(11)(a) below, a permit to remove vegetation, or if a permit is required due to unauthorized removal of vegetation, within the riparian area, shall require an application by the owner of the property, or other person responsible, for a Preliminary Investigation. Potential impacts identified in LC 16.258(11)(b) shall be addressed and/or mitigated through the review, approval and implementation of a Restoration Plan pursuant to LC 16.258(11)(b) below.

(a) Exemption. No permit under this section shall be required for removal of vegetation:

(i) Associated with the construction of a pedestrian path not to exceed five (5) feet in width, access to launch sites on the Lakes not to exceed fifteen (15) feet in width, maintenance of existing roadways, footpaths and open space, maintenance, repair, addition to or replacement of any existing structures or improvements and necessary clearing, grading and construction of surface or sub-surface utilities to serve water intake, filtration and/or transmission facilities.

(ii) That poses a safety or health hazard, such as a danger tree.

(b) Preliminary Investigation. A Preliminary Investigation will provide a basis for identifying the area(s) of vegetation removal and the potential impacts of the removal to water quality in the Lakes. For the purpose of this section, potential adverse impacts shall include the removal of vegetation in whole or in part, which poses a significant threat to the functions identified in this subsection. This investigation shall identify the approval criteria which must be addressed by the property owner in the Restoration Plan pursuant to LC 16.258(11)(c) below, and shall include identification of the removed vegetation serving one or more of the following functions:

(i) Shading of the Lakes;

(ii) Stabilization of a stream bank or shoreline;

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

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

(v) Water quality of the Lakes.

(c) Restoration Plan. Where required by the Preliminary Investigation, the person responsible for removing the vegetation shall submit a Restoration Plan to the Director pursuant to LC 14.050, which includes a complete inventory of the vegetation which was removed or is proposed for removal. The vegetation inventory shall identify previous and existing plant community locations and the maturity and densities of previously existing or current plant species. An approved Restoration Plan shall establish compliance with the following criteria and shall be subject to conditions of approval set by the Director in accordance with LC 16.258(11)(d) below:

(i) Restoration of the riparian area shall provide a recovery and restoration planting schedule to include successional planting, seasonal maintenance, and other management activities that provide for the complete recovery of vegetation;

(ii) Mitigation of adversely impacted significant wildlife habitat identified in the Preliminary Investigation;

(iii) Mitigation of adversely impacted stream bank or shoreline stabilization identified in the Preliminary Investigation; and

(iv) Mitigation of any other condition resulting from the removal of vegetation from the riparian area identified as having a significant adverse affect upon water quality in the Lakes.

(d) Director's Action.

(i) The Director may approve the Preliminary Investigation and Restoration Plan if there are adequate findings of fact supporting mitigation of the adverse impacts and the applicable approval criteria for the proposed Restoration Plan. The Director may impose conditions of approval necessary for compliance with the applicable criteria. Notice of the written decision shall be provided pursuant to LC 14.100.

(ii) Reasonable conditions may be placed upon the permit and the approval of a Restoration Plan to mitigate impacts and to provide for continued compliance with the protection standards as set forth in the Restoration Plan approved under LC 16.258(11)(d)(i) above. Unless otherwise approved, implementation of the plan must commence within 60 days of the Director's approval of the Restoration Plan. Required subsequent maintenance and successional plantings shall be identified in the Restoration

Plan approved by the Director. Conditions may include, but are not limited to, the following:

(aa) The person responsible may be required to enter into a performance agreement to pay all costs associated with implementing the Restoration Plan.

(bb) The Director may require the person responsible to record notice of the requirements of the Restoration Plan and performance agreements in the Lane County Deed Records.

(cc) To partially defray the expense in performing the Preliminary Investigation, a fee shall be charged the applicant. Such fee shall be as established by Order of the Board of County Commissioners.

(iii) The Director shall notify the applicant of the determination of the Preliminary Investigation and the requirements of a Restoration Plan, if any, by mail within 10 days of completion of the Preliminary Investigation.

(iv) As provided in LC 14.500, an applicant may appeal the determination of the Preliminary Investigation.

(12) Fuel Breaks and Fire Suppression. No indigenous vegetation shall be removed from the riparian area around the Lakes for the purpose of complying with the secondary fuel break requirements of this section because the Lakes are bodies of water which mitigate the shoreward fire hazard. Fuel breaks around new dwellings, or replacement dwellings on a different site as authorized by LC 16.258(4)(b) and 16.258(5)(a), located on forestland parcels shall be established and maintained as follows:

(a) **Primary Safety Zone**. The primary safety zone is a fire break extending a minimum of 30 feet in all directions around dwellings. The goal within the primary safety zone is to exclude fuels that will produce flame lengths in excess of one foot by application of the following standards:

(i) Vegetation within the primary safety zone could include green lawns and low shrubs (less than 24 inches in height).

(ii) Individual or small groups of trees should be spaced with at least 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches.

(iii) Accumulated leaves, needles, and other dead vegetation should be removed from beneath trees.

(iv) Nonflammable materials (e.g., rock), instead of flammable materials (e.g., bark mulch), should be placed next to the house.

(v) As slope increases, except in the riparian area, the primary safety zone should increase away from the house, parallel to the slope and down the slope, as shown in the table below:

<b>Size of the Primary Safety Zone by Percent Slope</b>		
<b>% Slope</b>	<b>Feet of Primary Safety Zone</b>	<b>Feet of Additional Safety Zone Down Slope</b>
0	30	0
10	30	50
20	30	75
25	30	100
40	30	150

(b) **Secondary Fuel Break**. The secondary fuel break is a fuel break located on the applicant’s property extending a minimum of 100 feet in all directions around the primary safety zone. The secondary fuel break shall not apply in the riparian area. The goal of the secondary fuel break is to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced by application of the following standards:

(i) Individual or small groups of trees shall be spaced with at least fifteen (15) feet between the crowns, and pruned to remove dead and low (less than 8 feet) branches.

(ii) Small trees and brush growing underneath larger trees should be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed.

(c) Fire Suppression Water Supply. Unless otherwise authorized by the Planning Director, the minimum acceptable fire suppression water supply system for dwellings and habitable structures not provided with residential fire protection from a fire protection district shall include the following:

(i) 1,500 gallon water reservoir with a submersible 1 1/2 HP pump. Alternatives, such as road access to a water supply which meets or exceeds this requirement, may be allowed subject to review and approval by Land Management Division pursuant to LC 16.258(13), below;

(ii) a minimum of two, one-inch frost-free valve operated hydrants;

(iii) a minimum of two hose reels installed 50 to 75 feet from the dwelling foundation;

(iv) each hose reel shall contain a minimum of 100 feet of 1 inch diameter hose;

(v) each hose shall have a 1/4 inch diameter nozzle;

(vi) all hoses shall be rated for fire suppression systems;

(vii) vehicle access to within 15' of the water reservoir or water supply for fire-fighting pumping units;

(viii) the road access shall accommodate the turnaround of fire fighting equipment during the fire season; and

(ix) permanent signs shall be posted along the access route to indicate the location of the emergency water source.

(13) Verification of Compliance with Conditions of Approval. An application to verify compliance with conditions of land use approval, together with the required processing fees, shall be required for any dwelling requiring fuel breaks or a fire suppression system, any proposed use requiring a site investigation report under LC 16.258(9) above, or any Director's level or Hearing Official decision for which conditions of approval have been imposed. Prior to commencement of the use or the issuance of any occupancy permit for the dwelling, the conditions of approval must be met and verified by the Lane County Land Management Division. *(Revised by Ordinance No. 6-10, Effective 9.17.10)*

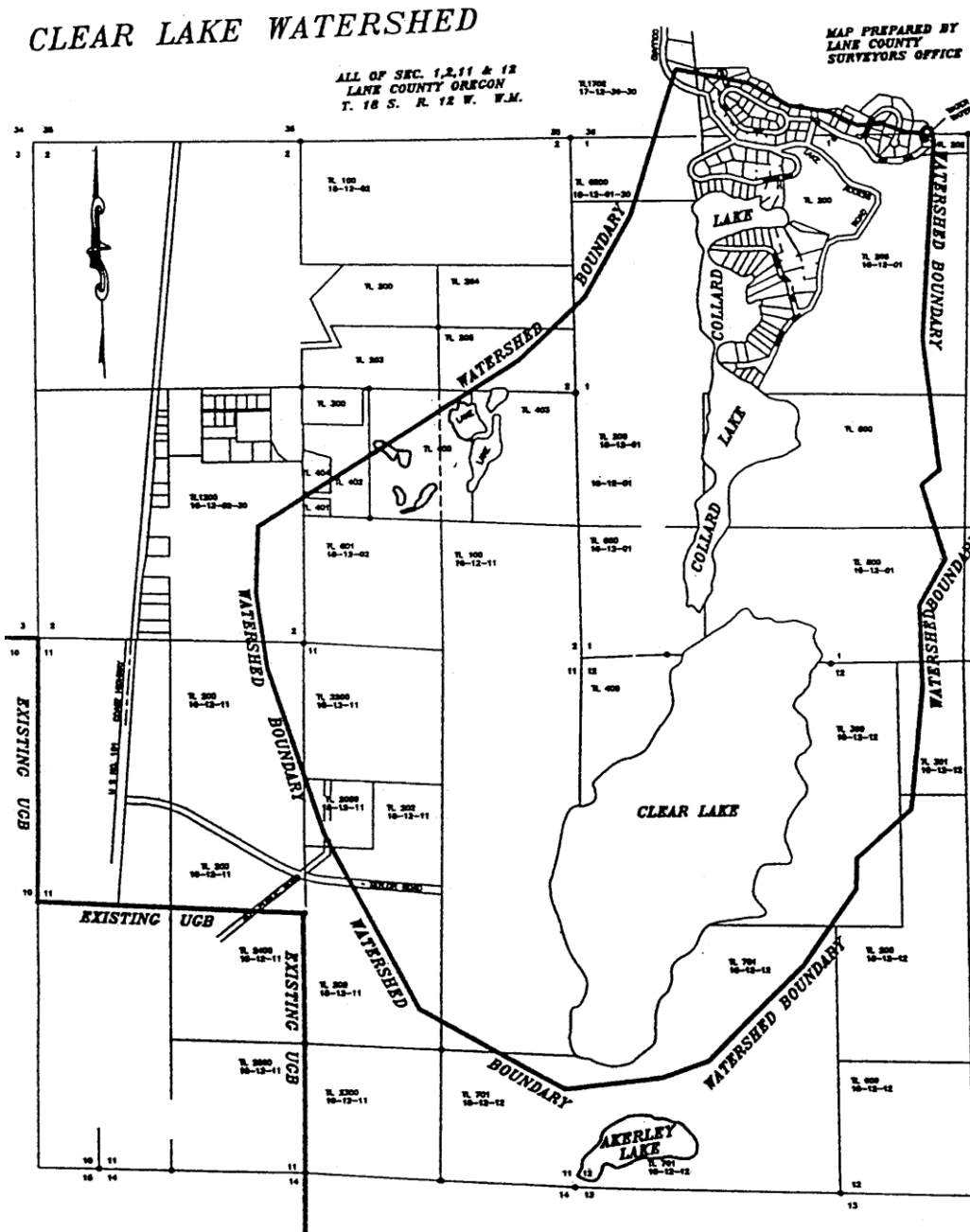
**LEGAL DESCRIPTION OF CLEAR LAKE WATERSHED**

Beginning at point known as Tank One, located in Section One, Township 18 South, Range 12 West, of the Willamette Meridian, Lane County Oregon;

Run thence S. 67° 50' 51.5" E. 97.8 ft. to the True Point of Beginning;  
 Run thence S. 05° 40' 43.0" W. 1960.62 ft. to a point,  
 Run thence S. 04° 58' 45.4" E. 1301.91 ft. to a point,  
 Run thence S. 52° 44' 01.0" W. 231.21 ft. to a point,  
 Run thence S. 15° 20' 45.4" E. 774.62 ft. to a point,  
 Run thence S. 31° 44' 14.0" W. 520.89 ft. to a point,  
 Run thence S. 00° 24' 43.9" W. 834.02 ft. to a point,  
 Run thence S. 07° 49' 01.8" W. 1191.07 ft. to a point,  
 Run thence S. 50° 26' 06.3" W. 73 1.61 ft. to a point,  
 Run thence S. 02° 51' 10.5" W. 301.37 ft. to a point,  
 Run thence S. 36° 37' 58.2" W. 918.41 ft. to a point,  
 Run thence S. 47° 12' 26.3" W. 1321.86 ft. to a point,  
 Run thence S. 72° 58' 54.2" W. 498.84 ft. to a point,  
 Run thence S. 85° 44' 21.3" W. 955.64 ft. to a point,  
 Which is N. 11° 39' 16.9" W. 5434.90 ft. from a point known as Green Two  
 (located in section 13 in said Township and Range);  
 Run thence N. 58° 09' 44.1" W. 1630.28 ft. to a point,  
 Run thence N. 25° 23' 10.1" W. 1978.00 ft. to a point,  
 Run thence N. 16° 34' 21.0" W. 1731.95 ft. to a point,  
 Run thence N. 06° 13' 18.0" W. 747.40 ft. to a point,  
 Run thence N. 03° 50' 32.8" E. 671.51 ft. to a point,  
 Run thence N. 59° 33' 18.9" E. 1117.02 ft. to a point,  
 Run thence N. 59° 50' 06.0" E. 1894.56 ft. to a point,  
 Run thence N. 48° 28' 40.0" E. 897.56 ft. to a point,  
 Run thence N. 31° 29' 50.7" E. 920.64 ft. to a point,  
 Run thence N. 19° 46' 39.6" E. 1524.95 ft. to a point,  
 Run thence S. 76° 05' 37.1" E. 748.95 ft. to a point,  
 Run thence S. 57° 33' 30.2" E. 445.53 ft. to a point,  
 Run thence S. 78° 27' 44.9" E. 394.98 ft. to a point,  
 Run thence S. 61° 55' 39.0" E. 323;00 % . to a point,  
 Run thence N. 89° 04' 46.8" E. 249.03 ft. to a point,  
 Run thence S. 67° 43' 17.4" E. 245.31 ft. to a point,  
 Run thence S. 79° 55' 09.8" E. 45.71 ft. to a point,  
 Run thence S. 83° 59' 27.6" E. 95.52 ft. to a point,  
 Run thence N. 42° 02' 57.2" E. 68.68 ft. to a point,  
 Run thence S. 80° 41' 24.2" E. 61.81 ft. to a point,  
 Run thence S. 10° 47' 03.5" E. 128.27 ft. to the True Point of  
 Beginning.

APPENDIX "A" TO LANE CODE  
 CHAPTER 16 (LC 16.258(2))  
 Page 1





APPENDIX "A" TO LANE CODE  
CHAPTER 16 (LC 16.258(2))  
Page 2

**Declaration of Covenants, Conditions and Restrictions Form**

Whereas, the undersigned \_\_\_\_\_ hereinafter referred to as Declarant, is owner in fee simple of the property described in Exhibit A attached hereto and incorporated by reference herein and

Whereas, the Declarant desires to declare their intention to create certain covenants, conditions and restrictions in order to effectuate and comply with the requirements of Oregon Administrative Rule (OAR 660-06-027).

Declarant hereby declares that all of the property described on Exhibit A shall be held, sold, and conveyed subject to the following covenants, conditions and restrictions: It is not lawful to use the property described in this instrument for the construction or siting of a dwelling or to use the acreage of the tract to qualify another tract for the construction or siting of a dwelling.

These covenants, conditions and restrictions can be removed only and at such time as the property described herein is no longer protected under the statewide planning goals for agricultural and forest lands or the legislature otherwise provides by statute that these covenants, conditions and restrictions may be removed and the authorized representative of the county or counties in which the property subject to these covenants, conditions and restrictions are locate executes and records a release of the covenants, conditions and restrictions created by this instrument.

In witness whereof, the undersigned, being Declarant herein, has heretofore set their hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

State of )  
County )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_.

Notary Public for Oregon  
My Commission expires: \_\_\_\_\_

APPENDIX "B" TO LANE CODE  
CHAPTER 16 (LC 16.258(4)(a)(iii))  
Page 1

*(Revised by Ordinance No. 6-98, Effective 12.2.98; 10-04, 6.4.04)*

PAGES 16-556 THROUGH 16-575  
ARE RESERVED FOR FUTURE EXPANSION