



NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 661 LAND USE BOARD OF APPEALS

FILED

08/28/2025 11:35 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Increases filing fees, renumbers and reorganizes rules, clarifies manner of filing, clarifies administrative rule compliance.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/30/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Filed By:
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NEED FOR THE RULE(S)

The proposed amendments are needed first to update OAR 661-010-0015, 661-010-0050, and 661-010-0075 in response to Senate Bill (SB) 817 (2025). SB 817 raises the filing fees in OAR 661-010-0015 and 661-010-0050, and removes the provision in OAR 661-010-0075, cross-referenced in OAR 661-010-0030, allowing local governments to request the award of a filing fee if a petitioner fails to file a petition for review.

Next these amendments are necessary to reorganize OAR 661-010-0075 to allow for clarity and ease of use of the agency's rules. OAR 661-010-0075 in its current state is long and not well related to the rest of the agency's rules. To address confusion and in an effort to draw attention to important, sometimes overlooked, rules, the agency is proposing to break specific rule subjects out into their own rule number and organize them in a manner that assists parties in understanding the order of events in an appeal.

These amendments are also necessary to clarify how LUBA enforces its procedural rules and help parties understand what actions they are supposed to take in response to notices and orders from the agency.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

These amendments amend some provisions of OAR chapter 661, division 10, which is available at <https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=125>.

Some of these amendments are in response to the amendments to ORS 197.830(7) and (9) in SB 817, available at <https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB817/Enrolled>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

LUBA is part of the statewide land use system and provides a forum that helps ensure that all interested parties and members of the public have opportunities to be involved in planning and development decisions. Through its procedural rules and rule amendments, LUBA strives to provide equal access within the land use process and ensure that LUBA processes and communications allow all interested individuals to fully participate in the land use decision making and appeal process.

FISCAL AND ECONOMIC IMPACT:

The proposed amendments reflect that SB 817 increases the appeal filing fee from \$300 to \$350 and the intervention fee from \$100 to \$200. All money received for filing fees is deposited into the General Fund, so the fee increases may generate a small amount of additional General Fund revenue, depending on the number of appeals and interventions filed.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The proposed amendments will affect only those state agencies, local governments, and members of the public that will be filing appeals with LUBA. Those state agencies include but are not limited to the Department of Land Conservation and Development and the Oregon Department of Fish and Wildlife.

Some of the parties filing appeals with LUBA will likely be small businesses and associated individuals. It is not anticipated that any additional reporting, recordkeeping, professional services, equipment supplies, or labor will be required to comply with the proposed amendments. It is not anticipated that any economic effect on small businesses will be significant.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses may be affected if they are a party to an appeal. However, LUBA will be notifying a significant number of stakeholder groups and land use practitioners (some of whom represent small businesses and business groups) of these amendments by posting notice on our website, emailing it to members of the Oregon State Bar's Real Estate and Land Use (RELU) section. Those groups and practitioners will then have an opportunity to comment on the amendments.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

No. LUBA did not believe it necessary to undertake the delay and effort to form and consult a formal rules advisory committee for amendments to LUBA's procedural rules.

RULES PROPOSED:

661-010-0000, 661-010-0005, 661-010-0011, 661-010-0014, 661-010-0015, 661-010-0029, 661-010-0030, 661-010-0043, 661-010-0050, 661-010-0055, 661-010-0069, 661-010-0075

AMEND: 661-010-0000

RULE SUMMARY: Reflects the effective date of these rule amendments. All appeals filed on or after January 1, 2026, will be governed by the amended and adopted rules.

CHANGES TO RULE:

661-010-0000

Introduction ¶

Scope of Rules and Effective Date: All proceedings commenced by a notice of intent to appeal filed on or after January 15, 2025~~6~~, shall be governed by these rules. Proceedings commenced before January 15, 2025~~6~~, shall be governed by OAR 661-010-0005 through OAR 661-010-0075 as effective on the date the notice of intent to appeal was filed.

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.805

AMEND: 661-010-0005

RULE SUMMARY: Updates rule language to reflect statutory language in ORS 197.830(7)(c) concerning the effect of filing a motion to intervene after the statutory filing deadline. Provides that failure to respond to an order to show cause is not a technical violation.

CHANGES TO RULE:

661-010-0005

Purpose ¶

These rules are intended to promote the speediest practicable review of land use decisions and limited land use decisions, in accordance with ORS 197.805-197.855, while affording all interested persons reasonable notice and opportunity to intervene, reasonable time to prepare and submit their cases, and a full and fair hearing. The rules shall be interpreted to carry out these objectives and to promote justice. Technical violations not affecting the substantial rights of parties shall not interfere with the review of a land use decision or limited land use decision. Failure to comply with the time limit for filing a notice of intent to appeal under OAR 661-010-0015(1), a motion to intervene under OAR 661-010-0050(2), or a petition for review under OAR 661-010-0030(1), or to respond to an order to show cause under OAR 661-010-0011 is not a technical violation.

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.805, ORS 197.830

ADOPT: 661-010-0011

RULE SUMMARY: Clarifies that parties must respond to agency notices and orders and outlines agency response to party inaction.

CHANGES TO RULE:

661-010-0011

Administrative Rule Compliance

(1) The Board may, on its own motion, dismiss a party for lack of prosecution if:¶

(2) The party has failed to comply with these rules of procedure:¶

(3) The Board has mailed a notice of noncompliance to the noncompliant party at the mailing address provided for such party in the notice of intent to appeal, motion to intervene, or notice of representation:¶

(4) The Board has not received a satisfactory response to the notice of noncompliance from the noncompliant party:¶

(5) The Board has issued an order to show cause why the noncompliant party should not be dismissed; and¶

(6) The Board has not received a satisfactory response to the order to show cause from the noncompliant party.

Statutory/Other Authority: ORS 197.820(4)(a), ORS 197.820(4)(b)

Statutes/Other Implemented: ORS 197.830(9), ORS 197.830(13)(a), ORS 197.830(15)

RULE SUMMARY: Renumbers filing and service rules from OAR 661-010-0075(2)-(3), (6)-(7), (12) and clarifies manners of filing and delivery.

CHANGES TO RULE:

661-010-0014

Filing and Service

(1) Filing:¶

(a) Except as otherwise provided in OAR 661-010-0015(1)(b) with regard to the notice of intent to appeal, filing a document with the Board is accomplished by:¶

(A) Mailing by first class or priority mail with the United States Postal Service on or before the due date. If the date of mailing is relied upon as the date of filing, the date of the postmark is the date of filing.¶

(B) Depositing with or dispatching for delivery by a commercial delivery service on or before the due date. Proof of such deposit or dispatch date includes a receipt from the commercial delivery service showing the date the filing is deposited with the commercial delivery service or a receipt from the commercial delivery service's online tracking service showing the date the filing is dispatched for delivery by the commercial delivery service.¶

(b) Documents shall be filed with the Board by delivery to the address listed in subsection (6) of this rule and shall contain a statement certified by the person who made the filing of the date and manner of document delivery. See Exhibit 5.¶

(c) Documents may not be filed:¶

(A) In person:¶

(B) By private party hand delivery:¶

(C) By facsimile:¶

(D) By electronic mail; or¶

(E) By any other manner not specified in these rules.¶

(d) Documents filed with the Board may include signatures that are:¶

(A) An original ink signature:¶

(B) A facsimile signature; or¶

(C) An electronic signature that includes the typed name of the filer and an indication that the typed name is intended to substitute for the filer's signature. If the filer is an attorney, the attorney's bar number and an indication of the party whom the attorney represents must appear as part of or in addition to the signature block. Where an electronic signature is relied upon, the filing shall be accompanied by a certificate of compliance attesting to the authenticity of the signature. See Exhibit 11. If multiple parties are joining in the filing, each party must attest to compliance and the filing shall be accompanied by written confirmation of support for the filing. The "/s/" form of signature is not an electronic signature for purposes of this rule.¶

(2) Service:¶

(a) Any document filed with the Board must also be served on all parties contemporaneously. Service on two or more petitioners unrepresented by an attorney is accomplished by serving the lead petitioner designated under OAR 661-010-0015(3)(f)(A). Service on two or more intervenors unrepresented by an attorney is accomplished by serving the lead intervenor designated under OAR 661-010-0050(2).¶

(b) Service may be in person, by first-class or priority mail, or by commercial delivery service. Mail service is complete on deposit in the mail. Commercial delivery service is complete on deposit with or dispatch for delivery by the commercial delivery service. Parties may stipulate to electronic service of documents.¶

(c) Service copies of documents shall include a certificate showing the date and manner of filing with the Board. See Exhibit 5.¶

(d) Documents filed with the Board shall contain either an acknowledgement of service by the person served or proof of service by a statement certified by the person who made service of the date and manner of service, and the names and addresses of the persons served. See Exhibit 6.¶

(3) Recycled Paper. Parties filing anything with the Board, including but not limited to notices of intent to appeal, records, motions, and briefs, are encouraged to use recycled paper if recycled paper is readily available at a reasonable price in the party's community. Further, parties are encouraged to use paper containing the highest available content of post-consumer waste, as defined in ORS 279.545, that is recyclable in the office paper recycling program in the party's community.¶

(4) Number of Copies Required: No copies of filings are required unless these rules or an order by the Board provide otherwise. See OAR 661-010-0015(1)(a).¶

(5) Computation of Time: Time deadlines in these rules shall be computed by excluding the first day and including the last day. If the last day is Saturday, Sunday or other state or federal legal holiday, the act must be performed on the next working day.¶

(6) Address and Hours of the Board: The Board's address is 201 High Street SE, Suite 600, Salem, Oregon, 97301-3398. The telephone number is (503) 373-1265. The Board's office operates from 8:30 a.m. to 12:00 p.m., and 1:00 p.m. to 5:00 p.m. Monday through Friday.¶

(7) All briefs and motions filed with the Board shall comply with the rules in OAR 661-010-0030(2) with respect to type size, spacing, paper size and printing, numbering and margins.

Statutory/Other Authority: ORS 197.820(4)(a), ORS 197.820(4)(b)

Statutes/Other Implemented: ORS 197.830(9), ORS 197.830(13)(a), ORS 197.830(15)

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

EXHIBIT 5
(661-010-0014)

CERTIFICATE OF FILING (GENERAL)

I hereby certify that, on [INDICATE DATE], I filed the original of this [NAME OF DOCUMENT], with the Land Use Board of Appeals, 201 High Street SE, Suite 600, Salem, OR 97301-3398, by [INDICATE MANNER OF FILING, *E.G.*, CERTIFIED, PRIORITY, OR FIRST-CLASS MAIL, OR COMMERCIAL DELIVERY SERVICE].

Dated this ____ day of _____, 20__

Signature

EXHIBIT 6
(661-010-0014)

CERTIFICATE OF SERVICE (GENERAL)

I hereby certify that, on [INDICATE DATE], I served a true and correct copy of this [NAME OF DOCUMENT] on all parties by [INDICATE MANNER OF SERVICE, *E.G.*, IN-PERSON DELIVERY, FIRST-CLASS OR PRIORITY MAIL, OR COMMERCIAL DELIVERY SERVICE] to the following names and addresses:

NAME	NAME
ADDRESS	ADDRESS
CITY/STATE/ZIP	CITY/STATE/ZIP

Dated this ____ day of _____, 20__.

Signature

EXHIBIT 11
(661-010-0014)

CERTIFICATE OF AUTHENTICITY

I hereby certify that, on [INDICATE DATE], I filed and served the original of this [NAME OF DOCUMENT], with the Land Use Board of Appeals, 201 High Street SE, Suite 600, Salem, OR 97301-3398, and attest that the typed signature below and those within this document are a representation that, under penalty of perjury, the document is true and correct to the best of my knowledge and belief.

Dated this ____ day of _____, 20__

Signature

Robert Anderson

Robert Anderson

[Oregon State Bar No. 000001]

[Attorney for Petitioner Smith.]

AMEND: 661-010-0015

RULE SUMMARY: Updates rule language to reflect statutory language in ORS 197.615(4). Amends manners of filing that permit a petitioner to rely on the deposit or dispatch date as the filing date. Increases the appeal filing fee, consistent with the amendments to ORS 197.830(9) in SB 817 (2025).

CHANGES TO RULE:

661-010-0015

Notice of Intent to Appeal ¶

(1) Filing of Notice:¶

(a) The Notice, together with one copy, and the filing fee required by section (4) of this rule, shall be filed with the Board on or before the 21st day after the date the decision sought to be reviewed becomes final or within the time provided by ORS 197.830(3)-(5). A notice of intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to 197.625 shall be filed with the Board on or before the 21st day after the date the decision sought to be reviewed is mailed or otherwise delivered to parties entitled to notice under ORS 197.615. A Notice filed thereafter shall not be deemed timely filed, and the appeal shall be dismissed.¶

(b) The date of filing a notice of intent to appeal is:¶

(A) The date the Notice is received by the Board; ~~or~~¶

(B) ~~The date the Notice is mailed, provided it is mailed by registered or certified mail, and the party filing the Notice has proof from the post office of such mailing date. If the date of mailing is relied upon as the date of filing, the date of the receipt stamped by the United States Postal Service showing the date mailed and the certified or registered number is the date of filing; or~~¶

~~(C) The date the Notice is by United States Postal Service, or~~ deposited with or dispatched for delivery by a commercial delivery service, provided the party filing the Notice has proof from the United States Postal Service or commercial delivery service of such mailing, deposit, or dispatch date. Proof of such mailing, deposit, or dispatch date includes a receipt from the United States Postal Service or commercial delivery service showing the date the Notice is deposited with the United States Postal Service or commercial delivery service or a receipt from the United States Postal Service's or commercial delivery service's online tracking service showing the date the Notice is mailed or dispatched for delivery by the United States Postal Service or the commercial delivery service.¶

(c) If a Notice is received without payment of the fee required by section (4) of this rule, the petitioner will be given an opportunity to submit the required fee. If the filing fee is not received within the time set by the Board, the Board shall dismiss the appeal.¶

(d) If the Board determines that a Notice identifies more than one final decision as the subject of appeal, the Board shall notify the petitioner. The Board shall dismiss the Notice if the petitioner fails to submit within the date specified by the Board either a written election to appeal only one decision, or a separate Notice and separate filing fee, as required by section (4) of this rule, for each additional decision.¶

(2) Service of Notice: The Notice shall be served on the governing body, the governing body's legal counsel, and all persons identified in the Notice as required by subsection (3)(f) of this rule on or before the date the Notice is required to be filed. Service of the Notice as required by this section may be in person, by first-class or priority mail, or by commercial delivery service. However, where the local government provides only an electronic mail address for a person identified in the Notice as required by subsection (3)(f)(D), service shall be by electronic mail. Mail service is complete on deposit in the mail. Commercial delivery service is complete on deposit with or dispatch for delivery by the commercial delivery service.¶

(3) Contents of Notice: The Notice shall be substantially in the form set forth in Exhibit 1 and shall contain:¶

(a) A caption which sets forth the name(s) of the person(s) filing the Notice, identifying the person(s) as petitioner(s), and the name of the governing body, identifying the governing body as respondent;¶

(b) Below the caption the heading "Notice of Intent to Appeal";¶

(c) The full title of the decision to be reviewed as it appears on the final decision;¶

(d) The date the decision to be reviewed became final;¶

(e) A concise description of the decision to be reviewed, or a copy of either the notice of decision or the decision to be reviewed;¶

(f) The name, address, electronic mail address, and telephone number of each of the following:¶

(A) The Petitioner. The petitioner's name, address, electronic mail address, and telephone number shall be included. If an attorney represents the petitioner, then the attorney's name, address electronic mail address, and telephone number shall also be included. If the petitioner is represented by co-counsel, then one attorney shall be designated as lead counsel. See OAR 661-010-0012(3). If two or more petitioners join in a notice of intent to

appeal and are unrepresented by an attorney, then one petitioner shall be designated as the lead petitioner, but the Notice shall include the names, addresses, electronic mail addresses, and telephone numbers of all such unrepresented petitioners. See OAR 661-010-0012(6)(a);¶

(B) The governing body and the governing body's legal counsel;¶

(C) The applicant, if any (and if other than the petitioner). If an applicant was represented by an attorney before the governing body, then the name, address, electronic mail address, and telephone number of the applicant's attorney shall also be included;¶

(D) Any other person to whom written notice of the land use decision or limited land use decision was mailed, either through the United States Postal Service, other delivery service, or by electronic mail, as shown on the governing body's records. The telephone number may be omitted for any such person.¶

(g) A statement advising all persons, other than the governing body, that in order to participate in the review proceeding a person must file a motion to intervene pursuant to OAR 661-010-0050.¶

(h) On the last page, a signature by each petitioner, or the attorney representing that petitioner, on whose behalf the Notice is filed.¶

(i) Proof of service upon all persons required to be named in the Notice. See Exhibit 1.¶

(j) A statement certified by the person who made the filing of the date and manner of document delivery. See Exhibit 1.¶

(4) Filing Fee: The Notice shall be accompanied by a filing fee of \$3050 payable to the Land Use Board of Appeals. Payment may be submitted by check, State of Oregon purchase order or money order. If a check providing the filing fee is returned for insufficient funds and the filing fee is not paid within the time set by the Board, the Board shall dismiss the appeal. Cash shall not be accepted.

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.620, ORS 197.830(1), ORS 197.830(9)

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

1 **EXHIBIT I**
2 (661-010-0015)

3
4 **BEFORE THE LAND USE BOARD OF APPEALS**
5 **OF THE STATE OF OREGON**
6

7 Jane Smith,

)

8)

9 Petitioner,

)

10)

11 vs.

)

LUBA No. _____

12)

13 Willamette County,

)

14)

15 Respondent.

)

16 **NOTICE OF INTENT TO APPEAL**

17 **I.**

18 Notice is hereby given that petitioner intends to appeal that land use
19 decision or limited land use decision of respondent entitled [INDICATE TITLE
20 OF LAND USE DECISION OR LIMITED LAND USE DECISION], which
21 became final on [INDICATE DATE] and which involves [SET FORTH A
22 BRIEF STATEMENT OF THE NATURE OF THE DECISION OR,
23 PREFERABLY, ATTACH A COPY OF THE DECISION].

24 **II.**

25 (a) Petitioner, Jane Smith, has as their mailing address, electronic mail
26 address, and telephone number: [INDICATE PHYSICAL MAILING
27 ADDRESS, ELECTRONIC MAIL ADDRESS, AND TELEPHONE NUMBER
28 OF PETITIONER].

1 (b) Petitioner, Jane Smith, is represented by: [INDICATE NAME,
2 PHYSICAL MAILING ADDRESS, ELECTRONIC MAIL ADDRESS, AND
3 TELEPHONE NUMBER OF PETITIONER'S ATTORNEY]. [IF MORE
4 THAN ONE ATTORNEY IDENTIFIED] Attorney, Taylor Doe, is designated as
5 lead counsel.

6 or

7 (b) Petitioner, Jane Smith, represents themselves. [IF MORE THAN ONE
8 SELF-REPRESENTED PETITIONER] Petitioner, Jane Smith, is designated as
9 lead petitioner.

10 III.

11 (a) Respondent, Willamette County, has as its mailing address, electronic
12 mail address, and telephone number: [INDICATE PHYSICAL MAILING
13 ADDRESS, ELECTRONIC MAIL ADDRESS, AND TELEPHONE NUMBER
14 OF GOVERNING BODY].

15 (b) Respondent, Willamette County, has as its legal counsel: [INDICATE
16 NAME, ADDRESS, ELECTRONIC MAIL ADDRESS, AND TELEPHONE
17 NUMBER OF GOVERNING BODY'S ATTORNEY].

18 IV.

19 (a) Applicant, John Developer, has as its mailing address, electronic mail
20 address, and telephone number: [INDICATE PHYSICAL MAILING
21 ADDRESS, ELECTRONIC MAIL ADDRESS, AND TELEPHONE NUMBER
22 OF APPLICANT].

1 (b) Applicant, John Developer, was represented in the proceeding below
2 by: [INDICATE NAME, PHYSICAL MAILING ADDRESS, ELECTRONIC
3 MAIL ADDRESS, AND TELEPHONE NUMBER OF APPLICANT'S
4 ATTORNEY].

5 (c) Other persons mailed written notice of the land use decision or limited
6 land use decision by Willamette County, as indicated by its records in this matter,
7 include: [INDICATE NAMES, PHYSICAL MAILING ADDRESSES, AND
8 ELECTRONIC MAIL ADDRESSES OF ALL PERSONS WHOM THE
9 GOVERNING BODY'S RECORDS INDICATE WERE MAILED OR
10 EMAILED WRITTEN NOTICE OF THE LAND USE DECISION OR
11 LIMITED LAND USE DECISION].

12 NOTICE:

13 Anyone designated in paragraph IV of this Notice who desires to
14 participate as a party in this case before the Land Use Board of Appeals must file
15 with the Board a Motion to Intervene in this proceeding as required by OAR 661-
16 010-0050.

17 Dated this ____ day of _____, 20__.

18

19

20

21

22

23

24

or

Petitioner (each petitioner must sign)

Attorney for Petitioner(s)

1 CERTIFICATE OF FILING OF NOTICE OF INTENT TO APPEAL

2
3 I hereby certify that, on [INDICATE DATE], I filed the original of this Notice of
4 Intent to Appeal, together with one copy, with the Land Use Board of Appeals,
5 201 High Street SE, Suite 600, Salem, OR 97301-3398, by [INDICATE
6 MANNER OF FILING, *E.G.*, CERTIFIED, PRIORITY, OR FIRST-CLASS
7 MAIL, OR COMMERCIAL DELIVERY SERVICE].

8
9 Dated this ____ day of _____, 20__.

10
11 _____
12 Signature
13

14 CERTIFICATE OF SERVICE OF NOTICE OF INTENT TO APPEAL

15
16 I hereby certify that, on [INDICATE DATE], I served a true and correct copy of
17 this Notice of Intent to Appeal on all persons listed in paragraphs III and IV of
18 this Notice pursuant to OAR 661-010-0015(2) by [INDICATE MANNER OF
19 SERVICE, *E.G.*, IN-PERSON DELIVERY, FIRST-CLASS OR PRIORITY
20 MAIL, OR COMMERCIAL DELIVERY SERVICE].

21
22 Dated this ____ day of _____, 20__.

23
24 _____
25 Signature
26

ADOPT: 661-010-0029

RULE SUMMARY: Renumbers citation form rules from OAR 661-010-0075(8) and adds a citation form for precedential orders issued after December 31, 2020.

CHANGES TO RULE:

661-010-0029

Citations to Board Decisions

Citations to Board decisions shall be in the following form:¶

(1) For a Final Opinion and Order and an Orders included in LUBA Reporter volumes 1 through 81: John Doe v. XYZ County, 5 Or LUBA 654 (1981).¶

(2) For an Order not included in LUBA Reporter volumes 1 through 81: John Doe v. XYZ County, LUBA No 80-123 (Feb 15, 1981) (slip order at 4).¶

(3) For a Final Opinion and Order issued after December 31, 2020: John Doe v. XYZ County, LUBA No 2020-987 (Jan 1, 2021) (slip op at 7).¶

(4) For a Precedential Order issued after December 31, 2020: John Doe v. XYZ County, LUBA No 2021-835 (Mar 15, 2021) (order at 2).

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.830(13)(a)

AMEND: 661-010-0030

RULE SUMMARY: Removes language concerning filing fee forfeiture and the related rule cross-reference, consistent with the amendments to ORS 197.830(9) in SB 817 (2025).

CHANGES TO RULE:

661-010-0030

Petition for Review ¶¶

(1) Filing and Service of Petition: Unless the Board orders otherwise pursuant to ORS 197.830(10)(a), the petition for review shall be filed with the Board within 21 days after the date the record is received or settled by the Board. See OAR 661-010-0025(2) and 661-010-0026(6). The petition shall also be served on the governing body and any party who has filed a motion to intervene. Failure to file a petition for review within the time required by this section, and any extensions of that time under OAR 661-010-0045(9) or 661-010-0067(2), shall result in dismissal of the appeal, ~~forfeiture of the filing fee to the governing body, and an award of up to \$200 for the cost of preparation of the record payable from the petitioner(s) to the governing body. See OAR 661-010-0075(1)(c).~~ Co-petitioners who file a single Notice of Intent to Appeal shall be limited to a single, joint petition for review. In consolidated appeals in which the petitioners are the same the petitioners shall be limited to a single petition for review. Within fourteen days after the consolidated record is received, petitioners may request permission to exceed the applicable word limit in writing and shall state the reasons why an overlength petition for review will assist the Board in resolving the appeal.¶¶

(2) Specifications of Petition: The petition for review shall:¶¶

(a) Begin with a table of contents and authorities;¶¶

(b) Not exceed 11,000 words, unless permission for a longer petition is given by the Board. Headings, footnotes, and quoted material count toward the word-count limitation. The front cover, table of contents, table of authorities, appendices, certificate of service, any other certificates, and the signature block do not count toward the word-count limitation;¶¶

(c) If a party does not have access to a word-processing system that provides a word count, a brief is acceptable if it does not exceed 38 pages;¶¶

(d) Have blue front and back covers of at least 65-pound weight paper. The front cover page shall state the full title of the proceeding, and the names, addresses, electronic mail addresses, and telephone numbers of all parties unrepresented by an attorney. If a party is represented by an attorney, the name, address, electronic mail address, and telephone number of the attorney shall be substituted for the party. If there is more than one petitioner, the cover page shall specify which petitioner(s) are filing the petition. An intervenor shall be designated as either petitioner or respondent in accordance with OAR 661-010-0050;¶¶

(e) Briefs must be legible and capable of being read without difficulty. The print must be black. Briefs must be prepared using proportionately spaced type. The style must be in font such as Times New Roman, and may not be smaller than 14-point type both for text and for footnotes;¶¶

(f) Be double spaced, except that quotations and footnotes may be single-spaced with double space above and below each paragraph of quotation;¶¶

(g) Have text printed on only one side of the page; however, text may be printed on both sides of the page if the paper is sufficiently opaque to prevent material on one side from showing through, and the petition is bound along the left-hand margin so that the pages lie flat when open;¶¶

(h) Be printed on 8-1/2 by 11-inch paper, with numbers for each line of text and page numbers on the top of each page of text;¶¶

(i) Have inside margins of 1-1/4 inches, outside margins of 1 inch, top and bottom margins of 3/4 inch; and¶¶

(j) Be signed on the last page by the author. In cases where multiple unrepresented petitioners or intervenors-petitioners file a single petition for review, the petition for review shall be signed by all petitioners or intervenors-petitioners who wish to join the petition for review.¶¶

(k) A signed certificate of compliance with the above-listed specifications for the petition for review shall be appended after the final page of the petition. See Exhibit 7. The certificate of compliance must include a statement that:¶¶

(A) The brief complies with the word-count limitation in paragraph (2)(b) of this subsection for briefs and OAR 661-010-0039 for reply briefs by indicating the number of words in the brief. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the brief. If the attorney, or a self-represented party, does not have access to a word-processing system that provides a word count, the certificate must indicate that the attorney, or self-represented party does not have access to such a system and that the brief complies with paragraph (2)(c) of this subsection for briefs and OAR 661-010-0039 for reply briefs.¶¶

(B) The brief complies with the font limitation in paragraph (2)(e) of this subsection by indicating that the size is

not smaller than 14 point for both the text of the brief and footnotes.¶¶

(C) The brief includes a copy of the challenged decision, including any adopted findings of fact and conclusions of law, as required by OAR 661-010-0030(4)(e).¶¶

(3) If the Board determines that the petition for review fails to conform with the requirements of section (2) of this rule, it shall notify the author, and a brief conforming with the requirements of section (2) shall be filed within three (3) days of notification by the Board. The Board may refuse to consider a brief that does not substantially conform to the requirements of this rule.¶¶

(4) Contents of Petition: The petition for review shall:¶¶

(a) State the facts that establish petitioner's standing;¶¶

(b) Present a clear and concise statement of the case, in the following order, with separate section headings:¶¶

(A) The nature of the land use decision or limited land use decision and the relief sought by petitioner;¶¶

(B) A brief summary of the arguments appearing under the assignments of error in the body of the petition;¶¶

(C) A summary of the material facts. The summary shall be in narrative form with citations to the pages of the record where the facts alleged can be found. Where there is a map in the record that helps illustrate the material facts, the petitioner shall include a copy of that map in the summary of the material facts or attach it as an appendix to the petition.¶¶

(c) State why the challenged decision is a land use decision or a limited land use decision subject to the Board's jurisdiction;¶¶

(d) Set forth each assignment of error under a separate heading. Each assignment of error must demonstrate that the issue raised in the assignment of error was preserved during the proceedings below. Where an assignment raises an issue that is not identified as preserved during the proceedings below, the petition shall state why preservation is not required. Each assignment of error must state the applicable standard of review. Where several assignments of error present essentially the same legal questions, the argument in support of those assignments of error shall be combined;¶¶

(e) Contain a copy of the challenged decision, including any adopted findings of fact and conclusions of law; and¶¶

(f) Contain a copy of any comprehensive plan provision, ordinance or other provision of local law cited in the petition, unless the provision is quoted verbatim in the petition.¶¶

(5) The petition for review may include appendices containing verbatim transcripts of relevant portions of media recordings that are part of the record.¶¶

(6) Amended Petition: A petition for review which fails to comply with section (4) of this rule may, with permission of the Board, be amended. The Board shall determine whether to allow an amended petition for review to be filed in accordance with OAR 661-010-0005.¶¶

(7) Cross Petition: Any respondent or intervenor-respondent who seeks reversal or remand of an aspect of the decision on appeal regardless of the outcome under the petition for review may file a cross petition for review that includes one or more assignments of error. A respondent or intervenor-respondent who seeks reversal or remand of an aspect of the decision on appeal only if the decision on appeal is reversed or remanded under the petition for review may file a cross petition for review that includes contingent cross-assignments of error, clearly labeled as such. The cover page shall identify the petition as a cross petition and the party filing the cross petition. The cross petition shall be filed within the time required for filing the petition for review and must comply in all respects with the requirements of this rule governing the petition for review, except that a notice of intent to appeal need not have been filed by such party.

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.830(11), ORS 197.830(12), ORS 197.830(13)(a)

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

1 **EXHIBIT 7**
2 **(661-010-0030)**
3

4 **Certificate of Compliance with Brief Length, Type Size,**
5 **and Copy of Decision Requirements**
6

7 **Brief Length**
8

9 I certify that (1) this brief complies with the word-count limitation in OAR 661-
10 010-0030(2) and (2) the word count of this brief as described in OAR 661-010-
11 0030(2) is _____ words. [OR]

12
13 I certify that (1) I do not have access to a word-processing system that provides
14 a word count; (2) this brief complies with the page limitation in OAR 661-010-
15 0030(2); and (3) the number of pages in this brief is _____ pages. [OR]

16
17 The board granted a motion to exceed the length limit for this brief. The order
18 granting that motion was dated _____ and permits a brief of up to _____.
19 I certify that (1) this brief complies with that order and (2) the word count of this
20 brief (as described in OAR 661-010-0030(2)) is _____ words [OR] the
21 number of pages in this brief is _____ pages.
22

23 **Type Size**
24

25 I certify that the size of the type in this brief is not smaller than 14 point for both
26 the text of the brief and footnotes as required by OAR 661-010-0030(2).
27

28 **Copy of Decision** [FOR PETITION FOR REVIEW]
29

30 I certify that the petition for review contains a copy of the challenged decision,
31 including any adopted findings of fact and conclusions of law as required by
32 OAR 661-010-0030(4)(e).
33

34 Dated this _____ day of _____, 20____.
35

36 _____
37 Signature
38

ADOPT: 661-010-0043

RULE SUMMARY: Renumbers conferences rule from OAR 661-010-0075(5) and adds that conferences may be by video conference.

CHANGES TO RULE:

661-010-0043

Conferences

On its own motion or at the request of any party, the Board may conduct one or more conferences. Conferences may be by video conference call. The Board shall provide reasonable notice advising all parties of the time, place and purpose of any conference.

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.830(13)(a)

AMEND: 661-010-0050

RULE SUMMARY: Reflects an increase in the intervention filing fee, consistent with the amendments to ORS 197.830(7) in SB 817 (2025).

CHANGES TO RULE:

661-010-0050

Intervention ¶¶

(1) Standing to Intervene: The applicant and any person who appeared before the local government, special district or state agency may intervene in a review proceeding before the Board. Status as an intervenor is recognized when a motion to intervene is filed, but the Board may deny that status at any time.¶¶

(2) Motion to Intervene: A motion to intervene shall be filed within 21 days of the date the notice of intent to appeal is filed pursuant to OAR 661-010-0015, or the amended notice of intent to appeal is filed or original notice of intent to appeal is refiled pursuant to OAR 661-010-0021. The motion to intervene (see Exhibit 3) shall:¶¶

(a) List the names, addresses, electronic mail addresses, and telephone numbers of all persons moving to intervene. In addition, if an attorney represents the intervenor(s), the attorney's name, address, electronic mail addresses, and telephone number shall also be included. If an intervenor is represented by co-counsel, then one attorney shall be designated as lead counsel. See OAR 661-010-0012(3). If two or more intervenors join in a motion to intervene and are unrepresented by an attorney, then one intervenor shall be designated as the lead intervenor, but the motion to intervene shall include the names, addresses, electronic mail addresses, and telephone numbers of all such unrepresented intervenors. See OAR 661-010-0012(6)(b);¶¶

(b) Identify the decision that is being challenged in the appeal for which intervention is sought by including the following:¶¶

(A) The full title of the decision that is being challenged in the appeal, as it appears on the final decision;¶¶

(B) The date the decision that is being challenged in the appeal became final;¶¶

(C) A concise description of the decision that is being challenged in the appeal, or a copy of either the notice of decision or the decision being challenged; and¶¶

(D) The appeal number assigned to the appeal by the Board, if one has been assigned as of the date of the filing of the motion to intervene.¶¶

(c) State whether the party is intervening on the side of the petitioner or the respondent;¶¶

(d) State the facts which show the party is entitled to intervene, supporting the statement with affidavits or other proof;¶¶

(e) On the last page, be signed by each intervenor, or the attorney representing that intervenor, on whose behalf the motion to intervene is filed; and¶¶

(f) Be served upon the Board and all parties.¶¶

(3) Filing Fee: A motion to intervene shall be accompanied by a filing fee of \$1200 for each appeal in which intervention is sought, payable to the Land Use Board of Appeals. Where multiple parties file a single joint motion to intervene, only one fee per appeal is required. If a motion to intervene is received without payment of the filing fee or a check providing the filing fee is returned for insufficient funds, the intervenor will be given an opportunity to submit the required fee. If the filing fee is not paid within the time set by the Board, the Board shall deny the motion to intervene. Cash shall not be accepted.¶¶

(4) Intervention in an appeal that is consolidated with other appeals does not allow the intervenor to appear as a party with respect to those appeals in which the intervenor has not filed a timely motion to intervene.¶¶

(5) Parties who have already intervened in an appeal need not file new motions to intervene when an amended notice of intent to appeal is filed or the original notice of intent to appeal is refiled pursuant to OAR 661-010-0021.¶¶

(6) Intervenor's Brief:¶¶

(a) An intervenor-petitioner's brief shall be filed within the time limit for filing the petition for review, and shall satisfy the requirements for a petition for review in OAR 661-010-0030.¶¶

(b) An intervenor-respondent's brief shall be filed within the time for filing a respondent's brief and shall satisfy the requirements for a respondent's brief in OAR 661-010-0035.¶¶

(c) Co-intervenors who file a single motion to intervene shall be limited to a single joint intervenor-petitioner's or intervenor-respondent's brief, as appropriate, and a single joint cross-petition for review or response to a cross-petition for review, as appropriate.

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.830(2), ORS 197.830(7)

RULE ATTACHMENTS MAY NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.

1 **EXHIBIT 3**
2 (661-010-0050)
3

4 **BEFORE THE LAND USE BOARD OF APPEALS**
5 **OF THE STATE OF OREGON**
6

7 Jane Smith,

)

8

)

9

Petitioner,

)

10

)

11

vs.

)

LUBA No. _____

12

)

13

Willamette County,

)

14

)

15

Respondent.

)

16 **MOTION TO INTERVENE**

17 **I.**

18 (a) John Davis moves to intervene on the side of [PETITIONER OR
19 RESPONDENT] in the above-captioned appeal.

20 (b) John Davis has as their mailing address, electronic mail address, and
21 telephone number: [INDICATE PHYSICAL MAILING ADDRESS,
22 ELECTRONIC MAIL ADDRESS, AND TELEPHONE NUMBER OF
23 MOVANT].

24 (c) John Davis is represented by: [INDICATE NAME, PHYSICAL
25 MAILING ADDRESS, ELECTRONIC MAIL ADDRESS, AND TELEPHONE
26 NUMBER OF MOVANT'S ATTORNEY]. [IF MORE THAN ONE
27 ATTORNEY IDENTIFIED] Attorney, Denise Neil, is designated as lead
28 counsel.

1 or

2 (c) John Davis represents themselves. [IF MORE THAN ONE SELF-
3 REPRESENTED MOVANT] John Davis is designated as lead intervenor.

4 II.

5 The appealed decision is that land use decision or limited land use decision
6 of respondent entitled [INDICATE TITLE OF LAND USE DECISION OR
7 LIMITED LAND USE DECISION], which became final on [INDICATE DATE]
8 and which involves [SET FORTH A BRIEF STATEMENT OF THE NATURE
9 OF THE DECISION OR, PREFERABLY, ATTACH A COPY OF THE
10 DECISION].

11 III.

12 The facts establishing movant's right to intervene are as follows: [SET
13 FORTH STATEMENT OF FACTS WITH REFERENCES TO THE RECORD
14 OR ATTACH AFFIDAVITS OR OTHER PROOF].

15 IV. [OPTIONAL]

16 In support of this motion, John Davis relies on the attached [affidavit,
17 memorandum of law, or both].

18 Dated this ____ day of _____, 20__.

19

20

21

John Davis

22

or

23

24

Denise Neil, Attorney for John Davis

25

1 [Add Certificates of Filing and Service on separate page. See Exhibits 5 & 6.]
2

AMEND: 661-010-0055

RULE SUMMARY: Requires a party requesting consolidation to inform the board whether all parties agree to the consolidation.

CHANGES TO RULE:

661-010-0055

Consolidation ¶

The Board, at the request of any party or on its own motion, may consolidate two or more proceedings, provided the proceedings seek review of the same or closely related land use decision(s) or limited land use decision(s). A request for consolidation may be accompanied by written consent by all parties. A request that is not accompanied by written consent by all parties to the requested consolidation shall state whether or not all parties to the appeal have agreed to the motion for consolidation, orally or otherwise. Consolidation of appeals does not affect the status of the parties to each appeal. See OAR 661-010-0050(4).

Statutory/Other Authority: ORS 197.820(4)

Statutes/Other Implemented: ORS 197.805

CHANGES TO RULE:

661-010-0069

Transfers

(1) Motion to Transfer to Circuit Court:

(a) Any party may request, pursuant to ORS 34.102, that an appeal be transferred to the circuit court of the county in which the appealed decision was made, in the event the Board determines the appealed decision is not reviewable as a land use decision or limited land use decision as defined in 197.015(10) or (12).

(b) A request for a transfer pursuant to ORS 34.102 shall be initiated by filing a motion to transfer to circuit court not later than 14 days after the date a respondent's brief or motion that challenges the Board's jurisdiction is filed. If the Board raises a jurisdictional issue on its own motion, a motion to transfer to circuit court shall be filed not later than 14 days after the date the moving party learns the Board has raised a jurisdictional issue.

(c) If the Board determines the appealed decision is not reviewable as a land use decision or limited land use decision as defined in ORS 197.015(10) or (12), the Board shall dismiss the appeal unless a motion to transfer to circuit court is filed as provided in subsection (9)(b) of this rule, in which case the Board shall transfer the appeal to the circuit court of the county in which the appealed decision was made.

(2) Transfer from Circuit Court: When any appeal of a land use or limited land use decision is transferred to LUBA from circuit court, the petition for writ of review filed in the circuit court shall be treated as the notice of intent to appeal, and the case shall proceed as provided in LUBA's rules, subject to the following:

(a) No additional filing fee shall be required;

(b) The petitioner(s) in the transferred circuit court proceeding shall file with the Board a Notice of Transfer that contains the information required by OAR 661-010-0015(3), and shall serve the Notice of Transfer upon all persons required to be named in the Notice of Intent to Appeal pursuant to OAR 661-010-0015(2) and (3). The Notice of Transfer shall be filed within the time set by the Board. The date of the Notice of Transfer is served shall begin the running of the 21-day period within which a motion to intervene in the appeal may be filed.

(c) After an appeal is transferred to LUBA and the Notice of Transfer is received by the Board, the Board, by letter, will establish a deadline for the respondent to transmit the record.

(3) Transfer from the Oregon Department of Land Conservation and Development: Where the Director of the Oregon Department of Land Conservation and Development transfers a matter to LUBA pursuant to ORS 197.825(2)(c)(A), the case shall proceed as provided in LUBA's rules, subject to the following:

(a) The date of the notice from the Director making the transfer shall begin the running of a 21-day period within which one or more parties in the proceedings before the department may file a notice of intent to appeal with LUBA. A notice filed thereafter shall not be deemed timely filed, and the appeal shall be dismissed.

(b) Except as provided in this section, the notice of intent to appeal shall conform to the requirements of OAR 661-010-0015, including payment of the filing fee. The notice of intent to appeal shall identify the local government as the respondent, rather than the Oregon Department of Land Conservation and Development or the Land Conservation and Development Commission.

(c) On receipt of a notice of intent to appeal, the Board shall, by letter, establish a deadline for the respondent to file the portion of the local record necessary to review the transferred matter. In all other respects, an appeal of a transferred matter shall proceed according to LUBA's rules.

Statutory/Other Authority: ORS 197.820(4)(a), ORS 197.820(4)(b)

Statutes/Other Implemented: ORS 197.820(4)(b), ORS 34.102, ORS 197.830(9), ORS 197.830(13)(a), ORS 197.835(10)

AMEND: 661-010-0075

RULE SUMMARY: Reflects renumbering of subsections. Eliminates the provision allowing for the forfeiture of the filing fee, consistent with the amendments to ORS 197.830(9) in SB 817 (2025).

CHANGES TO RULE:

661-010-0075

~~Miscellaneous Provision~~Attorney Fees ¶¶

~~(1) Attorney Fees and Forfeiture of Filing Fees:¶¶~~

~~(a) Time for Filing: The prevailing party may file a motion for attorney fees no later than 14 days after the final order is issued. The prevailing party shall serve a copy of any such motion for attorney fees on all parties.¶¶~~

~~(b) Forfeit of Filing Fee: If a record has been filed and a petition for review is not filed within the time required by these rules, and the governing body files a motion pursuant to this section requesting forfeiture of the filing fee, then the filing fee required by OAR 661-010-0015(4) shall be forfeited to the governing body. In addition, if the governing body files a motion pursuant to this section, the Board shall award the governing body up to \$200, payable from petitioner(s) to the governing body, as cost of preparation of the record. See OAR 661-010-0030(1).¶¶~~

~~(c) Attorney Fees:¶¶~~

~~(A) Attorney fees shall be awarded by the Board to the prevailing party as specified in ORS 197.830(15)(b) and (c); a motion for attorney fees shall include a signed and detailed statement of the amount of attorney fees sought.¶¶~~

~~(B) Attorney fees shall be awarded to the applicant, against the governing body, if the Board reverses a land use decision or limited land use decision and orders a local government to approve a development application pursuant to ORS 197.835(10).¶¶~~

~~(C) Attorney fees shall be awarded to the applicant, against the person who requested a stay pursuant to ORS 197.845, if the Board affirms a quasi-judicial land use decision or limited land use decision for which such a stay was granted. The amount of the award shall be limited to reasonable attorney's fees incurred due to the stay request, and together with any actual damages awarded, shall not exceed the amount of the undertaking required under 197.845(2).¶¶~~

~~(d) Responses and Objections: Any response to a motion for attorney fees, together with any objections to the detailed statement of the amount of attorney fees sought, shall be filed with the Board within 14 days after the date of service of the motion.¶¶~~

~~(e) If a motion for attorney fees is filed, and the Board's decision is appealed to the Court of Appeals, the Board shall act on the motion for attorney fees after an appellate judgment is issued and any further Board proceedings necessitated by that judgment are concluded.¶¶~~

~~(2) Filing and Service:¶¶~~

~~(a) Filing:¶¶~~

~~(A) Documents may not be filed by facsimile or electronic mail. Documents filed with the Board may include signatures that are:¶¶~~

~~(i) An original ink signature;¶¶~~

~~(ii) A facsimile signature; or¶¶~~

~~(iii) An electronic signature that includes the typed name of the filer and an indication that the typed name is intended to substitute for the filer's signature. If the filer is an attorney, the attorney's bar number and an indication of the party whom the attorney represents must appear as part of or in addition to the signature block. Where an electronic signature is relied upon, the filing shall be accompanied by a certificate of compliance attesting to the authenticity of the signature. See Exhibit 11. If multiple parties are joining in the filing, each party must attest to compliance and the filing shall be accompanied by written confirmation of support for the filing. The "/s/" form of signature is not an electronic signature for purposes of this rule.¶¶~~

~~(B) Except as provided in OAR 661-010-0015(1)(b) with regard to the notice of intent to appeal, filing a document with the Board is accomplished by:¶¶~~

~~(i) Mailing by first class or priority mail with the United States Postal Service on or before the due date. If the date of mailing is relied upon as the date of filing, the date of the postmark is the date of filing.¶¶~~

~~(ii) Depositing with or dispatching for delivery by a commercial delivery service on or before the due date. Proof of such deposit or dispatch date includes a receipt from the commercial delivery service showing the date the filing is deposited with the commercial delivery service or a receipt from the commercial delivery service's online tracking service showing the date the filing is dispatched for delivery by the commercial delivery service.¶¶~~

~~(C) Documents filed with the Board shall contain a statement certified by the person who made the filing of the date and manner of document delivery. See Exhibit 5.¶¶~~

~~(b) Service:¶¶~~

(A) Any document filed with the Board must also be served on all parties contemporaneously. Service on two or more petitioners unrepresented by an attorney is accomplished by serving the lead petitioner designated under OAR 661-010-0015(3)(f)(A). Service on two or more intervenors unrepresented by an attorney is accomplished by serving the lead intervenor designated under OAR 661-010-0050(2).¶¶

(B) Service may be in person, by first-class or priority mail, or by commercial delivery service. Mail service is complete on deposit in the mail. Commercial delivery service is complete on deposit with or dispatch for delivery by the commercial delivery service.¶¶

(C) Service copies of documents shall include a certificate showing the date and manner of filing with the Board. See Exhibit 5.¶¶

(D) Documents filed with the Board shall contain either an acknowledgement of service by the person served or proof of service by a statement certified by the person who made service of the date and manner of service, and the names and addresses of the persons served. See Exhibit 6.¶¶

(c) Recycled Paper. Parties filing anything with the Board, including but not limited to notices of intent to appeal, records, motions, and briefs, are encouraged to use recycled paper if recycled paper is readily available at a reasonable price in the party's community. Further, parties are encouraged to use paper containing the highest available content of post-consumer waste, as defined in ORS 279.545, that is recyclable in the office paper recycling program in the party's community.¶¶

(3) Number of Copies Required: No copies of filings are required unless these rules or an order by the Board provide otherwise. See OAR 661-010-0015(1)(a).¶¶

(4) Copying Fee: The following fees shall be charged for certified copies or scans of Board nonexempt public records as defined in ORS 192.410, 192.501, 192.502, and 192.505:¶¶

(a) 25 cents per page for copies or scans of any Board transcript or document of public record.¶¶

(b) \$10 for a copy of a cassette tape, compact disc or similar media disc in the record.¶¶

(c) The Board shall also charge the actual cost of copying and mailing oversized exhibits, plans or maps.¶¶

(5) Conferences: On its own motion or at the request of any party, the Board may conduct one or more conferences. Conferences may be by telephone. The Board shall provide reasonable notice advising all parties of the time, place and purpose of any conference.¶¶

(6) Computation of Time: Time deadlines in these rules shall be computed by excluding the first day and including the last day. If the last day is Saturday, Sunday or other state or federal legal holiday, the act must be performed on the next working day.¶¶

(7) Address and Hours of the Board: The Board's address is 201 High Street SE, Suite 600, Salem, Oregon, 97301-3398. The telephone number is (503) 373-1265. The Board's office shall be open from 8:30 a.m. to 12:00 p.m., and 1:00 p.m. to 5:00 p.m. Monday through Friday.¶¶

(8) Citations to Board Decisions: Citations to Board decisions shall be in the following form:¶¶

(a) For a Final Opinion and Order and an Orders included in LUBA Reporter volumes 1 through 81: John Doe v. XYZ County, 5 Or LUBA 654 (1981).¶¶

(b) For an Order not included in LUBA Reporter volumes 1 through 81: John Doe v. XYZ County, LUBA No 80-123 (Feb 15, 1981) (slip order at 4).¶¶

(c) For a Final Opinion and Order issued after December 31, 2020: John Doe v. XYZ County, LUBA No 2020-987 (Jan 1, 2021) (slip op at 7).¶¶

(9) Motion to Transfer to Circuit Court:¶¶

(a) Any party may request, pursuant to ORS 34.102, that an appeal be transferred to the circuit court of the county in which the appealed decision was made, in the event the Board determines the appealed decision is not reviewable as a land use decision or limited land use decision as defined in 197.015(10) or (12).¶¶

(b) A request for a transfer pursuant to ORS 34.102 shall be initiated by filing a motion to transfer to circuit court not later than 14 days after the date a respondent's brief or motion that challenges the Board's jurisdiction is filed. If the Board raises a jurisdictional issue on its own motion, a motion to transfer to circuit court shall be filed not later than 14 days after the date the moving party learns the Board has raised a jurisdictional issue.¶¶

(c) If the Board determines the appealed decision is not reviewable as a land use decision or limited land use decision as defined in ORS 197.015(10) or (12), the Board shall dismiss the appeal unless a motion to transfer to circuit court is filed as provided in subsection (9)(b) of this rule, in which case the Board shall transfer the appeal to the circuit court of the county in which the appealed decision was made.¶¶

(10) Transfer from Circuit Court: When any appeal of a land use or limited land use decision is transferred to LUBA from circuit court, the petition for writ of review filed in the circuit court shall be treated as the notice of intent to appeal, and the case shall proceed as provided in LUBA's rules, subject to the following:¶¶

(a) No additional filing fee shall be required;¶¶

(b) The petitioner(s) in the transferred circuit court proceeding shall file with the Board a Notice of Transfer that contains the information required by OAR 661-010-0015(3), and shall serve the Notice of Transfer upon all persons required to be named in the Notice of Intent to Appeal pursuant to OAR 661-010-0015(2) and (3). The

Notice of Transfer shall be filed within the time set by the Board. The date of the Notice of Transfer is served shall begin the running of the 21-day period within which a motion to intervene in the appeal may be filed.¶¶

(c) After an appeal is transferred to LUBA and the Notice of Transfer is received by the Board, the Board, by letter, will establish a deadline for the respondent to transmit the record.¶¶

(11) Transfer from the Oregon Department of Land Conservation and Development: Where the Director of the Oregon Department of Land Conservation and Development transfers a matter to LUBA pursuant to ORS 197.825(2)(c)(A), the case shall proceed as provided in LUBA's rules, subject to the following:¶¶

(a) The date of the notice from the Director making the transfer shall begin the running of a 21-day period within which one or more parties in the proceedings before the department may file a notice of intent to appeal with LUBA. A notice filed thereafter shall not be deemed timely filed, and the appeal shall be dismissed.¶¶

(b) Except as provided in this section, the notice of intent to appeal shall conform to the requirements of OAR 661-010-0015, including payment of the filing fee. The notice of intent to appeal shall identify the local government as the respondent, rather than the Oregon Department of Land Conservation and Development or the Land Conservation and Development Commission.¶¶

(c) On receipt of a notice of intent to appeal, the Board shall, by letter, establish a deadline for the respondent to file the portion of the local record necessary to review the transferred matter. In all other respects, an appeal of a transferred matter shall proceed according to LUBA's rules.¶¶

(12) All briefs and motions filed with the Board shall comply with the rules in OAR 661-010-0030(2) with respect to type size, spacing, paper size and printing, numbering and margins.

Statutory/Other Authority: ORS 197.820(4)(a), ORS 197.820(4)(b)

Statutes/Other Implemented: ~~ORS 34.102, ORS 197.830(9), ORS 197.830(13)(a)~~ 197.843, ORS 197.835(10), ORS 197.845(3), ORS 197.830(15)