

DM. FENFOLD, Director of
General Services of Lane County
Madys Baird
DEPUTY

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 18-81

) IN THE MATTER OF AMENDING CHAPTERS
) 10, 13 and 14 of LANE CODE TO PROVIDE
) FOR 1. MANDATORY REFERRAL OF PARTITION
) AND SUBDIVISION APPLICATIONS TO THE
) WEST LANE COUNTY PLANNING COMMISSION,
) 2. REINSERTING BOTH PLANNING COMMISSIONS
) INTO QUASI-JUDICIAL ZONE CHANGE PROCESS,
) 3. MAKING CERTAIN HOUSEKEEPING REVISIONS,
) AND SETTING AN EFFECTIVE DATE

The Board of County Commissioners of Lane County ordains as follows:

Chapters 10, 13 and 14 of Lane Code are hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

INSERT THESE PAGES

10.315-35(3) - 10.315-55(1) to
10.315-65(3) - 10.315-90(4)
(a total of four pages)

10.315-35(3) - 10.315-55(1) to
10.315-90(3) - 10.315-90(4)
(a total of five pages)

10.315-95 - 10.315-95
(one page)

10.315-95 - 10.315-95
(one page)

13.110 - 13.110
(one page)

13.110(1) - 13.110(4)
(one page)

13.150(4) - 13.995
(one page)

13.150(4) - 13.995
(one page)

14.005 - 14.010(6) to
14.025(2) - 14.025(4)
(a total of four pages)

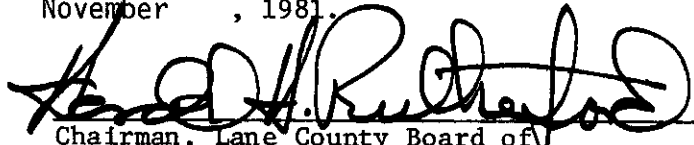
14.005 - 14.010(6) to
14.025(2) - 14.025(4)
(a total of four pages)


Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to provide for 1. mandatory referral of partition and subdivision applications to the West Lane County Planning Commission, 2. reinserting both Planning Commissions into quasi-judicial zone change process, 3. making certain housekeeping revisions. This Ordinance shall become effective and apply to all applications received on or after January 4, 1982.

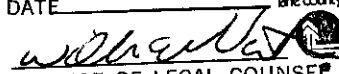
In the Matter of Amending Chapters 10, 13 and 14 of Lane Code to Provide for 1. Mandatory Referral of Partition and Subdivision Applications to the West Lane County Planning Commission, 2. Reinserting Both Planning Commissions into the Quasi-Judicial Zone Change Process, 3. Making Certain Housekeeping Revisions and Setting an Effective Date

In support of this Ordinance, the Board adopts the Findings set forth in attached Exhibit "A".

Enacted this 25 th day of November , 1981.


Chairman, Lane County Board of Commissioners


Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM
DATE _____  lane county
OFFICE OF LEGAL COUNSEL

In the Matter of Amending Chapters 10, 13 and 14 of Lane Code to Provide for
1. Mandatory Referral of Partition and Subdivision Applications to the West Lane County Planning Commission, 2. Reinserting Both Planning Commissions into the Quasi-Judicial Zone Change Process, 3. Making Certain Housekeeping Revisions and Setting an Effective Date

Rezoning and Amendments

10.315-35(3)

Lane Code

10.315-55(1)

The Planning Director may recommend an expansion of the geographical limits set forth in the Application, if, in his or her judgment, such expansion would result in better conformity with the criteria set forth in this Chapter for zonings and rezonings. The Planning Director shall present any such recommendation for expansion to the Planning Commission prior to the public hearing for determination whether the application shall be so expanded.

-40. Moratorium on Permits and Applications-Legislative Matters.

(1) After any matter for zoning, rezoning or amendment to this Chapter affecting particular property has received tentative action by the Board, but has not yet become final and effective, no Zoning, Land Division or Building Code Application or request shall be accepted, granted, issued or approved, except as herein provided.

(2) After such final action, granting of pending or subsequent Applications or requests shall be in accordance with the requirements of the Zoning District classification or requirements as amended by the final action.

(3) The provisions of this subsection (LC 10.315-40) shall not be applicable to the issuance of Building, Plumbing Permits, or on-site sewage for normal repairs or corrections, nor shall the provisions apply when the proposed Application or request meets both the requirements of the existing Zoning District requirement and the proposed change or amendment, or to the approval of a final minor partition, a major partition map, or subdivision plat.

-45. Investigation and Reports. The Planning Director shall make or cause to be made an investigation to provide necessary information to ensure that the action on each initiation or application is consistent with the criteria and requirements set forth in this Chapter. Any report of such investigation shall be submitted to the Hearing Authority for its consideration prior to or at the public hearing.

-55. Planning Commission Public Hearing and Notice--Legislative Matters.

(1) The Planning Commission shall hold not less than one public hearing on each proposed legislative zoning or rezoning and amendment to the requirements of this Chapter.

13-72; 7.21.72
6-80; 9.1.80
5-81; 4.8.81

Rezoning and Amendments

10.315-55(2)

Lane Code

10.315-57(3)

(2) Notice of the time and place of hearing shall be given at least 10 days in advance by publication in a newspaper of general circulation in the County or in the territory concerned.

(3) The Planning Commission shall review the Application or proposal and shall receive pertinent evidence and testimony as to why or how the proposed change is inconsistent with the criteria provided in LC 10.315-20 above for zoning, rezoning and amendment to the requirements of this Chapter. The Commission shall determine whether the testimony at the hearing supports a finding that the proposal does or does not meet the required criteria, and shall recommend to the Board of Commissioners accordingly that the proposal be adopted or rejected.

-57. Planning Commission Public Hearing and Notice-Specific Property Matters.

(1) The Planning Commission shall hold not less than one public hearing on each proposed specific property zoning or rezoning.

(2) Notice of the time and place of hearing shall be given, at least 10 days in advance, by publication in a newspaper of general circulation in the County or in the territory concerned and by mail to the applicant, property owner (if not the applicant) and the owners of all property within 300 feet of the exterior boundaries of the contiguous property ownership involved.

(3) The Planning Commission shall review the application or proposal and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent with the criteria provided in LC 10.315-20 above for zoning and rezoning matters. The Commission shall determine whether the testimony and evidence at the hearing supports a finding that the application does or does not meet the required criteria and shall adopt an Order approving or denying the application and enter with the Order Findings of Fact in support of its decision. The Commission's Order shall be final unless it is appealed to the Hearings Official in the manner set forth in LC 14.005(1) within 10 days from the Commission's adoption of an Order and Findings of Fact on the application. Such appeal shall be filed in written form with the Planning Division and shall state how the Planning Commission erred in its application of the requirements of this Chapter. An appeal to the Hearings Official shall be a jurisdictional requirement for any judicial or agency review of Final Orders.

13-72; 7.21.72
 17-73; 1.16.74
 6-80; 9.1.80
 5-81; 4.8.81

-10 Springfield Urban Growth Boundary. The City of Springfield shall have the responsibility and the authority to administer its land use regulations on urbanizable land within the Springfield Urban Growth Boundary. For the purpose of this subsection, the following words and phrases shall mean:

(1) Springfield Urban Growth Boundary. All land within the Urban Growth Boundary, as defined by the Eugene-Springfield Metropolitan Area General Plan on November 21, 1989, or as amended thereafter on the effective date of any Plan amendment enacted by Lane County, east of 1-5, excluding the area known as Glenwood (bounded on the north and east by the Willamette River and the west and south by 1-5).

(2) Urbanizable Land. Urbanizable lands, as defined by the Eugene-Springfield Metropolitan Area Plan, are those unincorporated lands between the Springfield City Limits and the Springfield Urban Growth Boundary.

-15 Applicable Land Use Regulations. Lane County has adopted the following land use regulations to be applied by Springfield on urbanizable land within the Springfield Urban Growth Boundary.

(1) The Springfield Development Code adopted by the Lane County Board of Commissioners as part of Ordinance No. 16-86, and amended by Ordinance Nos. 5-89, 18-90, 9-91, 13-91, 14-92 and 5-93.

(2) Copies of these applicable land use regulations shall be on file at the Lane County Land Management Division.

16-86, 11.24.86
 5-89; 5.31.89
 11-89; 11.21.89
 18-90; 12.19.90
 9-91; 9.20.91
 13-91; 9.25.91
 14-92; 1.8.93

10-358

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 REV: 1/cr/00202/T

Rezoning and Amendments

10.315-60(1)

Lane Code

10.315-65(2)

-60. Action by the Board of Commissioners.

(1) Upon receipt of an affirmative Planning Commission recommendation for legislative matters provided in LC 10.315-55 above, the Board of Commissioners shall schedule a public hearing as provided in LC 10.315-60(2) below. The Board may schedule such a public hearing in the absence of an affirmative Planning Commission recommendation.

(2) Prior to taking any action which would alter or modify a Planning Commission recommendation or Hearings Officials's Order, the Board of Commissioners may first refer the proposed alteration or modification to the Planning Commission or Hearings Official for a recommendation. Failure of the Commission or Hearings Official to report within 20 days after the referral, or such longer period as may be designated by the Board, shall be deemed to be approval of the proposed alteration or modification. It shall not be necessary for the Commission or Hearings Official to hold a public hearing on the proposed alteration or modification.

(3) In reversing a recommendation of the Planning Commission or Order of the Hearings Official, the Board of Commissioners shall indicate by Order the basis for its decision.

-65. Order of Intent to Rezone (also includes Rezoning of Specific Properties.)

(1) If, from the facts presented as required by this Code, it is determined by the Hearing Body that granting a Zoning or Rezoning Application would comply with the general purpose of this Chapter only if the property in question would be developed as proposed in a reasonable time rather than being in a state of speculative holding, the Hearing Body shall indicate its general approval in principle of the zoning or rezoning by the adoption of an "Order of Intent to Zone or Rezone" said property. This Order shall include any conditions, stipulations or limitations which the Hearing Body determines are necessary to require in the public interest as prerequisite to final action, including those provisions necessary to prevent speculative holding of the property after zoning or rezoning; and such conditions, stipulations or limitations shall be incorporated as part of the site plan as provided below.

(2) A site plan shall be required as provided in this Chapter for Site Review Permits and shall be binding upon the property. Upon approval of the Order of Intent by the Planning

13-72; 7.21.72
 17-73; 1.16.74
 1-76; 1.28.76
 17-79; 1.11.80
 14-80; 7.16.80
 6-80; 9.1.80
 5-81; 4.8.81

Rezoning and Amendments

10.315-65(2)

Lane Code

10.315-90(3)

Commission, the Hearings Official upon appeal, or the Board of Commissioners upon further appeal, the property under these provisions shall be plainly marked as "SR" on map attached as an exhibit to the Order and on the Zoning Map. Any approved site plan may be amended or it may be released from the restrictions of such site plan by Order of the Planning Commission. No other changes shall be made constituting a departure from the approved site plan except by amendment as herein provided unless the property has been released from the site plan.

(3) The fulfillment of all conditions, stipulations and limitations contained in the Order of Intent on the part of the applicant shall make the Order a binding commitment upon Lane County. Upon completion of compliance action by the applicant, the Planning Commission, the Hearings Official upon appeal, or the Board upon further appeal shall, by Ordinance or Order, effect such zoning or rezoning in the manner provided in LC 10.315-57 and -60 above. The failure of the applicant to meet any or all conditions, stipulations or limitations contained in the site plan within two years from the date of approval shall render the Order of Intent to Zone or Rezone null and void unless extension is requested prior to the expiration of the two-year period and is ultimately granted by the Planning Commission, Hearings Official upon appeal, or the Board upon further appeal. Extensions may be granted upon a showing by the applicant that significant progress has been made in pursuit of the approved conditions, stipulations and limitations contained herein.

-90. Official Zone District Ordinance and Zoning Maps.

(1) The establishment and change of boundaries of Districts shall be made by Ordinance or by Order. Attached and referenced to the Ordinance or Order shall be a map of the lands affected by the Ordinance or Order.

(2) Final zoning designations shall be marked on durable and accurate maps capable of being reproduced. One set of prints shall be made from the masters adopted by reference in the Ordinance and filed for record with the Ordinance. Subsequent zone changes or Zoning District boundary changes shall be made by Ordinance or Order and attached map, adopted by reference, and filed for record with the Ordinance or Order.

(3) A set of up-to-date Zoning Maps shall be maintained for the convenience of the County and the public. The Zoning Maps shall indicate the location and geographical boundaries of the various Districts and shall set forth the District classifications

13-72; 7.21.72
 17-73; 1.16.74
 1-76; 1.28.76
 17-79; 1.11.80
 14-80; 7.16.80
 6-80; 9.1.80
 5-8.; 4.8.81

Rezoning and Amendments

10.315-90(3)

Lane Code

10.315-90(4)

applicable to the land indicated on the Zoning Maps. The Zoning Maps shall be maintained on file in the Planning Division and shall be available at reasonable times for inspection by the public. All amendments to the original District boundaries shall be reflected on the Zoning Maps. On the face of new or revised maps shall be the appropriate reference numbers (e.g., Ordinance, Order or Journal Number) of the Ordinance or Ordinances or Order or Orders zoning the lands covered by the map.

(4) Where a Zone District boundary is to be determined by a map enacted under this section, rather than by a legal description, and where uncertainty exists regarding the specific zone boundary, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

(Go to next page)

13-72; 7.21.72
17-73; 1.16.74
1-76; 1.28.76
17-79; 1.11.80
14-80; 7.16.80
6-80; 9.1.80
5-81; 4.8.81

10.315-95

Lane Code

10.315-95

-95. Limitation on Refiling of Application. Applications for which a substantially similar Application has been denied within the previous year shall be heard by the Planning Commission only after the Commission's separate determination that for a good cause the Application may be refiled.

13-72; 7.21.72
1-76; 1.28.76
8-78; 5.17.78
6-80; 9.1.80
5-81; 4.8.81

Findings in Support of Code Amendment

Article 16 RESIDENTIAL ZONING DISTRICTS, Article 29 UF-10 URBANIZABLE FRINGE OVERLAY DISTRICT, AND Article 34 PARTITION STANDARDS of the Springfield Development Code

Establishes alternative partition standards in the urban transition area

Amendments to the Springfield Development Code must be based on conformance to the following criteria of SDC 8.030:

- (1) The Metro Plan
- (2) Applicable State statues; and,
- (3) Applicable State-wide Planning Goals and Administrative Rules.

Conformance to the Metro Plan

These amendments establish alternative partition standards for eligible sites in the urban transition area. This is a voluntary option that is available to property owners who want to create more than three parcels prior to annexation in areas targeted for city sewer extension within five years. In exchange for being allowed to submit series partitions, the owner must dedicate all right of way necessary to provide access to proposed and future lots, must create lots with a minimum area of 24,000 square feet, must improve all right of way to city standards prior to occupancy (including sanitary sewer dry lines), and must locate individual buildings on lots in a way that will enable future re-division upon annexation. Each parcel created through this process will include private recorded deed restrictions requiring annexation and connection to the sanitary sewer.

These amendments are consistent with and implement the following Metro Plan goals and policies:

Growth Management and the Urban Service Area

Goals

Use urban, urbanizable, and rural lands efficiently.

Encourage orderly and efficient conversion of land from rural to urban uses in response to urban needs, taking into account metropolitan and statewide goals.

Protect rural lands best suited for non-urban uses from incompatible urban encroachment.

These amendments apply only to land defined as urbanizable. A further qualification to eligibility requires the land to be within areas targeted by the city for sewer extension within 5 years. The majority of the city's urban transition area is not targeted for sewer extension within 5 years.

These amendments will provide orderly and efficient conversion of the urban transition area by achieving the following:

- * Dedication of all right of way determined by the city and county to be necessary for the full future urbanization of the subject property.
- * Improvements to public right of way will be completed to city standards and will occur prior to occupancy of dwellings parallel to the right of way.
- * Deed restrictions will obligate all current and future owners to annexation and sewer connection.
- * The 24,000 square foot minimum parcel size guarantees non-urban densities prior to annexation.
- * A re-division plan showing additional parcels at urban densities is required for all land using this partition alternative. The siting of dwelling units must be consistent with the future division plan.
- * Only those sites in areas targeted for city sewer extension within 5 years are eligible. All other areas are limited to a single partition prior to annexation.

Residential Land Use and Housing

Goal

Provide viable residential communities so all residents can choose sound, affordable housing that meets individual needs.

This alternative requires the platting of parcels that are at least 24,000 square feet. No other article or provisions of the SDC approaches this standard. These amendments provide for a housing opportunity (upper end) that cannot be guaranteed in any other circumstance, whether inside the city or elsewhere.

Policies

6. Review residential land development regulations to ensure that they encourage a variety of housing densities and types. (III-A-5)
8. Continue to encourage the dispersal of housing for all income groups. (III-A-5)

Economy

Goal

Broaden, improve, and diversify the metropolitan economy while maintaining or enhancing the environment.

The ability to create "estate lots" in areas where the market will accept them is a phenomenon that has been largely the domain of Eugene. A Springfield entry into this market will make this type of housing more

competitive and enhance the standing of existing dwellings. The larger lot size will provide more open or landscaped area within neighborhoods thereby enhancing the environment at the micro level.

Conformance to Applicable State Statutes

ORS 92, 197 and 227 confer planning, zoning and development approval authority to cities. These statutes require criteria of approval and zoning in conformance with the comprehensive plan. The proposed amendments carry out these requirements by specifying circumstances and standards for a particular use in a particular zoning district.

Conformance to Administrative Rules and State-wide Planning Goals

These amendments are consistent with Goal 2 LAND USE PLANNING in that it involves an "Ordinance controlling the use and construction on the land, such as building codes, sign ordinances, subdivision and zoning ordinances."

Under Goal 10 HOUSING, Planning Guideline #2 states: "Plans should be developed in a manner that insures the provision of appropriate types and amounts of land within urban growth boundaries. Such land should be necessary and suitable for housing that meets the housing needs of household of all income levels."

Under Goal 14 URBANIZATION, Implementation measures #1 and #4 state respectively: "The type, location and phasing of public facilities and services are factors which should be utilized to direct urban expansion." and, "Local land use controls and ordinances should be mutually supporting, adopted and enforced to integrate the type, timing and location of public facilities and services in a manner to accommodate increased public demands as urbanizable lands become more urbanized."

OAR 660-08-015 states: "Local approval standards, special conditions and procedures regulating the development of needed housing must be clear and objective, and must not have the effect, either of themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay."

These amendments provide residential opportunities that are intended to diversify local housing options. These amendments protect public investment by requiring installation of all city standard public facilities prior to occupancy and annexation. These amendments provide flexibility to property owners yet limit applicability to areas that will become incorporated within 5 years.

REVIEW COMMITTEE13.110 Land Development Review Committee.

(1) Establishment of Review Committee. The Land Development Review Committee is established to act in a technical review capacity for the Planning Commission and Board of Commissioners, and is authorized to perform such functions as provided for in the Lane Code and Lane Manual. The Review Committee shall consist of the following members or their duly authorized representatives:

- (a) Planning Director, who shall serve as Chairman.
- (b) Director, Department of Public Works.
- (c) Manager, Building and Sanitation Inspection Program.

(2) Responsibility of Review Committee. The Review Committee shall have the responsibility to examine all plan, map, and plat applications for compliance with the requirements of this Chapter and prepare appropriate written statements with respect to any matter or information deemed necessary for the applicant's or public's benefit. All written statements so prepared should be submitted to the Planning Director and applicant at least two days prior to any scheduled or anticipated official action on the application. In addition to the preparation of the individual written statements on an application, the members of the Review Committee shall also meet as a committee at a regularly scheduled public meeting to consider the application and form a committee recommendation thereon. The applicant and/or designated representative and all other parties or public agencies with an interest in the application shall be given notice, encouraged to attend the meeting and participate in the discussion. The Review Committee may schedule additional meetings on the application as may be necessary to obtain additional information.

(3) Referral to West Lane County Planning Commission. For applications arising within the West Lane County Planning Commission's jurisdiction, as set forth in LM 1.010, the Committee shall refer the application to the West Lane County Planning Commission for its review. After the West Lane County Planning Commission has made a recommendation, the Commission shall then forward the application to the Chairman of the Review Committee for appropriate action.

(4) Responsibility of Chairman, Review Committee. The Chairman of the Review Committee is authorized to take action on all matters relating to the approval, conditional approval, or disapproval of minor partition maps, tentative plans, major partition maps, and subdivision plats, and any modifications thereof as may be provided for in this Chapter. Prior to any final action, the Chairman shall review all pertinent information including, but not limited to, the individual written statements of the members of the Committee and the Committee's joint recommendation. Should approval involve implications of new or modified standards of policy, the Chairman may refer the matter to the Planning Commission for public hearing.

(4) Appeal. The procedure for appeal of the action on a modification request shall be the same as provided for appeals to partition or subdivision applications.

13.155 Appeals to and Hearings by the Hearings Official.

(1) Appeal. An appeal may be made to the Hearings Official by an interested person or County official within 10 days of the following actions or conditions:

(a) The appellant is dissatisfied with the final action of the Chairman of the Review Committee on an application for a tentative plan, map or plat, or a modification request;

(b) The Chairman of the Review Committee does not take action on a duly submitted application for a tentative plan, map or plat, or a modification request within 60 days after such application is so submitted; or

(c) The County Surveyor does not take action on a major partition map or subdivision plat within 25 days after such map or plat is so submitted by the Chairman of the Review Committee.

The appeal notice shall be filed in written form with the Planning Division and shall include a concise statement of the grounds upon which the appellant claims the action appealed from was erroneous.

(2) Procedure for Appeals. The procedure for appeals of Chapter 13, "Land Divisions" decisions shall be as specified in Chapter 14, "Appeals."

(3) Notification of Action on Appeals. Within 10 days following consideration by the Hearings Official on appeal, the appellant shall be notified of the Hearings Official's action by the Hearings Official.

13.995 Penalties. Violation of any provision of LC 13.025 above is punishable, upon conviction, by a fine of not less than \$50, nor more than \$5,000, or by imprisonment in the County Jail for a period not to exceed six months, or by both.

14.005

Lane Code

14.010(6)

Land Use Hearings and Appeals Procedure

Hearings Official Procedures

14.005 Jurisdiction of the Hearings Official to Hear Appeals of Administrative and Planning Commission Decisions.

(1) The Hearings Official shall hear appeals of administrative and Planning Commission land use decisions as provided in LC 10.315-57, 10.316-50, 10.330-60, 10.335-60, 10.350-50, 11.100-30(1), 11.520, 13.155 and 15.900.

(2) The Hearings Official shall hear any other matter designated by the Board in the Lane Code or Lane Manual.

14.010 Appeal Procedure.

(1) An appeal may be made to the Hearings Official by the applicant or any person who is adversely affected or aggrieved by the decision or County Official as defined in LC 14.050(1). Such appeal shall be filed in written form with the Planning Division within 10 days of the Director's or Planning Commission's action, stating how the Director or Commission erred in application of the requirements of the Lane Code.

(2) The Hearings Official shall hold not less than one public hearing within 90 days of the filing of the notice of appeal.

(3) Notice of the place of hearing shall be given at least 10 days in advance, by mail to the applicant, appellant (if not the applicant), and the owners of all property within 300 feet of the exterior boundaries of the contiguous property ownership involved.

(4) For rezoning applications pursuant to LC 10.315-57, notice of the time and place of hearing shall also be given, at least 10 days in advance, by publication in a newspaper of general circulation in the County or in the territory concerned.

(5) Prior to the public hearing the Director shall forward to the Hearings Official a copy of the application, and all pertinent data, including a copy of the Director's or Planning Commission's decision with findings.

(6) The Hearings Official shall review the application and shall receive pertinent evidence as to the consistency of the proposed action with the appropriate criteria. The Hearings Official shall determine whether the evidence presented at the hearing is sufficient to show that the required criteria have been met, and shall affirm or deny the appeal or require such changes or impose such reasonable conditions of approval as are in the Hearings Official's judgment necessary to ensure conformity to the criteria.

(7) The Hearings Official shall make a decision and enter findings and conclusions based on the record. The findings (Facts relied upon) and conclusions (Justification) shall set forth and demonstrate the manner in which the decision carries out

14.010(v)

Lane Code

14.015

the applicable criteria. The Hearings Official shall render a written decision and mail a copy of said decision to the applicant, appellant and other parties of record who have requested the same within 10 days of the conclusion of the public hearing. Decisions by the Hearings Official become final after an elapsed period of 10 days from the date of the written decision is issued unless appealed to the Board of Commissioners within that 10-day period in accord with the provisions of LC 14.025 or unless the Board of Commissioners, on its own motion, orders a review within 10 days of the date the written decision is revealed.

(8) In reversing the Director or Planning Commission, the Hearings Official shall indicate the error of the Director or Commission and the basis of the reversal.

(9) Unless otherwise specified, in other provisions of Lane Code, the Hearings Official shall hear and act upon all applications and appeals within his or her authority within 90 days of receipt of the application or receipt of the appeal unless such time limitation is extended with the consent of the applicant or appellant; provided, however, that unless otherwise ordered by the Board of County Commissioners, the Planning Director shall schedule before the Hearings Official applications and appeals, respectively in the order in which they are filed with him or her, and shall not accept applications which he or she deems cannot be acted upon within 90 days of receipt unless the applicant consents to a longer period for action.

(10) The hearing on the application may be continued from time to time and no additional notice need be given by the Hearings Official if the hearing is adjourned to a date certain, unless so ordered by the Hearings Official.

(11) Where the applicable criteria require the Board of County Commissioners rather than a Hearings Official to make a finding, the Hearings Official shall issue a recommendation on that issue and a final decision on all others. The matter shall then proceed to the Board for the entry of a final order and findings on the matter required to be determined by the Board, without the necessity of an appeal. If a party wishes to place at issue other criteria besides the one the Hearings Official issued a recommendation on, they must file a Notice of Appeal as specified in LC 14.025.

14.015 Requests for Interpretation of County Policy. When, prior to or in the course of a hearing, the Hearings Official finds that the case raises a substantial question involving either the application or interpretation of a policy that has not been clarified in sufficient detail, the Hearings Official may submit that question of application or interpretation in written form to the Board of Commissioners for its determination.

14.015

Lane Code

14.025(2)

The Board, at its discretion, may elect to accept or reject the Hearings Official's request. When such a question is accepted by the Board, those persons receiving notice of the Hearings Official Hearing, the applicant or appellant may submit in writing their view as to what the application or interpretation should be. Such persons shall restrict their statements to the issue of interpretation or application as stated by the Hearings Official and shall not present the Board with arguments or evidence immaterial to the determination sought, even though such evidence or argument may be relevant to the Hearings Official's final decision.

The Board shall render its written determination within 45 days after receipt of the question from the Hearings Official. Said decision shall be transmitted to the Hearings Official, who will then apply the interpretation or application made to the case and render a decision on the appeal.

Board Procedures

14.020 Appeal to Board of County Commissioners. The Board of County Commissioners has jurisdiction to hear appeals of the Hearings Official's decision arising from LC 10.317-60, 10.320-60, 10.322-45, 10.325-60, 10.700-515(2), 10.700-615(3), 14.005(1) and 14.010(6) or any other matter heard by the Hearings Official pursuant to Chapters 9, 10, 11, 12, 13, 14 and 15 of the Lane Code.

14.025 Appeal Procedure.

(1) Who May Appeal. An appeal may be filed by any County Official as defined in LC 14.050(1), or any Party within the meaning of LC 14.030(1). Such appeal shall be filed either on forms provided by the Planning Division, or by written document substantially similar thereto with the Planning Division within 10 days of the date of the Hearings Official's written decision as that date is set forth in the decision. The appellant shall also mail a true copy of the Notice of Appeal to the Hearing's Official.

(2) Content of the Notice of Appeal. The notice shall specify one or more of the following as assignments of error, specifying in detail how the Hearings Official:

- (a) Exceeded his or her jurisdiction.
- (b) Failed to follow the procedure applicable to the matter.
- (c) Rendered a decision that is unconstitutional.
- (d) Misinterpreted the Lane Code or Manual, State law (statutory or case law) or other applicable criteria.

14.025(2)

Lane Code

14.025(4)

(e) Rendered a decision that violates a Statewide Planning Goal (until acknowledgment of the Lane County Comprehensive Plan, or any applicable portion thereof has been acknowledged to be in compliance with the Statewide Planning Goals by the Land Conservation and Development Commission).

The notice shall also specify the appellant's position. Failure of an appeal to conform to these requirements shall be grounds for dismissal by the Board.

(3) Reconsideration. The Planning Director shall within two working days forward to the Hearings Official a copy of a Notice of Appeal filed in conformity with requirements specified in LC 14.025(1) above. Upon receipt of such timely Notice of Appeal, the Hearings Official may reconsider the matter. The reconsideration may be limited to the existing Record, in which case the reconsidered decision with supplemental findings shall be issued within 14 days of the filing of the Notice of Appeal. The Hearings Official may also request that the parties brief an additional issue or issues or reopen the hearing on limited issues. The reconsidered decision must then be issued within 14 days of the submission of the brief or close of the supplemental hearing. If a reconsidered opinion or notice to the parties of a reconsideration is not delivered by the Hearings Official to the Planning Division within 14 days of the filing of the Notice of Appeal, the initial determination of the Hearings Official shall be considered final. Any reconsidered position or notice of a reconsideration shall also be mailed to the parties within 14 days of the filing of the Notice of Appeal. The Hearings Official has full discretion to reverse, modify or affirm his or her initial decision and supplement findings as necessary. In the event a reconsidered decision is issued, the appellant may withdraw his or her appeal in writing. The appellant shall receive a full refund of the appeal filing fee if the appeal is withdrawn within five days of the issuance of the Hearings Official's reconsidered opinion or action.

(4) Filing of Transcript, Scheduling of Board Hearing and Notice.

(a) Within 10 days of the Hearings Official's final action on the Notice of Appeal, the Planning Division shall notify the appellant of the availability of a copy of the tape recording of the hearing before the Hearings Official and the requirement of the appellant to file within 40 days of the mailing of the notice, 12 copies of the verbatim transcript of the hearing with the Planning Division. Failure to timely submit the transcript to the Planning Division shall divest the Board of jurisdiction to hear the appeal. The person who prepares the transcript shall certify the transcript as accurate.

Exhibit "A"

IN THE MATTER OF ADOPTING)	FINDINGS, REASONS AND
FINDINGS OF FACT AND)	CONCLUSIONS
CONCLUSIONS OF LAW IN)	
SUPPORT OF ORDINANCE 18-81)	

OVERALL PURPOSE

The purpose of this ordinance is to enhance citizen involvement in and insure an adequate factual basis for certain quasi-judicial land use decisions arising in the unincorporated areas of Lane County.

APPLICABLE CRITERIA

The criteria applicable to this legislative enactment are 1) the Citizen Involvement Program for Lane County, 2) ORS Chapter 215 and 3) the Statewide Planning Goals.

1. CITIZEN INVOLVEMENT PROGRAM

Pursuant to LCDC Goals 1 and 2 Lane County has a duly adopted Citizen Involvement Program. A review of that program reveals that the process and procedure as outlined therein applies only to legislative land use enactments and not quasi-judicial procedures. Accordingly the Citizen Involvement Program will not be affected by this procedural change. However, it is important to point out that by adding Planning Commissions into the quasi-judicial zone change process, greater citizen involvement will be the likely result.

2. ORS Chapter 215

ORS Chapter 215 provides for: (1) the duties of counties regarding planning, (2) the state's agricultural land use policies, (3) planning and zoning responsibilities, (4) hearings and review procedures, (5) notice procedures, and (6) county housing codes. Of paramount importance here is ORS 215.110. This statute authorizes the County Commissioners to adopt procedures whereby planning commissions may hear zoning matters as well as partition and subdivision applications. ORS 215.406, which provides for the employment of Hearings Officials to hear land use matters, is, by its express terms, optional with the Board of County Commissioners. A review of ORS Chapter 215 therefore indicates that a procedure employing either a planning commission or hearings official, or both, for zone changes and partition and subdivision applications is discretionary with the Board of County Commissioners. Ordinance 18-81 is a legislative enactment exercising a statutorily provided option.

3. STATEWIDE PLANNING GOALSGoal 1 - Citizen Involvement

"GOAL: To develop a Citizen Involvement Program that insures the opportunity for citizens to be involved in all phases of the planning process.

The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines procedures by which the general public will be involved in the ongoing land use planning process.

The Citizen Involvement Program shall be appropriate to the scale of the planning effort. The program shall provide for continuity of citizen participation and of information that enables citizens to identify and comprehend the issues.

Federal, state and regional agencies and special purpose districts shall coordinate their planning efforts with the effective governing bodies and make use of existing local citizen involvement programs established by counties and cities:"

Quasi-judicial land use hearings are an element of this planning process. Planning Commissions, because of their diverse membership and unique relationship to the County, provide a greater opportunity for citizen involvement than the use of a Hearings Official alone. In addition, the Planning Commissions fulfill the important duty of interpreting the comprehensive plan. During quasi-judicial hearings, the Planning Commissions are often required to identify the key issues and explain them to the citizens before them; this lay body explanation helps citizens to understand the planning process.

This ordinance, by increasing citizen involvement, will enhance citizen influence, a specified requirement of Goal 1.

"CITIZEN INFLUENCE: to provide the opportunity for citizens to be involved in all phases of the planning process.

Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including the preparation of plans and implementation measures, plan content, plan adoption, minor changes and major revisions in the plan and implementation measures."

Quasi-judicial hearings are implementation measures and greater citizen involvement enhances fulfillment of the Goals and provides for greater citizen influence.

The Ordinance will also increase additional feedback to the policymakers, another requirement of Goal 1.

"FEEDBACK MECHANISMS: To assure that citizens will receive a response from policymakers.

Recommendations resulting from the Citizen Involvement Program shall be retained and made available for public assessment. Citizens who have participated in the program shall receive a response from policymakers. The rationale to reach land use policy decisions shall be available in the form of a written record."

This requirement will be enhanced in two ways. First, the Planning Commissions at the hearings will, of necessity, need to respond to questions and provide immediate feedback. In addition, through their participation and performance in implementation measures they are in an excellent position to recommend to the Board of County Commissioners amendments to the quasi-judicial procedures, including plan elements and criteria.

Goal 2 - Land Use Planning

"PART I - PLANNING: to establish a land use planning process and policy framework as a basis for all decisions and actions relating to use of land and assure an adequate factual basis for such decisions and actions."

This Goal is the central pin in the state and Lane County's comprehensive planning program. As the Goal states, an adequate factual basis for land use decisions is essential. Ordinance 18-81 re-inserts into the quasi-judicial planning process planning commissions familiar with the County. They have acquired over their many years of work a great deal of expertise. This is especially true because Lane County has two Planning Commissions. The West Lane Planning Commission covers the western part of the County. This coastal area has a great deal of geographically unique features which the West Lane Planning Commission, because of their time, effort and familiarity with the area, have developed a great amount of expertise with, and which they bring to the quasi-judicial land use making process.

Another requirement of Goal 2 is consistency.

"City, county, state and federal agencies and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS 197.705 through 197.795."

Through this ordinance, the hearing body that helped create the plans must now implement these provisions through their quasi-judicial actions. Because the Planning Commissions will be aware of their intent when they created the plan provisions, they will be able, through their quasi-judicial actions, to implement the plan in a manner consistent with their previous intent. Likewise, this "hands-on" experience will enable the Planning Commission when developing new legislative policies to adopt the provisions they know through their experience will work and reject those found impractical. This experience will further another requirement of the goal.

"All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices taking into consideration social, economic, energy and environmental needs. The required information shall be contained in the

plan document or its supporting documents. Plans, supporting documents and implementation of ordinances shall be filed at a public office or other place easily accessible to the public. The plans shall be the basis for specific implementation measures. These measures shall be consistent with and adequate to carry out the plans. Each plan and related implementation measure shall be coordinated with the plans' affected governmental units."

This requirement of the Goal will be greatly enhanced by the enactment of Ordinance 18-81.

Finally, Goal 2 requires public input.

"All land use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and as needed revised on a periodic cycle, to take into account changing public policies and circumstances in accordance with the schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of the plans and implementation ordinances."

This ordinance has had an extensive public debate and many opportunities for review and comment and was adopted only after full compliance with the above.

GOALS 3 - 15: These goals do not warrant individual discussion; however, fulfillment of these goals will be enhanced via the planning commission's experience working with them until Lane County achieves acknowledgment. Again, this experience will be very helpful when the Planning Commissions develop legislative ordinances necessary for acknowledgment.

GOAL 16: ESTUARIAN RESOURCES; GOAL 17: COASTAL SHORELANDS; GOAL 18: BEACHES AND DUNES; GOAL 19: OCEAN RESOURCES

Application of these Goals will be greatly enhanced. As discussed under Goal 2, Lane County has a West Lane Planning Commission. This Planning Commission has worked hard and long implementing the Coastal Goals and has a great deal of expertise with them. The West Lane Planning Commission's geographic familiarity and social and economic understanding will be of invaluable assistance in preparing the Coastal Goals implementing measures. Again, the "hands-on" experience in implementing these goals in this area will also have invaluable benefits.

WESTERN LANE COUNTY PLANNING COMMISSION REFERRAL, PARTITION AND SUBDIVISION APPLICATIONS

The findings set forth above are hereby incorporated under this section.

The discussion under the Coastal Goals, set forth above, is equally applicable to partitions and subdivisions. The West Lane County Planning Commission's expertise will be invaluable in this effort. The Coastal Goals indicate a purpose to preserve the delicate coastal resources. This referral will allow West Lane Planning Commission familiarity and expertise to be of great assistance. In addition, it will assist in obtaining a solid factual basis upon which to base the ultimate decision.

CONCLUSIONS OF LAW

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Ordinance 18-81:

1. Enhances the Lane County Citizen Involvement Program.
2. Complies with ORS Chapter 215.
3. Complies with all applicable Statewide Planning Goals.