

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 1-91

BOOK **147** PAGE **0492**

) IN THE MATTER OF AMENDING CHAPTERS  
) 13 AND 15 OF LANE CODE TO REVISE  
) PROVISIONS REGULATING ACCESS AND  
) ROAD REQUIREMENTS IN LC  
) 13.050(5)(c)(i), 15.010(3)(j),  
) 15.020, 15.055(1) & (2) AND 15.130

The Board of County Commissioners of Lane County ordains as follows:

Chapters 13 and 15 of Lane Code are hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

13.050(5) - 13.050(5)  
i.e. 13-6  
(a total of one page)

13.050(5) - 13.050(5)  
i.e. 13-6  
(a total of one page)

15.010(3) - 15.010(3),  
i.e. 15-3  
(a total of one page)

15.010(3) - 15.010(3),  
i.e. 15-3  
(a total of one page)

15.020 - 15.025(6),  
i.e. 15-6  
(a total of one page)

15.020 - 15.025(6),  
i.e. 15-6  
(a total of one page)

15.055 - 15.055(10)  
i.e. 15-42  
(a total of one page)

15.055 - 15.055(10)  
i.e. 15-42  
(a total of one page)

15.130 - 15.135(3)  
i.e. 15-53  
(a total of one page)

15.130 - 15.135(3)  
i.e. 15-53  
(a total of one page)

FILED  
MAY 22 1991  
COUNTY CLERK  
FOR LANE COUNTY OR  
BY *Janet Davis*

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to revise provisions regulating access and road requirements in LC 13.050(5)(c)(i), 15.010(3)(j), 15.020, 15.055(1) & (2) and 15.130.

While not a part of this Ordinance, findings in attached Exhibit "A" are adopted in support of this decision.

Enacted this 15<sup>th</sup> day of May 1991.

*Janet Davis*  
\_\_\_\_\_  
Chair, Lane County Board of Commissioners

*Judy Waldeman*  
\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 4-2-91 Lane County  
*Stephen J. Clarke*  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

IN THE MATTER OF AMENDING CHAPTERS 13 AND 15 OF LANE CODE TO REVISE PROVISIONS REGULATING ACCESS AND ROAD REQUIREMENTS IN LC 13.050(5)(c)(i), 15.010(3)(j), 15.020, 15.055(1) & (2) AND 15.130

(ii) There is a legal right appurtenant to the lots or parcels to use the road for ingress and egress. A legal right to use an easement may be evidenced by: 1) an express grant or reservation of an easement in a document recorded with the County Recorder, 2) a decree or judgment issued by a court of competent jurisdiction, 3) an order of the Board establishing a statutory way of necessity or gateway road, or 4) an express easement set forth in an approved and recorded subdivision or partition.

(iii) The road provides actual physical access to the lots or parcels.

(b) County and local access - public roads used as access to lots or parcels shall be designed and developed according to the standards of LC Ch 15 and LM Ch 15.

(c) Easements used as access to lots or parcels shall meet the following criteria:

(i) There shall be no more than four lots, parcels or unsubdivided or unpartitioned tracts of land accessed by any portion of the easement, except that more than four lots in a subdivision or partition may be accessed by an easement. This restriction may be modified through compliance with the variance section of this Chapter.

(ii) Easements shall not be approved if the road is presently needed or is likely to be needed for access to adjacent properties or to be utilized for a County or public road in the normal development of the area.

(iii) The minimum width of easements shall be 20 feet.

(iv) All approved documents creating a private access easement shall provide for the installation, construction maintenance thereof of all public utilities and facilities which are now or may in the future be needed for the area abutting the road and the surrounding area.

(v) The County may require such improvements as are reasonably necessary to provide safe and adequate access to the lot or parcel.

(vi) A lot or parcel abutting a railroad or limited access road right-of-way may require special consideration with respect to its access requirements.

(vii) Any easement approved as a private access easement shall be documented on a form acceptable to the Department and shall contain the minimum

16-83; 9.14.83  
20-83; 11.30.83  
1-90; 2.7.90  
3-90; 3.14.90

13-6

WP 1/co/00026/C

15.010(3)

Lane Code

15.010(3)

(h) Stubbed Road. A road having only one outlet, but which is intended to be extended or continued to serve future development on adjacent lands.

(i) County Road. A County Road is a road which is part of the County Road system and which road has been given a County Road number as provided for in ORS Chapter 368, has a description on file in the office of the Department of Public Works and the road itself is maintained by the County.

(j) Public Road. A public road is a road which has been dedicated to the use of the public for road purposes either by good and sufficient deed or by a major partition map or a subdivision plat which documents have been presented to and accepted by the Board of County Commissioners and placed on record, said road being held in trust for the public by the County, but shall specifically exclude private roadway or access easements or agreements, Forest Service Roads, Bureau of Land Management Roads, any Gateway or Way of Necessity as defined by ORS Chapter 376 and any other road which has nominally or judicially gained a "public character" by prescriptive or adverse use. A public road is not normally maintained by the County, but the County can regulate its use. (Standard nomenclature for this type of road is "Dedicated Public Road" or "Local Access Roads.")

(k) Private Road. A private road or way that is created to provide ingress or egress to one or more lots, parcels, areas or tracts of land and which road or way has been approved for access purposes by the County. A private road shall also be considered as to include that portion of a panhandle or flag lot or parcel that is used for access purposes or an access road in which the underlying fee belongs to two or more persons, association, corporation, firm, club, partnership or other similar entity having the right of administration and/or ownership thereof.

(l) Private Access Easement. A private, nonexclusive easement that is intended to provide for ingress and egress to one or more lots, parcels, areas or tracts of land and which easement has been approved for access purposes by the County.

MASTER ROAD PLAN

15.020 Master Road Plan. In the development of an area, it is generally considered infeasible and undesirable to design all streets to safely and effectively handle both local and nonlocal trips. Therefore, a range of street classifications from collector to arterial are assigned to streets making up a circulation network that will adequately handle anticipated traffic demands without unduly disturbing local residential neighborhoods. Collector and arterial streets are designed to carry through traffic (nonlocal trips) and generally require wider rights-of-way and higher design standards in order to serve their intended function. Local roads primarily provide access to abutting property. Local roads generally require only the standard minimum right-of-way. The location or alignment of local roads is established during the development of abutting property. For these reasons, local roads are not listed in the Master Road Plan Schedule of Roads.

The purpose of this section is to identify those collector and arterial streets making up that circulation network and to establish projected requirements for those roads. Those requirements may include reserve areas for future widening, expansion or creation of roads and for further utilities, pedestrian ways, bikeways and other essential public services. Also included is the establishment of appropriate building setback lines to prevent or reduce deterioration of property values and promote conditions for desirable residential, commercial, industrial, institutional or public land uses.

15.025 Master Road Plan Content. The Master Road Plan shall consist of the following:

- (1) The text contained herein.
- (2) The Schedule of roads, including classification, type, planned right-of-way and additional setback (LC 15.027).
- (3) Diagrams of proposed alignments of Type "C" roads (LC 15.060).
- (4) The maps of Type "C" proposed roads showing established alignment and Type "D" proposed roads showing projected general alignment, which maps are on file in the Office of the Department of Public Works.
- (5) Maps of adopted Collector Road Systems, which consist of Type "D" proposed roads for developing areas and which maps are on file in the Office of the Department of Public Works.
- (6) Map entitled "Lane County Master Road Plan Map," which is on file in the Office of the Department of Public Works.

15.055 Minimum Requirements for Private Access Easements. The following minimum requirements shall apply for any action relating to the approval of a private access easement as may be deemed necessary to ensure that the road will reasonably provide access that conforms with the stated purposes of this Chapter.

(1) A private access easement shall be intended to provide access only to four or less lots or parcels or dwelling units, whichever the case may be, unless approved for access to more than four lots through a subdivision, partition or planning action taken pursuant to Lane Code Chapter 14 or 15.

(2) A private access easement shall be considered suitable access only for a lot or parcel 20 acres or more in area and which lot or parcel is intended for no more than one single-family dwelling unit, unless access to smaller lots or parcels is approved through a subdivision, partition or planning action taken pursuant to Lane Code Chapter 14 or 15.

(3) Private access easements shall not be approved if the road is presently needed or is likely to be needed for access to adjacent properties or to be utilized for public road purposes in the normal development of the area.

(4) The minimum width for private access easement shall be of a width determined by the County suitable for the intended use, but in no case less than 20 feet.

(5) All approved documents creating a private access easement shall provide for the installation, construction and maintenance thereof of all public utilities and facilities which are now or may in the future be needed for the area abutting the road and the surrounding area.

(6) The County may require such improvements as are reasonably necessary to provide safe and adequate access to the lot or parcel.

(7) A lot or parcel abutting a railroad or limited access road right-of-way may require special consideration with respect to its access requirements.

(8) Any easement approved as a private access easement shall be an affirmative easement appurtenant to and contain at a minimum the names of grantor and grantee, the description of dominant and servient tenements, the description of the land covered by the easement, description of the intent or purpose of the easement and a statement of maintenance responsibility. All approved easements shall be recorded.

(9) The County may require that at the entrance to a private access easement the applicant post a sign stating the name of the private road and the words "Private Access Easement, Not Dedicated for Public Use or Maintained by Lane County."

(10) If the County determines that the access and transportation needs of the public would be better served if the private access easements being considered would be established as a public road, it may require that a public road dedication be made along the entire frontage of the applicant's ownership to a width deemed sufficient by the Department of Public Works.

ACCESSBOOK **147** PAGE **0497**

15.130 Purpose. It is the purpose of this section to insure that all lots, parcels or building sites have reasonably safe, convenient and usable access that is sufficient to insure the continued unhampered utility of dwellings or commercial and industrial uses, the restricting of undue individual hardship and public cost and the efficient provisions for transportation and other needed facilities and utilities. It is considered that the necessity for being able to travel to and from a permanent residential dwelling is a basic requirement for development and that direct access to a public road best serves the usual access needs of the public as well as providing for the delivery of necessary services. Private access easements may be acceptable when approved through a planning action taken pursuant to Lane Code Chapter 14 or 15 when necessary to meet unusual or special needs or situations in which case, however, special conditions and public safeguards are required due to the limiting nature of private forms of access. Private access easements are required to comply with certain minimum standards in order to insure that not only are the individual vehicular access needs of the lot or parcel insured but that there also exists adequate and safe access for necessary police, fire and other public service vehicles, and there is adequate provision for the installation and maintenance of sewer, water and storm drainage improvements, and that the private access easements are constructed in accordance with acceptable construction and engineering practice.

The requirements of this subsection are intended to provide for the permanent access needs and the orderly development of the lot, parcel, or building site itself, the surrounding area and the community.

15.135 Access Requirements.

(1) All lots, parcels, or building sites shall have reasonably safe and usable vehicular access either directly to a public road or directly to an approved private road or a private access easement.

(2) Any lot or parcel which has been created in an approved and recorded subdivision plat, partition map, or minor subdivision shall be considered as meeting the access requirements of this subsection.

(3) When a lot or parcel is the site of an existing building, the lot or parcel shall be deemed to meet the access provisions of this subsection when a building permit application is for the remodeling, alteration or replacement of an existing structure or the addition of an accessory building and no additional dwelling units or guest houses are created.

## EXHIBIT A

SUPPLEMENTAL FINDINGS FOR CHANGES TO LANE CODE  
13.050(5)(c)(i), 15.010(3)(j),  
15.020, 15.055(1) & (2) and 15.130

## 1. Lane Code 13.050(5)(c)(i)

This is the first of several wording changes to allow more use of private easements when approved through subdivision or partition processes.

This change will allow approval of the use of easements to access more than four lots through a standard subdivision or partition process. The existing language allows this approval for cluster subdivisions only. This is intended to provide for more use of private easements to provide access. Private roads, being separate parcels subject to non-payment of taxes and foreclosure by the County, have been problematic where property owners allow these parcels to revert to Lane County ownership. Use of private easements avoids this problem because easements are not separate parcels.

In addition, since the guidelines for acceptance of roads into the County system, as proposed, intend that access to many local residential subdivisions or partitions will not be on County-maintained roads, use of private easements will be considered in more cases.

Please note that subsection (ii) retains language limiting uses of private easements to areas where public rights-of-way are not needed for development of adjacent properties.

This is the only change proposed to Lane Code Chapter 13, Subdivisions.

## 2. Lane Code 15.010 (3)(j)

Several terms are used in the Code to describe dedicated public rights-of-way, outside of cities, that are not maintained by State, Federal, or County agencies. In 1981, the term "local access road" was created in ORS to describe these rights-of-way. Previously, these roads were called "dedicated public roads" or simply "public roads". This change would add "local access road" as an alternative to "dedicated public road" within the definitions section of LC Chapter. All three terms appear in the Code text in various locations.

## 3. Lane Code 15.020

The proposed policy criteria in LM 15.410 for acceptance of new roads into the County road system places emphasis on acceptance of collector roads and roads serving commercial, government, or other significant development. During discussion of these policy criteria at the Roads Advisory Committee, there were concerns raised about the importance of roads classified as local roads. Since the Master Road Plan Schedule of Roads is a list of collector and arterial streets, local roads are not listed.

The new language in the introduction is intended to acknowledge the importance of local roads in the County system and to explain why they are not listed individually in the Code. The Master Road Plan is a right-of-way planning and alignment planning tool. Since local road rights-of-way are generally the County minimum of 60 feet, and since there is no need to preplan local road alignments in the Schedule of Roads, it is not necessary to list local roads in this section of the code.

4. Lane Code 15.055(1)and(2)

Modification of subsection (1) will allow use of private easements for access to more than four lots in some cases, as in Change #1 above in Chapter 13, Subdivisions. This repeats the change in language in the Minimum Road Requirements section of Chapter 15, Roads. A similar change to subsection (2) will allow access, by private easement, to lots less than 20 acres in size, if approved through a subdivision, partition, or planning action process.

5. Lane Code 15.130

This section states the necessity of adequate access to lots and parcels. We have deleted "private roads" as an acceptable alternative to public roads, leaving private easements as an acceptable alternative. As in Findings #1 and #4 above, language has been added requiring the use of a private easement to be approved through a planning action process.

(ii) There is a legal right appurtenant to the lots or parcels to use the road for ingress and egress. A legal right to use an easement may be evidenced by: 1) an express grant or reservation of an easement in a document recorded with the County Recorder, 2) a decree or judgment issued by a court of competent jurisdiction, 3) an order of the Board establishing a statutory way of necessity or gateway road, or 4) an express easement set forth in an approved and recorded subdivision or partition.

(iii) The road provides actual physical access to the lots or parcels.

(b) County and local access - public roads used as access to lots or parcels shall be designed and developed according to the standards of LC Ch 15 and LM Ch 15.

(c) Easements used as access to lots or parcels shall meet the following criteria:

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(3) Private access easements shall not be approved if the road is presently needed or is likely to be needed for access to adjacent properties or to be utilized for public road purposes in the normal development of the area.

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(6) The County may require such improvements as are reasonably necessary to provide safe and adequate access to the lot or parcel.

(7) A lot or parcel abutting a railroad or limited access road right-of-way may require special consideration with respect to its access requirements.

(8) Any easement approved as a private access easement shall be an affirmative easement appurtenant to and contain at a minimum the names of grantor and grantee, the description of dominant and servient tenements, the description of the land covered by the easement, description of the intent or purpose of the easement and a statement of maintenance responsibility. All approved easements shall be recorded.

(9) The County may require that at the entrance to a private access easement the applicant post a sign stating the name of the private road and the words "Private Access Easement, Not Dedicated for Public Use or Maintained by Lane County."

(10) If the County determines that the access and transportation needs of the public would be better served if the private access easements being considered would be established as a public road, it may require that a public road dedication be made along the entire frontage of the applicant's ownership to a width deemed sufficient by the Department of Public Works.

ACCESS

BOOK 147 PAGE 0504

15.130 Purpose. It is the purpose of this section to insure that all lots, parcels or building sites have reasonably safe, convenient and usable access that is sufficient to insure the continued unhampered utility of dwellings or commercial and industrial uses, the restricting of undue individual hardship and public cost and the efficient provisions for transportation and other needed facilities and utilities. It is considered that the necessity for being able to travel to and from a permanent residential dwelling is a basic requirement for development and that direct access to a public road best serves the usual access needs of the public as well as providing for the delivery of necessary services. [In certain limited situations,] [p]Private [roads or private] access easements may be acceptable when approved through a planning action taken pursuant to Lane Code Chapter 14 or 15 when necessary to meet unusual or special needs or situations in which case, however, special conditions and public safeguards are required due to the limiting nature of private forms of access. Private [roads and private] access easements are required to comply with certain minimum standards in order to insure that not only are the individual vehicular access needs of the lot or parcel insured but that there also exists adequate and safe access for necessary police, fire and other public service vehicles, and there is adequate provision for the installation and maintenance of sewer, water and storm drainage improvements, and that the private [roads and private] access easements are constructed in accordance with acceptable construction and engineering practice.

The requirements of this subsection are intended to provide for the permanent access needs and the orderly development of the lot, parcel, or building site itself, the surrounding area and the community.

15.135 Access Requirements.

(1) All lots, parcels, or building sites shall have reasonably safe and usable vehicular access either directly to a public road or directly to an approved private road or a private access easement.

(2) Any lot or parcel which has been created in an approved and recorded subdivision plat, partition map, or minor subdivision shall be considered as meeting the access requirements of this subsection.

(3) When a lot or parcel is the site of an existing building, the lot or parcel shall be deemed to meet the access provisions of this subsection when a building permit application is for the remodeling, alteration or replacement of an existing structure or the addition of an accessory building and no additional dwelling units or guest houses are created.

**ATTACHMENT A**

**Index of Changes to Lane Code/Lane Manual**

11/28/90

**LANE CODE, CHAPTER 13 SUBDIVISIONS**

**Lane Code 13.050**

Change #1 - Change reference from "cluster subdivision" to subdivision  
See page 1, Attachment B

**LANE CODE, CHAPTER 15 ROADS**

**Lane Code 15.010**

Change #2 - Addition of "Local Access Road" reference  
See page 2, Attachment B

**Lane Code 15.020**

Change #3 - Addition to purpose statement for the Master Road Plan  
See page 2, Attachment B

**Lane Code 15.055**

Change #4 - Addition of language concerning use of private easements  
See page 3, Attachment B

**Lane Code 15.130**

Change #5 - Modification of language to allow use of private easements in some cases.  
See page 4, Attachment B

**LANE MANUAL, CHAPTER 15 ROADS**

**Lane Manual 15.205-15.245 Acceptance of Dedicated Public Roads**

Change #6 - Adds reference to new policy criteria.  
See page 5, Attachment B

Change #7 - Deletes "the" in Purpose statement  
See page 5, Attachment B

Change #8 - Addition of requirement for applicant to address policy criteria in the application and adds language on a filing fee.  
See page 6, Attachment B

**Continuation of changes to road acceptance process**

- Change #9 - Addition of reference to new policy criteria, deletion of ORS definition of a public road, and replacement with a more restrictive definition from LM 15.110.  
See page 6, Attachment B
- Change #10 - Addition of city street to list of intersecting roads  
See page 7, Attachment B
- Change #11- Broadens reference to standards for urban roads to include Lane Manual, Chapter 15 and deletes specific reference to Master Road Plan.  
See page 7, Attachment B
- Change #12 - Deletes standard of one permanent residence every 500 feet.  
See page 8, Attachment B
- Change #13 - Adds clarifying sentence to section on right-of-way standards.  
See page 8, Attachment B
- Change #14 - Requires written Director's report to applicant and adds reference to policy criteria.  
See page 9, Attachment B
- Change #15 - Moves estimate of cost into report to applicant and deletes calculation by front footage.  
See page 9, Attachment B
- Change #16 - Gives authority for denial on policy grounds to the Director.  
See page 10, Attachment B
- Change #17 - Changes title from Director's action to Board Consideration and changes code number.  
See page 10, Attachment B
- Change #18 - Adds language requiring Director to report to Board on costs of improvements. Deletes language on cost estimate that has been moved.  
See page 11, Attachment B
- Change #19 - New Subsection (4) stating Board will hear appeal of Director's denial. Renumbering required by this addition.  
See page 11, Attachment B
- Change #20 - Numbering change to move language about appeal to Board.  
See page 12, Attachment B
- Change #21 - Modification to make Director's decision final unless appealed and requiring applicant to state how the Director erred and adds provision for filing fee.  
See page 12, Attachment B

**Continuation of changes to road acceptance process**

Change #22 - Renumber this section so that it follows Board action. This section will become 15.245 and existing section 15.245 Board Action will become 15.240

See page 13, Attachment B

Change #23 - Addition of language concerning conditional acceptance by the Board in the section on Petitioner's Action.

See page 13, Attachment B

Change #24 - Addition of requirement for certification by a registered engineer if improvements made privately.

See page 13, Attachment B

Change #25 - Deletion of County Force construction option to make improvements.

See page 14, Attachment B

Change #26 - Corrects an incorrect reference to the assessment process.

See page 15, Attachment B

Change #27 - Renumbers and moves section on Board acceptance/denial of the application or appeal.

See page 15, Attachment B

Change #28 - Adds word "petition" to clarify existing language in section describing further action by petitioners and replaces "perused" with "reviewed".

See page 15, Attachment B

**Lane Manual 15.305 Vacation Procedures**

Change #29 - Series of housekeeping changes in the vacation procedures. Adds referral to the Roads Advisory Committee for those vacations proposed by resolution by Lane County

See page 16, Attachment B

**Lane Manual 15.405 General Road and Access Policies**

Change #30 - Addition of new policy statement in "Purpose" section of the General Road and Access Policies section.

See page 17, Attachment B

Change #31 - Deletes statement concerning desirability of public roads over private roads or easements

See page 18, Attachment B

Change #32 - Deletes list of desirable forms of access.

See page 19, Attachment B

Change #33 - Insertion of new policy guidelines for considering acceptance of roads into the County Road System

See page 20, Attachment B

**Continuation of changes to general road and access policies**

Change #34 - Insertion of new guidelines for vacation or reversion of  
County roads.

See page 21, Attachment B

Change #35 - Deletion of reference to future adoption of Comprehensive Plan  
and zoning

See page 22, Attachment B

Change #36 - Renumber 15.410 (9) through (15)

See page 22, Attachment B

## ATTACHMENT B

## Analysis of Changes to Lane Code/Lane Manual

## Change #1 - Change reference from "cluster subdivision" to subdivision

## A. Problem or Issue and Findings

This is the first of several wording changes to allow more use of private easements when approved through subdivision or partition processes.

This change will allow approval of the use of easements to access more than four lots through a standard subdivision or partition process. The existing language allows this approval for cluster subdivisions only. This is intended to provide for more use of private easements to provide access. Private roads, being separate parcels subject to non-payment of taxes and foreclosure by the County, have been problematic where property owners allow these parcels to revert to Lane County ownership. Use of private easements avoids this problem because easements are not separate parcels.

In addition, since the guidelines for acceptance of roads into the County system, as proposed, intend that access to many local residential subdivisions or partitions will not be on County-maintained roads, use of private easements will be considered in more cases.

Please note that subsection (ii) retains language limiting uses of private easements to areas where public rights-of-way are not needed for development of adjacent properties.

This is the only change proposed to Lane Code Chapter 13, Subdivisions.

## B. Affected Section of Lane Code

Lane Code 13.050(5)(c)(i)

## C. Proposed Code Modification

(5) Access.

(c) Easements used as access to lots or parcels shall meet the following criteria:

(i) There shall be no more than four lots, parcels or unsubdivided or unpartitioned tracts of land accessed by any portion of the easement, except that more than four lots in a [cluster] subdivision or partition may be accessed by an easement. This restriction may be modified through compliance with the variance section of this Chapter.

(ii) Easements shall not be approved if the road is presently needed or is likely to be needed for access to adjacent properties or to be utilized for a County or public road in the normal development of the area.

**Change #2 - Addition of "Local Access Road" reference****A. Problem or Issue and Findings**

Several terms are used in the Code to describe dedicated public rights-of-way, outside of cities, that are not maintained by State, Federal, or County agencies. In 1981, the term "local access road" was created in ORS to describe these rights-of-way. Previously, these roads were called "dedicated public roads" or simply "public roads". This change would add "local access road" as an alternative to "dedicated public road" within the definitions section of LC Chapter. All three terms appear in the Code text in various locations.

**B. Affected Section of Lane Code**

Lane Code 15.010 (3)(j)

**C. Proposed Code Modification**

15.010 Definitions. For the purposes of this chapter, the following words and phrases shall mean:

(3) Road. ....

(j) Public Road. A public road is a road which has been dedicated to the use of the public for road purposes either by good and sufficient deed or by a major partition map or a subdivision plat which documents have been presented to and accepted by the Board of County Commissioners and placed on record, said road being held in trust for the public by the County, but shall specifically exclude private roadway or access easements or agreements, Forest Service Roads, Bureau of Land Management Roads, any Gateway or Way of Necessity as defined by ORS Chapter 376 and any other road which has been nominally or judicially gained a "public character" by prescriptive or adverse use. A public road is not normally maintained by the County, but the County can regulate its use. (Standard nomenclature for this type of road is "Dedicated Public Road[.]" or "Local Access Road.")

**Change #3 - Addition to purpose statement for the Master Road Plan****A. Problem or Issue and Findings**

The proposed policy criteria in LM 15.410 for acceptance of new roads into the County road system places emphasis on acceptance of collector roads and roads serving commercial, government, or other significant development. During discussion of these policy criteria at the Roads Advisory Committee, there were concerns raised about the importance of roads classified as local roads. Since the Master Road Plan Schedule of Roads is a list of collector and arterial streets, local roads are not listed.

The new language in the introduction is intended to acknowledge the importance of local roads in the County system and to explain why they are not listed individually in the Code. The Master Road Plan is a

right-of-way planning and alignment planning tool. Since local road rights-of-way are generally the County minimum of 60 feet, and since there is no need to preplan local road alignments in the Schedule of Roads, it is not necessary to list local roads in this section of the code.

**B. Affected Section of Lane code**

Lane Code 15.020

**C. Proposed Code Modification**

MASTER ROAD PLAN

15.020 Master Road Plan. In the development of an area, it is generally considered infeasible and undesirable to design all streets to safely and effectively handle both local and nonlocal trips. Therefore, a range of street classifications from collector to arterial are assigned to streets making up a circulation network that will adequately handle anticipated traffic demands without unduly disturbing local residential neighborhoods. Collector and arterial streets are designed to carry through traffic (nonlocal trips) and generally require wider rights-of-way and higher design standards in order to serve their intended function. Local roads primarily provide access to abutting property. Local roads generally require only the standard minimum right-of-way. The location or alignment of local roads is established during the development of abutting property. For these reasons, local roads are not listed in the Master Road Plan Schedule of Roads.

The purpose of this section is to identify those collector and arterial streets making up that circulation network and to establish projected requirements for those roads. Those requirements may include reserve areas for future widening, expansion or creation of roads and for further utilities, pedestrian ways, bikeways and other essential public services. Also included is the establishment of appropriate building setback lines to prevent or reduce deterioration of property values and promote conditions for desirable residential, commercial, industrial, institutional or public land uses.

**Change #4 - Addition of language concerning use of private easements**

**A. Problem or Issue and Findings**

Modification of subsection (1) will allow use of private easements for access to more than four lots in some cases, as in Change #1 above in Chapter 13, Subdivisions. This repeats the change in language in the Minimum Road Requirements section of Chapter 15, Roads. A similar change to subsection (2) will allow access, by private easement, to lots less than 20 acres in size, if approved through a subdivision, partition, or planning action process.

**B. Affected Section of Lane Code**

Lane Code 15.055(1)and(2)

**C. Proposed Code Modification**

15.055 Minimum Requirements for Private Access Easements. The following minimum requirements shall apply for any action relating to the approval of a private access easement as may be deemed necessary to ensure that the road will reasonably provide access that conforms with the stated purposes of this Chapter.

(1) A private access easement shall be intended to provide access only to four or less lots or parcels or dwelling units, whichever the case may be, unless approved for access to more than four lots through a subdivision, partition, or planning action taken pursuant to Lane Code Chapter 14 or 15.

(2) A private access easement shall be considered suitable access only for a lot or parcel 20 acres or more in area and which lot or parcel is intended for no more than one single-family dwelling unit, unless access to smaller lots or parcels is approved through a subdivision, partition, or planning action taken pursuant to Lane Code Chapter 14 or 15.

**Change #5 - Modification of language to allow use of private easements in some cases**

**A. Problem or Issue and Findings**

This section states the necessity of adequate access to lots and parcels. We have deleted "private roads" as an acceptable alternative to public roads, leaving private easements as an acceptable alternative. As in Changes #1 and #4 above, language has been added requiring the use of a private easement to be approved through a planning action process.

**B. Affected Section of Lane Code**

Lane Code 15.130

**C. Proposed Code Modification**

15.130 Purpose. It is the purpose of this section to insure that all lots, parcels or building sites have reasonably safe, convenient and usable access that is sufficient to insure the continued unhampered utility of dwellings or commercial and industrial uses, the restricting of undue individual hardship and public cost and the efficient provisions for transportation and other needed facilities and utilities. It is considered that the necessity for being able to travel to and from a permanent residential dwelling is a basic requirement for development and that direct access to a public road best serves the usual access needs of the public as well as providing for the delivery of necessary services. [In certain limited situations,][p]Private [roads or private] access easements may be acceptable when approved through a planning action taken pursuant to Lane Code Chapter 14 or 15 when necessary to meet unusual or special needs or situations in which case, however, special conditions and public safeguards are required due to the limiting nature of private forms of access. Private roads and private access easements are required to comply with certain minimum standards in order to insure that not only are the individual vehicular access needs of the lot or parcel insured but

that there also exists adequate and safe access for necessary police, fire and other public service vehicles, and there is adequate provision for the installation and maintenance of sewer, water and storm drainage improvements, and that the private roads and private access easements are constructed in accordance with acceptable construction and engineering practice.

The requirements of this subsection are intended to provide for the permanent access needs and the orderly development of the lot, parcel, or building site itself, the surrounding area and the community.

NOTE: Changes #6 through #28 relate to changes in Lane Manual 15.205 through 15.245 concerning the process for acceptance of dedicated public roads into the County-maintained road system. The process has been revised to: clarify review of road improvement requirements and policies on acceptance; allow Director denial based on policy guidelines (appeal of denial to Board is retained); delete improvement by County Forces as an option; allow approval of road acceptance by Board contingent upon improvements to the road; and to add requirement for certification of improvements by a licensed engineer and a field survey of the road and proposed right-of-way.

**Change #6 - Adds reference to new policy criteria.**

**A. Problem or Issue and Findings**

Change #4 simply adds a reference to policy criteria that are proposed in Lane Manual 15.410 to be adopted.

**B. Affected Section of Lane Manual**

Lane Manual 15.205

**C. Proposed Manual Modification**

15.205 Authority. The following procedures, policy criteria, and standards relating to the acceptance of dedicated public roads for maintenance and converting to County road status are adopted pursuant to authority granted Lane County by ORS Chapter 368, Lane Code Chapter 15 and the Lane County Home Rule Charter.

**Change #7 - Deletes "the" in Purpose statement**

**A. Problem or Issue and Findings**

This is a grammatical correction intended to improve the clarity of the text.

**B. Affected Section of Lane Manual**

Lane Manual 15.210

**C. Proposed Manual Modification**

15.210 Purpose. The following procedures and requirements are established for the purpose of delineating a uniform policy in

Lane County for the acceptance of dedicated public roads for [the] maintenance and converting to County road status. It is intended that this policy will clarify and set the requirements and responsibilities of the individuals, public bodies and Departments involved in the acceptance of dedicated public roads. In addition, it provides the public with an outline of the required process for the acceptance of dedicated public roads for maintenance and conversion of County road status.

**Change #8 - Addition of requirement for applicant to address policy criteria in the application and adds language on a filing fee.**

**A. Problem or Issue and Findings**

This language requires the applicant to support the application with findings that address the policy criteria and state why the road should be accepted. The applicant must justify the request rather than leaving the justification to County staff to prepare. This change was recommended by Land Management staff and is consistent with processing of other types of applications. Language was also added requiring payment of the filing fee with the application. No filing fee currently exists. Addition of a fee at some point in the future would not require further amendment of this section.

**B. Affected Section of Lane Manual**

Lane Manual 15.215

**C. Proposed Manual Modification**

15.215 Application. An application must be in the form of a petition signed by not less than 60 percent of the owners of the land, representing not less than 60 percent of the land abutting the dedicated public road; shall include findings on how the application meets the policy criteria set forth in Lane Manual 15.410; and shall state the owners' desire for Lane County to accept the road as a County road. The application shall be submitted to the Director of the Department of Public Works.

**Change #9 - Addition of reference to new policy criteria, deletion of ORS definition of a public road, and replacement with a more restrictive definition from LM 15.110.**

**A. Problem or Issue and Findings**

A series of changes are proposed to Lane Manual 15.220 regarding the review by the Director of the application for road acceptance.

The first change adds a reference in the introductory paragraph to the new policy criteria added to LM 15.410.

Subsection (1) has been changed to delete an ORS reference (ORS 368.001), defining a public road as follows: "Any road over which the public has a right of use that is a matter of public record." This definition has been replaced with a more detailed and restrictive one from LM 15.110, which

reads as follows: "'Public Road' means any legal state or County road or any other road which has been dedicated to the use of the public for road purposes either by good and sufficient deed accepted by the Board and placed on record or by a subdivision plat presented to and accepted by the Board, but shall specifically exclude private roadway easements or agreements, Forest Service Road, BLM road, any gateway or way of necessity as defined by ORS ch. 376 and any other road which has been nominally or judicially gained a 'public character' by prescriptive or adverse use."

**B. Affected Section of Lane Manual**

Lane Manual 15.220 and subsection (1)

**C. Proposed Manual Modification**

15.220 Review. Upon receipt of an application, the Director shall investigate and report his or her findings to the petitioners as to whether or not the road under consideration meets the policy criteria set forth in Lane Manual 15.410 and meets the following standards:

(1) The road shall be a public road as defined in [ORS 368.010] LM 15.110.

**Change #10 - Addition of city street to list of intersecting roads**

**A. Problem or Issue and Findings**

Subsection (3) adds "city street" to the list of roads with which a County road may intersect. This has been added to cover urban areas where city limit configurations may create situations where new County roads would intersect a City street.

**B. Affected Section of Lane Manual**

Lane Manual 15.220(3)

**C. Proposed Manual Modification**

(3) The road shall be of benefit to the general public, shall intersect with an existing County road, City street, or State highway, or be an extension of an existing County road.

**Change #11- Broadens reference to standards for urban roads to include Lane Manual, Chapter 15 and deletes specific reference to Master Road Plan.**

**A. Problem or Issue and Findings**

The references to standards for urban roads in subsection (4) has been modified to: broaden the reference to Lane Code, Chapter 15 by eliminating the specific reference to the Master Road Plan. A reference to Lane Manual, Chapter 15, has been added and a "the" has been deleted as a grammatical correction. The reference to Lane Manual is necessary because the actual construction standards are listed in Lane Manual. This provision would require a curb and gutter asphalt street standard for

acceptance of dedicated roads within urban growth boundary areas. The Director may recommend waiver of standards or policy criteria in individual cases.

**B. Affected Section of Lane Manual**

Lane Manual 15.220(4)

**C. Proposed Manual Modification**

(4) If the road is located within the "Urban" area as defined in LC 15.610, the road shall meet the standards set forth in [the] Lane Code, Chapter 15 [(Master Road Plan)] and Lane Manual, Chapter 15.

**Change #12 - Deletes standard of one permanent residence every 500 feet.**

**A. Problem or Issue and Findings**

Subsection (7) is recommended for deletion. This standard, based on the spacing of residences every 500 feet, has been replaced by the series of policy criteria in Lane Manual 15.410. This is consistent with the direction of the new policies, which require more than service to residential property as a justification for acceptance into the County Road System. These policies mean that there will be increased emphasis on maintenance of local residential roads by adjacent owners.

**B. Affected Section of Lane Manual**

Lane Manual 15.220(7)

**C. Proposed Manual Modification**

[(7) The road shall generally provide access to an average of one permanent residence for each 500 feet.]

**Change #13 - Adds clarifying sentence to section on right-of-way standards.**

**A. Problem or Issue and Findings**

A sentence is added to state that a dedicated right-of-way less than 60 feet may be accepted if it meets the listed standards. The existing text has the standards, but no introductory language. This is not a change to the standards, only a clarification of the existing text.

**B. Affected Section of Lane Manual**

Lane Manual 15.222

**C. Proposed Manual Modification**

15.222 Standards in the Event Minimum Dedicated Right-of-Way is Less Than 60 Feet. A dedicated right-of-way less than 60 feet may be accepted provided it meets the following standards:

**Change #14 - Requires written Director's report to applicant and adds reference to policy criteria.**

**A. Problem or Issue and Findings**

This addition of the words "in writing" is a clarification of the manner in which the Public Works Director will respond to an application. Existing practice is to produce a written report. References to new policy criteria are added in subsections (1) and (2).

**B. Affected Section of Lane Manual**

Lane Manual 15.225(1) and (2)

**C. Proposed Manual Modification**

15.225 Report. The Director shall report his or her findings in writing to the petitioners as follows:

(1) The road under consideration meets all the standards and policy criteria and will be recommended for acceptance.

(2) The road does not meet all the standards and policy criteria, but the Director deems it advisable to recommend to the Board of County Commissioners that the standards or policy criteria in question be waived or modified.

**Change #15 - Moves estimate of cost into report to applicant and deletes calculation by front footage.**

**A. Problem or Issue and Findings**

Existing language specifies that the Director shall state an estimated improvement cost to meet the standards and an estimate of cost to each owner based on front footage. It has been moved from 15.230 where the Director now reports this cost to the Board. See change #18. This change will allow applicants to receive the cost information earlier in the process, prior to consideration by the Board.

Existing language specifying that the County will estimate a "fairshare" cost for each property owner by front footage apportionment has been deleted. The proposed language calls only for the County to estimate the total cost. This change was made after concerns were raised about whether front footage was the most equitable to apportion road costs in rural areas. This change would require the property owners along a road to apportion costs among themselves, unless they choose to proceed with a County assessment process.

**B. Affected Section of Lane Manual**

Lane Manual 15.225(3)

**C. Proposed Manual Modification**

(3) The road does not meet the standards and a waiver of the standards is not recommended. The report shall state an estimated total improvement cost to meet the standards.

**Change #16 - Gives authority for denial on policy grounds to the Director.**

**A. Problem or Issue and Findings**

This new section gives authority to the Public Works Director to deny an application for acceptance if the application does not meet the policy criteria in this section or in Lane Manual 15.410. Appeal of a denial within 15 days will trigger consideration by the Board. The purpose of this change is to allow denial of roads that do not meet the policy direction established by the Board at the staff level. In addition, it is intended to separate the consideration of construction improvements from policy level issues.

**B. Affected Section of Lane Manual**

Lane Manual 15.225(4)

**C. Proposed Manual Modification**

(4) The road does not meet the policy criteria and the petition is denied. The denial shall specify the reasons for the Director's decision.

**Change #17 - Changes title from Director's action to Board Consideration and changes code number.**

**A. Problem or Issue and Findings**

This section deals with the processing of the Director's report through the Board. The new title is intended as a clarification and will precede the section on Board action. The renumbering is necessary so that the section (15.235) on appeals, currently following this section, can be moved to precede this section.

**B. Affected Section of Lane Manual**

Lane Manual 15.230

**C. Proposed Manual Modification**

[15.230]15.235 [Director's Action.] Board Consideration.

**Change #18 - Adds language requiring Director to report to Board on costs of improvements. Deletes language on cost estimate that has been moved.**

**A. Problem or Issue and Findings**

Wording from subsection (2), which states that the Director will report his findings and recommendations to the Board, has been repeated in subsection (3). Language deleted has been moved to 15.225(3). See change #16.

**B. Affected Section of Lane Manual**

Lane Manual 15.230(3)

**C. Proposed Manual Modification**

[15.230]15.235 [Director's Action.] Board Consideration.

(1) If the Director's report to the petitioners indicates 15.225(1) above, the Director shall prepare the necessary documents for acceptance as a County road by the Board at a regular meeting of the Board.

(2) If the Director's report is 15.225(2) above, he or she shall submit his or her report, findings and recommendations to the Board, who shall consider the matter at a regular meeting. The Director shall notify the petitioners in writing of the Board action.

(3) If the Director's report is 15.225(3) above, [The report shall state an estimated total improvement cost to meet the standards and a "fair share" cost per property owner for the improvements based on front foot of ownership.] the Director shall submit his or her report, findings and recommendations to the Board, who shall consider the matter at a regular meeting.

**Change #19 - New Subsection (4) stating Board will hear appeal of Director's denial. Renumbering required by this addition.**

**A. Problem or Issue and Findings**

This language has been added to specify Board consideration of an appeal by the applicant of the Director's denial of the application. See Change #12 for Director's authority to deny.

**B. Affected Section of Lane Manual**

Lane Manual 15.230(4) and (5)

**C. Proposed Manual Modification**

(4) If the Director's report is 15.225(4) above, and the petitioners appeal the Director's denial, the Board shall consider the appeal at a regular meeting.

[(4)] (5) When any recommendation of the Director is to be considered by the Board, the Director shall notify the petitioners in advance of the time and place of the hearing.

**Change #20 - Numbering change to move language about appeal to Board.****A. Problem or Issue and Findings**

The renumbering (see also change #17) moves the existing section 15.235 ahead of existing section 15.230 by reversing the code numbers. This creates a sequence where, if the Director denies an application on a policy basis, the appeal will be filed and then the Board will consider. This new sequence will allow the applicant to know, prior to any investment in road improvements, that the staff does not support the application based on a policy review.

**B. Affected Section of Lane Manual**

Lane Manual 15.235

**C. Proposed Manual Modification**

[15.235]15.230 Appeal. The petitioners may appeal in writing the decision of the Director to the Board within 15 days from the date the report and action was mailed.

**Change #21 - Modification to make Director's decision final unless appealed and requiring applicant to state how the Director erred and adds provision for filing fee.****A. Problem or Issue and Findings**

The appeal language has been changed so that the action of the Director is final unless appealed. The current language states the appeal period, but does not explicitly say that the action is final unless appealed. The new language also requires the applicant to state how the Director erred in his decision. This puts the burden on the applicant to make arguments in support of the appeal.

**B. Affected Section of Lane Manual**

Lane Manual [15.235]15.230

**C. Proposed Manual Modification**

[15.235]15.230 Appeal. [The petitioners may appeal in writing the decision of the Director] Unless appealed to the Board by filing a written notice of appeal with the Director within 15 days from the date the report and action was mailed[.], the decision of the Director denying the petition shall become final. The appeal shall state how the Director erred in his decision.

**Change #22 - Renumber this section so that it follows Board action. This section will become 15.245 and existing section 15.245 Board Action will become 15.240**

**A. Problem or Issue and Findings**

The current code process for acceptance of roads has Board acceptance as the final step in the process. The applicant is in the position of making road improvements without any indication of whether the Board will accept the road upon completion of those improvements. The proposed process would have Board approval or denial occur before the improvements are made. The Board can accept the road, contingent upon the completion of road improvements, right-of-way dedication, or other conditions.

**B. Affected Section of Lane Manual**

Lane Manual 15.240

**C. Proposed Manual Modification**

[15.240]15.245 Petitioner's Action.

**Change #23 - Addition of language concerning conditional acceptance by the Board in the section on Petitioner's Action.**

**A. Problem or Issue and Findings**

See change #22 above.

**B. Affected Section of Lane Manual**

Lane Manual 15.240

**C. Proposed Manual Modification**

[15.240]15.245 Petitioner's Action. If the Board action is to accept the petition request contingent upon improvement requirements under 15.240(1) above, [T]the petitioners may take the following action:

**Change #24 - Addition of requirement for certification by a registered engineer if improvements made privately.**

**A. Problem or Issue and Findings**

The addition of this requirement for certification of improvements by a registered engineer will provide additional assurance to the applicant and to the County that the improvements have been constructed properly and to satisfy the conditions for acceptance. This will increase the cost to the applicant by transferring primary responsibility for construction inspection and certification to the applicant.

**B. Affected Section of Lane Manual**

Lane Manual 15.240(1)

**C. Proposed Manual Modification**

[15.240]15.245 Petitioner's Action. If the Board action is to accept the petition request contingent upon improvement requirements under 15.240(2) above, the petitioners may take the following action:

(1) Cause the necessary improvements to be made in order to meet the standards for acceptance. These improvements shall be inspected and certified at the applicant's expense by an engineer registered in the state of Oregon. The right-of-way and the improved road shall be surveyed and certified by a land surveyor, registered in the State of Oregon.

**Change #25 - Deletion of County Force construction option to make improvements.**

**A. Problem or Issue and Findings**

The existing manual allows for three ways to make road improvements to meet road acceptance requirements: 1. Applicants make the improvements; 2. Applicant puts money on deposit and pays cost of County Force construction; and 3. Improvements are made as an assessment project under County public contract.

Maintenance staff recommends deletion of this option because of the existing work load for maintenance forces. In addition, this would avoid any conflict concerning competition with the private sector for road improvement work.

**B. Affected Section of Lane Manual**

Lane Manual 15.240(2)

**C. Proposed Manual Modification**

[15.240]15.245 Petitioner's Action. If the Board action is to accept the petition request contingent upon improvement requirements under 15.240(2) above, the petitioners may take the following action:

(1) Cause the necessary improvements to be made in order to meet the standards for acceptance. These improvements shall be inspected and certified at the applicant's expense by an engineer registered in the state of Oregon. The right-of-way and the improved road shall be surveyed and certified by a land surveyor, registered in the State of Oregon.

[(2) Request the County to assist the property owners in the following process:

(a) Prepare the necessary documents for additional dedication of right-of-way.

(b) Construct the necessary improvements to the established standards upon receipt of advanced funds from the property owners for the total estimated cost as stated in the Director's report.

An accounting of the improvement costs shall be made to the property owners upon project completion.]

[(3)] (2) Request that the improvements be made in conformance with the procedures as defined in Lane [Manual]Code, Chapter 15.600 - 15.645 [(Assessment of Benefiting Owners for Road Improvements)](Levying, Collecting, and Enforcing Special Assessments).

**Change #26 - Corrects an incorrect reference to the assessment process.**

**A. Problem or Issue and Findings**

The existing text has an incorrect reference to Lane Manual and the wrong title for the section in Lane Code concerning special assessments for road projects.

**B. Affected Section of Lane Manual**

Lane Manual 15.240(3)

**C. Proposed Manual Modification**

(3) Request that the improvements be made in conformance with the procedures as defined in Lane Code [Manual], Chapter 15.600-15.645 [(Assessment of Benefiting Owners for Road Improvements)](Levying, Collecting, and Enforcing Special Assessments).

**Change #27 - Renumbers and moves section on Board acceptance/denial of the application or appeal.**

**A. Problem or Issue and Findings**

The renumbering has been done to move the Board action so that it proceeds construction of improvements. See changes #18 and #19 above. The rewording allows addition of the language concerning contingent conditions. This allows the Board to consider the acceptance of a road on a policy basis prior to investment in improvements by the applicant.

**B. Affected Section of Lane Manual**

Lane Manual 15.245

**C. Proposed Manual Modification**

[15.245]15.240 Board Action. The Board will consider petitioners' appeal and/or petitioners' action at a regular meeting, at which time the Board may: [accept or reject such appeal or action.]

(1) Accept by Order the petition request or appeal contingent upon conditions specified by the Board action.

(2) Reject the petition request or appeal by Order. Rejection by the Board shall be final.

**Change #28 - Adds word "petition" to clarify existing language in section describing further action by petitioners and replaces "perused" with "reviewed".**

**A. Problem or Issue and Findings**

Clarification of the term "request" to specifically mean the petition request for road acceptance.

**B. Affected Section of Lane Manual.**

Lane Manual 15.250

**C. Proposed Manual Modification**

15.250 Further Action. If the petition request is accepted, the petitioners shall present Lane County with a good and sufficient legal description of the roadway to be accepted and designated as a County road. This legal description will be [perused] reviewed by the Lane County Surveyor's Office and placed on the proper document for dedication and then returned to the petitioners. All further proceedings shall be governed by the provisions of ORS Chapter 368.

**Change #29 - Series of housekeeping changes in the vacation procedures. Adds referral to the Roads Advisory Committee for those vacations proposed by resolution by Lane County.**

**A. Problem or Issue and Findings**

A series of changes is proposed to the vacation procedures as follows:

1. Changes ORS reference to current Chapter 368.
2. Adds "resolution of the Board" to petitions as a way to initiate a vacation. This is consistent with ORS 368, which lists petitions and resolutions as means to initiate a vacation proceeding.
3. Changes references so that Code reflects current staff responsibilities. The existing manual language specifies the Planning Division as the staff who will process. The proposal lists the Surveyor's Office as the responsible staff and specifies that copies of petitions will be sent to the Planning Director and County Engineer for review. Also deletes language that states that notice of the public hearing need not be sent to the petitioner or persons consenting to the vacation. Staff currently is notifying these parties and lack of notice could be an issue where a vacation is contested and the petitioner or others may want to participate.
4. Adds "cities, or other public agencies" to public utilities as organizations to be notified and given an opportunity to comment.
5. Deletes a requirement for a written statement to Surveyor from Planning Division. The Surveyor's Office will be responsible for performing the duties referred to in this statement. The Planning Director will have the opportunity to comment on the substance of the referral.
6. Adds language referring vacation proposals, other than those initiated by petition, to the Roads Advisory Committee for review. The language was inserted at the request of the Roads Advisory Committee. The Committee felt that they should review and comment on vacations that are proposed by the County through the resolution process. The current language gives the Planning Director discretion to refer to the Planning Commission. This language remains unchanged.

**B. Affected Section of Lane Manual**

Lane Manual 15.305

**C. Proposed Manual Modification**

13.305 Vacation Procedures. The below-listed procedures should be considered the policy of Lane County, and establish certain desirable safeguards in addition to the procedures for vacation of streets, lots, alleys, roads, highways, commons and public squares provided in ORS Chapter [271] 368.

(1) The Surveyor's Office, upon receipt of any petition or resolution of the Board submitted in accordance with ORS Chapter [271] 368, shall send a copy of such petition or resolution to the Planning [Division] Director and County Engineer for review.

(2) Upon receipt of such petition[s] or resolution, the [Planning Division] Surveyor's Office shall mail to persons owning property [as shown on the latest tax roll] adjoining that to be vacated notice of the date, time and place of the hearing[, except that such notice need not be sent to petitioners or persons consenting to the vacation who have filed a proper consent with the petition].

(3) Prior to the time of the scheduled hearing, the [Planning Division] Surveyor's Office shall also contact any public utilities, cities, or other public agencies, which in the judgment of the [Division] Surveyor's Office might have an interest in the vacation, and solicit the views of such utilities or agencies regarding the vacation.

[(4) Prior to the time of the scheduled hearing, the Planning Division shall submit in writing a statement to the Surveyor indicating that the Planning Division has performed its duties in accordance with this order.]

[(5)] (4) When special planning considerations are involved, and at the discretion of the Planning Director, the petition or resolution may be submitted to the Planning Commission for its consideration and recommendations as appropriate. Such referral, however, shall not delay the hearing and decision on the petition or resolution by the Board.

(5) Vacations, other than those by petition, shall be referred to the Roads Advisory Committee for its consideration and recommendations.

(6) The Surveyor's Office shall attach a copy of the affidavit of posting to the final order of vacation prior to its submission to the Board of County Commissioners for action.

**Change #30 - Addition of new policy statement in "Purpose" section of the General Road and Access Policies section.**

**A. Problem or Issue and Findings**

The current language in the Purpose section of Lane Manual 15.405 is oriented toward providing for the transportation and utility needs of lots and parcels in the development process. The proposed language adds a broader statement of purpose for the County road system as a whole. In addition, it sets the framework for a series of policies that will limit

additions to County road mileage when these policies are applied in the acceptance process earlier described.

**B. Affected Section of Lane Manual**

Lane Manual 15.405 Purpose

**C. Proposed Manual Modification**

15.405 Purpose. The statements set forth herein are for the purpose of establishing the minimum criteria to be used in Lane County for the evaluation of the appropriateness of proposed roads that are intended to provide access to lots or parcels. This criteria shall form the basis for determining what requirements may be necessary to insure that there will be adequate provisions available now and in the future to provide for the transportation and utilities needs of lots, parcels, or developments. This evaluation may include review of the relationship of the proposed road to the overall County Road System.

The County Road System is intended to provide a network of roads that provide access to lots, parcels, or developments and connects to the State Highway System, city road systems, to BLM and Forest Service road systems, and to major resource and recreational areas within Lane County. The County Road System provides a circulation network that supports and promotes the economy of Lane County. Lane County strives to promote the health, safety, and welfare of its citizens by providing a safe road surface, pavement markings, signing, drainage, and roadside environment in order to promote safe and efficient travel for the public and to limit the possible liability exposure of Lane County.

**Change #31 - Deletes statement concerning desirability of public roads over private roads or easements**

**A. Problem or Issue and Findings**

This criteria is deleted for two reasons. First, it implies that the County maintenance is more desirable than non-County maintained public roads. The new policy criteria establish criteria for the staff and Board to use in making judgements, in individual cases, about the desirability of County maintenance.

Secondly, this criteria states that public right-of-way is preferable to private roads or easements for most development. Elimination of this language will provide more flexibility in the use of private easements. Criteria exist in Chapter 13 and 15 of Lane Code (See changes #1-3 above) addressing a review of the need for public right-of-way when considering approval of private easements to serve property.

**B. Affected Section of Lane Manual**

Lane Manual 15.410(6)

**C. Proposed Manual Modification**15.410 Criteria.

[(6) Roads which are dedicated to but not maintained by the public, while not as desirable as maintained roads, are still preferable to any type of private road or any form of easement arrangement for most development.]

Change #32 - Deletes list of desirable forms of access.

**A. Problem or Issue and Findings**

The list of roads in subsection (7) has been eliminated because it does not allow for an individual determination on which type of access is appropriate. Based on the proposed policy criteria, there will be situations where the staff or Board determines that County road access is not the most desirable and that, for the sake of discussion, that a private easement or a public right-of-way, maintained by property owners, is the most appropriate form of access. Other problems exist in this list as well. For example, the Oregon Department of Transportation is undergoing a review of its access control policies in an attempt to upgrade access control on State highways. This existing list puts State Highways as the second most desirable form of access.

Subsection (8) reinforces the list in subsection (7) by restating the desirability of County road access in most cases. Again, we recommend deletion of this statement so that individual judgements on road access may be made based on the new policy criteria.

**B. Affected Section of Lane Manual**

Lane Manual 15.410(7)and(8)

**C. Proposed Manual Modification**

[(7) There is within Lane County a number of different types of forms of access used to gain ingress and egress to a particular property development. These are listed below in estimated order of decreasing desirability, for meeting the normal access needs of developments:

- (a) County Roads.
- (b) State Highways.
- (c) Public Roads (that are not publicly maintained).
- (d) Private Access Strips (panhandle lots).
- (e) Way of Necessity (Gateway Road).
- (f) Forest Service Roads - NFR (if jointly approved by the Forest Service and Lane County for access to developments).
- (g) Other public agency roads (Corps of Engineers, EWEB).
- (h) Private roads.
- (i) Private road easements.
- (j) Bureau of Land Management roads (when established by easement).
- (k) Access ways acquired adversely or proscriptively.
- (l) Forest Service Special Use Permit roads.
- (m) Private logging roads.

(n) Water access and trails.]  
 [(8) Roads which are dedicated to and maintained by the public (e.g., County roads) are generally the most satisfactory form of access.]

**Change #33 - Insertion of new policy guidelines for considering acceptance of roads into the County Road System**

**A. Problem or Issue and Findings**

There is a need for guidance to staff in considering applications for road acceptance under the road acceptance process described above. In addition, there is need for additional guidance to staff, in processing partitions and subdivisions, regarding maintenance responsibility for roads. The proposed policies orient acceptance of road toward collector roads or extensions of existing County roads, roads serving commercial/industrial properties, and providing access to public lands. It directs that other roads, established through subdivision processes, be established as dedicated right-of-way or private easements, with appropriate requirements for maintenance by lot holders in the subdivision.

**B. Affected Section of Lane Manual**

Lane Manual 15.410 new section (6)

**C. Proposed Manual Modification**

(6) There is a need to carefully examine acceptance of new mileage into the County Road System. These policies are intended to protect the public investment already made in this road system and to make optimum use of available road revenues for the maintenance and improvement of this system. The following guidelines shall be used by the Board in considering acceptance of dedicated public roads into the County Road System pursuant to LM 15.205-15.250:

a) Roads, functionally classified as local roads, may be accepted into the County Road System if they provide a needed extension or improvement in the overall road network, provide access to significant commercial or industrial development, or to governmental or other public facilities.

(b) Roads, functionally classified as local roads, within subdivisions or partitions, primarily providing access to lots, shall be established as private road easements or local access roads with appropriate property owner associations or districts providing for maintenance of these roads.

(c) Roads, functionally classified as collector roads, within subdivisions or partitions, or extensions of existing county roads within subdivisions, shall be accepted.

(d) Roads providing access to the boundary of National Forests, or other public lands, may be accepted.

Change #34 - Insertion of new guidelines for vacation or reversion of County roads.

A. Problem or Issue and Findings

This section contains criteria for roads that may be considered by the County for vacation or for conversion to 'local access road' status by withdrawal of County Road status. This conversion would mean that a road would be dropped from the County road system and maintenance would no longer be provided by the County. The public right-of-way would continue to exist after discontinuation of County maintenance. In the case of vacation, the public right-of-way would be eliminated and converted to privately owned land.

This section also contains a list of factors that should be considered in individual cases before a decision on vacation or reversion is made.

B. Affected Section Of Lane Manual

Lane Manual 15.410 New Section (7)

C. Proposed Manual Modification

(7) Vacation of County roads pursuant to the process provided in LM 15.305 or conversion of County Roads to 'local access road' (non-County maintained) status by withdrawal of County Road status pursuant to ORS 368 may be considered where only a few property owners are users of the road, and where little need exists for the road to be part of the County Road System. The following categories of County roads shall be considered by the Board of County Commissioners for vacation or withdrawal of County Road status.

(a) Dead-end roads, which serve four, or fewer, permanent residences.

(b) Roads within National Forest boundaries, within Bureau of Land Management ownership areas, or adjacent to resource land areas under single ownership,

(c) Roads that are undeveloped rights-of-way, are dirt roads, or are not currently maintained by County forces,

(d) Roads that have received County maintenance, but are unusually difficult to maintain because of substandard road width, right-of-way width, or materials or construction practices, which may result in excessive cost and liability exposure.

(e) The following items shall be considered by the Board in reviewing these actions on a case by case basis:

(i) The need for a public right-of-way to provide for the orderly development of adjacent property.

(ii) The need for public maintenance of the right-of-way.

(iii) School bus traffic,

(iv) Bridges and the potential for public safety problems associated with bridges,

(v) Railroad crossings and PUC requirements for County participation in applications for railroad crossing improvement or establishment,

(vi) The potential for landslide and stability problems,

- (vii) Resource hauling (timber, agriculture, sand and gravel) that would unfairly burden other property owners,  
(viii) Use by law enforcement or fire protection personnel,  
(ix) Potential use as detour routes in the case of construction or disaster,  
(x) Potential for elimination of right of access that is a matter of public record.

**Change #35 - Deletion of reference to future adoption of Comprehensive Plan and zoning**

**A. Problem or Issue and Findings**

Subsection of this code was written prior to enactment of Countywide zoning and adoption of the Lane County Comprehensive Plan. This section is no longer necessary since adoption of zoning and the Comprehensive Plan has occurred.

**B. Affected Section of Lane Manual**

Lane Manual 15.410(13)

**C. Proposed Manual Modification**

[(13) A general plan and zoning on a Countywide basis will provide a degree of predictability for land development which is now lacking in many parts of the County; therefore, existing regulations and policies may have to be changed or modified after the adoption of a Countywide plan and zoning.]

**Change #36 - Renumber 15.410 (9) through (15)**

**A. Problem or Issue and Findings**

Subsections (6),(7),(8), and (13) were deleted from this section by changes documented above. New sections (6) and (7) were added. The deletion of subsections (8) and (13) without replacement requires the renumbering shown below. Housekeeping only.

**B. Affected Section of Lane Manual**

Lane Manual 15.410 (9) through (15)

**C. Proposed Manual Modification**

[(9)] (8) Private drives (panhandle lots) can be used effectively in special situations if carefully regulated and they do not hinder future development of the surrounding area. If more than two panhandled lots are used together, they should be established through a formal subdivision or partitioning procedure.

[(10)] (9) Any private road works best if it serves a predetermined, limited amount of development.

[(11)] (10) It is important that privately maintained roads which in any way could be mistaken for publicly maintained roads be clearly

posted as not subject to County maintenance.

[(12)] (11) The access needs of industrial and commercial land uses and activities are different than those for residential uses in some aspects and may require special consideration.

[(13)] A general plan and zoning on a Countywide basis will provide a degree of predictability for land development which is now lacking in many parts of the County; therefore, existing regulations and policies may have to be changed or modified after the adoption of a Countywide plan and zoning.]

[(14)] (12) Paved roads are, all other things being equal, more safe to travel than gravel roads, have a lower maintenance cost, and have a lower nuisance value (dust, noise, etc.).

[(15)] (13) Road requirements should not, if at all possible, hamper or prevent the development of new concepts and innovations for the development of land or hamper the continuation or extension of a complete transportation network.