

DIVISION 41
MEASURE 49
Existing Claim Rules

(Measure 37 Claims, Including Supplemental Review Under Ballot Measure 49)

660-041-0000

Purpose and Applicability

- (1) The purpose of OAR 660-041-0000 to 660-041-0150 is to implement Chapter 424, Oregon Laws 2007 (2007 Oregon Ballot Measure 49) by establishing procedures for Supplemental Review of Measure 37 Claims. These rules also contain requirements for notice of applications and decisions regarding Measure 37 Permits, and clarify when a DLCDC Measure 37 Waiver was required in addition to a waiver from a city or county. Finally, these rules also explain the effect of Measure 49 on DLCDC Measure 37 Waivers.
- (2) OAR 660-041-0010 applies to all Claims, Measure 37 Permits and DLCDC Measure 37 Waivers that are subject to OAR 660-041-0020 to 660-041-0160, as well as to the Supplemental Review of Measure 37 Claims under OAR 660-041-0080 to 660-041-0160.
- (3) OAR 660-041-0020 applies only to Claims that were received by DAS after December 4, 2006 and before December 6, 2007, and that are based on one or more DLCDC Regulations and that are not described in section 3 of Chapter 855, Oregon Laws 2009.
- (4) OAR 660-041-0030 applies to applications for and decisions on a Measure 37 Permit filed or made on or after February 20, 2007.
- (5) OAR 660-041-0040 to 660-041-0070 apply to all DLCDC Measure 37 Waivers.
- (6) OAR 660-041-0080 to 660-041-0160 apply to the Supplemental Review of a Claim by DLCDC.

Stat. Auth.: ORS 197.040, 197.065 & Ch. 424, OL 2007

Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & Ch. 424, OL 2007

Hist.:

660-041-0020

Contents of a Measure 37 Claim Based on a DLCDC Regulation

- (1) Unless otherwise described in section 3 of Chapter 855, Oregon Laws 2009, when a Claim was received by DAS after December 4, 2006 and was based on one or more Existing DLCDC Regulations, then the Claim must:
 - (a) Demonstrate that a city, county, Metro, or an Agency applied one or more Existing DLCDC Regulations, or applied one or more city, county or Metro land use regulations that implement Existing DLCDC Regulations, as approval criteria to an application submitted by the Claimant; and
 - (b) Include one of the following:
 - (A) A copy of the final written decision by a city, a county, or Metro on a Land Use Application that included the Measure 37 Claim Property and that requested authorization for the specific use that the Claim is based on, in which the city, county, or Metro determined that one or more Existing DLCDC Regulations or city, county or Metro Land Use Regulations that implement Existing DLCDC Regulations were approval criteria for the decision; or

(B) A copy of the final written action by an Agency on a complete application to the Agency, in which the Agency determined that one or more Existing DLCD Regulations were approval criteria for the application.

(2) Unless otherwise described in section 3 of Chapter 855, Oregon Laws 2009, when a Claim was based on one or more New DLCD Regulations, then the Claim must:

(a) Have been received by DAS within two years of:

(A) The effective date of the New DLCD Regulation; or

(B) Within two years of the date the Claimant submitted a Land Use Application in which the Land Use Regulations were approval criteria, whichever was later; and

(b) If the Claim was submitted more than two years after the effective date of the New DLCD Regulation, the Claim must include a copy of the final written decision by a city, a county, or Metro on a Land Use Application that includes the Measure 37 Claim Property and that requested authorization for the specific use that the Claim was based on, in which the city, county, or Metro determined that the New DLCD Regulation or city or county or Metro Land Use Regulation that implemented the New DLCD Regulation were approval criteria for the decision.

(3) Unless otherwise described in section 3 of Chapter 855, Oregon Laws 2009, when a Claim was based on both Existing and New DLCD Regulations, the requirements of section (1) of this rule must be met with respect to the Existing DLCD Regulation, and the requirements of section (2) of this rule must be met with respect to the New DLCD Regulation.

(4) A DLCD Regulation was applied as an approval criterion for purposes of this rule and ORS 197.352(5) (2005) when a city, county or Metro made a final written decision on a Land Use Application, or when an Agency took final written action on an application to that Agency, and that final written decision or final written action denied the application or conditioned the approval of the application on the basis (in whole or in part) of the DLCD Regulation.

(5) This rule applies only to Claims that were received by DAS after December 4, 2006, and that were based on one or more DLCD Regulations, and that are not described in section 3 of Chapter 855, Oregon Laws 2009.

Stat. Auth.: ORS 197.040, 197.065 & Ch. 424, OL 2007

Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & Ch. 424, OL 2007

Hist.:

660-041-0080

Supplemental Information for Supplemental Review of Measure 37 Claims under Measure 49 and Fee under Chapter 855, Oregon Laws 2009.

(1) If the record for the Claim does not include the information needed for DLCD to proceed with the Supplemental Review of the Claim, DLCD will request Supplemental Information from a Claimant or the Claimant's authorized agent.

(2) If the Claim is described in sections 2 through 5a or Section 13 of Chapter 855, Oregon Laws 2009 a Claimant or Claimant's authorized agent must submit a \$175 fee to DLCD. DLCD will request the fee from a Claimant or the Claimant's authorized agent.

(3) Supplemental Information or a \$175 fee requested by DLCD must be filed with DLCD within fifty-six (56) days of the date the request is sent and must be filed in the manner described in OAR 660-041-0100.

(4) For good cause shown, DLCD may extend the period for filing Supplemental Information or a \$175 fee beyond fifty-six (56) days.

(5) If DLCD fails to issue a final order on a Claim described in sections 2 through 5a, or Section 13 of Chapter 855, Oregon Laws 2009 by December 31, 2010, DLCD shall refund any \$175 fee submitted for that Claim.

(6) For purposes of this division, "Supplemental Review" means review by DLCD of a Claim under either section 6 or section 7 of Measure 49, and when applicable, sections 2 through 5a or Section 13 of Chapter 855, Oregon Laws 2009.

Stat. Auth.: ORS 197.040, 197.065 & Ch. 424, OL 2007

Stats. Implemented: ORS 195.300 - 195.336, 197.015, 197.040, 197.065, 197.353 & Ch. 424, OL 2007

Hist.: