

Summary of 2016 Proposed Amendments to OAR Chapter 661 Division 010

Service of Notice

OAR 661-010-0015(2) and (3)(f)(D): Requires that when a local government provides only electronic mail addresses for persons whom written notice of the land use decision or limited land use decision was mailed, a petitioner fulfills its service of notice obligation for those persons by sending a copy of the notice of intent to appeal to those persons via electronic mail. Clarifies that a notice of intent to appeal must be served on all persons to whom written notice of the land use decision or limited land use decision was mailed, either through the United States Postal Service or by electronic mail.

OAR 661-010-0021(5)(c)(C): Clarifies that an amended or refiled notice of intent to appeal must be served on all persons to whom written notice of the original or reconsidered land use decision or limited land use decision was mailed, either through the United States Postal Service or by electronic mail.

Petition for Review

OAR 661-010-0030(1): Clarifies that the filing of a single Notice of Intent to Appeal permits only one petition for review. The rules have always referred to Notice of Intent to Appeal and petition for review in the singular, but the Board felt that the clarification was important. This amendment makes clear that the correct practice is one petition for review per single notice of intent to appeal.

OAR 661-010-0030(2)(b): This amendment proposes a change from the 50-page limit for briefs to a word count of 14,000 words (still double-spaced text in 14 point font). The amendment also includes a new accommodation for parties that lack a word processor, permitting a brief of either 50 pages for a typewritten brief in 14 point font, or 35 pages for a type written brief in 12 point font. Since the implementation of our January 1, 2014 amendment that called for 14 point font briefs with double spacing, LUBA has received a number of briefs that violate page length, font size, and/or spacing, resulting in parties submitting what constitutes overlength briefs without permission from the board. This amendment is in response to that trend, and the word count approach makes it easier to determine violations of the brief length requirement. The idea of a word count with a certificate of compliance comes from the filing requirements in the Oregon Rules of Appellate Procedure. ORAP 5.05(2).

OAR 661-010-0030(2)(d): Reiterates the amendment that permits 12 point font if the brief is produced on a typewriter.

OAR 661-010-0030(2)(j): Requires certificate of compliance with petition for review and response brief requirements; Introduces Exhibit 7.

OAR 661-010-0030(4)(b)(B): Modifies the content of petition for review rule to require only a *brief* summary of argument.

Response to a Cross Petition Brief

OAR 661-010-0035: Clarifies that a response brief responding to a cross petition for review is due at the same time as a response brief responding to a petition for review.

Intervention

OAR 661-010-0050: Clarifies that a single motion to intervene permits the filing of one intervenors' brief as appropriate.

Housekeeping

Several rules have been amended to ensure that the prefix of "OAR" precedes a reference to "661-010- 00**." In addition, the term "intervenors-petitioner" has been revised to read "intervenors-petitioners." OAR 661-010-0000 is modified to provide for the effective date of different versions of OAR Chapter 661 Division 10 based on the date of filing, as amended.

Exhibit 7

This new exhibit is the template for the certificate of compliance for petitions for review and response briefs as required by OAR 661-010-0032(2)(j).