

SECTION 500
LAND USE REVIEW PROCEDURES

APPLICATION PROCEDURES

500.100	Land Use Application Procedures	5-3
500.105	Coordination of Land Use Application Procedure.....	5-3
500.110	Application Contents	5-3
500.115	Submission of Land Use Applications.....	5-4
500.120	Referral and Review of Land Use Applications	5-4
500.130	Land Use Application Decision	5-4
500.140	Action on Resubmission of Denied Application	5-5

ADMINISTRATIVE PROCESS

Type I Procedure

510.100	Purpose	5-5
510.110	No Hearing or Notifications Required.....	5-5
510.120	Examples.....	5-5

QUASI-JUDICIAL PROCESS

Type II Procedure

520.100	Purpose	5-5
520.110	Notification	5-5
520.120	Hearing.....	5-5
520.130	Examples.....	5-6

Type III Procedure

520.140	Purpose	5-6
520.150	Notification	5-6
520.160	Hearing.....	5-6
520.170	Examples.....	5-6

PUBLIC HEARINGS

530.100	Responsibility for Hearings	5-7
530.110	Hearing Record	5-7
530.120	Mailed Notice	5-8
530.125	Posted Notice	5-9
530.130	Compliance and Waiver of Notice.....	5-9
530.140	Challenges to Impartiality.....	5-10
530.145	Disqualification.....	5-10
530.150	Participation by Interested Officer or Employee	5-10
530.155	Ex Parte Contacts	5-10
530.160	Abstention or Disqualification.....	5-11
530.170	Burden and Nature of Proof.....	5-11

530.180 Hearing Procedures..... 5-11

DECISION

540.100 Findings 5-13
540.110 Notice of Decision 5-13
540.120 Effective Date of Decision..... 5-15

APPEALS

550.100 Appeal Procedures 5-14
550.110 Requirements of Notice of Appeal 5-14
550.120 De Novo Hearing 5-14
550.130 City Council Decision..... 5-14
550.140 Effective Date of Decision..... 5-15

LEGISLATIVE PROCESS

560.100 Purpose 5-15
560.110 Initiation..... 5-15
560.120 Hearing Required..... 5-15
560.130 Hearing Notice..... 5-15
560.140 Hearing Procedures..... 5-17
560.150 Planning Commission Recommendation..... 5-17
560.160 City Council Action..... 5-17
560.170 Notice to DLCDC on Legislative Matters 5-17
560.180 Decision Notice Requirements 5-18
560.190 Appeal..... 5-18

APPLICATION PROCEDURES

500.100 Land Use Application Procedures.

- (1) A land use application shall be processed under a Type I, II or III procedure, as described in this Section.
- (2) Where there is a question as to the appropriate type of procedure, the City Administrator shall determine the type of procedure to be utilized based upon the most similar land use application procedure specified by this Code or other established policy.
- (3) Where a proposal involves more than one application for the same property, the applicant(s) may submit concurrent applications which shall be processed simultaneously in accordance with the highest number procedure specified. When concurrent applications are so received and accepted as completed, the 120-day requirement of Section 500.130(2) shall apply as if a single application had been made.

500.105 Coordination of Land Use Application Procedure. The City Administrator shall be responsible for coordination of the land use application and decision-making procedure. The City Administrator shall issue a land use approval for applications and proposed developments that are in compliance with the provisions of this Code. Before issuing the approval, the City Administrator shall be provided with the information required to determine full compliance with the requirements of this Code.

500.110 Application Contents. A land use application shall consist of the following:

- (1) Explanation of intent, nature and proposed use of the development, pertinent background information and other information that may have a bearing in determining the action to be taken, including submission of detailed findings where such are required by the provisions of this Code.
- (2) Signed statement indicating that the property affected by the application is in the exclusive ownership or control of the applicant, or that the applicant has the consent of all partners in ownership of the affected property.
- (3) Property description and assessor map parcel number(s).
- (4) Drawings which show the site plan including all structures (both existing and proposed), vehicular and pedestrian access, landscaping, on-site parking and other information necessary to review the application.
- (5) Additional information required by other sections of this Code because of the type of development proposal or the area involved.
- (6) Duplicates of the above information as required by the City Administrator.

(7) Submission of application fees as established by the City Council.

500.115 Submission of Land Use Applications.

- (1) Application materials shall be submitted to the City Administrator who shall have the date of submission indicated on each copy of the materials submitted.
- (2) Land use applications requiring a public hearing shall be submitted at least 45 days in advance of the next regularly scheduled public meeting of the hearings body unless waived by the City Administrator when adequate notice can otherwise be achieved. All documents or evidence relied upon by the applicant shall be submitted to the City Administrator and made available to the public at least 10 days prior to the public hearing. If additional documents, evidence or written materials are provided in support of that application less than 10 days prior to the public hearing, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 227.178.
- (3) Within thirty (30) calendar days the City Administrator shall determine whether the application is complete. The City Administrator shall notify the applicant when the application is found to be incomplete and identify what additional information is needed. An application which has been determined to be incomplete may be supplemented, amended or resubmitted, at the City Administrator's discretion.
- (4) Upon request, the application file shall be made available to the public for inspection at no cost and copies will be provided at reasonable cost.

500.120 Referral and Review of Land Use Applications. Within five (5) working days of accepting an application as complete, the City Administrator shall do the following:

- (1) Provide appropriate information to all government agencies and private utilities identified by the City Administrator as having possible interest in reviewing and commenting on the development proposal. If the government agency or private utility does not comment by the date of the first hearing the government agency or private utility is presumed to have no comments or objections.
- (2) Provide for notices to be given and hearings to be established as required under Type II or III procedures established in this Section.

500.130 Land Use Application Decision.

- (1) Within five (5) days of final action on a land use application, the City Administrator shall provide written notice of the decision to the applicant and any other parties entitled to notice. The notice shall state the effective date of the decision, describe the right of appeal, and summarize the reasons for the decision and any conditions of approval or indicate where such can be reviewed in detail.

- (2) The City shall take final action on all land use requests which are wholly within the authority and control of the City within 120 days of receipt of a completed application. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time.

500.140 **Action on Resubmission of Denied Application.** An applicant may make appropriate alterations to a proposal which has previously been denied and resubmit it with a payment of any required fee.

ADMINISTRATIVE PROCESS

TYPE I PROCEDURE

- 510.100 Purpose.** The purpose of the Type I procedure is to provide for land use review based on standards specified in this Code which do not require interpretation or the exercise of policy or legal judgement. Approval of a Type I land use application is not a land use decision. (See definitions).
- 510.110 No Hearing or Notifications Required.** Under the Type I procedure, an application shall be processed by the City Administrator without need for public hearing or notification.
- 510.120 Examples.** Examples of applications processed through a Type I procedure include, but are not limited to: detached single family dwellings and residential accessory buildings.

QUASI-JUDICIAL PROCESS

TYPE II PROCEDURE

- 520.100 Purpose.** The purpose of the Type II procedure is to provide for the review of certain applications within the City by the Planning Commission or Design Review Board at a public hearing.
- 520.110 Notification.** Under the Type II procedure, an application is scheduled for public hearing before either the Planning Commission or the Design Review Board. The City Administrator shall notify all property owners within 150 feet of the subject property and any recognized neighborhood organization whose boundaries include the site. For proposals located adjacent to a state or county roadway or where proposals are expected to have an impact on a state or county transportation facility, notice shall also be sent to ODOT or Multnomah County as appropriate.
- 520.120 Hearing.** The review body shall:
- (a) review the request and any written comments and testimony;
 - (b) adopt findings based on the established criteria; and,
 - (c) make a decision by approving, conditionally approving, or denying the application.

Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type II procedure in accordance with the relevant provisions of this Code.

520.130

Examples. Examples of applications processed through a Type II procedure include, but are not limited to Design Review and certain non-conforming use reviews.

TYPE III PROCEDURE

520.140 Purpose. The purpose of the Type III procedure is to provide for the review of certain land use applications by the Planning Commission at a public hearing. These decisions are usually complex in nature, and require the interpretation of the Comprehensive Plan policies and the criteria of this Code.

520.150 Notification. Under the Type III Procedure, an application is scheduled for public hearing before the Planning Commission. The City Administrator shall notify all property owners within 250 feet of the subject property. The City Administrator shall post notices of the requested review and public meeting on the subject site and any recognized neighborhood organization whose boundaries include the site. For proposals located adjacent to a state or county roadway or where proposals are expected to have an impact on a state or county transportation facility, notice shall also be sent to ODOT or Multnomah County as appropriate.

520.160 Hearing.

The Planning Commission shall:

- (a) review the request and any written comments and testimony;
- (b) adopt findings based on the established criteria; and
- (c) make a decision by approving, conditionally approving, or denying the application.

Conditions and/or restrictions may be applied to the approval of any land use application granted under a Type III procedure in accordance with the relevant provisions of this Code.

520.170 Examples. Examples of applications processed through a Type III procedure include, but are not limited to Zone changes, Comprehensive Plan amendments and conditional uses.

PUBLIC HEARINGS

530.100 Responsibility for Hearings. The City Administrator shall carry out the following duties pertaining to a hearing, all in accordance with other provisions of this Code:

- (1) Schedule and assign the matter for review and hearing.
- (2) Conduct the correspondence of the review body.
- (3) Provide notices of public hearings as required by the Code and state law.
- (4) Maintain a record and enter into the record relevant dates such as those of giving notice, hearings, postponement, and continuances and a summary of action taken by the review body.
- (5) Prepare minutes to include the decision on the matter heard and the reasons given for the decision.
- (6) Reduce the decisions of the review body to writing and maintain permanent record of such.
- (7) Provide advance notice of all hearings and written decisions to persons requesting the same and not entitled to such by the section provided that such persons pay the actual cost for the service provided as established by the City (applicants excepted).

530.110 Hearing Record. The hearing proceedings will be recorded either stenographically or electronically.

- (1) When an electronic recording is made, testimony shall be transcribed at the expense of the requesting party if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs up to \$500 plus one-half the actual costs over \$500 or as authorized by state law.
- (2) The review body shall, where practical, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after all appeal periods have expired, at which time the exhibits may be released. Any physical evidence presented at the public hearing shall be submitted to the review body staff, distributed to members, and shall become part of the record.
- (3) If a staff report and recommendation are made, they shall be included in the record.

- (4) A person shall have access to the record of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

530.120

Mailed Notice.

- (1) Addresses for a mailed notice required by this Code shall be taken from current County Assessor records. Any deficiency in the form of notice prescribed in this section or a failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this Code for notice.
- (2) In addition to persons receiving notice as required by the matter under consideration, the City Administrator may provide notice to others he has reason to believe are affected or otherwise represent an interest that may be affected by the proposed development.
- (3) The cost of notice mailings shall be included in the land use application fee.
- (4) Notice of public hearing shall be sent by mail at least twenty (20) days before the hearing and shall contain the following information:
 - (a) The reviewing body, the date, time, and place of the hearing.
 - (b) The street address or other easily understood geographic reference to the subject property.
 - (c) The nature of the application and the proposed use or uses which could be authorized.
 - (d) Where information may be examined and when and how written comments addressing findings required for a decision by the review body may be submitted.
 - (e) A list of the applicable criteria from the ordinance and/or the plan that apply to the application.
 - (f) A statement that failure to raise an issue, including constitutional or other issues regarding proposed conditions of approval, accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issues precludes appeal to the City Council or Land Use Board of Appeals based on that issue, or to seek damages in circuit court due to a condition of approval.
 - (g) The name of a City representative to contact and the telephone number where additional information may be obtained.
 - (h) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost.
 - (i) A statement that a copy of any staff report that might be produced will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.

- (j) A statement that all interested persons may appear and provide testimony and that only those making an appearance of record, either in person or in writing, shall be entitled to appeal.
- (k) A general explanation of the procedure for the conduct of hearings.

530.125

Posted Notice. The sites that are the subject of Type III quasi-judicial public hearings shall be posted. At the discretion of the City Administrator the applicant may be responsible for providing a sign frame for the notice and also responsible for posting the notice at the correct time and location. The actual notice shall be provided by the City. The posting shall comply with the following requirements:

- (1) The notice frame shall be a minimum of 1 ½ feet by 2 feet.
- (2) The notice shall be posted in a location which is visible from a traveled public road or street abutting the property. If no public street abuts the property, the notice shall be placed in such a manner to be generally visible to the public.
- (3) The notice shall be posted for at least seven (7) consecutive days prior to the first scheduled public hearing on the matter.
- (4) If the subject property is a corner lot, then two signs are required in locations defined in (2) above.
- (5) When the applicant is required to post the notice, an affidavit of posting shall be filed with the City Administrator at least five (5) days before any hearing.
- (6) If the subject property is not properly posted as set forth in this section, the hearing may be postponed by the City Administrator until such provisions are met.
- (7) The posted notice shall display the nature of the application and a telephone number for more information. The posted notice shall also include a photocopy of the original mailed notice sent to affected property owners.

530.130

Compliance and Waiver of Notice.

- (1) Notice by mail shall be deemed received three calendar days after the notice is deposited with the US Postal Service, first class postage, fully prepaid, for mailing to the addressee at the addressee's last known mailing address. Failure of the addressee to actually receive notice shall not invalidate the proceeding.
- (2) Posted notice is deemed given when the sign is first posted.
- (3) The requirement for notice shall be deemed satisfied as to any person who, in any manner, obtains actual knowledge of the time, place, and subject matter of the hearing prior thereto.

- (4) Appearance and testimony or comment on the merits of the proposed action by any person at a hearing, or submission by any person of written comment directed to the merits of the proposed action at or prior to the hearing and after the proceedings was initiated, shall be deemed a waiver of such person of any defect in notice.

530.140 Challenges to Impartiality. A party to a hearing or a member of a review body may challenge the qualifications of a member of the review body to participate in the hearing and decision regarding the matter. The challenge shall be incorporated into the record at the time of the hearing.

530.145 Disqualification. No member of a review body shall participate in a discussion of the proposal without removing himself or herself from the bench or shall vote on the proposal when any of the following conditions exist:

- (1) Any of the following have a direct or substantial financial interest in the proposal: the review body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or in which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment or is otherwise in a position of conflict of interest as determined by state law.
- (2) The member has a direct private interest in the proposal.
- (3) Any other valid reason for which the member has determined that participation in the hearing and decision cannot be in an impartial manner.

530.150 Participation by Interested Officer or Employee. No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion or staff report to the review body on the proposal without first declaring for the record the nature and extent of such interest.

530.155 Ex Parte Contacts. The general public has a right to have review body members free from pre-hearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Should ex parte communication occur, at the beginning of the hearing, the review body member shall reveal the source and substance of any significant pre-hearing or ex parte contacts regarding any matter at the commencement of the public hearing on such and the presiding officer shall allow for rebuttal of any information received through such ex parte contact. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate or abstain in accordance with the following section.

530.160 Abstention or Disqualification.

- (1) An abstaining or disqualified member of the review body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by making full disclosure of his or her status and position at the time of addressing the review body, removing himself or herself from the seat on the hearing body and physically joining the audience.
- (2) If a quorum of a review body abstains or is disqualified, all members present after stating their reasons for abstention or disqualification shall automatically be requalified and proceed to resolve the issues necessary to hear the matter before them.
- (3) A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received and so states on the record.

530.170 **Burden and Nature of Proof.** The burden of proof is upon the proponent or appellant. The more drastic the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Code, especially the specific criteria set forth for the particular type of decision under consideration.

530.180 **Hearing Procedures.** Hearing procedures will depend in part on the nature of the hearing. The following may be supplemented by appropriate rules announced by the presiding officer:

- (1) The presiding officer will state the case and call the public hearing to order, informing those present that testimony and evidence is to be directed towards the applicable criteria for the case and that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-makers and the parties an opportunity to respond to the issues precludes appeal to the State Land Use Board of Appeals on that issue. The presiding officer may establish the time allowed for the presentation of information.
- (2) Any objections on jurisdictional grounds shall be noted in the record.
- (3) Any abstentions or disqualifications shall be determined. Members shall announce all conflicts of interest and shall disclose the time, place, and nature of any ex parte contacts they have had. Parties to the case shall have the opportunity to rebut any information contained in the ex parte contact.
- (4) The review body may view the area under consideration for purposes of evaluating the proposal, but shall state the place, time, manner, and circumstances of such viewing in the record.

- (5) The presiding officer at the hearing may take official notice of known information related to the issue, such as provisions of federal or state law, or of an ordinance, resolution, official policy or charter of the City.
- (6) Matters officially noticed need not be established by evidence and may be considered by the review body in the determination of the matters. Parties requesting official notice shall do so on the record.
- (7) Presentation of staff report when one is provided, including a list of the criteria applying to the issue(s) being heard. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.
- (8) Presentation of information by the applicant or those representing the applicant.
- (9) Presentation of evidence or inquiries by those persons who support the proposed change.
- (10) Presentation of evidence or inquiries by those persons who oppose the proposed change.
- (11) Presentation of evidence or inquires by those persons who do not necessarily support or oppose the proposed change.
- (12) If additional documents or evidence are provided in support of an application, any party shall, upon request, be entitled to a continuance of the hearing to allow for adequate preparation of rebuttal. Such a continuance shall not be subject to the limitations of ORS 227.178.
- (13) Only the applicant shall have the right to present rebuttal testimony. If the presiding officer allows rebuttal by an opponent, the proponent or applicant shall have the right to an additional and final rebuttal.
- (14) The presiding officer may approve or deny a request to ask a question from a person attending the hearing. Unless the presiding officer specifies otherwise, the presiding officer will direct the question to the person who has submitted testimony.
- (15) At the close of presentation of information the presiding officer shall declare that the hearing is closed unless a continuance has been granted.
- (16) Unless there is a continuance, if a participant so requests before the conclusion of the first evidentiary hearing, the record shall remain open for at least seven (7) calendar days after the hearing.
- (17) When the hearing has ended, the review body may openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

- (18) If the hearing is closed, it shall be reopened only upon a majority vote of the review body.
- (19) Upon reopening a hearing, any person may raise new issues which relate to the new evidence, testimony, or criteria for decision-making which apply to the matter at issue.

DECISION

540.100 Findings. The review body shall make a decision and adopt findings based upon the information accompanying the application, staff report, and/or evidence presented at the hearing. The finding shall address:

- (1) Applicable Zoning and Development Code criteria.
- (2) For approval, a statement of the facts establishing compliance with each applicable policy or criteria. For denial, a statement of the facts establishing non-compliance with any required policy or criteria.
- (3) Conditions of approval may be attached to a land use decision. Conditions may include, but are not limited to, a time limit, a termination date, a requirement for a performance bond or other type of security, and other conditions which meet one of the following criteria:
 - (a) the condition is required to protect the public from the potentially deleterious effects from the proposed use;
 - (b) the condition is required to fulfill the public service or public facility demand created by the proposed use; or
 - (c) the condition is required to carry out the policies of an adopted City policy, plan or ordinance provision.

540.110 Notice of Decision.

- (1) The City Administrator shall provide written notice of the decision of final action on a land use application, to the applicant and any other parties entitled to notice. The notice shall state the effective date of the decision, describe the right of appeal, and summarize the reasons for the decision and any conditions of approval or indicate where such can be reviewed in detail.
- (2) The City shall take final action on all land use requests which are wholly within the authority and control of the City within 120 days of receipt of a completed application. However, by agreement with the applicant, this deadline may be extended for any reasonable length of time.

540.120 Effective Date of Decision. The Planning Commission or Design Review Board decision in any land use review becomes effective one day after the last day on which an appeal can be filed.

APPEALS

550.100 Appeal Procedures.

- (1) A decision of the Planning Commission or Design Review Board may be appealed to the City Council by an affected party by filing a "Notice of Appeal" within 14 days of the date the notice of decision is mailed.
- (2) For any appeal proceeding, the City Administrator shall cause notice to be provided in the same manner as provided for the original decision, those testifying and any other parties to the proceedings who request notice in writing.
- (3) A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal not later than 21 days after the decision becomes final.

550.110 Requirements of Notice of Appeal. A "Notice of Appeal" shall contain:

- (1) An identification of the decision sought to be reviewed, including the date of the decision.
- (2) The name, address, signature, phone number and a statement of the interest of the person seeking review and that he/she was a party to the initial proceedings.
- (3) A statement of which approval criteria the decision violates.
- (4) Any required fee as established by the City Council.

550.120 De Novo Hearing. The City Council shall hear an appeal as a "de novo hearing" on the merits of the case. "De novo hearing" shall mean a hearing by the City Council as if the request had not been previously heard and as if no decision had been rendered, except that all testimony, evidence, and other material from the record of the previous consideration may be included in the record of the review.

550.130 City Council Decision. Upon review, the City Council may affirm, remand, reverse, or modify in whole or part a determination or requirement of the decision that is under review. When the City Council modifies or renders a decision that reverses a decision of the review body, the City Council shall set forth its findings and state its reasons for taking the action. When the City Council elects to remand the matter back to the previous review body for such further consideration as the City Council deems necessary, it may include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

550.140 Effective Date of Decision. The decision by City Council in any land use matter becomes effective seven (7) days after the "Notice of Decision" (as described in Section 540.110) is mailed.

LEGISLATIVE PROCESS

560.100 Purpose. The legislative process provides for the establishment and modification of land use plans, policies, regulations and guidelines. A required public hearing provides an opportunity for public comment and input on actions which may affect large areas of the City.

560.110 Initiation.

- (1) The City Council may make changes in the Comprehensive Plan or Zoning and Development Code provisions and designations by legislative act where such changes affect a large number of persons, properties, or situations and are applied over a large area.
- (2) The City Council, Planning Commission, or the Design Review Board may initiate a review on any legislative matter.

560.120 Hearing Required. The Planning Commission and City Council must hold at least one public hearing before recommending action on a legislative matter.

560.130 Hearing Notice.

- (1) The City Administrator may inform persons believed to have a particular interest and provide the general public with reasonable opportunity to be aware of the hearings on the proposal. For proposals located adjacent to a state or county roadway or where proposals are expected to have an impact on a state or county transportation facility, notice shall also be sent to ODOT or Multnomah County as appropriate.
- (2) Notice shall be posted in public places at least one week prior to the hearing and additionally as may be required by state law for a particular proceeding.
- (3) Posted notice shall include the following information:
 - (a) The reviewing body, the date, time, and place of hearing.
 - (b) The nature of the proposed amendment.
 - (c) The name and telephone number of the staff member to contact for more information.
- (4) Mailed notice to individual property owners shall be provided as follows:
 - (a) At least 20 days and not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or an element thereof, or to adopt a new comprehensive plan, the City shall cause a written individual notice of

land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

- (b) In addition, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone the property, the City shall send a written notice of land use change to be mailed to the owner of each lot or parcel of property that the new ordinance proposes to rezone.
- (c) The notice shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall be mailed by first class mail to the affected property owner at the address shown on the last available complete tax assessment roll. The notice shall contain the following language in boldfaced type at the top of the page:

This is to notify you that the City of Wood Village has proposed a land use regulation that will affect the permissible uses of your land. On _____ (date of public hearing) the City Council of Wood Village will hold a public hearing regarding the adoption of Ordinance # _____. The City Council has determined that adoption of the ordinance will affect the permissible uses of your property and may reduce the value of your property. Ordinance # _____ is available for inspection at City Hall located at 2055 NE 238th Drive, Wood Village, Oregon. A copy of Ordinance # _____ also is available for purchase at the cost of copying the document. For additional information concerning Ordinance # _____ you may call City Hall at 503-667-6211.

- (d) **Notice for Periodic Review.** At least 30 days before the adoption or amendment of a comprehensive plan or land use regulation by the City of Wood Village pursuant to a requirement of periodic review of the comprehensive plan, the City shall send a written individual notice of the land use change to the owner of each lot or parcel that will be rezoned as a result of adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment will affect the use of the property. The notice shall contain the following language in boldfaced type across the top of the page:

This is to notify you that the City of Wood Village has proposed a land use regulation that will affect the permissible uses of your land. As a result of an order of the Land Conservation and Development Commission, Wood Village has proposed Ordinance # _____. Wood Village has determined that the adoption of this ordinance will affect the permissible uses of your property and may reduce the value of your property. Ordinance # _____ will become effective on (date). Ordinance # _____ is available for inspection at City Hall located at 2055 NE 238th Drive, Wood Village, Oregon. A copy of Ordinance # _____ also is

available for purchase at the cost of copying the document. For additional information concerning Ordinance # _____ you may call City Hall at 503-667-6211.

560.140 Hearing Procedures. Interested persons may submit written recommendations and comments in advance of the hearing and this information shall be available for public inspection. At the hearing, written recommendations and other information will be received and oral statements will be permitted. The presiding officer may establish a time limit for presentation of information.

560.150 Planning Commission Recommendation. In preparing its recommendation to the City Council, the Planning Commission shall do the following:

- (1) Evaluate the proposal based on the relevant Zoning and Development Code criteria.
- (2) Prepare a recommendation and make findings in support of such recommendation.

560.160 City Council Action.

- (1) In reaching a decision on a legislative matter, the Council shall adopt findings applicable to the relevant policies and criteria in support of the decision.

The City Council may:

- (a) Enact, amend or defeat all or part of the proposal under consideration, or
- (b) Refer some or all of the proposal back to the Planning Commission for further consideration.

560.170 Notice to DLCD on Legislative Matters.

- (1) The City Administrator shall notify Department of Land Conservation and Development for adoption of or amendment to the Comprehensive Plan, the Zoning and Development Code, or any other land use regulations. The notice shall be provided at least 45 days before the proposed first hearing on adoption and the notice shall contain information sufficient to inform the Department as to the effect of the proposal.
- (2) If the City determines that the statewide goals do not apply to a particular proposed amendment or new regulation, notice under subsection (1) of this section is not required. In addition, the City may consider an amendment or new regulation with less than 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review.

560.180 Decision Notice Requirements.

- (1) Within five (5) working days following adoption of an amendment or new land use regulation, the City Administrator shall forward to the Department of Land Conservation and Development a copy of the adopted text and findings and notify the Department of any substantial changes which may have occurred in the proposal since any previous notification to the Department.
- (2) Within five (5) working days, the City Administrator shall also notify any person who participated in the proceedings leading to the decision. Such notice shall briefly describe the final action taken, state the date and effective date of the decision, and explain the requirements for appealing the action under ORS 197.830 to 197.845.

560.190

Appeal. A legislative land use decision may be appealed to the Land Use Board of Appeals.