

**CHAPTER V  
ADMINISTRATION**

**ARTICLE 5.0 ADMINISTRATION AND APPLICATION REVIEW PROVISIONS**

**SECTION 5.0.100 PRE-APPLICATION CONFERENCE.** The purpose of a pre-application conference is to familiarize the applicant with the provisions of this Ordinance and other land use laws and regulations applicable to the proposed development.

A pre-application is strongly recommended prior to submission of plan or ordinance amendment application or rezone application. For other types of applications an applicant may request a pre-application conference under this Ordinance.

A pre-application conference shall be requested by filing a written request along with the applicable fee to the Planning Department. The written request should identify the development proposal, provide a description of the character, location and magnitude of the proposed development and include any other supporting documents such as maps, drawings, or models.

The Planning Department will schedule a pre-application conference after receipt of a written request and the appropriate fee. The Planning Department will notify agencies and persons deemed appropriate to attend to discuss the proposal. Following the conference, the Planning Department will prepare a written summary of the discussion and send it to the applicant.

**SECTION 5.0.150 APPLICATION REQUIREMENTS**

(Article 5.6 of this ordinance Site Plan Review Requirements and Chapter 6 Land Divisions have additional submittal requirements)

Applications for development or land use action shall be filed on forms prescribed by the County and shall include sufficient information and evidence necessary to demonstrate compliance with the applicable criteria and standards of this Ordinance and be accompanied by the appropriate fee. An application shall not be considered to have been filed until all application fees have been paid. All applications shall include the following:

Applications shall be submitted by the property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign.

An application for a variance to the requirements of the Airport Surfaces Overlay zone may not be considered unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within twenty (20) days after receipt, the Planning Director may act to grant or deny said application.

One original and exact copies of the application shall be provided at the time of submittal for the following reviews:

Amendment/Rezone	19 copies
Planning Commission (including appeals)	14 copies
Board of Commissioner (including appeals)	6 copies
Administrative	1 copy

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

The burden of proof in showing that an application complies with all applicable criteria and standards lies with the applicant.

**SECTION 5.0.200 APPLICATION COMPLETENESS (ORS 215.427)**

A. An application will not be acted upon until it has been deemed complete by the Planning Department. In order to be deemed complete, the application must comply with the requirements of Section 5.0.150, and all applicable criteria or standards must be adequately addressed in the application.

If the County Road Department recommends a traffic impact analysis (TIA) the application will not be deemed complete until it is submitted.

B. Within 30 days of the date the application is filed, the Planning Department will notify the applicant, in writing, specifying the information that is missing. The application will be deemed complete upon receipt of the missing information.

C. An applicant will have 180 days from the date of filing of the application to provide the Planning Department any information requested to make an application complete. When an applicant fails to submit the requested information, the application will be deemed withdrawn on the 181<sup>st</sup> day after the application was filed.

D. If the applicant who receives notice of an incomplete application refuses to submit the missing information, the application will be deemed complete on the 31<sup>st</sup> day after the Planning Department first received the application.

- E. In the event the Planning Department fails to notify the applicant within 30 days of the date the application was filed, the application will be deemed complete on the 31<sup>st</sup> day.

**SECTION 5.0.250 TIMETABLE FOR FINAL DECISIONS (ORS 215.427)**

(Legislative decisions are not subject to the time frames in this section)

- A. For lands located within an urban growth boundary, and all applications for mineral or aggregate extraction, the County will take final action within 120 days after the application is deemed complete.
- B. For all other applications, the County will take final action within 150 days after the application is deemed complete.
- C. These time frames may be extended upon written request by the applicant.
- D. Time periods specified in this Section shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, legal holiday or any day on which the County is not open for business, the time deadline is the next working day. [OAR 661-010-0075]
- E. Land use permits that have been approved by the county shall be held in abeyance until the decision is final and all fees are paid: That is, until the appeal period has expired and no appeals have been filed, or all appeals have been exhausted and final judgments are effective.

**SECTION 5.0.300 FINDINGS REQUIRED [ORS 215.416(9)-(10)]**

Approval or denial of an application shall be in writing, based upon compliance with the criteria and standards relevant to the decision, and include a statement of the findings of fact and conclusions related to the criteria relied upon in rendering the decision.

**SECTION 5.0.350 CONDITIONS OF APPROVAL**

- A. Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.
- B. An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.

- C. At an applicant's request, the County may modify or amend one or more conditions of approval for an application previously approved and final. Decisions to modify or amend final conditions of approval will be made by the review authority with the initial jurisdiction over the original application using the same type of review procedure in the original review.

**SECTION 5.0.400 CONSOLIDATED APPLICATIONS**

- A. Applications for more than one land use decision on the same property may be submitted together for concurrent review. If the applications involve different review processes, they will be heard or decided under the higher review procedure. For example, combined applications involving an administrative review and hearings body reviews, will be subject to a public hearing.
- B. Applications that are paired with a Plan Amendment and/or Rezone application shall be contingent upon final approval of the amendment by the Board of Commissioners. If the Board denies the amendment, then any other application submitted concurrently and dependent upon it shall also be denied.

**SECTION 5.0.450 COORDINATION WITH DIVISION OF STATE LANDS (DSL) STATE/FEDERAL WATERWAY PERMIT REVIEWS.**

If the County is notified by DSL that a state or federal permit has been requested for a use or activity requiring County review, the County shall:

- A. if the applicant has received prior County review (pursuant to this Article) for a use or activity requiring a state or federal waterway permit, Coos County shall notify DSL that the project was or was not found to be consistent with this Ordinance.
- B. if the applicant has not received prior County review for a state or federal waterway permit, and if Coos County is notified by DSL requesting County comment on a proposed project, Coos County shall respond to DSL and the applicant within 3 working days. Said notification shall state that local authorization is required pursuant to the Coos County Comprehensive Plan or this Ordinance.
- C. Notice shall be provided to the Division of State Lands, the applicant and owner of record within 5 working days for any permit or approval required under this ordinance for the following developments within wetlands as shown on the National Wetland Inventory Map.
  - 1. Subdivision or planned unit developments
  - 2. New Structures
  - 3. Conditional use permits or variances that involve physical alterations to the land or construction of new structures.

**SECTION 5.0.500 INCONSISTENT APPLICATIONS**

Submission of any application for a land use or land division under this Ordinance which is inconsistent with any previously submitted pending application shall constitute an automatic revocation of the previous pending application to the extent of the inconsistency.

Such revocation shall not be cause for refund of any previously submitted application fees.

**SECTION 5.0.550 HEARINGS BODY REVIEW OF ADMINISTRATIVE DECISIONS**

Notwithstanding Article 5.8 (Appeals), a contested quasi-judicial hearing shall be held to review a Planning Director's decision regarding an administrative conditional use, when, within fifteen (15) days of notice of the decision, two or more members of the Planning Commission advise the Planning Director, orally or in writing, of their desire for a public hearing to review the application.

Said hearing shall be held pursuant to Article 5.7.

**SECTION 5.0.600 BOARD OF COMMISSIONERS REVIEW OF APPLICATIONS AND APPEALS**

A decision of the Planning Director or Hearings Body may be called up by the Board of Commissioners at any time prior to the expiration of the appeal period. Hearings will be one of following:

- A. Full de novo hearing. If there has been no hearing prior to the initial decision, a full de novo hearing is required for an appeal. New issues may be raised and new testimony, arguments and evidence may be accepted and considered by the Board.
- B. Limited evidentiary hearing. Evidence presented at the hearing shall be limited to only specific issues, criteria or conditions specifically identified by the Board.
- C. Review of the record. Only the evidence, data and written testimony submitted prior to the close of the record will be reviewed. No new evidence or testimony related to new evidence will be considered, and no public hearing will be held.

The Board of Commissioners reserves the right to pre-empt any permit review process or appeal process and hear any permit application or appeal directly. The Board also reserves the right to appoint a Hearings Officer or Hearings Body to hear and consider any permit application or appeal. Notice of appeals of administrative actions shall be promptly forwarded to the Board of

Commissioners, which may elect to hear the appeal instead of the Planning Commission.

**SECTION 5.0.700 EXPIRATION AND EXTENSION OF CONDITIONAL USES**

All conditional uses, except for site plans, variances and land divisions, remain valid for the period set forth in ORS 215.417. Any conditional use not initiated within said time frame may be granted one extension as specified in ORS 215.417 provided that:

- A. An application for said extension is filed with the Planning Department prior to the expiration of the deadline. The applicant must state the reasons that prevented him from beginning or continuing development within the approval period; and
- B. The Planning director finds:
  - i. that there have been no substantial changes in the land use pattern of the area or other circumstances sufficient to cause a new conditional use application to be sought for the same use; and
  - ii. that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

Additional extensions granted are ministerial decisions and not a land use decisions as described in ORS 197.015 and are not subject to appeal as land use decisions per OAR 660-33-140(3). (OR-93-12-017PL 2-23-94) (OR-95-05-006 PL 11-29-95) (OR 05-01-002PL 3-21-05)

**SECTION 5.0.900 NOTICE REQUIREMENTS (ORS 197.763)**

- A. Notice Public Hearing
  - i. The Planning Department shall forward a copy of the application to any affected city or special district pursuant to applicable provisions of this Ordinance.
  - ii. The Planning Department shall mail a copy of the staff report to the city, special district, applicant and Hearings Body at least seven (7) days prior to the scheduled public hearing.
  - iii. Notice shall be mailed at least twenty days prior to the hearing, or ten before the first before the first evidentiary hearing if there will be or more hearings. Notice shall:
    - a. Describe the nature of the application and the proposed use or uses could be authorized;

- b. Set forth the address or other easily understood geographical reference to the subject property.
  - c. Include the name of the local government representative to contact and a telephone number where additional information may be obtained;
  - d. State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost, and will be provided at reasonable cost;
  - e. List the applicable criteria that apply to the application;
  - f. State the date, time, and location of the hearing;
  - g. State that failure of an issue to be raised, in person or in writing, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
  - h. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and
  - i. Include a general explanation of the requirements of submission of testimony and the procedure for the conduct of the hearings.
- iv. The Planning Director shall cause notice of the hearing to be mailed to all affected property owners pursuant to this section.
  - v. Notice of the decision shall be afforded to the applicant and those persons participating in the public hearing

**B. Notice of Administrative Decisions**

- i. Notice of an Administrative Decision will be provided to the following:
  - a. The applicant and the owners of the subject property, affected cities, special districts, Hearings Body members and other parties requesting notification;
  - b. The owners of record of property as described in ORS 215.416(11)(c)

- ii. Notice of an Administrative Decision shall:
  - a. Describe the nature of the application and the proposed use or uses that could be authorized;
  - b. Set forth the address or other easily understood geographical reference to the subject property;
  - c. Include the name of the local government representative to contact and a telephone number where additional information may be obtained;
  - d. State that a copy of the application, all documents and evidence relied upon by the application, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
  - e. State that any person who is adversely affected or aggrieved or who is entitled to notice under (i) may appeal the decision by filing a written appeal within fifteen days of the date the Notice was mailed;
  - f. State that the decision will not become final until the fifteen day period for filing an appeal has expired; and
  - g. State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

#### C. Plan Map Amendment/Rezone

- i. If the application includes an exception to a goal, notice shall comply with ORS 197.732. The notice shall be published at least 20 days prior to the date of the hearing. All notice requirements in "A" of this Section shall apply.
- ii. At least 45 days prior to the initial hearing, notice shall be provided as required by ORS 197.610. [OR 04 12 013PL 2/09/05]
- iii. Notice of decision shall be afforded to the applicant and those participating in the process. Notice of the decision shall also be afforded to any witness participating in the public hearing and requesting such notification.
- iv. Requirements for hearings on a rezone of property containing a mobile home park shall be provided pursuant to ORS 215.223(7).
- v. Special notice requirements for zone changes within the environs

of public use airports shall be provided pursuant to ORS 215.223(4), (5), and (6).

D. Legislative Amendment

- i. The Board of Commissioners shall conduct one or more public hearings with 10 days advance published notice of each of the hearings.
- ii. The public notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration. (ORS 215.060 & ORS 215.223)
- iii. Notice to DLCD shall be provided 45 days prior to the initial hearing per ORS 197.610. Notice of adoption is subject to ORS 197.615. [OR 04 12 013PL 2/09/05]

E. Notice to Cities and Districts

For conditional use applications within Urban Growth Boundaries and Areas of Mutual Interest, the Planning Department shall comply with the notice requirements contained in the Urban Growth Management and Special Districts Coordination Agreements.

F. The following agencies shall be notified of all Conditional Use determinations involving waterway permits:

- i. State Agencies: Division of State Lands  
Department of Fish & Wildlife- Charleston, OR  
Department of Environmental Quality  
Department of Forestry  
South Slough Estuarine Sanctuary Commission
- ii. Federal Agencies: Army Corps of Engineers  
National Marine Fisheries Service  
U.S. Fish & Wildlife Service
- iii. Other Notification: State Water Resource Department (uses including appropriation of water only)  
State Department of Geology and Mineral Industries (mining and Mineral extraction only)  
State Department of Energy (generating and other energy facilities Only)  
Department of Economic Development (docks, industrial and port Facilities, and marinas only)

**SECTION 5.0.950 FAILURE TO RECEIVE NOTICE**

The failure of the property owner to receive notice as provided in this Article shall not invalidate such proceedings if the local government can demonstrate by affidavit that such notice was given. The notice provisions of this Article shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.