

LUBA 1-1995

SED FORM
No. 425a
Rev. 10-1-87

6 FEB 95 2:00 PM
SEC. OF STATE

CERTIFICATE AND ORDER
FOR FILING
PERMANENT
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on January 31, 1995
(Date)

by the Land Use Board of Appeals
(Department) (Division)

to become effective upon filing
(Date)

The within matter having come before the Land Use Board of Appeals
(Department) (Division)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO YES Date Published: January 1995

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted:
(New Total Rules)


Amended:
(Existing Rules)

Repealed:
(Total Rules Only)

661-10-025 (Record)

as Administrative Rules of the Land Use Board of Appeals
(Department) (Division)

DATED this 6th day of February, 19 95

By: 
(Authorized Signer)

Title: Chief Referee

Statutory Authority: ORS 183.545 and 197.820(4)

Chapter(s) _____, Oregon Laws 19 _____

House Bill(s) _____, 19 _____ Legislature; or Senate Bill(s) _____, 19 _____ Legislature

Subject Matter: **Amends contents of the record. Clarifies that record includes "items placed before, and not rejected by, the decision maker" during governing body's proceeding. Adds various notices to list of what is included in the record. Requires tapes retained by governing body until the time of oral argument to be listed on the table of contents of the record.**

For Further Information Contact: Jan Zwemke

(Rule Coordinator)

Phone: 373-1265

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON
Amendment To OAR 661-10-025

Record

661-10-025 (1) Contents of Record: Unless the Board otherwise orders, or the parties otherwise agree in writing, the record shall include [at least] the following:

(a) The final decision including any findings of fact and conclusions of law[;].

(b) All written testimony and all exhibits, maps, documents or other written materials [included as part of the record] placed before, and not rejected by, the decision maker during the course of the governing body's proceeding.

(c) Minutes and tape recordings of the meetings conducted by the governing body as required by law. A verbatim transcript of audiotape or videotape recordings shall not be required, but if a transcript has been prepared, it shall be included. If a verbatim transcript is included in the record, the tape recordings from which that transcript was prepared need not be included in the record.

(d) Notices of proposed action, public hearing and adoption of a final decision, if any, published, posted or mailed during the course of the land use proceeding, including affidavits of publication, posting or mailing. Such notices shall include any notices concerning amendments to acknowledged comprehensive plans or land use regulations given pursuant to ORS 197.610(1) or 197.615(1) and (2).

(2) Transmittal of Record: The governing body shall, within 21 days after service of the Notice on the governing body, transmit to the Board the original or a certified copy of the record of the proceeding under review. The governing body may, however, retain any large maps, tapes, or documents which are difficult to duplicate, until the date of oral argument. Transmittal of the record is accomplished by delivery of the record to the Board, or by receipt of the record by the Board, on or before the due date.

(3) Service of Record: Contemporaneously with transmittal, the governing body shall serve a copy of the record, exclusive of large maps, tapes, and documents which are difficult to duplicate, on the petitioner or the lead petitioner, if one is designated. The governing body shall also serve a copy of the record on any other party, including intervenors-petitioner, requesting a copy provided such other party reimburses the governing body for the reasonable expense incurred in copying the record. The governing body shall also serve a copy of any tape included in the record, or any tape from which a transcript included in the record was prepared, on any party requesting such a copy, provided such party reimburses the governing body for the reasonable expense incurred in copying the tape.

(4) Specifications of Record:

(a) The record shall:

(A) Be filed in a suitable folder; the cover shall bear the title of the case as it appears in the Notice, and the Board's numerical designation for the case, and shall indicate the numerical designation given the land use decision or limited land use decision by the governing body;

(B) Begin with a table of contents, listing each item contained therein, and the page of the record where the item begins (see Exhibit 2), and listing each large map, tape or document retained by the governing body under subsection (2) of this rule;

(C) Be securely fastened on the left side;

(D) Have pages numbered consecutively, with the page number at the bottom right-hand corner of each page;

(E) Be arranged in inverse chronological order, with the most recent item on top.

(b) A record which does not conform to the preceding requirements shall not be accepted by the Board.

(5) If no record objection is filed and the governing body transmits an amendment to the record, the date the amendment is received by the Board shall be considered the date the record is received for the purpose of computing time limits as required by these rules.

Implements: ORS 197.830(9)(a) and (14); 197.835.