

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:

Chris Maylan
Recording Secretary

By: Michael J. Dukes
Chairman

By: [Signature]
Commissioner

By: [Signature]
Commissioner

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

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.]