



# 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/Costal Fax: (503) 378-6033

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

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

### NOTICE OF ADOPTED AMENDMENT

August 25, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Coos County Plan Amendment  
DLCD File Number 006-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: September 11, 2006

This amendment was submitted to DLCD for review with less than the required 45-day notice because the jurisdiction determined that emergency circumstances required expedited review. 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 DATE SPECIFIED ABOVE.**

cc: Doug White, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative  
Patty Evernden, Coos County

<paa> ya/



# FORM 2

## D L C D NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision  
per ORS 197.610, OAR Chapter 660 - Division 18  
(See reverse side for submittal requirements)

DEPT OF  
LAND CONSERVATION  
AUG 22 2006  
AND DEVELOPMENT

Jurisdiction: Coos County Local File No.: AM-06-05  
(If no number, use none)  
Date of Adoption: 8/21/06 Date Mailed: 8/21/06  
(Must be filled in) (Date mailed or sent to DLCD)  
Date the Notice of Proposed Amendment was mailed to DLCD: 6/19/06

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".**  
Clarify text amendment process, delete current revocation provisions and replace with new provisions that clarify the determination process and provide for appeal. Also revisions to: property line adjustment provisions to comply with ORS Chapter 92, presentation of testimony provisions, appeal provisions to include forms for Notice of Intent to Appeal and timelines and other "housekeeping" changes. Amend definition of urban residential zones to recognize urban zoning in urban unincorporated communities, and Section 4.9.200 provisions for farm stands to reference OAR and ORS.

**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".**  
Remove proposed Item Fifteen (Section 5.8.223) number 2 regarding a party's standing to submit a Notice of Intent to Appear (NOIA-R) as a Respondent. Remove proposed language in Item Fourteen (Section 5.8.200) number 1, Item Fifteen (Section 5.8.223) number 1 and numbers 3b and c regarding requirement of submitting party to mail a copy of the Notice of Intent to Appeal (NOIA) to all persons receiving Planning Commission Notice of Decision.

Plan Map Changed from : N/A to N/A  
Zone Map Changed from: N/A to N/A  
Location: N/A Acres Involved: N/A  
Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_  
Applicable Statewide Planning Goals: N/A

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X  
DLCD 006-06(15333)

DLCD File No.: \_\_\_\_\_

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: N/A

Local Contact: Patty Evernden, Planning Director Area Code + Phone Number: 541-396-3121 ext 210

Address: Planning, Coos County Courthouse City: Coquille

Zip Code+4: 97423 Email Address: jbarzee@co.coos.or.us

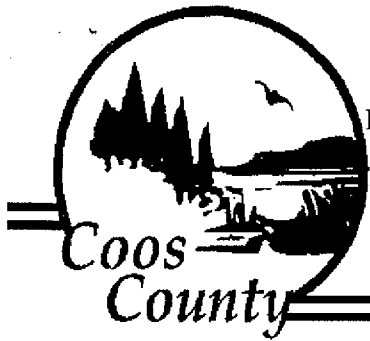
## **ADOPTION SUBMITTAL REQUIREMENTS**

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 this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not 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 ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice 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.**



**Coos County Planning Department**

Coos County Courthouse Annex, Coquille, Oregon 97423

Mailing Address: Planning Department, Coos County Courthouse, Coquille, Oregon 97423

(541) 396-3121 Ext.210

FAX (541) 396-2690 / TDD (800) 735-2900

**PATTY EVERNDEN**

**PLANNING DIRECTOR**

CERTIFIED MAIL 7000 1530 0006 2168 2199

August 21, 2006

Larry French  
Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol St. NE, Ste. 150  
Salem, Oregon 97301-2540

DEPT OF

AUG 22 2006

LAND CONSERVATION  
AND DEVELOPMENT

RE: Form 2, DLCD Notice of Adoption for AM-06-05, Legislative Text Amendments

Dear Mr. French:

Enclosed please find the Form 2 Green sheet with two (2) copies of the adopted Ordinance 06-04-002PL.

If you have any questions, or we can be of further service, please do not hesitate to phone the Department at (541) 396-3121, extension 210.

Sincerely,

**COOS COUNTY PLANNING DEPARTMENT**

Jan Mollé, Planning Secretary

c: David Perry  
file

1 BOARD OF COMMISSIONERS  
2 COUNTY OF COOS  
3 STATE OF OREGON

4 IN THE MATTER OF AMENDING )  
5 THE COOS COUNTY ZONING AND )  
6 LAND DEVELOPMENT ORDINANCE ) ORDINANCE 06-04-002PL  
(Text amendments) )

7  
8 WHEREAS, the Coos County Planning Director proposed amendment to  
9 the Coos County Zoning and Land Development Ordinance (CCZLDO) relating  
10 to the item captioned above for consideration by the Coos County Board of  
Commissioners.

11 WHEREAS, The Board of Commissioners, pursuant to the review  
12 authority granted in Article 1.2 of the CCZLDO and ORS 215.223 conducted a  
13 public hearing on August 16, 2006, regarding the proposed text amendments,  
after required notice by publication, in addition to posted notice; and

14 WHEREAS, after due consideration of the proposed amendments and  
15 the testimony and evidence from those participating in the hearing, the Board  
16 of Commissioners concluded by unanimous vote to approve the amendment;  
and

17  
18 WHEREAS, the authority to implement legislative amendments to the  
19 county's implementing ordinance resides solely with the Board of  
Commissioners, as specified Article 1.2 of the CCZLDO.

20 NOW, THEREFORE, based on the foregoing, the Board of Commissioners,  
21 finds that this ordinance complies with the Statewide Planning Goals and the  
22 standards for legislative amendments set forth in Chapter 215 of the Oregon  
23 Revised Statutes, the CCZLDO and the Coos County Comprehensive Plan;

24 NOW, THEREFORE, based on the foregoing, the Board of Commissioners,  
25 hereby ordain the following amendment to the text of the CCZLDO.

26 SECTION 1. TEXT AMENDMENT TO THE CCZLDO

27 **ONE:** Amend Section 1.2.200 to clarify process for legislative amendments  
28 initiated by the Board of Commissioners:

1           **SECTION 1.2.200.        Who May Seek Change.**

2           A text amendment may be initiated by the Board of  
3           Commissioners, Planning Commission or by application of a  
4           property owner or their authorized agent. An application by a  
5           property owner shall be accompanied by the required fee.  
6           [OR 04 12 013PL 2/09/05]

7                           ***Text amendments initiated by the Board of Commissioners shall  
8                           comply with ORS 215.110(2).***

9           **TWO:** Delete current language of Section 1.3.300 and revise as follows:

10           ~~**SECTION 1.3.300. Revocation.** The Hearings Body or Board of  
11           Commissioners may revoke any permit or verification  
12           letter (also referred to as zoning compliance letter or  
13           zoning clearance letter) if it is determined that the  
14           permit or verification letter was issued on erroneous  
15           information or issued in error.~~

16           **SECTION 1.3.300. Revocation.**

- 17           **A.    Any permit or verification letter (also referred to as zoning  
18           compliance letter or zoning clearance letter) may be subject to  
19           revocation by the Planning Director if it is determined the  
20           application included false information, or if the standards or  
21           conditions governing the approval have not been met or  
22           maintained.**
- 23           **B.    The revocation of any permit or verification letter by the Planning  
24           Director shall be subject to the following:**
- 25                           **1.    The Planning Director shall mail the property owner a  
26                           written statement of the proposed revocation at least  
27                           30 days prior to the date of revocation. The notice  
28                           shall contain a detailed statement identifying the  
                          specific reason(s) for revocation. The notice shall  
                          advise the property owner of the opportunity to  
                          respond to the Planning Director's statement in  
                          writing within 15 days from the date the notice is  
                          mailed by explaining or refuting the reason(s).**

1           2.     *In the event the property owner submits a written*  
2                 *explanation to the notice, the Planning Director*  
3                 *shall thereupon give careful consideration to the*  
4                 *response in conjunction with other relevant evidence,*  
5                 *including other written comments received in response*  
6                 *to landowner or agency notice, to determine whether*  
7                 *revocation should occur.*

8           3.     *At the conclusion of the Director's review, the*  
9                 *Director shall enter findings of the decision and*  
10                *mail notice of the decision regarding revocation to*  
11                *the property owner and other parties to the action.*  
12                *The notice shall explain basic appeal rights.*

13           4.     *No revocation shall be final until the appeal*  
14                 *period for the decision to revoke has expired*  
15                 *without appeal.*

16           C.     *The Director's decision regarding the revocation of a permit or*  
17                 *verification letter may be appealed pursuant to the procedures*  
18                 *contained in Article 5.8 governing the appeal of administrative*  
19                 *decisions. In the event of an appeal, any revocation shall be*  
20                 *automatically stayed pending review.*

21     **THREE:** Delete current language of Sections 1.3.400, 1.3.500 and 1.3.600.  
22     These Sections shall be "Reserved":

23     ~~**SECTION 1.3.400. Revocation for False Statement.** The~~  
24             ~~Hearings Body or Board of Commissioners may revoke~~  
25             ~~any permit or verification letter granted, pursuant to~~  
26             ~~the provisions of this Ordinance, if it is determined~~  
27             ~~that the permit was issued on account of false-~~  
28             ~~statements contained in the application form or false~~  
              ~~representation made at a public hearing.~~

~~**SECTION 1.3.500. Revocation Hearing.** No permit or~~  
              ~~verification letter shall be revoked without a public~~  
              ~~hearing held pursuant to the provisions of Article 5.7-~~  
              ~~(Public Hearings).~~

1        ~~**SECTION 1.3.600. Who May Request Revocation Hearing.**~~ A revocation  
2        hearing may be held by the Hearings Body or the Board of  
3        Commissioners. ~~The Hearings Body or Board of Commissioners~~  
4        may hold a revocation hearing on its own motion or at the request  
5        of an interested person when there is reasonable cause to believe  
6        that the provisions of this Ordinance have been violated.

6        **FOUR:** Amend Section 1.3.825(1)(a), late application fees for zoning clearance  
7        letters:

8            a.     zoning clearance letter.....\$100 **double fee**

9        **FIVE:** Amend 3.3.150, Property Line Adjustments as follows:

10       Section 3.3.150. Property Line Adjustments. Property line adjustments  
11       shall satisfy the requirements of Chapter 92 of the Oregon Revised  
12       Statutes. A property line adjustment is the relocation **or elimination** of a  
13       common boundary between two or more abutting properties where an  
14       additional unit of land is not created and where the existing unit of land  
15       reduced in size by the adjustment complies with any applicable zoning  
16       ordinance.

16       **SIX:** Amend Section 4.1.100(9), (10)and (11) to include reference to Urban  
17       Unincorporated Community boundaries.

18            9.     Urban Residential (UR-1)

19            The purpose of the "UR-1" district is to provide for  
20            urban residential areas that are exclusively limited to  
21            conventional single family dwellings. Detached  
22            conventional single family dwellings clustered in  
23            planned unit developments are consistent with the  
24            objectives of the "UR-1" district. This district shall  
25            only be used within Urban Growth Boundaries **and Urban**  
26            **Unincorporated Community boundaries.**

26            10.    Urban Residential (UR-2)

27            The purpose of the "UR-2" district is to provide for urban  
28            residential areas that are designed to accommodate single  
             family dwellings, mobile homes and two family dwellings.



1 Clustered planned unit developments, including multi-family  
2 dwellings, are consistent with the objectives of the "UR-2"  
3 district.

4 The "UR-2" district shall only be used within Urban Growth  
5 Boundaries **and Urban Unincorporated Community**  
6 **boundaries.**

7 11. Urban Residential – Multi-family (UR-M)

8 The purpose of the "UR-M" district is to provide for high  
9 density urban residential areas necessary to accommodate  
10 opportunities for the construction of multiple-family  
11 dwellings, primarily necessary to meet the needs of low and  
12 moderate income families.

13 The "UR-M" district shall only be used within Urban Growth  
14 Boundaries **and Urban Unincorporated Community**  
15 **boundaries.**

16 **SEVEN:** Amend Section 4.9.200(E) Uses Permitted Outright in EFU Zone

17 E. Farm stands, if:

- 18 ~~1. The structures are designed and used for sale of farm crops~~  
19 ~~and livestock grown on farms in the local agricultural area,~~  
20 ~~including the sale of retail incidental items, if the sales of the~~  
21 ~~incidental items make up no more than 25 percent of the~~  
22 ~~total sales of the farm stands; and~~
- 23 ~~2. The farm stand does not include structures designed for~~  
24 ~~occupancy as a residence or for activities other than the sale~~  
25 ~~of farm crops and livestock and does not include structures~~  
26 ~~for banquets, public gatherings or public entertainment.~~

27 **Are permitted pursuant to ORS 215.283(1)(r) and OAR 660-033-0130(23).**

28 **EIGHT:** Delete Section 5.1.325, provisions for process and criteria for CBEMP  
rezones. References are no longer correct. The rezone process is the same  
for property in the Estuary or as it is for property in the Balance of County.  
This Section shall be "Reserved".

1        **SECTION 5.1.325.        Process and Criteria for CBEMP Rezones.** ~~Due~~  
2        ~~to the specificity of the Coos Bay Estuary Management Plan, a plan~~  
3        ~~amendment is required concurrently with the initial zoning or~~  
4        ~~rezoning of any property within the jurisdiction of the Coos Bay~~  
5        ~~Estuary Management Plan (CBEMP). The procedure for plan~~  
6        ~~amendments is regulated by Article 1.2. Such decision shall utilize~~  
7        ~~the process set forth in Section 1.2.400 and shall be based on~~  
8        ~~findings supporting the conclusion that a change in the Coos Bay~~  
9        ~~Estuary Management Plan is consistent with the Statewide~~  
10       ~~Planning Goals and other provisions of the Coos Bay Estuary~~  
11       ~~Management Plan.~~

9, **NINE:** Revise Section 5.1.350 (1), (4) and (7) as follows:

10        **SECTION 5.1.350.        Process for Non-CBEMP Rezones.**

- 11                    1.    Valid application must be filed with the Planning Department  
12                    at least ~~30~~ **45** days prior to a public hearing on the matter.
- 13                    2.    The Planning Department shall comply with the notice  
14                    requirements of the Urban Growth Management and Special  
15                    District Coordination Agreements.
- 16                    3.    The Planning Director shall cause an investigation and report  
17                    to be made to determine compatibility with this Ordinance  
18                    and any other findings required.
- 19                    4.    The County shall forward a copy of the investigation/staff  
20                    report, required in "3" above to the affected city, special  
21                    district, applicant and Hearings Body at least ~~10~~ **7** days prior  
22                    to the scheduled public hearing.
- 23                    5.    Coos County shall cause a public notice to be published in  
24                    the designated newspaper of record not less than 10 days  
25                    prior to any rezone hearing **pursuant to Section 5.7.100.**
- 26                    6.    The County shall forward a copy of the public notice to all  
27                    property owners pursuant to Section 5.7.100.
- 28                    7.    The Hearings Body shall hold a public hearing **pursuant to**  
                         **hearing procedures at Section 5.7.300.**

1 All continuance requests shall be reviewed by the Hearings  
2 Body on its own merits except as follows:

3 If the City of Bandon, requests a continuance of the  
4 initial public hearing, Coos County shall grant the  
5 continuance request and continue the hearing to the  
6 next scheduled public hearing or to any other  
7 scheduled public hearing only if mutually agreed to by  
8 the applicant and the county.

8. The Hearings Body shall make a decision on the application  
9 pursuant to Section 5.1.400.

9. Notice of decision shall be afforded to the applicant and  
10 those with "party" status as defined in Article 5.7 Public  
11 Hearings. Notice of the decision shall also be afforded to  
12 any witness participating in the public hearing that expressly  
13 requests such notification.

10. The Board of Commissioners shall review and take  
14 appropriate action on any rezone recommendation by the  
15 Hearings Body pursuant to Section 5.1.550.

11. A decision by the Hearings Body that a proposed rezone is  
16 not justified may be appealed pursuant to Article 5.8.

17  
18 **TEN:** Amend Section 5.1.400 as follows:

19  
20 **SECTION 5.1.400. Decisions of the Hearings Body for a Non-**  
21 **GBEMP Rezone.** The Hearings Body shall, after a public hearing  
22 on any rezone application, either:

23 1. Recommend the Board of Commissioners approve the  
24 rezoning, only if on the basis of the initiation or application,  
25 investigation and evidence submitted, all the following  
26 criteria are found to exist:

27 a. the rezoning will conform with the Comprehensive  
28 Plan or Section 5.1.250; and

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- b. the rezoning will not seriously interfere with permitted uses on other nearby parcels; and
- c. the rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

2. Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:

- a. the property may not be utilized for all the uses ordinarily permitted in a particular zone; or
- b. the development of the site must conform to certain specified standards; or
- c. any combination of the above.

A qualified rezone shall be dependent on findings of fact including but not limited to the following:

- i. such limitations as are deemed necessary to protect the best interests of the surrounding property or neighborhood; or
- ii. such limitations as are deemed necessary to assure compatibility with the surrounding property or neighborhood; or
- iii. such limitations as are deemed necessary to secure an appropriate development in harmony with the objectives of the Comprehensive Plan; or
- iv. such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects of the zone change.

3. Deny the rezone if the findings of 1 or 2 above can not be made. Denial of a rezone by the Hearings Body is a final

1 decision not requiring review by the Board of Commissioners  
2 unless appealed.

3 **ELEVEN:** Amend Section 5.2.400(A) (4), (5) and (7) as follows:

4 **SECTION 5.2.400. Process for Conditional Uses.**

5 A. Hearings Body Conditional Uses:

- 6
- 7 1. An application complete with all submittal  
8 requirements is filed with the Planning Department at  
9 least 45 days prior to a public hearing on the matter.
- 10 2. The Planning Department shall forward a copy of the  
11 application to any affected city or special district  
12 pursuant to applicable provisions of Article 5.7 or this  
13 Ordinance.
- 14 3. The Planning Director shall cause an investigation and  
15 report to be made to determine compatibility with this  
16 Ordinance and any other findings required.
- 17 4. The Planning Department shall mail a copy of the staff  
18 report, required in (3) above, to the affected city,  
19 special district, applicant and Hearings Body at least  
20 ~~ten (10)~~ **Seven(7)** days prior to the scheduled public  
21 hearing.
- 22 5. The Planning Director shall cause a public notice to be  
23 distributed to interested persons and the news media  
24 which have requested notice and post said notice in  
25 the Planning Department office and the Coos County  
26 Courthouse not less than ~~ten(10)~~ **twenty (20)** days  
27 prior to any scheduled public hearing. Said notice  
28 shall contain:
- a. A preliminary agenda listing the principal  
matters anticipated to be considered at the  
meeting, but this requirement shall not limit the  
ability of the Hearings Body to consider

1 additional matters, and

2 b. The time, date and location of the meeting.

3  
4 6. The Planning Director shall cause notice of the hearing  
5 to be mailed to all affected property owners pursuant  
6 to Section 5.7.100.

7 7. Coos County shall hold a public hearing on the  
8 application pursuant to Article 5.7:

9 a. ~~If the City of Bandon requests a continuance of~~  
10 ~~the initial public hearing, Coos County shall~~  
11 ~~grant the continuance request and continue the~~  
12 ~~hearing to the next scheduled public hearing or~~  
13 ~~to any other scheduled public hearing only if~~  
14 ~~mutually agreed to by the applicant and the~~  
15 ~~County.~~

16 b. ~~If additional evidence or documents are~~  
17 ~~provided in support of an application, any party~~  
18 ~~shall be entitled to a continuance of the hearing.~~  
19 ~~Such a continuance shall not be subject to the~~  
20 ~~limitations of ORS 215.428.~~

21 8. Notice of the decision shall be afforded to the  
22 applicant and those persons participating in the public  
23 hearing.

24 9. Any appeal of a Hearings Body decision shall be made  
25 pursuant to Article 5.8

26 **TWELVE:** Amend Section 5.7.300 as follows:

27 3. Presentation of Testimony:

28 A. Staff Report

B. Applicant or, ~~in the case of an appeal of a prior~~  
~~decision, appellant~~

- 1 C. Additional testimony by other parties in support of the  
2 application or Appeal, except in the case of an appeal on  
3 the record.  
4 D. Testimony by opponents.  
5 E. Applicant's or, in the case of an appeal, appellant's  
6 rebuttal arguments.

7 **4. Representatives**

- 8 **A. A party may represent themselves or be represented by**  
9 **an attorney. Consultants and other non-attorney**  
10 **professionals may appear as fact witnesses for any**  
11 **party, but may not confer "party" status on any person through**  
12 **their appearance.**
- 13 **B. Any person presenting testimony on behalf of a group,**  
14 **company or any other organization, except an attorney or**  
15 **officer of the organization, must enter written evidence**  
16 **into the record establishing that the person is authorized**  
17 **to appear on behalf of the organization. Such written**  
18 **authorization must:**
- 19 (1) **Be written on the group, company, or**  
20 **organization's official letterhead;**  
21 (2) **Name the person authorized to appear on behalf of**  
22 **the group, company or organization;**  
23 (3) **Specify the scope of the authorization; and**  
24 (4) **Contain the signature of a person with authority to**  
25 **grant the authorization.**

26 **5. Submission of Written Evidence**

- 27 **A. Petitions: Any party may submit a petition into the**  
28 **record as evidence. The petition shall be considered**  
**as written testimony of the party who submitted the**  
**petition. The petition shall not be considered as**  
**written testimony of any individual signer of the**  
**petition, unless that person personally submits the**  
**petition as a party. Anonymous petitions or petitions**  
**that do not otherwise identify the party submitting the**

1            *petition, shall not be accepted as evidence.*

2            **B.    *Required Number of Copies: Submission of written***  
3            ***materials for consideration shall be provided as***  
4            ***follows for hearings before the:***

5                    ***(1). Planning Commission – 15 copies***

6                    ***(2). Board of Commissioners – 7 copies***

7  
8            ***The County may, at its sole discretion, reject any materials that do not***  
9            ***contain the requisite number of copies. It may be requested that the County***  
10           ***make the requisite number of copies subject to the submitter paying the***  
             ***applicable copy charges.***

11           **6.    *Definitions: As used in this Article the following***  
12           ***definitions shall apply:***

13                    **A.    *“Party” means any person, organization or agency who***  
14                    ***has established standing under the provisions of this***  
                     ***Article.***

15  
16                    **B.    *“Witness” means any person who appears and is heard at***  
17                    ***a hearing and is not a “party”. A witness shall not be***  
18                    ***considered a “party” unless the Board of Commissioners***  
19                    ***determines that the person is a party in accordance***  
                     ***with Article 5.8.***

20           **THIRTEEN:** Amend Section 5.8.100 as follows:

21                    **SECTION 5.8.100.**

22                    Coos County has established an appeal period of 15 days from the  
23                    date written notice of administrative or Planning Commission  
24                    decision ***is mailed.***

25  
26                    The Board of Commissioners or Hearings Body ***shall*** ~~may retain~~  
27                    authority to dismiss an appeal for failure to follow the  
28                    requirements of this article.

                     [OR 04 12 013PL 2/09/05]



1 **FOURTEEN:** Amend Section 5.8.200 as follows:

2           **SECTION 5.8.200.       Appeals of Administrative Decisions.**

- 3
- 4           **1.**    A ~~an~~ **Notice of Intent to Appeal (NOIA)** shall be filed with  
5           the Department ~~and shall be accompanied by a written~~  
6           ~~statement of the grounds for the appeal on~~ NOIA form  
7           provided by the County ~~and~~ **along with** any required filing  
8           fee. Upon receipt of an appeal, the Department shall  
9           schedule a public hearing before the Hearings Body and  
10          provide public notice as provided in Section 5.7.100(1).  
11          The hearing on appeal of an administrative decision shall be  
12          de novo (ORS 215.416).
- 13          **2.**    The appeal hearing procedure shall be in accordance with  
14          Section 5.7.300. [OR 04 12 013PL 2/09/05]

15 **FIFTEEN:** Amend Section 5.8.223 as follows:

16           **SECTION 5.8.223. Appeal of Hearings Body Decision to Board of**  
17           **Commissioners.**

- 18           **1.**    A ~~an~~ **Notice of Intent to Appeal (NOIA)** shall be filed with  
19           the Department ~~and shall be accompanied by a written~~  
20           ~~statement of the grounds for the appeal~~ **on NOIA form**  
21           **provided by the County** ~~and~~ **along with** any required filing  
22           fee. The review of the decision of the Hearings Body by the Board  
23           of Commissioners shall be confined to the record of the  
24           proceeding, which shall include:
- 25            **1a.**   All materials, pleading, memoranda, stipulations, and  
26            motions submitted by any party to the proceeding and  
27            received or considered by the Hearings Body as evidence;
- 28            **2b.**   All materials submitted to the Planning Department with  
              respect to the application;
- 3c.**   Minutes of the public hearing of the Hearings Body;
- 4d.**   The findings and action of the Hearings Body and the notice  
              of decision; and

1           5e. Arguments confined to the record by the parties or their legal  
2           representatives at the time of review by the Planning  
3           Commission.

4           [OR 04 12 013PL 2/09/05]

5           **2. The following timelines for Appeal on the Record to the  
6           Board of Commissioners shall apply:**

7           a. **Day 0 – Planning Commission Notice of Decision mailed.  
8           The Record of Planning Department and/or Planning  
9           Commission proceedings shall be available for any  
10           person to obtain at applicable fees for copies and  
11           recordings..**

12           b. **Day 15 – Notice of Intent to Appeal (NOIA) submitted  
13           to Planning Department on form provided by the County.**

14           c. **Day 30 – Appellant’s Brief due**

15           d. **Day 45 – Respondent’s Brief due**

16           e. **Day 55 – Appellant’s Rebuttal Brief due**

17           f. **Day 60 to 75 – Deliberation by Board of Commissioners  
18           which may include oral argument at the discretion of  
19           the Board.**

20           **3. All items to be submitted to the County must actually be  
21           received by the County Planning Department no later than  
22           5:00 p.m. on the deadline date. If the deadline date falls  
23           on a weekend or County holiday, then the item must actually be  
24           received by the County Planning Department no later than 12:00  
25           p.m. on the next County business day following the deadline  
26           date. All items to be mailed to another party must be  
27           postmarked no later than the deadline date, regardless of  
28           whether such deadline day falls on a weekend or County holiday.**

**SIXTEEN:** Amend Section 5.8.230 as follows:

**SECTION 5.8.230.        Board of Commissioners Action**

1           **1.** The Board of Commissioners may affirm, modify, or reverse  
2           all or part of the action of the Hearings Body or may remand  
3           the matter for additional review or information. [OR 04 12  
4           013PL 2/09/05]

5           **2.** *A final decision by the Board of Commissioners or Hearings*  
6           *Officer may be appealed to the Land Use Board of Appeals*  
7           *(LUBA).*

8           **SEVENTEEN:** Amend Section 5.8.250 as follows:

9           **SECTION 5.8.250.           Reconsideration of Administrative Decision.**

- 10           1. During the period set forth at Section ~~5.8.200(1)(a)~~ **5.8.100**,  
11           the Planning Director may withdraw for the purposes of  
12           reconsideration, any administrative decision.
- 13           2. If an administrative decision is withdrawn for the  
14           purposes of reconsideration, the Planning Director  
15           shall, within 30 days of the withdrawal, affirm,  
16           modify or reverse the administrative decision.
- 17           3. Notice of the reconsidered administrative decision shall be  
18           provided in the same manner as notice of the original  
19           administrative decision, and any appeal of said decision may  
20           proceed pursuant to Article 5.8.  
21           [OR-92-07-012PL]

22           **EIGHTEEN:** Amend Section 5.8.700 as follows:

23           **SECTION 5.8.700.           Reconsideration of Final Decision By Board of**  
24           **Commissioners.**

- 25           **1.** At any time subsequent to the filing of a notice of  
26           intent to appeal a decision made by the Board of Commissioners  
27           pursuant to Section ~~5.8.600~~, and prior to the date set by the Land  
28           Use Board of Appeals for filing the record on said appeal, the  
Board of Commissioners may withdraw its decision for the  
purposes of reconsideration. If the Board withdraws its final  
decision order for purposes of reconsideration, it shall, within such  
time as the Land Use Board of Appeals may allow, affirm, modify or

1 reverse its decision. [OR 92-07-012PL]

2 **2. Hearings on reconsidered decisions will, at the County's**  
3 **sole discretion, be either:**

4 **a. Based on the record. New findings shall be drafted for**  
5 **the Board's consideration and shall be presented to the**  
6 **Board at a regularly scheduled Board meeting. No new**  
7 **evidence or testimony shall be considered, or;**

8 **b. De novo allowing additional evidence and testimony.**  
9 **Participation shall be strictly limited to those**  
10 **persons or organizations who are parties to the LUBA**  
11 **appeal.**

12 **3. The Board of Commissioners may limit the scope of a hearing**  
13 **on reconsideration.**

14 **NINETEEN:** Amend Section 5.8.800 as follows

15 **SECTION 5.8.800. Review of Remanded Decisions.**

16 1. Decisions remanded by the Land Use Board of Appeals will  
17 be scheduled for hearing for one of the following:

18 **a.** within ~~30~~ **45** days (ORS 215.435) from the date of the final  
19 LUBA order, the applicant will provide a written request for a  
20 hearing on those issues raised at LUBA; the request must be  
21 accompanied by the appeal fee;

22 **2b.** within 30 days of receiving the request a hearing will be  
23 scheduled before the Board of Commissioners; or

24 **3c.** if no such request is received the application shall be  
25 deemed to be withdrawn and action taken to void the  
26 implementing Ordinance.

27 **4d.** each time a decision is remanded, 1, 2, and 3, above must  
28 be followed. (OR 98-01-002PL 5/4/98)

**2. Hearings on remanded decisions will be, at the County's**

1                    **sole discretion, either:**

2                    **a.    Based on the record. New findings shall be**  
3                    **drafted for the Board's consideration. Written**  
4                    **and oral testimony shall be limited to argument**  
5                    **only, based on the evidence already in the record**  
6                    **or;**

7                    **b.    De novo allowing additional evidence and**  
8                    **testimony.**

9                    **3.    The Board of Commissioners may limit the scope of a**  
10                   **hearing on remand.**

11                   **4.    Participation in the remand hearing shall be strictly limited**  
12                   **to those persons or organizations who were parties to the**  
13                   **LUBA appeal. Therefore:**

14                   **a.    Notice of the remand hearing shall be given only**  
15                   **to persons who were parties to the LUBA appeal;**  
16                   **and**

17                   **b.    Only parties to the LUBA appeal may present**  
18                   **evidence, witnesses, testimony or arguments in the**  
19                   **remand hearing.**

20                   **5.    The party prevailing at the remand hearing shall prepare**  
21                   **the findings of fact necessary to support the decision.**

22 **TWENTY:** Add Sections 5.8.900 form for Notice of Intent to Appeal.

23 **SECTION 5.8.900.    NOTICE OF INTENT TO APPEAL.**

24 **NOTICE OF INTENT TO APPEAL (NOIA)**

25 Appellant: \_\_\_\_\_

26 Mailing address: \_\_\_\_\_

27 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

28 Appellant's Representative: \_\_\_\_\_

Mailing address: \_\_\_\_\_

1 Phone: \_\_\_\_\_ Email: \_\_\_\_\_

2 The appellant hereby requests consideration of the following  
3 decision:

4 File Number: \_\_\_\_\_ Nature of Application: \_\_\_\_\_

5 Decision: \_\_\_\_\_ Decision Date: \_\_\_\_\_

6 1. State the reasons for the appeal, citing the specific  
7 Comprehensive Plan or CCZLDO provisions which are alleged to be

8 violated: \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 2. A statement of the standing of the appeal: \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 I \_\_\_\_\_, have filed an appeal application  
15 with the Coos County Planning Department to be reviewed and  
16 processed according to state and county requirements. I  
17 acknowledge the following disclosures:

18 \_\_\_\_\_ I understand I may ask questions and receive input from  
19 planning staff, but acknowledge that I am ultimately responsible  
20 for all information and documentation submitted with this NOIA.  
21 I further understand planning staff cannot legally bind the  
22 county to any fact or circumstance that conflicts with state or  
23 local laws, and in the event a conflict occurs, all such  
24 statements or agreements are void.

25 \_\_\_\_\_ I understand that I have the burden of demonstrating my  
26 appeal is supported by the applicable criteria. The criteria for  
27 approving or denying my request have been furnished to me as a  
28 part of this application and I acknowledge receipt.

\_\_\_\_\_ I understand the Hearings Body will dismiss an appeal for  
failure to follow the requirements of Article 5.8.

23 \_\_\_\_\_

24 Signed: \_\_\_\_\_ Date: \_\_\_\_\_

25 \_\_\_\_\_

26 FOR STAFF USE ONLY

27 NOIA Fee: \_\_\_\_\_

28 \_\_\_\_\_

1 Received By: \_\_\_\_\_ Date: \_\_\_\_\_  
2  
3 Case File: \_\_\_\_\_

4 SECTION 2. SEVERANCE CLAUSE

5 Except as specifically amended by the provisions of this ordinance, the  
6 CCZLDO is hereby affirmed in all other respects.

7 SECTION 3. SAVINGS CLAUSE

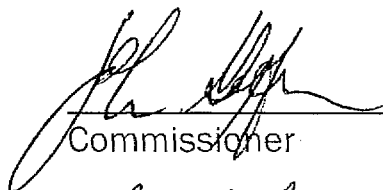
8  
9 Unless otherwise specified herein, the adoption of this Ordinance shall have no  
10 effect on existing litigation and shall have no effect on any action or proceeding  
11 pending on the date of adoption of this Ordinance.

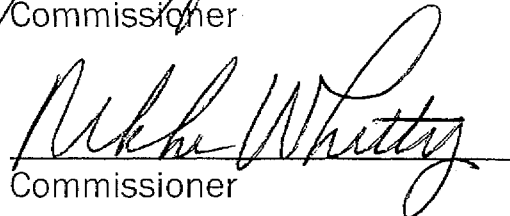
12 SECTION 4. EMERGENCY CLAUSE

13 The Board of Commissioners for the County of Coos deems this Ordinance  
14 necessary for the immediate preservation and protection of the public peace,  
15 safety, health and general welfare for Coos County and declares an emergency  
16 exists, and this Ordinance shall be in full force and effect upon its passage.

17 ADOPTED this 21<sup>st</sup> day of August, 2006.

18 BOARD OF COMMISSIONERS

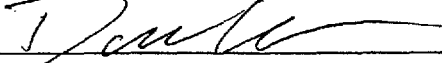
19   
20 Commissioner

21   
22 Commissioner

23   
24 Commissioner

25  
26  
27 ATTEST:  
  
28 Recording Secretary

1 APPROVED AS TO FORM:

2 

3 Office of County Counsel

4

5 SIGNED this 21<sup>ST</sup> day of AUGUST, 2006.

6

7 Emergency Adoption: AUGUST 21, 2006

8

9 Effective Date: AUGUST 21, 2006

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28