



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

March 21, 2006



TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Coos Bay Plan Amendment  
DLCD File Number 004-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: April 3, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Laura Barron, City of Coos Bay

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FORM 2

DLCD NOTICE OF ADOPTION

DEPT OF

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18

MAR 14 2006

(See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Coos Bay Local File No.: ZON 2006-00002 (If no number, use none)

Date of Adoption: March 7, 2006 Date Mailed: February Dec 22, 2005 (Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: March 13, 2006

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment Land Use Regulation Amendment Zoning Map Amendment New Land Use Regulation Other: (Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Include language to authorize collecting a fee prior to processing an appeal of a land use decision.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Note - originally was referenced as ZON2006-00001. This was in error. "Local File No." shown above is correct.

Plan Map Changed from: to

Zone Map Changed from: to

Location: Acres Involved:

Specify Density: Previous: New:

Applicable Statewide Planning Goals: 11

Was an Exception Adopted? Yes: No: [checked]

DLCD File No.: 004-05 (14897)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_

Local Contact: Laura Barron Area Code + Phone Number: (541) 269-8918

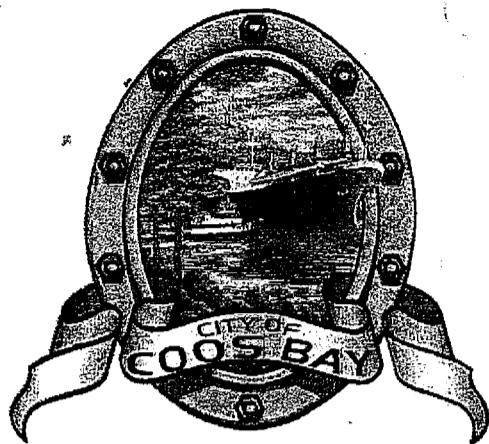
Address: 500 Central Avenue

City: Coos Bay Zip Code+4: 97420

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:  
**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - **ATTENTION: PLAN AMENDMENT SPECIALIST.**



# City of Coos Bay

*Department of Community Services*

500 Central Avenue, Coos Bay, Oregon 97420 • Phone 541-269-8918

• <http://www.coosbay.org>

March 13, 2006

## FINAL ORDER

### AMENDMENT TO THE TEXT OF THE COOS BAY LAND DEVELOPMENT ORDINANCE

**APPLICATION:** ZON2006-00002  
**APPLICANT:** City of Coos Bay, 500 Central, Coos Bay, OR

**REQUEST:** Update to Land Development Ordinance 93 Chapter 5.4

**ORDER:** Tuesday, March 7, 2006, City Council approved the amendment to the Land Development Ordinance and enacted Ordinance No. 381.

City Council Final Vote:  
**Yea:** Mayor Joe Benetti, Councilors, Roger Gould, Jeff McKeown and John Muenchrath  
**Abstain:** None  
**Nay:** John Eck

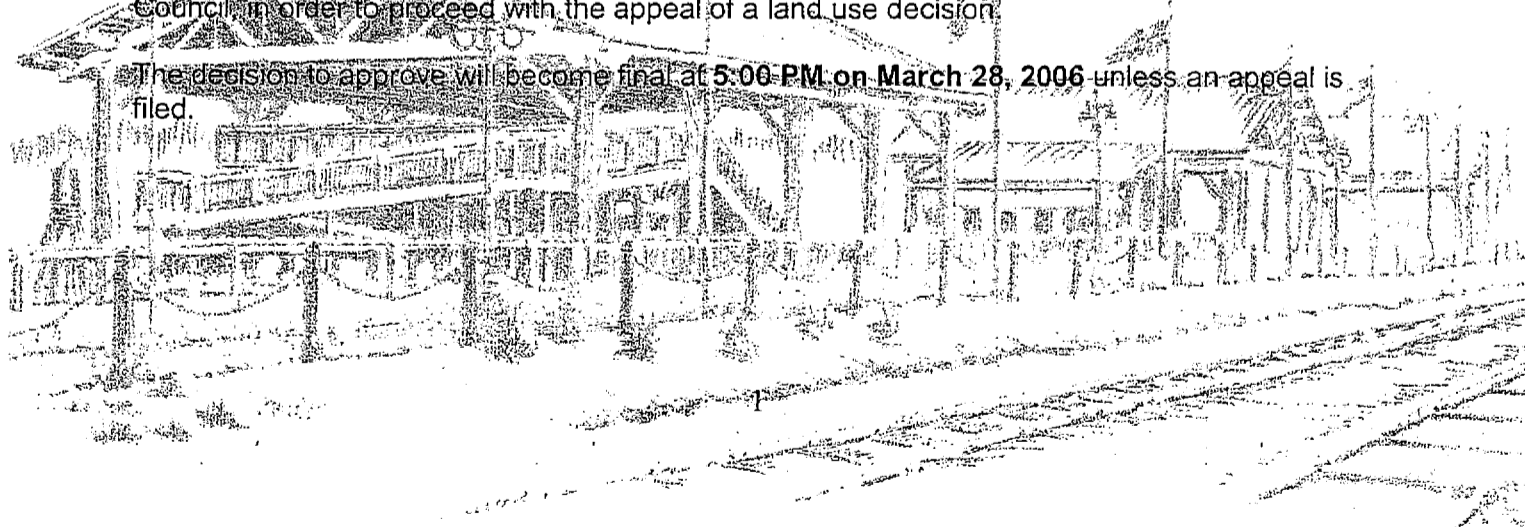
**APPEAL PROVISIONS:** See page 2  
**DECISION CRITERIA AND THE ADOPTED FINDINGS OF FACT AND CONCLUSIONS:** See Exhibit 1

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### FINAL ACTION

Based on the findings and conclusion at Exhibit 1, the City Council enacted Ordinance No. 381, amending the Land Development Ordinance (LDO), Chapter 5.4, Appeals, in order to add language that specifically requires an appellant to pay the fee, which has been set by the City Council, in order to proceed with the appeal of a land use decision.

The decision to approve will become final at 5:00 PM on March 28, 2006 unless an appeal is filed.



*Coos Bay Boardwalk*

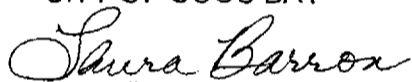
**APPEAL PROVISION**

Any person with standing has the right to request review of this land use decision by filing a Notice of Intent to Appeal with:

Oregon Land Use Board of Appeals  
Public Utility Commission Bldg.  
550 Capitol St.  
Salem, OR 97310

Notice of Intent to Appeal must be filed no later than 21 days from the date of mailing of this decision. Therefore, **appeals must be filed no later than March 28, 2006**. Notice of Intent to Appeal must be filed and served in accordance with the Oregon Land Use Board of Appeals Rules of Procedure.

Sincerely,  
CITY OF COOS BAY

  
Laura Barron  
Planning Administrator

Attachment: Exhibit 1, Ordinance No. 381

c: Dave Perry, DLCD

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## **EXHIBIT 1**

### **DECISION CRITERIA, FINDINGS AND CONCLUSIONS**

The following is a list of the decision criteria applicable to the request as set forth in Land Development Ordinance Chapter 5.19(2). Findings and conclusions may apply to more than one criterion and may be used to support the Council's decision.

#### **FINDINGS**

**DECISION CRITERIA #1: An acceptable rationale which supports the need for the amendment.**

#### **STATEMENT OF FACT AND FINDINGS:**

1. At this time Resolution 02-14 establishes a schedule of permit fees to be collected by the Department of Community Services. Although the Resolution includes a \$300 fee for the processing of an appeal, an appeal is not technically a permit. It is an appeal of a land use decision.
2. The authority to collect a fee from an appellant to off-set the costs of processing an appeal may be included in Land Development Ordinance, Chapter 5.4, Appeals.

**CONCLUSION:** The proposed amendment to Land Development Ordinance, Chapter 5.4, Appeals, will ensure a fee is collected from the appellant to off-set the costs of processing an appeal. The decision criterion has been addressed and approval of the proposal can be supported.

**DECISION CRITERIA #2: The amendment complies with the applicable provisions of the comprehensive plan.**

#### **STATEMENT OF FACT AND FINDINGS:**

1. Volume I of the Comprehensive Plan, Plan Policies, Chapter 7.7, Public Facilities and Services, PFS.1 states the following:

Coos Bay shall continue to exercise sound fiscal management of the community's financial resources in order to provide the community with the highest possible return of essential public facilities and services recognizing that the cost of essential facilities and services are subject to inflationary pressures while local tax payers are limited to their ability to underwrite general community growth.

**CONCLUSION:** Requiring a fee to accompany a request to appeal a land use decision will help off-set the costs to the Department of Community Services. The decision criterion has been addressed and approval of the proposal can be supported.

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**ORDINANCE NO. 381**

**AN ORDINANCE AMENDING CHAPTER 5.4 OF ORDINANCE NO. 93, THE CITY OF COOS BAY'S LAND DEVELOPMENT ORDINANCE**

The City of Coos Bay ordains as follows:

**Section 1.** Chapter 5.4, Appeals, Section 1, Right of Review, is hereby amended to read as follows:

**Section 1. RIGHT OF REVIEW**

1. A decision regarding the granting or denial of a staff-issued permit may be appealed to the Planning Commission by an appellant with standing by filing an appeal with the Department of Community Services within fifteen (15) days of the date the notice of the decision was mailed.
2. A decision by the Planning Commission may be appealed to the City Council by an appellant with standing by filing a notice of appeal with the Department of Community Services within fifteen (15) days of the date the notice of decision was mailed.
3. The Council may review a Planning Commission decision on its own motion, in accordance with all of the procedural provisions of this chapter.
4. In order to proceed with an appeal, the fee prescribed by the City Council for purposes of proceeding with an appeal must be paid at the time the request for appeal is submitted to the City. The payment of such fee is a jurisdictional requirement for the appeal.

**Section 2. Findings.**

1. Notice that public hearing would be held before the City of Coos Bay Planning Commission (the Commission) on February 14, 2006 and the public hearing would be held before the Coos Bay City Council on March 7, 2006 was published in "The World," newspaper of general circulation within Coos County, Oregon, on February 4, 2006.
2. Provisions in the Coos Bay Land Development Ordinance relating to notice have been complied with.
3. Public hearing was held on February 14, 2006 and after receiving evidence and hearing testimony, the Commission recommended approval.

4. The Commission's Findings and justifications supporting its recommended approval are attached hereto as "Exhibit A" and incorporated herein by reference.

5. The City Council of the City of Coos Bay, after considering the Commission's Findings and justification, hereby adopts the findings and justifications, and finds the proposed change should be granted.

**Section 3. Severability.** The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.


**Section 4. Effective Date.** This Ordinance shall take effect 30 days after enactment by the Council and signature by the Mayor, whichever is later.

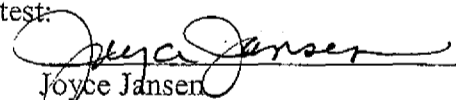
The foregoing ordinance was enacted by the City Council of the City of Coos Bay the 7<sup>th</sup> day of March, 2006.

Yes: Mayor Benetti and Councilors Jon Eck, Roger Gould, Jeff McKeown, and John Muenchrath

No: None

Absent: Councilors Cindi Miller and Kevin Stufflebean

  
\_\_\_\_\_  
Joe Benetti  
Mayor of the City of Coos Bay  
Coos County, Oregon

Attest:  
  
\_\_\_\_\_  
Joyce Jansen  
Deputy Recorder of the City of Coos Bay  
Coos County, Oregon



**EXHIBIT A**  
**DECISION CRITERIA, FINDINGS AND CONCLUSION**

The following is a list of the decision criteria applicable to the request as set forth in Land Development Ordinance Chapter 5.19(2). Findings and conclusions accompanying each of the criterion may apply to more than one criterion and may be used to support the Commission's recommendation to the City Council. The Commission may recommend approval or approval with conditions to the City Council, or, the Commission may deny the request.

**FINDINGS**

**DECISION CRITERIA #1: An acceptable rationale which supports the need for the amendment.**

**STATEMENT OF FACT AND FINDINGS:**

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