

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Columbia County)
Planning Commission Ordinance Regarding)
Staggering of Member Terms and Housekeeping) ORDINANCE NO. 2004-1
Amendments)

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2004-1.

SECTION 2. AUTHORITY.

This ordinance is adopted pursuant to ORS 203.035, 215.050, and 215.060 and Ordinance No. 91-2.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to amend the Columbia County Planning Commission Ordinance to permit the Board of County Commissioners to appoint Planning Commission Members to terms of less than 4 years when it is necessary to re-stagger the Planning Commission terms. The purpose of this Ordinance is also to make housekeeping amendments to conform with current Oregon law.

SECTION 4. FINDINGS AND CONCLUSIONS.

The Board of County Commissioners adopts the findings of fact and conclusions of law in the Staff Report to the Board of County Commissioners which is attached hereto as Attachment 1, and is incorporated herein by this reference.

SECTION 5. AMENDMENT AND AUTHORIZATION.

1. The Board of County Commissioners hereby amends the Columbia County Planning Commission Ordinance as shown in Attachment 2, which is attached hereto and is incorporated herein by this reference.

SECTION 6. SEVERABILITY.

The provisions of this Ordinance are severable. If any provision of this Ordinance is determined to be invalid by a court of competent jurisdiction, such provision shall be considered a separate, distinct and independent provision and the decision shall not affect the validity of the remaining portions hereof.

SECTION 7. EMERGENCY.

An emergency having been declared, this Ordinance shall go into effect on the date of adoption.

Approved as to form:

By: Sarah Tyson

Attest:
By: Jan Greenhalgh
Jan Greenhalgh, Recording Secretary

First Reading: 3-24-04
Second Reading: 3-24-04
Effective Date: 3-24-04

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Rita Bernhard
Rita Bernhard, Chair

By: Anthony Hyde
Anthony Hyde, Commissioner

By: Joe Corsiglia
Joe Corsiglia, Commissioner

COLUMBIA COUNTY BOARD OF COMMISSIONERS
“Planning Commission Ordinance”

Staff Report
 Text Amendment - - Legislative Process
 March 17, 2004 Meeting Date

FILE NUMBER: Planning File TA 04-01

APPLICANT: Land Development Services
 County Courthouse
 St. Helens, Oregon 97051

REQUEST: To Amend the Columbia County Planning Commission Ordinance, Ordinance No. 91-2 as amended by Ordinance No. 94.5, to allow appointments to the Commission for other than 4 years, to re-stagger the terms. Also, amend portions of the Ordinance which are outdated because of State Statute changes.

BACKGROUND: When Land Development Services staff was reviewing Planning Commission terms and appointment needs for calendar year 2003, it became apparent that terms were no longer staggered sufficiently to accomplish the intent of assuring continuity on the Commission; and, assurance in tracking for subsequent appointments could be troublesome given the fact that expiration dates occurred sporadically over the months. Staff met with the Board of Commissioners on November 25, 2003 Work Session Meeting with a proposal to adjust term appointments to re-achieve staggered terms (see attached spreadsheet listing members by term expiration). Staff determined that an ordinance amendment would be required to appoint a member for anything other than a 4 year term. The primary focus of this amendment is to stagger terms of the Commission, but in addition, staff felt that while we had this ordinance open for review, the county should fix out dated sections; thereby, some changes are recommended, which over the years have become not compatible with present state law. The Board directed staff to initiate this ordinance amendment process.

APPLICABLE CRITERIA:

<u>Columbia County Zoning Ordinance</u>	<u>Page</u>
Section 1606 - Legislative Hearing	2
Section 1607 - Consistency with the Comprehensive Plan	2
Section 1611 - Notice of Legislative Hearing	3
<u>County Comprehensive Plan</u>	
Administrative Procedures	3
<u>Oregon State Statute</u>	
ORS 215.020 - Authority to Establish Planning Commission	4
ORS 215.030 - Membership of Planning Commission	4

FINDINGS:

This request is being processed under Sections 1606 and 1611 of the County Zoning Ordinance. The pertinent sections of the ordinance are as follows:

"1606 Legislative Hearing: Requests to amend the text of the Zoning Ordinance...are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures:

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change."

Finding 1: The Board of County Commissioners directed planning staff to initiate amendments to the County Planning Commission Ordinance to accomplish staggered terms at their November 25, 2003 meeting.

Continuing with Section 1606 of the Zoning Ordinance:

- .2 Notice of a Legislative Hearing shall be published at least twice, 1 week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners."

Finding 2: A hearing notice was published in the St. Helens Chronicle and Scappoose Spotlight newspapers on January 14, 2004 and January 21, 2004, both of which are more than 10 days prior to the Planning Commission hearing date of February 2, 2004. Notice to and request for Information & Referral was mailed to all CPAC members on December 23, 2003. The Board did not direct staff to mail notice to all property owners in the county as a Measure 56 Notice would require. Prior to the Board hearing, notice was mailed to all the CPAC members on February 25, 2004 and published in the newspaper of record on March 3, 2004.

Continuing with the Zoning Ordinance

"1607 Consistency with the Comprehensive Plan: All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611."

Finding 3: The Planning Commission held a public hearing on February 2, 2004 to consider the proposed amendments. The Planning Commission can not make a final decision on this matter, but made a recommendation of approval to the Board of Commissioners for the final decision. See Finding 5 for discussion of consistency with the Comprehensive Plan, Administrative Procedures.

Continuing with the Zoning Ordinance:

"1611 Notice of Legislative Hearing: The notice of a legislative hearing shall contain the following

items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance."

Finding 4: All of the above were included in the Notice of Public Hearing published twice in the Chronicle and Spotlight newspapers. The Board also published a Notice of Public Hearing in the Chronicle on March 3, 2004.

Following with the County Comprehensive Plan Goal & Policies:

ADMINISTRATIVE PROCEDURES

GOALS:

1. To assure the goals and policies of this plan are implemented.
2. To provide review and revision procedures which include provisions for participation by citizens and affected interest groups.
3. To provide an understandable framework for reviewing and revising this plan.

POLICIES:

5. Provide a framework by which the Comprehensive Plan may be reviewed, revised and amended. Amendments to the Comprehensive Plan and its implementing ordinance(s) shall be in accordance with the following procedures and guidelines:
 - A. Amendments may be initiated by the Board of Commissioners, the Planning Commission, the Planning Director or the owner(s) of the affected property.
 - B. A Citizen Planning Advisory Committee may, upon a majority vote of its members, formally request either the Board of Commissioners or the Planning Commission initiate an amendment.
 - C. Revisions or amendments will follow the same process as initial adoption - CPAC review, Planning Commission public hearing and recommendation, and Board hearing and adoption of revisions or amendments.
 - D. For quasi-judicial amendments, all property owners within two hundred and fifty (250) feet of the affected area shall be notified of the hearing date and the requested amendment

at least ten (10) days prior to the first scheduled public hearing.

- E. For legislative amendments, notice of the public hearing and a copy of the proposed amendment, will be mailed to all Citizen Planning Advisory Committees and interested parties at least ten (10) days prior to the first scheduled public hearing.

Finding 5: The Planning Commission Ordinance is considered an implementing ordinance of the Comprehensive Plan and is being proposed to be reviewed, revised and amended. This proposed amendment was implemented by the Board of Commissioners on November 25, 2003 and will follow the prescriptive path of CPAC recommendation, Planning Commission recommendation with final adoption by the Board of Commissioners. All members of the Citizen Planning Advisory Committees were mail notice with proposed amendments on December 23, 2003 and on February 25, 2004.

Applicable Oregon State Statute

ORS 215.020 Authority to Establish County Planning Commission.

- 1) The governing body of any county may create and provide for the organization and operations of one or more county planning commissions.
- 2) This section shall be liberally construed and shall include the authority to create more than one planning commission, or subcommittee of a commission, for a county or the use of a joint planning commission or other intergovernmental agency for planning as authorized by ORS 190.003 to 190.130.

Finding 6: Columbia County has a Planning Commission and is presently authorized and organized under Ordinance No. 91-2, as amended by Ordinance 94-5.

Continuing with Oregon State Statute:

ORS 215.030 Membership of planning commission.

- 1) The county planning commission shall consist of five, seven or nine members appointed by the governing body for four-year terms, or until their respective successors are appointed and qualified; provided that in the first instance the terms of the initial members shall be staggered for one, two, three and four years.
- 2) A commission member may be removed by the governing body, after hearing, for misconduct or nonperformance of duty.
- 3) Any vacancy on the commission shall be filled by the governing body for the unexpired term.
- 4) Members of the commission shall serve without compensation other than reimbursement for duly authorized expenses.
- 5) Members of the commission shall be residents of various geographic areas of the county. No more than two voting members shall be engaged principally in the buying, selling or development of real estate for profit, as individuals, or members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade or

profession.

6) The governing body may designate one or more officers of the county to be nonvoting members of the commission.

7) Except for subsection (5) of this section, the governing body may provide by ordinance for alternative rules to those specified in this section.

Finding 8: The proposed amendment would allow appointment of Planning Commission members to less than 4 years terms if the terms of the Commission are no longer staggered, that is, under a specific condition, and only until such time as the terms are sufficiently staggered. This provision is an alternative to specific language in sub-paragraph (1) in ORS 215.030, above. Sub-paragraph (7) above allows the governing body to adopt by ordinance alternative rules to those specified in sub-paragraph (1). The proposed amendment is allowable by and compatible with this section of statute.

COMMENTS:

No comments have been received from government agencies comments as of March 15, 2004.

CONCLUSION AND RECOMMENDATION:

Based upon the above findings, staff and the Planning Commission **Recommend Approval** of the legislative amendment to the text of the Columbia County Planning Commission Ordinance contained in TA04-02.

Attachments:

- 1) Planning Commission Final Order TA 04-01
- 2) Board Communication Summary dated November 17, 2003
- 3) Spreadsheet example for adjustments to terms
- 4) Proposed amendments with strike-outs for deletions and bold for additions
- 5) Current Planning Commission Ordinance

ATTACHMENT 2
Ordinance No. 2004-1

Additions are in **bold**
Deletions are ~~stricken~~

1. SECTION 1(B), is amended to read:

“B. The Planning Commission shall consist of nine (9) members appointed by the Board of County Commissioners for four-year terms. The terms of the members shall be staggered so that continuity on the Planning Commission is assured. **If at any time the terms of the members are no longer staggered, the Board of County Commissioners may appoint members to terms of less than four (4) years until the terms are again sufficiently staggered.** ~~The members of the Planning commission previously established by order or resolution of the Board of County Commissioners shall continue to serve in that capacity as members of the new Planning Commission until the expiration of their terms as if this ordinance had been in effect when they were appointed.~~”

2. SECTION 5(I), is amended to read:

“I. All applications may be continued by the Planning Commission from time to time as in its discretion it determines to be appropriate, but in no case shall final action be delayed beyond the ~~80~~ **applicable time limit set forth in ORS 215.427, as amended.**” ~~mentioned in Section 10 below.~~”

3. Section 9(E)(2) is amended to read:

“(2) A statement shall be made by ~~the Chair Planning Staff~~ **to those in attendance that conforms with ORS 197.763, as amended, and other applicable state or local law, rule or regulation.**

~~(a) Lists the applicable substantive criteria;~~

~~(b) States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and~~

~~(c) States that failure to raise an issue with sufficient specificity to afford the Planning Commission and the parties an opportunity to respond to the issue precludes appeal to the Board of County Commissioners on that issue.”~~

4. Section 9(e)(6) is deleted.

5. Section 10 is amended to read:

**“A. Except as provided in ORS 197.763(4) and (6) and subsections C and D of this section, the Planning Commission shall take final action on an application for a permit or zone change within 80 days after the application is deemed complete.”
The Planning Commission shall comply with the time limitations set forth in ORS 215.427, as amended.**

~~B. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection A of this section upon receipt by the Planning Department of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for the purpose of subsection A of this section on the 31st day after the Planning Department first agrees, but after the 31st day refuses to submit the missing information, the application shall be deemed complete on the day the Planning Department is advised of the refusal.~~

~~C. If the application was complete when first submitted or the applicant submits the requested additional information within 180 day of the date the application was first submitted, approval or denial of the application shall be based upon the standards and the criteria that were applicable at the time the application was first submitted.~~

~~D. The 80 day period set in subsection A of this section may be extended for a reasonable period of time at the request of the applicant.~~

Changes to the Ordinance:

- a. Section 1(B)- allows the Board to appoint Planning Commission members to less than 4 year terms if necessary to stagger the Planning Commission. This does not set specific terms for specific planning commission members.
- b. Section 5(I)-amended to coincide with ORS 215.427 which gives the time for final action 120 or 150 days, rather than 80.
- c. Section 9(E)(2)- Housekeeping amendments. The Planning Staff reads the pre-hearing statement. ORS 197.763 changes from time to time, so we don't want a list required that will need to be changed every time the statute changes.
- d. Section 9(e)(6)- deleted- This allows parties to question the applicant, and all other witnesses through the chair. It is not practiced, and is not required by land use laws. Witnesses present evidence, there is no examination of witnesses.
- e. Section 10- this is outdated language regarding the time limit for final action in quasi-judicial land use hearings. It is sufficient to say that the Planning Commission will comply with the time limitations set forth in ORS 215.427, as amended. This will allow for flexibility if the time limits change.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Columbia)
County Planning Commission)
_____)

ORDINANCE NO. 91-2

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 91-2. Exhibit "A", which is attached hereto and incorporated herein by this reference, shall be cited and referred to as the "Columbia County Planning Commission Ordinance".

SECTION 2. AUTHORITY.

This ordinance is enacted pursuant to ORS 203.035, 215.020, 215.030, 215.035 and 215.402 et seq.

SECTION 3. PURPOSE.

The purpose of this ordinance is to formalize the establishment of the Columbia County Planning Commission and to establish procedural rules for the Planning Commission.

SECTION 4. FINDINGS.

The Board of County Commissioners of Columbia County finds that:

- A. The statewide planning goals are not directly applicable to this ordinance, since this ordinance affects procedural matters and does not affect the usage of any particular parcel of land.
- B. The Board of County Commissioners is authorized by statute to create a Planning Commission to exercise certain authority conferred by statute or ordinance.
- C. The Board of County Commissioners has previously established a nine (9) member Planning Commission by order or resolution.
- D. The Board of County Commissioners wishes to formalize the establishment of the Planning Commission in this ordinance and to establish procedural rules for the Planning Commission to follow.

SECTION 5. ADOPTION.

The "Columbia County Planning Commission Ordinance", which is attached hereto, labeled Exhibit "A" and incorporated herein by this reference, is adopted.

SECTION 6. AMENDMENT OF COLUMBIA COUNTY ZONING ORDINANCE.

Section 1617 of the Columbia County Zoning Ordinance is deleted.

SECTION 7. SEVERABILITY.

If, any provision of this ordinance, including Exhibit "A", is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion of the ordinance shall be deemed a separate, distinct and independent portion and such holdings shall not affect the validity of the remaining portions thereof.

SECTION 8. EMERGENCY.

This ordinance being immediately necessary for the health, safety and welfare of the citizens of Columbia County, an emergency is declared to exist and this ordinance shall take effect upon its adoption.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 3rd DAY OF April, 1991.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: Joim K. Kinsler
Office of County Counsel

Attest:

Cherie Maylan
Recording Secretary

First Reading: 04-03-91
Second Reading: 04-03-91
Effective Date: 04-03-91

By: Michael J. Dyer
Chairman

By: Robert A. Smith
Commissioner

By: John R. Johnson
Commissioner

EXHIBIT "A"

COLUMBIA COUNTY PLANNING COMMISSION ORDINANCE

SECTION 1. PLANNING COMMISSION CREATED.

- A. The Columbia County Planning Commission is hereby created and it shall replace the Planning Commission previously established by order or resolution of the Board of County Commissioners of Columbia County, Oregon.
- B. The Planning Commission shall consist of nine (9) members appointed by the Board of County Commissioners for four-year terms. The terms of the members shall be staggered so that continuity on the Planning Commission is assured. The members of the Planning Commission previously established by order or resolution of the Board of County Commissioners shall continue to serve in that capacity as members of the new Planning Commission until the expiration of their terms as if this ordinance had been in effect when they were appointed.
- C. Planning Commission members may be removed by the Board of County Commissioners, after hearing, for misconduct or nonperformance of duty.
- D. Any vacancy on the Planning Commission shall be filled by the Board of County Commissioners for the unexpired term of the previous member.
- E. Members of the Planning Commission shall serve without compensation other than reimbursement for duly authorized expenses. The Board of County Commissioners may by order establish a per diem allowance and mileage expenses and otherwise authorize reimbursement of expenses incurred.
- F. Members of the Planning Commission shall be residents of the various geographic areas of the County. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade or profession.
- G. The Planning Commission shall appoint one of the Planning Commission members to serve as Chair of the Commission, and another member to serve as Vice-Chair with the power to act as Chair in the Chair's absence.

[En. Ord. 91-2.]

SECTION 2. OFFICERS AND COMMITTEES.

- A. Duties of the Chair.

- (1) The Chair shall preside and be entitled to vote at all meetings of the Planning Commission at which he or she is present, unless he or she disqualifies himself or herself due to a conflict of interest or for lack of impartiality.
 - (2) The Chair may order a roll call vote on any question before the Planning Commission at his or her discretion, and shall order a roll call vote at the request of one or more members.
- B. The Chair shall exercise general supervision over the business of the Planning Commission and shall sign all orders approved by the Planning Commission.
- C. Duties of the Vice-Chair.
- (1) The Vice-Chair shall preside at Planning Commission meetings in the absence of the Chair.
 - (2) If the Chair is absent or disabled, all of his or her duties shall temporarily devolve upon the Vice-Chair.
- D. Committees.
- (1) The Chair may appoint committees, and he or she may be a member of any such committees.
 - (2) Committees shall consist of at least three (3) members. A majority of the committee shall constitute a quorum.
 - (3) The first member appointed to a committee shall serve as its Chair. The committee Chair may call a committee meeting whenever there is sufficient business requiring the attention of the committee.
 - (4) If necessary, the committee is authorized to make investigations and call upon the staff for assistance.

[En. Ord. 91-2.]

SECTION 3. PLANNING DIRECTOR.

- A. The Land Development Services Administrator is designated as Planning Director and shall be the chief administrative officer in charge of the Planning Department of the County.
- B. The Planning Director may authorize any Planner I, Planner II or Chief Planner to act as Planning Director subject to the Planning Director's superior authority.
- C. The Planning Director shall provide assistance to the Planning Commission and shall coordinate the functions of the Planning Department with other departments, agencies and officers of the County that are engaged in functions related to planning for the use of lands within the County.

- D. The Planning Director shall serve at the pleasure of the Board of County Commissioners of Columbia County.
[En. Ord. 91-2.]

SECTION 4. MEETINGS AND ATTENDANCE.

- A. Regular Meetings. Regular meetings of the Planning Commission shall be held at least once each month on a day (or days) and time to be established by a majority vote of the Planning Commission. The Planning Director shall provide Planning Commission members with notice of each regular meeting.
- B. Special Meetings. Special meetings of the Planning Commission may be called by the Chair. If, in the opinion of three (3) or more members of the Planning Commission, a special meeting is deemed necessary, the Chair shall call such meeting and instruct the Planning Director to notify each member of time, place and purpose of the special meeting.
- C. Excused Absences. A member who expects to be absent may be excused for such absence by the Planning Commission, by the Chair or by the Vice-Chair in the Chair's absence. Except in emergency situations where advance notice is not possible, members requesting an absence to be excused should notify the Chair, Vice-Chair or the Planning Department of their anticipated absence at least twenty-four (24) hours prior to the meeting in question. Except as otherwise determined by the Planning Commission, when such advance notice is given, it will be presumed that the absence was excused.
- D. Unexcused Absences. A member who is absent from three (3) consecutive regular or special meetings of the Commission, whose absence is unexcused, may be considered by the Planning Commission to have resigned. If such resignation is accepted by vote of the Planning Commission, the Board of County Commissioners shall be so notified of such resignation.
- E. Leaves of Absence. If a prolonged absence is anticipated, a member may request a leave of absence, which may be granted after review by the Planning Commission and approval by the Board of County Commissioners.
- F. Minutes to Record all Absences. The minutes will record all absences with proper notations to indicate if the absence is excused or unexcused.

[En. Ord. 91-2.]

SECTION 5. MEETING PROCEDURES.

- A. Meetings shall be called to order by the Chair, or by the Vice-Chair in the Chair's absence. In the absence of the Chair and Vice-Chair, the Planning Director shall call the meeting to order and those members present shall select a Chair pro-tem.

- B. The minutes of previous meetings shall be submitted to the Planning Commission for approval. If errors are noted, the Planning Director shall cause the necessary corrections to be made. The reading of the minutes may be dispensed with and approved if there are no corrections.
- C. At any meeting of the Planning Commission, a quorum shall consist of no less than five (5) members of the Commission. No action shall be taken in the absence of a quorum except to adjourn the meeting to a subsequent date.
- D. Planning Commission members shall vote for or against every motion, unless they have disqualified themselves in advance due to a conflict of interest or for lack of impartiality. Members who have disqualified themselves shall not be counted as part of a quorum and if, because of such disqualification, there is no quorum, the matter at hand shall be continued until a quorum is available. Members who have not disqualified themselves in advance who do not vote for a motion shall be counted as voting against the motion.
- E. Exercise of decision-making authority shall be by a majority of the Planning Commissioners present who have not disqualified themselves in advance. At no time can action be taken by fewer than three (3) members voting affirmatively. This is the minimum required for a majority of the quorum.
- F. The failure of a motion to deny an application does not serve to automatically grant the application. Another motion to grant the application must be made, seconded and passed by a majority of those present who have not disqualified themselves, and at no time will this be less than three (3) affirmative votes.
- G. If a member was present at the beginning of a meeting but leaves the room prior to the taking of a vote, unless that member disqualified himself or herself in advance, or unless the absence is excused, that member shall be counted as voting against all motions made during that member's absence. A member can be excused by the Chair from the remainder of a meeting for good cause if a quorum still remains. An excused member shall not be counted as being present for purposes of determining a majority nor will that person be counted as voting against all motions for the duration of the meeting.
- H. If a matter is continued to a subsequent meeting, it can be heard and voted on by those present even if those members are not the same members as those who heard the evidence at the prior meeting. All members present are deemed to have reviewed the evidence presented at prior meetings.
- I. All applications may be continued by the Planning Commission from time to time as in its discretion it determines to be appropriate, but in no case shall final action be delayed beyond the 80 day period mentioned in Section 10 below.

[En. Ord. 91-2.]

SECTION 6. CONFLICTS OF INTEREST.

A member of a Planning Commission shall not participate in any Planning Commission proceeding or action in which any of the following has a direct or substantial financial interest: The member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective ownership, partnership or employment. Any actual or potential conflict of interest shall be disclosed at the meeting of the commission where the action is being taken.
[En. Ord. 91-2.]

SECTION 7. IMPARTIALITY.

A member of the Planning Commission shall not participate in any Planning Commission proceeding or action if the member believes for any reason he or she cannot impartially apply the land use laws of this state, and ordinances of this County, to the matter at issue. The member need not state the reason for the lack of impartiality before disqualifying himself or herself from participating in the matter.
[En. Ord. 91-2.]

SECTION 8. EX PARTE CONTACTS.

- A. No decision or action of the Planning Commission shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the Planning Commission, if the member of the Planning Commission receiving the contact:
- (1) Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and
 - (2) Has a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
- B. A communication between County staff and the Planning Commission shall not be considered an ex parte contact for the purposes of subsection A of this section.

[En. Ord. 91-2.]

SECTION 9. LAND USE APPLICATIONS AND HEARINGS.

- A. When required or authorized by the Columbia County Zoning Ordinance, Subdivision and Partitioning Ordinance, or other statutes, ordinances, orders, rules or regulations of the County, an owner of land may apply in writing to the Planning Director or Planning Commission for a permit in the manner prescribed by the Board. The Board shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service.

- B. Except as provided by ORS 215.416(11) and County ordinances or ordinance provisions adopted pursuant thereto, the Planning Commission shall hold at least one public hearing on the application.
- C. The application shall not be approved if the proposed use of land is found to be in conflict with the Columbia County Comprehensive Plan, Zoning Ordinance, Subdivision and Partitioning Ordinance, or other applicable statutory or ordinance provisions. The approval may include such conditions as are authorized by statute or County ordinances.
- D. Hearings under this section shall be held only after notice to the applicant and also notice to other persons as otherwise provided by law and shall otherwise be conducted in conformance with the provisions of ORS 197.763 or other applicable statutory or ordinance provisions.
- E. At the hearing on any application, after the Planning Commission makes a statement that notice was given in the newspaper and each member discloses any actual or potential conflicts of interest, lack of impartiality, ex parte contacts or personal knowledge relevant to the application, the following order of appearance shall be followed:
- (1) The Planning Director or his or her representative shall present a summary of the staff report and the Planning Department's recommendations.
 - (2) A statement shall be made by the Chair to those in attendance that:
 - (a) Lists the applicable substantive criteria;
 - (b) States that testimony and evidence must be directed toward the criteria described in paragraph (a) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
 - (c) States that failure to raise an issue with sufficient specificity to afford the Planning Commission and the parties an opportunity to respond to the issue precludes appeal to the Board of County Commissioners on that issue.
 - (3) The applicant or his or her representative may then present evidence and testimony in support of the application.
 - (4) The applicant or his or her representative may call witnesses in support of the application.
 - (5) Any person in opposition to the application may present

evidence and testimony against the application.

- (6) The applicant or his or her representative may question, through the Chair, other persons giving testimony and other persons may question, through the Chair, the applicant, the applicant's representative and all other witnesses.
 - F. The approval or denial of a permit application shall be based on the standards and criteria which are set forth in the Columbia County Zoning Ordinance, Subdivision and Partitioning Ordinance or other applicable statute, ordinance, order, rule or regulation of the County.
 - G. The approval or denial of a permit shall be accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.
 - H. Written notice of the approval or denial of a permit application shall be mailed to the applicant and to any other person, other than a mere witness or agent, who gives testimony for or against the application. The Chair shall take steps to insure the Recording Secretary has the name and address of each person entitled to notice under this subsection.
 - I. The deadline for appeal of an approval or denial of a permit shall not begin to run until written notice of the decision is mailed to all persons entitled to written notice of the decision.
- [En. Ord. 91-2.]

SECTION 10. FINAL ACTION.

- A. Except as provided in ORS 197.763(4) and (6) and subsections C and D of this section, the Planning Commission shall take final action on an application for a permit or zone change within 80 days after the application is deemed complete.
- B. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection A of this section upon receipt by the Planning Department of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete for the purpose of subsection A of this section on the 31st day after the Planning Department first received the application. If the applicant at first agrees, but after the 31st day refuses to submit the missing information, the application shall be deemed complete on the day the Planning Department is advised of the refusal.
- C. If the application was complete when first submitted or the applicant submits the requested additional information within 180

days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

- D. The 80 day period set in subsection A of this section may be extended for a reasonable period of time at the request of the applicant.

[En. Ord. 91-2.]

SECTION 11. APPEALS AND BOARD JURISDICTION.

A party aggrieved by the action of the Planning Commission may appeal the action to the Board of County Commissioners. The Board on its own motion may review the action. The Board may also assert original jurisdiction over any land use application and bypass prior Planning Commission review. The procedure and type of hearing for such an appeal or review shall be the same as prescribed by this ordinance for Planning Commission decisions, or as provided by the Columbia County Zoning Ordinance, Subdivision and Partitioning Ordinance or other applicable statutes, ordinances, orders, rules or regulations.

[En. Ord. 91-2.]

SECTION 12. POWER TO ENTER UPON LAND.

The Planning Commission, and any of its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.

[En. Ord. 91-2.]

SECTION 13. INFORMATION MADE AVAILABLE TO THE PLANNING COMMISSION.

Public officials, departments and agencies, having information, maps or other data deemed by the Planning Commission pertinent to County planning shall make such information available for the use of the Planning Commission.

[En. Ord. 91-2.]

SECTION 14. COOPERATION WITH OTHER AGENCIES.

The Planning Commission shall advise and cooperate with other planning commissions within the state, and shall upon request, or on its own initiative, furnish advice or reports to any city, county, officer or department on any problem comprehended in county planning.

[En. Ord. 91-2.]

SECTION 15. AMENDMENTS.

Amendments to this ordinance shall follow the same procedure provided in Sections 1606 and 1607 of the Columbia County Zoning Ordinance for amendments to the text of the zoning ordinance.

[En. Ord. 91-2.]