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ify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the

Land Use Board of Appeals	661
Agency and Division	Administrative Rules Chapter Number
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To become effective 01/01/2017 Rulemaking Notice was published in the December 2016 Oregon Bulletin.

**RULE CAPTION**

Amendments to change word limit for briefs; requires certification of rule compliance; house keeping amendments

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**  
661-010-0000, 661-010-0005, 661-010-0015, 661-010-0021, 661-010-0025, 661-010-0030, 661-010-0035, 661-010-0050, 661-010-0068, 661-010-0075

**REPEAL:**

**RENUMBER:**

**ADD AND RENUMBER:**

**Statutory Authority:**

ORS 197.820(4)

**Other Authority:**

**Statutes Implemented:**

ORS 34.102; 197.805; 197.620; 197.830 (1), (2), (7), (9), (10), (11), (12), (13), (14), (15); 197.835; 197.845

**RULE SUMMARY**

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 required a 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. P 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.

#### Stays

OAR 661-010-0068(4): Revises the rule to conform to LUBA's prior practice of accepting cashier's checks or bank-certified checks in lieu of an undertaking.

#### 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)(i).

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Rules Coordinator Name

Email Address

## **661-010-0000**

### **Introduction**

Scope of Rules and Effective Date: All proceedings commenced by a notice of intent to appeal filed after January 1, 2017 shall be governed by these rules. Any proceedings commenced by a notice of intent to appeal filed on or before January 1, 2017 shall be governed by OAR 661-010-0005 through 661-010-0075 as effective January 1, 2014. Proceedings commenced on or before January 1, 2014 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.

Stat. Auth.: ORS 197.820(4) Stats. Implemented: ORS 197.805

## **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) or a petition for review under OAR 661-010-0030(1) is not a technical violation.

Stat. Auth.: ORS 197.820(4)

Stats. Implemented: ORS 197.805

## **661-010-0015**

### **Notice of Intent to Appeal**

#### (1) Filing of Notice:

(a) The Notice, together with two copies, and the filing fee and deposit for costs 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 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 the date the Notice is received by the Board, or 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.

(c) If a Notice is received without payment of the fee and deposit required by section (4) of this rule, the petitioner will be given an opportunity to submit the required fee and deposit. If the filing fee and deposit for costs are 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 and deposit, 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 of intent to appeal is required to be filed. Service of the Notice as required by this section may be in person or by first class mail. 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. The date of serving such notice shall be the date of personal service, mailing, or electronic mailing.

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 and telephone number of each of the following:

(A) The Petitioner. If the petitioner is not represented by an attorney, the petitioner's name, address and telephone number shall be included. If an attorney represents the petitioner, the attorney's name, address and telephone number shall be substituted for that of the petitioner. If two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner, but the Notice shall include the names, addresses, and telephone numbers of all such unrepresented petitioners. See OAR 661-010-0075(7)(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 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 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.

(4) Filing Fee and Deposit for Costs: The Notice shall be accompanied by a filing fee of \$200 and a deposit for costs in the amount of \$200 payable to the Land Use Board of Appeals. One check, State of Oregon purchase order or money order for \$400 may be submitted. If a check providing the filing fee or deposit for costs or both is returned for insufficient funds and the filing fee and deposit for costs are not paid within the time set by the Board, the Board shall dismiss the appeal. Cash shall not be accepted.

Stat. Auth.: ORS 197.820(4)

Stats. Implemented: ORS 197.620, 197.830(1) & (9)

#### **661-010-0021**

#### **Withdrawal of Decision for Reconsideration**

) If a local government or state agency, pursuant to ORS 197.830(13)(b), withdraws a decision for the purposes of reconsideration, it shall file a notice of withdrawal with the Board on or before the date the record is due or, on appeal of a decision under 197.610 to 197.625, the local government shall file a notice of withdrawal prior to the filing of the respondent's brief. A copy of the decision on

reconsideration shall be filed with the Board within 90 days after the filing of the notice of withdrawal or within such other time as the Board may allow.

2) The filing of a notice of withdrawal under section (1) of this rule shall suspend proceedings on the appeal until a decision on reconsideration is filed with the Board, or the time designated therefor expires, unless otherwise ordered by the Board. If no decision on reconsideration is filed within the time designated therefor, the Board shall issue an order restarting the appeal.

(3) A copy of the decision on reconsideration under section (1) of this rule shall be filed with the Board within 7 days after the local government or state agency issues the decision on reconsideration and copies of the decision on reconsideration shall be served on all parties. The first page of the decision on reconsideration, or an accompanying transmittal letter, shall indicate the title and case number of the pending appeal before the Board.

(4) Petitioner(s) may seek review of the decision on reconsideration as provided in section (5) of this rule. Any other person may file a notice of intent to appeal the decision on reconsideration as provided in OAR 661-010-0015. If such an appeal is filed, and a petitioner files an amended notice of intent to appeal or refiles the original notice of intent to appeal as provided in section (5) of this rule, any party may move to consolidate the appeals challenging the decision on reconsideration as provided in OAR 661-010-0055.

(5) After the filing of a decision on reconsideration:

(a) If the petitioner wishes review by the Board of the decision on reconsideration:

(A) Except as provided in paragraph (B) of this subsection, the petitioner shall file an amended notice of intent to appeal together with two copies within 21 days after the decision on reconsideration is received by the Board.

(B) In the event the local government or state agency affirms its decision or modifies its decision with only minor revisions, the petitioner may refile the original notice of intent to appeal, with the date of the decision on reconsideration indicated thereon, together with two copies within 21 days after the decision on reconsideration is received by the Board.

2) Refiling of the original notice of intent to appeal or filing of an amended notice of intent to appeal is accomplished by delivery of the Notice to the Board, or receipt of the Notice by the Board, on or before the due date. Filing or refiling may also be accomplished by mailing on or before the due date by first-class, certified or registered mail.

(c) An amended notice of intent to appeal or a refiled notice of intent to appeal under paragraphs (A) and (B) of subsection (5)(a) of this rule shall conform with the requirements of OAR 661-010-0015(3) and shall be served on the following:

(A) All parties to the appeal suspended pursuant to section (2) of this rule;

(B) 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 and telephone number of the applicant's attorney shall also be included;

(C) Any other person 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, as shown on the governing body's records. The telephone number may be omitted for any such person.

(d) No additional filing fee or deposit for costs shall be required to refile the original notice of intent to appeal or file an amended notice of intent to appeal under subsection (5)(a) of this rule.

(e) If no amended notice of intent to appeal is filed or no original notice of intent to appeal is refiled, as provided in subsection (5)(a) and (b) of this rule, the appeal will be dismissed.

(f) Parties who have already intervened in the 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.

2) The local government or state agency shall, within 21 days after service of the amended notice of intent to appeal or refiled original notice of intent to appeal under subsection (5)(a) of this rule, transmit to the Board a certified copy of the record of the proceeding under review in accordance with OAR 661-010-0025. The record submitted by the local government or state agency in an appeal of a decision on reconsideration shall include the record of the original decision and the decision on reconsideration.

Stat. Auth.: ORS 197.820(4)

Stats. Implemented: ORS 197.830(13)(b)

## **661-010-0025**

### **Record**

(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 materials specifically incorporated into the record or placed before, and not rejected by, the final decision maker, during the course of the proceedings before the final decision maker.

(c) Minutes and tape, CD, DVD or other media recordings of the meetings conducted by the final decision maker as required by law, or incorporated into the record by the final decision maker. A verbatim transcript of media recordings shall not be required, but if a transcript has been prepared by the governing body, it shall be included. If a verbatim transcript is included in the record, the media recordings from which that transcript was prepared need not be included in the record, unless the accuracy of the transcript is challenged.

(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:

(a) The governing body shall, within 21 days after service of the Notice on the governing body, transmit to the Board a certified paper copy of the record of the proceeding under review. The governing body may, however, retain any large maps, media recordings, or difficult-to-duplicate documents and items until the date of oral argument. Where documents are retained until the date of oral argument, those retained documents shall be identified in the table of contents, as provided in OAR 661-010-0025(4)(B). 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.

(b) As an alternative to transmitting a certified paper copy of the record, a local government may transmit the record to the Board in electronic format. Transmittal of an electronic copy is accomplished by delivery of two complete copies of the record on optical disks, with documents recorded in a PDF format. If the record exceeds 100 pages, the electronic copy shall be searchable. A local government may transmit the record in electronic form, and also retain items until oral argument as described in OAR 661-010-0025(2)(a).

(3) Service of Record:

(a) Contemporaneously with transmittal, the governing body shall serve a paper copy of the record, exclusive of large maps, media recordings, and difficult-to-duplicate documents and items, on the petitioner or the lead petitioner, if one is designated. The governing body shall also serve a paper copy of the record on any other party, including intervenors-petitioners, 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 media recording included in the record, or any recording 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 recording.

(b) By prior agreement of the party to be served, service of the record as described in OAR 661-010-0025(3)(a) may be in an electronic format instead of a paper copy.

(4) Specifications of Record:

(a) The record, including any supplements or amendments, shall:

(A) Be filed in a suitable folder; the cover shall bear the title of the case as it appears in the Notice or in the Board's order consolidating multiple appeals, 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; if the record consists of multiple volumes, the cover shall indicate the page numbers contained in each volume;

(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).

(i) Where an item listed in the table of contents includes attached exhibits, the exhibits shall be separately listed as an exhibit to the item. Where the exhibit is also a document that is being retained under OAR 661-010-0025(2), the exhibit shall also be listed at the end of the table of contents as provided in subsection (ii) below.

(ii) Where large maps, media recordings, or other items or documents are retained by the governing body under section (2) of this rule, those retained items shall be separately listed at the end of the table of contents;

(C) Be securely fastened on the left side;

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

(E) Be arranged in inverse chronological order, with the most recent item first. Exhibits attached to a record item shall be included according to the numerical or alphabetical order in which they are attached, not the date of the exhibits. Upon motion of the governing body, the Board may allow the record to be organized differently.

(b) Where the record includes the record of a prior appeal to this Board, the table of contents shall specify the LUBA number of the prior appeal, and indicate that the record of the prior appeal is incorporated into the record of the current appeal.

(c) A record that does not substantially conform to the preceding requirements may be rejected by the Board.

) 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.

Stat. Auth.: ORS 197.820(4)

Stats. Implemented: ORS 197.830(10)(a), 197.830(14) & 197.835

### **661-010-0030**

#### **Petition for Review**

(1) Filing and Service of Petition: The petition for review together with four copies 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 and forfeiture of the filing fee and deposit for costs 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.

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

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

(b) Not exceed 14,000 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. 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 50 pages, or 35 pages if typewritten in 12 point type;

(c) 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 and telephone numbers of all parties unrepresented by an attorney. If a party is represented by an attorney, the name, 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;

(d) Be typewritten or word-processed in proportionately spaced font such as Times New Roman no smaller than 14 point type both for text and for footnotes or if typewritten no smaller than 12 point type;

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

(f) 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;

(g) Be printed on 8-1/2 by 11 inch paper, with numbers for each line of text;

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

(i) 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.

(j) 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.

(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.

) 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.

Stat. Auth.: ORS 197.820(4)

Stats. Implemented: ORS 197.830(11), (12) & (13)(a)

### **661-010-0035**

#### **Respondent's Brief**

(1) Filing and Service of Brief: Unless otherwise provided by the Board, respondent's brief together with four copies shall be filed within 42 days after the date the record is received or settled by the Board. See OAR 661-010-0025(2) and 661-010-0026(6). A copy of the respondent's brief shall be served on the petitioner or the lead petitioner, if one is designated, and all intervenors or the lead intervenor, if one is designated.

) Specifications of Brief: Respondent's brief shall conform to the specifications of the petition for review at OAR 661-010-0030(2), except that the brief shall have red front and back covers. If there is more than one respondent, the front cover page shall specify which respondent is filing the brief. Respondent's brief shall be subject to OAR 661-010-0030(3).

#### (3) Contents of Brief:

(a) The respondent's brief shall follow the form prescribed for the petition for review, but need not contain the final decision. The respondent shall specifically accept the petitioner's statement of the case or shall cite any alleged omissions or inaccuracies therein, and may state additional relevant facts or other matters. The statement shall be in narrative form with citations to the pages of the record where the facts alleged can be found.

(b) Respondent shall accept or challenge petitioner's statement of the Board's jurisdiction and petitioner's statement of standing. The basis for any challenge shall be stated. If respondent contends that the facts alleged by petitioner in support of standing are not true, respondent shall specify which allegations are contested.

(c) A response brief shall not include an assignment of error or cross-assignment of error.

(4) The respondent's brief may include appendices containing verbatim transcripts of media recordings that are part of the record.

(5) Amended Brief: The Board may allow the filing of an amended brief in accordance with OAR 661-010-0005.

(6) Response briefs that respond to a cross petition for review shall be filed within the time limit required for filing the response brief under subsection (1) of this rule and must comply in all respects with the requirements governing response briefs.

Stat. Auth.: ORS 197.820(4)

ats. Implemented: ORS 197.830(13)(a)

## **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. When two or more intervenors join in a motion to intervene and are unrepresented by an attorney, a lead intervenor shall be designated as the contact person for the purpose of receiving documents from the Board and other parties. The motion to intervene (see Exhibit 3) shall:

(a) List the names, addresses, and telephone numbers of all persons moving to intervene. If an attorney represents the intervenor(s), the attorney's name, address and telephone number shall be substituted for that of the intervenor(s);

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

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

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

(e) Be served upon the Board and all parties.

(3) Filing Fee: A motion to intervene shall be accompanied by a filing fee of \$100 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) Intervenors' Brief:

(a) If intervention is sought as a petitioner, the 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) If intervention is sought as a respondent, the 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 petition for review or response brief, as appropriate, and a single joint cross-petition for review or response to a cross-petition for review, as appropriate.

Stat. Auth.: ORS 197.820(4)

Stats. Implemented: ORS 197.830(2) & (7)

## **661-010-0068**

### **Stays**

(1) A motion for a stay of a land use decision or limited land use decision shall include:

- (a) A statement setting forth movant's right to standing to appeal the decision;
  - (b) A statement explaining why the challenged decision is subject to the Board's jurisdiction;
  - (c) A statement of facts and reasons for issuing a stay, demonstrating a colorable claim of error in the decision and specifying how the movant will suffer irreparable injury if a stay is not granted;
  - (d) A suggested expedited briefing schedule;
  - (e) A copy of the decision under review and copies of all ordinances, resolutions, plans or other documents necessary to show the standards applicable to the decision under review.
- (2) A copy of a motion for stay shall be served on the governing body and the applicant for the land use decision or limited land use decision, if any, on the same day the motion is filed with the Board.
- (3) Unless otherwise ordered by the Board, a response to a motion for a stay of a land use decision or limited land use decision shall be filed within 14 days after the date of service of the motion and shall set forth all matters in opposition to the motion and any facts showing any adverse effect, including an estimate of any monetary damages that will accrue if a stay is granted.
- (4) An order granting a stay of a quasi-judicial land use decision or limited land use decision involving a specific development of land shall be conditional upon filing an undertaking or a cashier's check or bank-certified check in the principal amount of \$5,000. In all other cases an undertaking, if ordered by the Board, shall be in the amount set forth in the order granting the stay. All undertakings shall be substantially in the form as set forth in Exhibit 4, and shall be accompanied by proof that the surety is qualified by law to issue surety insurance as defined in ORS 731.186. Any objections to the form of undertaking or the surety shall be filed within 14 days after the date of service of a copy of the undertaking on the objecting party.
- (5) The Board shall base its decision on the stay, including the right to a stay, amount of undertaking, or conditions of any stay order, upon evidence presented. Evidence may be attached to the motion in the form of affidavits, documents or other materials, or presented by means of a motion to take evidence outside the record. See OAR 661-010-0045.

Stat. Auth.: ORS 197.820(4)  
 Stats. Implemented: ORS 197.845

**661-010-0075**  
**Miscellaneous Provisions**

- (1) Cost Bill and Attorney Fees:
- (a) Time for Filing: The prevailing party may file a cost bill or a motion for attorney fees, or both, no later than 14 days after the final order is issued. The prevailing party shall serve a copy of any such cost bill or motion for attorney fees on all parties.
  - (b) Recoverable Costs: Costs may be recovered only for the items set forth in this subsection.
    - (A) If the petitioner is the prevailing party, the petitioner may be awarded the cost of the filing fee.
    - (B) If the governing body is the prevailing party, the governing body may be awarded copying costs for the required number of copies of the record, at 25 cents per page, whether or not the governing body actively participated in the review.
    - (C) Costs awarded to the governing body pursuant to this section shall be paid from the deposit required by OAR 661-010-0015(4) and shall not exceed the amount of that deposit.
    - (D) If an intervenor under OAR 661-010-0050 or a state agency under OAR 661-010-0038 is the prevailing party, the intervenor or state agency may be awarded the cost of the fee to intervene or to file a state agency brief.

(c) Forfeiture of Filing Fee and Deposit: 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 cost bill pursuant to this section requesting forfeiture of the filing fee and deposit, the filing fee and deposit required by OAR 661-010-0015(4) shall be awarded to the governing body as cost of preparation of the record. See OAR 61-010-0030(1).

(d) Return of Deposit: After any award of costs under subsection (b) of this section is made, any amount of the deposit remaining shall be returned to petitioner.

(e) Attorney Fees:

(A) Attorney fees shall be awarded by the Board to the prevailing party as specified in ORS 197.830(15)(b); 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).

(f) 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. Objections to the cost bill shall be filed with the Board within 14 days after the date of service of the cost bill.

(g) If a cost bill, a motion for attorney fees, or both are filed, and the Board's decision is appealed to the Court of Appeals, the Board shall act on the cost bill or 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. Documents filed with the Board may include facsimile signatures.

(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) Delivery to the Board on or before the date due; or

(ii) Mailing on or before the date due by first class mail with the United States Postal Service. If the date of mailing is relied upon as the date of filing, the date of the first class postmark on the envelope mailed to the Board is the date of filing.

(b) Service:

(A) Any document filed with the Board, other than the record as provided in OAR 661-010-0025(3), or the record after withdrawal for reconsideration as provided in OAR 661-010-0021(6), 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, or by first-class mail. Mail service is complete on deposit in the mail.

(C) Service copies of documents other than the Notice or the record shall include a certificate showing the date 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 of personal delivery or deposit in the mail, 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: Unless these rules provide otherwise, all documents filed with the Board shall be filed with one copy. No copy of a record transmitted pursuant to OAR 661-010-0025(2), or a record after withdrawal for reconsideration transmitted pursuant to OAR 661-010-0021(6), is required.

(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) \$20 for a copy of a videocassette tape in the record.

(d) 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) Appearances Before the Board: An individual shall either appear on his or her own behalf or be represented by an attorney. A corporation or other organization shall be represented by an attorney. In no event may a party be represented by someone other than an active member of the Oregon State Bar. In the event someone other than an active member of the Oregon State Bar files a notice of intent to appeal on behalf of a corporation, other organization, or another individual, the individual filing the notice of intent to appeal will be given an opportunity to provide an amended notice of intent to appeal that conforms with this section. If an amended notice of intent to appeal is not filed within the time set by the Board, the Board will dismiss the appeal.

(7) Lead Petitioner or Intervenor:

(a) A lead petitioner is responsible for notifying the other petitioners of documents and communications received from the Board and other parties, but each petitioner remains responsible for his or her own representation.

(b) A lead intervenor is responsible for notifying the other intervenors of documents and communications received from the Board and other parties, but each intervenor remains responsible for his or her own representation. A lead intervenor's responsibilities under this subsection extend only to intervenors who joined in the lead intervenor's motion to intervene and does not extend to intervenors who filed separate motions to intervene.

(8) 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.

(9) Address and Hours of the Board: The Board's address is 775 Summer Street NE, Suite 330, Salem Oregon, 97301-1283. The telephone number is (503) 373-1265. The Board's office shall be open from 8:00 a.m. to 12:00 p.m., and 1:00 p.m. to 5:00 p.m. Monday through Friday.

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

(a) Reported Cases: John Doe v. XYZ County, 5 Or LUBA 654 (1981).

(b) Unreported Cases: John Doe v. XYZ County, \_\_\_ Or LUBA \_\_\_ (LUBA No. 80-123, February 15, 1981).

(11) 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 (11)(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.

(12) 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) After an appeal is transferred to LUBA, the Board, by letter, will establish a deadline for the petitioner to submit the deposit for costs and a deadline for the respondent to transmit the record.

(13) 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 and deposit for costs. 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.

(14) 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.

Stat. Auth.: ORS 197.820(4)(a) & (b)

Stats. Implemented: ORS 34.102, 197.830(9), (13)(a) & (15), 197.835(10) & 197.845(3)

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

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

Jane Smith, )  
 )  
 Petitioner, )  
 )  
 vs. ) LUBA No. \_\_\_\_\_  
 )  
 Willamette County, )  
 )  
 Respondent. )

NOTICE OF INTENT TO APPEAL

I.

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

II.

(a) Petitioner, Jane Smith, is represented by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

or

(b) Petitioner, Jane Smith, represents herself: [INDICATE ADDRESS AND TELEPHONE NUMBER]. [IF APPLICABLE] Petitioner, Jane Smith, is designated lead petitioner.

III.

1 Respondent, Willamette County, has as its mailing address and telephone  
2 number: [INDICATE MAILING ADDRESS AND TELEPHONE NUMBER]  
3 and has, as its legal counsel: [INDICATE NAME, ADDRESS AND  
4 TELEPHONE NUMBER OF ATTORNEY].

5 IV.

6 Applicant, John Developer, was represented in the proceeding below by:  
7 [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF  
8 ATTORNEY].

9 Other persons mailed written notice of the land use decision or limited  
10 land use decision by Willamette County, as indicated by its records in this  
11 matter, include: [INDICATE NAMES, ADDRESSES AND TELEPHONE  
12 NUMBERS OF ALL PERSONS WHOM THE GOVERNING BODY'S  
13 RECORDS INDICATE WERE MAILED WRITTEN NOTICE OF THE LAND  
14 USE DECISION OR LIMITED LAND USE DECISION. THE TELEPHONE  
15 NUMBERS OF SUCH PERSONS MAY BE OMITTED].

16 NOTICE:

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

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22

\_\_\_\_\_  
Petitioner (each petitioner must sign)

23

or

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\_\_\_\_\_  
Attorney for Petitioner(s)



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CERTIFICATE OF SERVICE

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this Notice of Intent to Appeal on all persons listed in paragraphs III and IV of this Notice pursuant to OAR 661-010-0015(2) by (a) first class mail or (b) personal delivery [INDICATE WHICH].

Dated:

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Signature

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**EXHIBIT 2**  
**(661-010-0025)**

**TABLE OF CONTENTS**  
**OF RECORD**

<u>ITEM</u>	<u>PAGE</u>
1. DLCD Notice of Adoption for Ordinance 13-01, mailed June 5, 2013. . . 1	
2. Notice of Decision mailed to participants June 5, 2013, with mailing list .....	5
3. Ordinance 13-01, adopted June 1, 2013, with attached Findings and Conclusions of Law.....	7
4. Final Minutes of the City Council Meeting June 1, 2013 .....	25
5. Testimony of John Doe, Chamber of Commerce, submitted June 1, 2013, with attachments.....	40
A. Economic Conditions Report, dated February 10, 2000.....	55
B. Article: Smart Growth is an Oxymoron.....	61
C: Employment Report, dated July 1, 2005.....	75
D. RETAINED EXHIBIT: City Map on posterboard.....	99
6. Staff Report dated May 24, 2013, with attachments.....	100
A. Revised Traffic Study dated March 1, 2013 .....	120
B. Revised Goal 10 Analysis dated April 1, 2013.....	150
7. Publication notice of June 1, 2013 City Council Meeting, published in the Oregonian May 25, 2013 and May 28, 2013.....	201
Etc.	
Exhibits Retained by City Until Time of Oral Argument Under OAR 661-010-0025(2)	
A. DVD recording of City Council meeting June 1, 2013.	

- 1 B. City Map on posterboard; see Record 99.
- 2 C. Audio Recording of Planning Commission hearing November 1,
- 3 2012.
- 4 D. The local record in the prior LUBA appeal, Younger v. City of
- 5 Portland, LUBA No. XXXX-XXX. **[NOTE: LUBA DOES**
- 6 **NOT RETAIN ITS RECORD COPIES. IF THE COPY**
- 7 **THAT WAS ON FILE WITH LUBA WAS RECYCLED OR**
- 8 **PICKED UP BY THE RESPONDENT, THE PRIOR**
- 9 **RECORD MUST BE TRANSMITTED TO LUBA AGAIN.]**

**Exhibit 7**

(661-010-0030)

Certificate of Compliance with Brief Length and Type Size Requirements

Brief Length

I certify that (1) this brief complies with the word-count limitation in OAR 661-010-0030(2) and (2) the word count of this brief as described in OAR 661-010-0030(2) is \_\_\_\_\_ words.

[or]

I certify that (1) I do not have access to a word-processing system that provides a word count; (2) this brief complies with the page limitation in OAR 661-010-0030(2); and (3) the number of pages in this brief is \_\_\_\_\_ pages and the font size is \_\_\_\_\_ point type.

[or]

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

Type Size

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

[or for typewritten briefs]

I certify that the size of the type in this brief is not smaller than 12 point for both the text of the brief and footnotes as required by OAR 661-010-0030(2).

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
SIGNATURE

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

3 BEFORE THE LAND USE BOARD OF APPEALS  
4 OF THE STATE OF OREGON

5  
6 Jane Smith, )  
7 Petitioner, )  
8 )  
9 vs. ) LUBA No. \_\_\_\_\_  
10 )  
11 Willamette County, )  
12 Respondent. )

13 MOTION TO INTERVENE

14 I.

15 John Davis moves to intervene on the side of (a) Petitioner or (b)  
16 Respondent [INDICATE WHICH] in the above-captioned appeal. Mr. Davis'  
17 (or his attorney's) address and phone number are as follows: [INDICATE  
18 ADDRESS AND PHONE NUMBER].

19 II.

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

23 III. [OPTIONAL]

24 In support of this motion, John Davis relies on the attached [affidavit,]  
25 Memorandum of Law [or both].

26 \_\_\_\_\_  
27 Date John Davis

28 or

29 \_\_\_\_\_  
30 Denise Neil, Attorney for John Davis

31  
32 [Add Certificates of Filing and Service on separate page. See Exhibits 5 & 6.]  
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**EXHIBIT 4**  
(661-010-0068)

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

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Jane Smith,	)	
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Petitioner,	)	
	)	
vs.	)	LUBA No. _____
	)	
Willamette County,	)	
	)	
Respondent.	)	

UNDERTAKING ON STAY

I.

Whereas, Jane Smith, the petitioner above named, has applied to the Land Use Board of Appeals for an order staying execution of that land use decision or limited land use decision described as [DESCRIBE LAND USE DECISION OR LIMITED LAND USE DECISION]; and

II.

Whereas, the Land Use Board of Appeals entered an order dated [INDICATE DATE] staying said land use decision or limited land use decision pursuant to ORS 197.845, subject to filing an undertaking with the Land Use Board of Appeals in the principal amount of \$\_\_\_\_\_.

III.

Now, therefore, we [INDICATE PETITIONER'S NAME(S)], the above-named petitioner, as principal, and [INDICATE SURETY NAME], a [INDICATE STATE OF INCORPORATION] corporation qualified by law to issue surety insurance as defined in ORS 731.186, as surety, hereby undertake

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1 that petitioner will pay all reasonable attorney's fees and actual damages which  
2 may be awarded by the Land Use Board of Appeals in the event the land use  
3 decision or limited land use decision above described shall be affirmed, but not  
4 to exceed the sum of \$ \_\_\_\_\_.

5 IV.

6 The condition of this obligation is that if the land use decision or limited  
7 land use decision above described is not affirmed, then this obligation shall be  
8 null and void; otherwise it shall remain in full force and effect.

9 Dated this \_\_\_ day of \_\_\_\_\_, 20\_\_.

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\_\_\_\_\_  
Principal

By:

\_\_\_\_\_  
Surety

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

**(Exhibit 5)**  
(661-010-0075)

Certificate of Filing

I hereby certify that on [DATE], I filed the original of this [NAME OF DOCUMENT], together with [INDICATE NUMBER OF COPIES] copies, with the Land Use Board of Appeals, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283, by [CERTIFIED OR FIRST CLASS MAIL OR PERSONAL DELIVERY (indicate which)].

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
SIGNATURE

**(Exhibit 6)**  
(661-010-0075)

Certificate of Service

I hereby certify that I served the foregoing [NAME OF DOCUMENT] for LUBA No. \_\_\_\_\_ on [DATE] by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

NAME  
ADDRESS  
CITY/STATE/ZIP

NAME  
ADDRESS  
CITY/STATE/ZIP

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
SIGNATURE