

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Establishing a Procedure for Making)
County Determinations Under Oregon Statewide) Order No. 30-2008
Ballot Measure 49)

WHEREAS, on November 6, 2007, state voters approved Oregon Statewide Ballot Measure 49 ("Measure 49"), adopting provisions into the Oregon Revised Statutes that substantially amend former ORS 197.352, now codified at ORS 195.300 to ORS 195.336; and

WHEREAS, pursuant to Section 10(1) of Measure 49, the County is responsible for processing Measure 49 claims filed for properties outside the boundaries of any city but located in whole or in part within the Urban Growth Boundary ("UGB") of any city in the County; and

WHEREAS, pursuant to Section 8(4) of Measure 49, the County is responsible for processing Measure 49 claims where the Oregon Department of Land Conservation and Development ("DLCD") determines that the only land use regulations restricting the use of a property subject to a filed Measure 37 claim are regulations enacted by the County; and

WHEREAS, the Columbia County LDS Planning Director ("LDS Director") has determined the properties for which the County has the responsibility for making determinations under Section 9 of Measure 49, and has mailed written letters to those Measure 37 claimants pursuant to Section 10 of Measure 49; and

WHEREAS, DLCD has begun its Supplemental Review process under Measure 49 and may transfer claims to the County where it determines that the only land use regulations restricting the use of a property are County regulations; and

WHEREAS, it is therefore in the public interest of the citizens of Columbia County to clarify the County's Measure 49 process for claims on properties for which the County has the responsibility of processing claims under Measure 49 and where development rights have not vested under Measure 37;

NOW THEREFORE, it is hereby ordered as follows:

1. Measure 49 claims relating to properties in the County entirely outside any UGBs, transferred to the County by DLCD pursuant to Section 8(4) of Measure 49, shall be processed pursuant to the review requirements as provided by Sections 8 of Measure 49. It is the responsibility of Measure 49 claimants to provide all necessary information required by any provision of Measure 49 for the County to determine whether the requirements of Section 8, as well as Section 6 or Section 7 of Measure 49, are met.

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2. Measure 49 claims relating to properties in the County within any UGBs, in whole or in part, shall be processed pursuant to the review requirements as provided by Sections 10 of Measure 49. It is the responsibility of Measure 49 claimants to provide all necessary information required by any provision of Measure 49 for the County to determine whether the requirements of Sections 9 and 10 of Measure 49 are met.
3. Measure 49 claimants shall submit any supplemental information as required by Measure 49 to the LDS Director. Submissions shall include all necessary information and materials and be sufficient to make a determination under Measure 49. A complete submission includes all the information and materials as required by the applicable sections of Measure 49, and any other information as requested by the Planning Director. Measure 49 claimants are responsible for the completeness and accuracy of the submission and supporting information and materials.
4. Following investigation and review of the information submitted, the LDS Director, upon consultation of the County Counsel's Office, shall assess any Measure 49 claim under the applicable provisions of Measure 49 and make any required tentative and final determinations, pursuant to the applicable provisions of Measure 49, as to whether the Measure 49 claim be:
 - A. Denied; or
 - B. Approved or partially approved.

Upon making determinations under Measure 49, the LDS Director shall notify the Measure 49 claimant, DLCD and all other persons who participated in the decision making process of the LDS Director's determination.

5. Appeals of Director final determinations shall be to the Board of County Commissioners. Appeals shall be filed no later than fourteen (14) days from the date the Director's determination becomes final. There shall be no appeals of tentative determinations. If a final determination by the Director is appealed, the Board of County Commissioners shall hold a hearing prior to making a final determination as to whether to deny, approve or partially approve the Measure 49 claim.
6. If an appeal hearing is conducted, all documents or evidence relied upon by the Measure 49 claimant shall be submitted to the Board of County Commissioners by the LDS Director together with any additional information received or collected by the Director related to the claim. The LDS Director shall prepare a staff report which shall make a recommendation to the Board of County Commissioners. At the conclusion of the hearing, the Board of County Commissioners shall make a determination applying the applicable standards of Measure 49, based on the information presented. Upon making a final determination, the Board of County Commissioners shall notify the Measure 49 claimant, DLCD and all other persons who participated in the decision making process of the Board's determination.

7. For good cause shown, as determined exclusively by the LDS Director, at the request of a Measure 49 claimant the LDS Director may extend the deadline for filing submissions for claims relating to property within UGBs, in whole or in part, up to an additional sixty (60) days beyond the 90 day filing period provided in Section 10 of Measure 49. When requesting such an extension, a Measure 49 claimant shall acknowledge that such an extension, if granted, shall toll all other Measure 49 applicable deadlines by an equal number of days to the extent permitted by Measure 49. The LDS Director shall not grant any extensions that would prohibit the County from complying with any deadlines specified by any applicable provision of Measure 49 that cannot be tolled, including those County deadlines outlined in Section 10(1) of Measure 49 to include an appeal period provided by Paragraph 5, above.
8. For Measure 49 claims within Columbia County processed by DLCD, the LDS Director shall issue any and all permits authorized by a DLCD final determination arising from a DLCD Measure 49 Supplemental Review.
9. The applicable state law for the process outlined in this Order is that portion or portions of ORS Chapters 195 and 197, added or made part of said chapter(s) by Measure 49, passed on November 6, 2007, and as amended, modified, recodified or clarified by subsequent amendments or regulations adopted by the Oregon State Legislature or by the State of Oregon. Any claim that has not been processed completely under this Article shall be subject to any such amendments, modifications, clarifications or other actions taken at the State level and this Order shall be read in a manner so as not to conflict with such amendments, modifications, clarifications or other actions taken at the State level. This Order is adopted solely to address those provisions of Oregon Revised Statutes adopted by Measure 49 pertaining to claims for which Columbia County is responsible for making Measure 49 determinations. No rights independent of said provisions are created by adoption of this Order other than as discussed in Section 7 of this Order, above. This Order may be amended by the Board of County Commissioners at any time.
10. Venue for all claims against Columbia County arising from Measure 49 determinations shall be exclusively by means of writ of review under ORS 34.010-34.102 in the Circuit Court of the State of Oregon for Columbia County.

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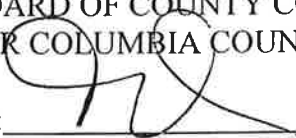
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11. If any phrase, clause, or other part of this Order is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts shall remain in full force and effect.

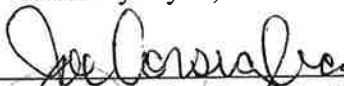
Dated this 30th day of April, 2008.

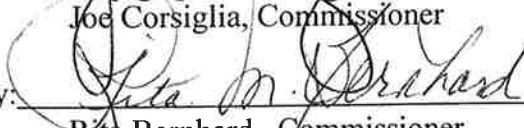
BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Anthony Hyde, Chair

Approved as to form

By: 
County Counsel's Office

By: 
Joe Corsiglia, Commissioner

By: 
Rita Bernhard, Commissioner