

Ordinance No. 2005-003 Amends No. 92-27

Josephine County Ordinance No. 92-27, as amended prescribes rules and procedures for meetings of the Josephine County Board of County Commissioners (BCC).

SECTION 5.1 d. “*The presiding officer shall have the authority to . . . d. Dispose of procedural requests or similar matters.*”



SECTION 7. “*Meetings shall at all times be orderly and respectful. When permitted, each person shall be given three (3) minutes to speak or such other longer time as may be allowed by the presiding officer. No person shall be heard until he or she states their name and address for the record. The presiding officer may terminate the meeting when necessary or refuse to recognize anyone who:*

- c. Speaks without first receiving recognition from the presiding officer and stating his or her full name and residential address; or*
- d. Presents irrelevant, immaterial or repetitious comments.”*

Josephine County Rural Land Development (RLDC) 31.050.2 — Presiding Officer

“*2. Dispose of procedural requests or similar matters.*”

RLDC, Article 31 governs the conduct of all quasi-judicial and legislative land use hearings within Josephine County, Oregon.

RLDC 31.060 — Conduct of Participants

Same as Section 7, Ordinance No. 92-27.

Raise It Or Waive It “Point Of Order”

Josephine County has historically used modified *Robert’s Rules of Order* for “points of order”, especially when a lawyer is involved. Too many times to count a lawyer has interrupted a public hearing to inform the hearing body of the rules for quasi-judicial hearings on a wide range of topics such as: being a witness, party, ex parte contact, conflict of interest, standing (aggrieved, adversely affected), evidence, criteria, rebuttal, sur-rebuttal, summary, continue the hearing, leave record open, final action, etc. Each time the hearing body listened to the comments on the point and then ruled.

It is the right of every participant who notices a breach of the rules covering the conduct of local quasi-judicial land use hearing procedures to insist upon their enforcement.

When the “*raise it or waive it*” provisions for a procedural error (ORS 197.763) are read together with ORS 215.412(1), Oregon case law requiring that hearings be conducted in a fair and impartial manner (*Fasano v. Washington County Commission*, 264 OR 574, 588 (1973)), and a point of order from *Robert’s Rules of Order*, they can help establish the threshold for how a participant can rise and speak without permission of the presiding officer.

Disclaimer. This brochure is as much about providing information and provoking questions as it is about opinions concerning the adequacy of findings of fact and land use decisions. It does not provide recommendations to citizens and it is not legal advice. It does not take the place of a lawyer. If citizens use information contained in this paper, it is their personal responsibility to make sure that the facts and general information contained in it are applicable to their situation.

Rural Land Development Code (RLDC), Article 31 — Public Hearings

RLDC 31.110.E. — Rules of Evidence “*E. Judicial notice may be taken of any ORS, OAR, Federal, State, or local rule or regulation, general fact, and/or scientific fact within the experience, technical competence, or specialized knowledge of a member of the Hearing Body, staff, or technical witness called by either side. Opportunity will be given for rebuttal of these facts.*”

RLDC 31.120.B.2. — Order Of Procedure

“*2. Any participant who fails to raise an issue in a hearing, in person or by letter, with sufficient specificity to afford the hearing body an opportunity to respond to that issue, is precluded from using the issue in any subsequent appeal of the decision (called the raise it or waive it rule);”*

Handout Procedure For Conducting A Land Use Hearing.

“*2. All testimony and evidence in this hearing must be directed to the criteria identified by the planning staff. If you feel other criteria apply that have not been identified, then you must raise this issue to the Chair for a ruling. . . .”*

It is the right of every participant who notices a breach of the rules covering the conduct of local quasi-judicial land use hearing procedures to insist upon their enforcement. The presiding officer can only rule on an alleged breach after the point is heard from the participant by the presiding officer.

More Information. Would you like to learn more? Contact a member of the Land Use Committee of the *Hugo Neighborhood*.



Hugo Neighborhood Association & Historical Society's Mission

This information brochure is one of a series of documents published by the Hugo Neighborhood Association & Historical Society (*Hugo Neighborhood*). It is designed to be shared with neighbors for the purpose of helping protect our rural quality of life by promoting an informed citizenry in decision-making. The *Hugo Neighborhood* is an informal nonprofit charitable and educational organization with a land use and history mission of promoting the social welfare of its neighbors.

Land Use & History

The *Hugo Neighborhood's* land use mission is to promote Oregon Statewide Goal 1 — Citizen Involvement, and to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. It will act, if requested, as a technical resource assisting neighbors to represent themselves.

Its history mission is to educate, collect, preserve, interpret, and research its local history and to encourage public interest in the history of the Hugo area.

Volunteer membership dues are \$10.00 annually per family and normally used for paper, ink, envelopes, publications and mailings. Make checks to the *Hugo Neighborhood* and send them to our Treasurer. Send us your e-mail address if you want to know what we are doing.

Hugo Neighborhood Association
Web Page: <http://jeffnet.org/~hugo/>

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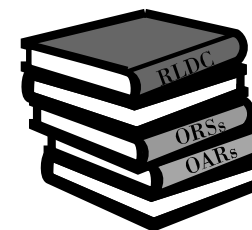
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Raise It or Waive It Point of Order

Brochure 2 in
Point of Order Series



In order to preserve your rights on appeal, you *must* attempt to make an objection or raise a "point of order" when appropriate, even if the presiding officer attempts to shut you up and deny your right to do so.

January 24, 2006

**Hugo Neighborhood Association &
Historical Society
Citizens For A Voice In Growth
Goal One Coalition
Quail Lane Neighborhood Association
Joe Creek Neighborhood Association
Jump Off Joe Neighborhood Association
Lower Applegate CAC
Murphy Neighborhood Association
Selma Neighborhood Association
Sexton Mt. Neighborhood Association
Three Pines Neighborhood Association
Williams CAC**

Members of the CAC/NA Coalition