

Article 60 – Administrative Procedures

ARTICLE 60 - ADMINISTRATIVE PROCEDURES

Section 60.00 - Definition, Initiative, Type

- A. An "Administrative Action" means a proceeding pursuant to this Article and subject to the definition of "Non Ministerial Action (Type II or III)" in Article 1 of this Ordinance.
- B. Action on all administrative actions shall be initiated by a property owner or contract purchase, Board or Planning Commission Order. The initial action shall be to file an application on forms provided for that purpose in the Planning Department.
- C. Administrative action includes but is not restricted to actions on: variances, conditional use permits, zone changes, exceptions and change of or reinstatement of non-conforming uses.

Section 60.05 - Planning Commission Review Procedure

The Planning Commission shall be the hearings body and make decisions on the following actions: (1) Zone Changes; (2) Comprehensive Plan Amendments; (3) Appeal of Director's Decision; (4) Review of Director's Decision (hearings process); (5) Review of Historic Preservation Applications (hearings process); (6) Preliminary Planned Unit Development (PUD) approval; (7) Preliminary Subdivision approval; (8) Delegation of Planning Commission authority to a hearings officer; and (9) Transportation improvements described in Article 55, Section 55.60(C) of this Ordinance.

Section 60.10 - Hearings Officer

The Planning Commission, upon affirmative vote of four (4) members may delegate the authority of the Planning Commission for all or portion of all administrative actions to a Hearings Officer. The Hearings Officer shall be subsequently selected by the Board of Commissioners.

Section 60.15 - Content of Notices of Initial Hearings on Proposed Actions

Notice of the hearing before the Planning Commission or subcommittee thereof, or hearings officer shall contain the following information:

- A. The date, time and place of the hearing.
- B. A description of the property reasonably calculated to give notice to its actual location.
- C. The nature of the proposed action.
- D. A notice that all interested parties may appear and be heard.
- E. A notice that the hearing shall be held pursuant to the Rules of Procedure by the Body conducting the hearing.

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Additional Matters in Notice - Where the application is made for a zone change, the Planning Director shall have the discretion to include in the notice of hearing that the hearing body may consider other zoning classifications other than that for which the application is made.

Section 60.20 - Notification of Hearing or Proposed Action

The following notification shall be made:

- A. Notice shall be given in a newspaper of general circulation in the area affected at least ten (10) days prior to the date of hearing.
- B. The following shall receive personal notice by regular mail:
 1. The applicant.
 2. All property owners within:
 - (i) 100-feet of the property which is the subject of the notice when the subject property is wholly or in part within an urban growth boundary;
 - (ii) 250-feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
 - (iii) 750-feet of the property which is the subject of the notice if such property is within a farm or forest zone and outside of an urban unincorporated areas or an urban growth boundary.
 3. Affected local, state and federal agencies, the cities of Hood River and Cascade Locks, and individuals who request such notice. Persons who request and pay the fee established by the Director shall receive notice.

For the purpose of personal notification, the records of the Department of Records and Assessments shall be used. Only those names appearing on the last tax rolls need be notified of the proposed action. The failure of the property owner to receive notification shall not invalidate the proceedings, providing a good faith attempt was made to notify persons entitled to personal notice.

Section 60.25 - Continuation of Hearings

The hearing may be continued from time to time as necessary to gather additional information and no additional notice be given if the hearing is continued to a date certain.

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Section 60.30 - Hearings on Proposed Action

- A. Hearings on proposed actions shall be in accordance with the Rules of Procedure adopted by the hearings body for the conduct of hearings pursuant to this Ordinance.
- B. For land within an urban growth boundary, the hearings body or the hearings officer shall take final action on an application within 120 days after the application is deemed complete, and shall take final action on all other applications outside the urban growth boundary within 150 days after the application is deemed complete.
- C. Completeness Review: When an application is submitted, and received by the Planning Department, staff shall review the application for completeness. The completeness review shall be concluded within a reasonable period of time, not to exceed 30-days from the date the application was received.
 - 1. Incomplete application: If an application is determined to be incomplete, the Planning Department shall notify the applicant in writing, within 30-days of the date the application was received, to specify exactly what information is missing, and to allow the applicant up to 180-days from the date the application was initially received to submit a written response. The application shall be deemed complete for the purpose of initiating the land use action process when the Planning Department receives, in writing, one of the following:
 - (i) All of the missing information;
 - (ii) Some of the missing information and written notice from the applicant that no other information will be provided; or
 - (iii) Written notice from the applicant that none of the missing information will be provided.
 - 2. On the 181st day after first being received by the Planning Department, an incomplete application shall be void, if the applicant was notified of the missing information and failed to respond in writing as provided in C.1 above with no opportunity for a refund of the application fee.
 - 3. The statutory time limit for making a final local decision (120/150 days) may be extended, upon written request from the applicant, as long as the total of all such extensions does not exceed 215 days.
- D. The action may be to approve the application as submitted, to deny the application or to conditionally approve the application with conditions as may be necessary to carry out the Comprehensive Plan and as provided in Section 60.14. In all cases, the hearings body or

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officer shall state its decision upon the close of the hearing or upon continuance of the matter to a time certain.

Section 60.35 - The Burden of Proof

The Burden of Proof is placed on the applicant seeking an action pursuant to the provisions of this Ordinance. Unless otherwise provided for in this article, such burden shall be to approve:

- A. Granting the request is in the public interest; the greater departure from present land use patterns, the greater the burden of the applicant.
- B. The public interest is best carried out by granting the petition for the proposed action, and that interest is best served by granting the petition at this time.
- C. The proposed action is in compliance with the Comprehensive Plan.
- D. The factors set forth in applicable Oregon Law were consciously considered. Also, consideration will be given to the following factors:
 - 1. The characteristics of the various areas of the County.
 - 2. The suitability of the subject area for the type of development in question.
 - 3. Trends in land development.
 - 4. Density of development.
 - 5. Property values.
 - 6. The needs of economic enterprises in the future development of the County.
 - 7. Access.
 - 8. Natural resources.
 - 9. Public need for healthful, safe and aesthetic surroundings and conditions.
- E. Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to consider. In all cases, the hearings body or officer shall enter findings based upon the record before it, to justify its decision.

Section 60.40 - No New Application

If the application is denied no new application for the same or substantially similar action shall be filed for at least one-year from the date of final order on the action denying the application.

Section 60.45 - Conditions of Approval

The following limitations shall be applicable to conditional approval:

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- A. Conditions shall be fulfilled within the time set forth in the approval.
- B. Such conditions shall be reasonably conceived to fulfill public needs.
- C. Changes or alterations of conditions shall be processed as a new administrative action.
- D. Such conditions may be set forth in a contract executed between the Board, acting by and through its Chairman, and the property owner and any contract purchasers. If a contract is required, no building permit for the use applied for shall issue nor shall the use applied for be deemed approved until such properly executed contract is filed with the Director of Records and Assessments of Hood River County. Such a contract shall be properly signed and executed within 30 days after approval provided, however, that the Board may grant reasonable extensions in cases of practical difficulty. Such contract shall be enforceable against the signing parties, their heirs, successors and assigns by Hood River County by appropriate action in law or suit in equity.
- E. Failure to fulfill any condition within the time provided may be grounds for initiation of enforcement provision in Article 70, or revocation of the permit as provided in Article 1.
- F. A bond, in a form acceptable to the Planning Director, cashier's check or a cash deposit from the property owners or contract purchasers in such amount as will assure compliance with the conditions imposed pursuant to this article may be required. Such bond shall be posted at the same time the contract containing the conditions to approval is filed with the Director of Records and Assessments.

Section 60.50 – Evidence

All evidence offered and not objected to may be received unless excluded by the hearings body or officer on its or his own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon the conduct of everyday affairs. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for a contested case before state administrative agencies pursuant to ORS 183.450 except as otherwise provided herein.

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be returned when the period for review has expired but shall otherwise be preserved by the Planning Director. Evidence may be reserved subject to a later ruling as to its administer ability.

Section 60.55 - Oath

The hearings body or officer may place any person submitting testimony under oath or affirmation.

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Section 60.60 - Records

A verbatim record of the proceedings shall be made by oral, written or mechanical means, the record need not be transcribed except on review of the record.

Section 60.65 - Time Limits for Oral Presentation

The hearings body or officer may set reasonable time limits for oral presentation to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing and he or it may exclude or limit cumulative, repetitive or immaterial matter.

Section 60.70 - Ex-Parte Contact

Members of the hearings body or hearings officer shall not:

- A. Communicate, directly or indirectly, with any party or his representative in connection with any issue involved except upon notice and opportunity for all parties to participate; nor
- B. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless all parties are afforded an opportunity to contest the material so noticed; nor
- C. Inspect the site with any party or his representative unless all parties are given an opportunity to be present.