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**SECTION 2.**

LCC 1.1210 is amended to read:

**1.1210 Review Procedures**

The review of applications received under the provisions of this chapter shall be conducted according to the following procedures:

**(1) Procedure for action by the division on ministerial applications not subject to notification requirements:**

(a) The property owner or authorized agent shall submit an application to the division.

(b) Upon *[receipt of a complete application]* **determination that the application is complete**, the division may refer the application to affected cities, districts, local, state or federal agencies for comments.

(c) Within 10 days of *[receipt of a complete application]* **determining an application complete**, or such longer period as mutually agreed to by the division and the applicant, the division shall approve, *[disapprove]* deny or, at the director's discretion, refer the application to the Planning Commission *[in accordance with LCC 1.1210(3)]* **for consideration.**

(d) The applicant shall be notified in writing of the division's action.

(e) All actions of the division may be appealed to the **Planning Commission or other hearings body designated by the Board of Commissioners** pursuant to LCC 1.1267.

**(2) Procedure for action by the division on applications for permits as defined in ORS 215.402(4):**

NOTE: Matter in boldfaced type in an amended section is new, matter *[italic and bracketed]* is existing ordinance to be omitted. New sections are in boldfaced type.

1 (a) The property owner or authorized agent shall submit an application to the division.

2 (b) Upon *[receipt of a complete application]* **determination that the application is**  
3 **complete**, the division may refer the application to affected cities, districts, and local, state or  
4 federal agencies for comments.

5 (c) Within 30 days of *[receipt of a complete application]* **determining an application**  
6 **complete**, or such longer period as mutually agreed to by the division and the applicant, the  
7 division shall approve, *[disapprove]* **deny** or, at the director's discretion, refer the application to  
8 the Planning Commission *[in accordance with LCC 1.1210(3)]* **for consideration at a public**  
9 **hearing.**

10 *[(d) The applicant and all property owners within 250 feet of the boundaries of the*  
11 *subject property shall be notified in writing of the Division's action.*

12 (e) *All actions of the Division may appealed to the Commission pursuant to LCC*  
13 *1.1267.]*

14 (d) **Notice of a decision of the division to approve or deny an application shall:**

15 (A) **Be provided to the applicant and the owners of record of property on the most**  
16 **recent tax assessment roll of Lincoln County:**

17 (i) **Within 500 feet of the boundaries of the subject property in A-C and T-C zones.**

18 (ii) **Within 250 feet of the subject property in all other zones.**

19 (B) **Be provided to any neighborhood or community organization recognized by the**  
20 **Board of Commissioners and whose boundaries include the subject property;**

1           **(C) Explain the nature of the decision and the use or uses which could be**  
2 **authorized;**

3           **(D) List the applicable criteria from this chapter that apply to the subject decision;**

4           **(E) Set forth the street address or other easily understood information identifying**  
5 **the location of the subject property;**

6           **(F) State that a copy of the application, all documents relied upon by the applicant,**  
7 **and the applicable criteria are available for inspection at the division office at no cost and**  
8 **can be provided at a reasonable cost;**

9           **(G) State that a copy of the division's staff report and record of decision is available**  
10 **for inspection at no cost and can be provided at a reasonable cost;**

11           **(H) Provide the name and telephone number of the division staff person to contact**  
12 **for additional information; and**

13           **(I) Provide an explanation of the procedure and deadline for appealing the decision**  
14 **to the Planning Commission or designated hearings body for a public hearing.**

15           **(3) Procedure for action on applications or appeals subject to public hearing**  
16 **requirements:**

17           **(a) The property owner, *[or authorized]* agent or other party shall submit an *[complete]***  
18 **application or appeal to the division.**

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1           (b) **Within five days of [the receipt of a complete application] determining the**  
2 **application or appeal complete,** the division shall schedule the matter for public hearing before  
3 **the Planning Commission or designated hearings body.** *[The Division shall provide mailed*  
4 *and published notice in accordance with the requirements of LCC 1.1250. The Division may*  
5 *also refer the application to affected cities, districts, local, state or federal agencies for*  
6 *comments.*

7           (c) *Prior to the hearing, the Division shall provide the Commission a report, detailing the*  
8 *nature of the request and the applicable standards and criteria set forth in this chapter. A copy*  
9 *of the Division's report shall be provided to the applicant, and shall also be provided to other*  
10 *interested parties at a reasonable cost upon request.*

11           (d) *Upon conclusion of the hearing, the Commission shall approve or deny the*  
12 *application based on an evaluation of the proposal and the applicable criteria of this chapter.*

13           (e) *The applicant and parties establishing testimony on the record of the Commission's*  
14 *hearing shall be notified in writing of the Commission's action and the reasons for the action.*

15           (f) *All actions of the Commission may be appealed to the Board pursuant to LCC*  
16 *1.1268.]*

17           (c) **Upon determination that the application or appeal is complete, the division may**  
18 **refer the application to affected cities, districts, and local, state or federal agencies for**  
19 **comments.**

1           **(d) Notice for, and conduct of, public hearings provided for in this section shall be in**  
2 **accordance with LCC 1.1250 and 1.1255.**

3           **(e) Decisions of the Planning Commission or designated hearings body may be**  
4 **appealed to the Board of Commissioners pursuant to LCC 1.1268.**

5           **SECTION 3.**

6           LCC 1.1225 is amended to read:

7           **1.1225 Amendments**

8           The purpose of LCC 1.1225 to 1.1235 is to describe general requirements and criteria to  
9 be considered in reviewing an application for an amendment to the provisions of this chapter. An  
10 amendment may be made to the text of the Lincoln County Comprehensive Plan (LCC 1.0001 to  
11 1.0190), Zoning and Land Division Regulations (LCC 1.1101 to 1.3270), the Comprehensive  
12 Plan and Zoning Maps, or to the related land use ordinances incorporated into this chapter by  
13 reference. An amendment may be accomplished in either a legislative or quasi-judicial manner as  
14 follows:

15           **(1) Legislative amendments may be made only for the establishment of policy. Such an**  
16 **amendment may be initiated only by the Board or the Commission. A person may petition the**  
17 **Board or the Commission to initiate such a legislative amendment but may not initiate the**  
18 **amendment by making direct application. Such amendments shall be made only after a public**  
19 **hearing has been held pursuant to LCC 1.1250.**

1           (2) Quasi-judicial amendments may be made only for the application of established policy  
2 to specific properties in the county. Such amendments may be initiated by the Board, the  
3 Commission, or by the application of an owner of land or agent thereof. An application for an  
4 amendment by an owner or agent shall be made in accordance with the application procedure  
5 specified in LCC 1.1205. All quasi-judicial amendments shall be subject to the public hearing  
6 requirements of LCC 1.1250 and 1.1255.

7           **SECTION 4.**

8           LCC 1.1240 is amended to read:

9           **1.1240 Findings**

10           *[(1)]* Findings made by the decision-making body in justification of any action authorized  
11 pursuant to this chapter shall be made in writing and shall be provided to the applicant **and to**  
12 **parties establishing testimony on the record of any hearing.** Findings shall be made which are  
13 consistent and in conformance with the applicable regulations of this chapter. *[(2)]* The  
14 *[Planning]* division shall make a record of any public hearing before the **Planning Commission**  
15 and assist in drafting findings upon request by the Commission.

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1           **SECTION 5.**

2           LCC 1.1250 is repealed and the following is enacted in lieu thereof:

3           **1.1250 Notice of Public Hearings**

4           **(1) Legislative Hearings:**

5           **Notice of hearings for legislative amendments shall consist of a statement specifying**  
6 **the date, time, place and general subject of the hearing published in a newspaper of general**  
7 **circulation in the county at least 10 days prior to the hearing. In addition, notice shall be**  
8 **provided in accordance with ORS 215.503 and 215.513, unless such notice is not required**  
9 **under ORS 215.508.**

10          **(2) Quasi-Judicial Hearings:**

11          **Notice of quasi-judicial hearings for the consideration of applications and appeals**  
12 **provided for in this chapter shall:**

13          **(a) Be provided in writing to the applicant and to the owners of record of property**  
14 **on the most recent tax assessment roll of Lincoln County:**

15           **(A) Within 500 feet of the boundaries of the subject property in A-C and T-C zones.**

16           **(B) Within 250 feet of the subject property in all other zones.**

17          **(b) Be provided to any neighborhood or community organization recognized by the**  
18 **Board of Commissioners and whose boundaries include the subject property;**

19          **(c) Explain the nature of the decision and the use or uses which could be authorized;**

1           **(d) List the applicable criteria from this chapter that apply to the subject**  
2 **application;**

3           **(e) Set forth the street address or other easily understood information identifying**  
4 **the location of the subject property;**

5           **(f) State the date, time and location of the hearing;**

6           **(g) State that a copy of the application, all documents and evidence relied upon by**  
7 **the applicant, and applicable criteria are available for inspection at the division office at no**  
8 **cost and can be provided at a reasonable cost;**

9           **(h) State that a copy of the division's staff report is available for inspection at no**  
10 **cost and can be provided at a reasonable cost seven days prior to the hearing;**

11           **(i) Provide the name and telephone number of the division staff person to contact**  
12 **for additional information; and**

13           **(j) Include a general explanation of the requirements for submission of testimony**  
14 **and the conduct of hearings; and**

15           **(k) State that failure to raise an issue in the hearing, either in person or in writing,**  
16 **or failure to provide sufficient specificity to afford the hearings body an opportunity to**  
17 **respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.**

18           **(3) The failure of a property owner to receive notice as provided for in this section**  
19 **shall not invalidate the subject hearing proceeding provided that the division can**  
20 **demonstrate by affidavit that such notice was given.**

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**SECTION 6.**

LCC 1.1252 is amended to read:

**1.1252 Notice of Exception to Statewide Planning Goals**

Actions involving the consideration of exceptions to the Statewide Planning Goals shall be subject to the notice and hearing requirements of LCC 1.1250 and 1.1255. In addition, the required notice of public hearing shall specifically note the exceptions to be considered and shall summarize the issues in an understandable manner.

**SECTION 7.**

LCC 1.1255 is repealed and the following is enacted in lieu thereof:

**1.1255 Conduct of Quasi-Judicial Public Hearings**

Any quasi-judicial public hearing required by or provided for in this chapter shall be conducted in accordance with the following requirements:

**(1) Staff Report:**

At least seven days prior to the hearing, the division shall provide to the hearing body and make available to the public for inspection or purchase a report detailing the nature of the request and the applicable criteria of this chapter.

**(2) Application Materials:**

All application materials, documents or other evidence relied upon by the applicant for any land use approval shall be provided to the division and made available to the public at least 20 days prior to the hearing. If any documents or evidence in support of the

1 application are provided for consideration by the hearings body after 20 days prior to the  
2 hearing, any party shall be entitled to a continuance of the hearing.

3 **(3) Pre-Hearing Statement:**

4 At the commencement of the hearing, a statement shall be made by the hearings  
5 body or staff to those in attendance that:

6 **(a) Lists that applicable substantive criteria;**

7 **(b) States that testimony and evidence must be directed toward the criteria**  
8 **described in paragraph (a) of this subsection or other criteria in this chapter the party**  
9 **believes to apply to the subject request; and**

10 **(c) States that failure to raise an issue with sufficient specificity to afford the**  
11 **hearings body and the parties an opportunity to respond to the issue precludes appeal to**  
12 **the Land Use Board of Appeals on that issue.**

13 **(4) Presentation of Testimony:**

14 Unless otherwise provided for by the hearings body, the order of presentation of  
15 testimony shall be as follows:

16 **(a) Staff report.**

17 **(b) Presentation by the applicant or, in the case of an appeal of a prior decision, the**  
18 **appellant.**

19 **(c) Additional testimony by other parties in support of the application or appeal.**

20 **(d) Testimony by opponents or, in the case of an appeal, the respondent.**

1           **(e) Applicant's or, in the case of an appeal, appellant's, rebuttal arguments.**

2           **(5) Continuances:**

3           the hearings body may continue any hearing as deemed necessary to receive  
4 additional arguments or testimony or for further consideration of any evidence or  
5 testimony. A continuance may be provided for by the hearing body on its own motion or  
6 may be requested by a party. If the basis for a request for a continuance by a party is that  
7 new evidence or documents in support of the application have been submitted after 20 days  
8 prior to the hearing and, in the judgment of the hearings body, such evidence or documents  
9 have been submitted, the request for a continuance shall be granted. Such a continuance  
10 shall not be subject to the limitations of ORS 215.248. The granting of a request for a  
11 continuance on any other basis shall be at the discretion of the hearings body. No  
12 additional notice need be given of the continued hearing if the hearing is continued to a  
13 date and time certain.

14           **(6) Holding Open the Hearing Record:**

15           Unless there is a continuance, if a participant so requests before the conclusion of  
16 the hearing, the record of the hearing shall remain open for at least seven days after the  
17 conclusion of the hearing. Such an extension shall not be subject to the limitations of ORS  
18 215.248.

19        **////**

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1           **(7) Reopening the Hearing Record:**

2           **The hearings body may, on its own motion, or upon request of a party, reopen the**  
3 **record of any hearing previously concluded. When a hearing record is reopened to admit**  
4 **new evidence or testimony, any person may raise new issues which relate to the new**  
5 **evidence, testimony, or criteria for decision making which apply to the subject application**  
6 **or appeal.**

7           **SECTION 8.**

8           LCC 1.1267 is amended to read:

9           **1.1267 Appeals of Decisions of Planning Division**

10           Where it is alleged that there is an error in *[order, requirement, decision, or determination*  
11 *made by]* **any procedure or decision of the division** *[in the interpretation of this Chapter], an*  
12 *appeal may be made therefrom may be made [only] to the Commission [on a form prescribed by*  
13 *the Division] or such other hearings body as may be designated by order of the Board. [An*  
14 *appeal of a Division action not subject to notification requirements, as specified in LCC*  
15 *1.1210(1), shall be filed within 10 days of the effective date of the decision. An appeal of a*  
16 *Division action subject to property owner notification requirements, as specified in LCC*  
17 *1.1210(2), shall be filed within 15 days of the effective date of the decision. Such written appeal*  
18 *shall be filed with the Division and shall be accompanied by an appropriate filing fee.] An*  
19 **appeal of a ministerial decision of the division made pursuant to LCC 1.1210(1) shall be**  
20 **filed within 10 days of the effective date of the decision. An appeal of a decision of the**

1     **division on a permit made pursuant to LCC 1.1210(2) shall be filed within 15 days of the**  
2     **effective date of the decision. In the event that the final day for the filing of an appeal falls**  
3     **on a Saturday, Sunday or legal holiday, the period for the filing of an appeal shall be**  
4     **extended through the next working day. An appeal of a division decision shall be filed with**  
5     **the division and shall be accompanied by a written statement of the grounds for the appeal**  
6     **and any required filing fee. In the event that the party filing the appeal prevails at the**  
7     **initial hearing or upon subsequent appeal, the fee for the initial appeal of the division**  
8     **decision shall be refunded. Fees required for the filing of appeals of decisions of the**  
9     **division shall not apply to the Department of Land Conservation and Development nor to**  
10    **neighborhood or community groups recognized by the Board and whose boundaries**  
11    **include the property subject to the decision. Upon receipt of an appeal [*request*], the division**  
12    **shall schedule a public hearing before the Commission or other hearings body as designated**  
13    **by order of the Board. Public notice of the hearing shall be [*scheduled and public notice***  
14    ***mailed and published according to the public notice requirement contained in*] in accordance**  
15    **with LCC 1.1250.**

16            **SECTION 9.**

17            LCC 1.1268 is amended to read:

18            **1.1268 Appeals of Commission or Hearing Body Decisions**

19            Where it is alleged that there is an error in any [*order, requirement, decision, or*  
20    *determination*] procedure or decision made by the Commission or hearings body, an appeal

1    therefrom *[shall]* may be made *[only]* to the Board *[on a form prescribed by the Division]*.  
2    Such an appeal shall be filed with the division within 15 days of the subject decision *[on a*  
3    *proposed action and shall be accompanied by an appropriate filing fee]* of the Commission or  
4    hearings body. *[If an appeal is not filed within the 15 day period, the decision of the*  
5    *Commission shall be final. If an appeal is filed, the Board shall within 10 days thereafter receive*  
6    *a report, findings and recommendation thereon from the Commission.]* In the event that the  
7    subject decision falls on a Saturday, Sunday or legal holiday, the period for the filing of an  
8    appeal shall be extended through the next working day. An appeal of a Commission or  
9    hearings body decision subject to review by the Board pursuant to this section shall be filed  
10   on a form prescribed by the division and shall be accompanied by any required filing fee.  
11   When an appeal is filed, within 10 days of such filing, the division shall provide to the  
12   Board the record of the proceedings and decision of the Commission or hearings body. The  
13   Board shall hold a public hearing on *[an]* the appeal *[from the Commission and record its*  
14   *decision in the county clerk's office]*. The decision of the Board on an appeal shall be  
15   recorded within *[40]* 45 days of receiving the record *[from the Commission]* of the subject  
16   decision, unless a longer period of time is stipulated to by the parties.

17            SECTION 10.

18            LCC 1.1260 is repealed.

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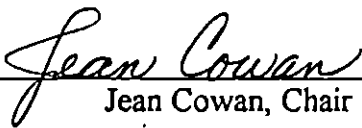
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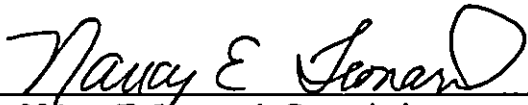
**SECTION 11.**

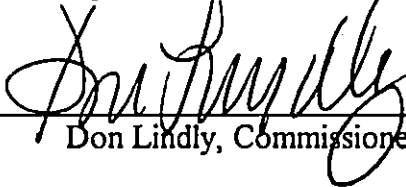
This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

DATED this 18th day of October, 1995.

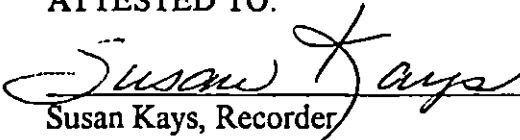
LINCOLN COUNTY BOARD OF COMMISSIONERS

  
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Jean Cowan, Chair

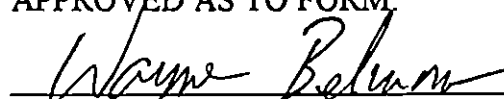
  
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Nancy E. Leonard, Commissioner

  
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Don Lindly, Commissioner

ATTESTED TO:

  
\_\_\_\_\_  
Susan Kays, Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Wayne Belmont, County Counsel

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