

Chapter 17.160

PROCEDURES FOR DECISION MAKING--LEGISLATIVE

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17.160.010 Purpose. The purpose of this chapter is to establish procedures for consideration of legislative changes to the provisions of the comprehensive plan, implementing ordinances and maps. (Ord. 634 §1 Exh. A (part), 1995)

17.160.020 The application process. A. The application process may be initiated by:

1. Resolution of the city council;
2. Resolution of the planning commission;
3. The planner;
4. A recognized neighborhood planning organization or city advisory board or commission; or
5. Application of a record owner of property or contract purchaser.

B. Any persons authorized by this title to submit an application for approval may be represented by an agent authorized in writing to make the application.

C. The application shall be made on forms provided by the planner.

D. The application shall be complete and shall:

1. Contain the information requested on the form;
2. Address the appropriate criteria in sufficient detail for review and action;

3. Be accompanied by the required fee except as follows:

a. Fees for land use applications and appeals of a land use decision shall be waived for a recognized neighborhood planning organization (NPO) if the appeal or land use application is supported by a majority vote of NPO members at a public meeting where a quorum of NPO members was present and a copy of the minutes of the NPO meeting where the appeal or land use application was initiated is submitted with the appeal or land use application.

b. The NPO chairperson or designated representative shall appear at the next available city council meeting after the application or appeal is filed to request a waiver. The NPO shall work with the planner to schedule the item

on a council agenda.

c. Council may, on its own motion, waive the land use application fee or appeal fee for other Scappoose based nonprofit organizations;

4. Be accompanied by a narrative addressing the standards in Section 17.160.120.

E. An application shall be deemed incomplete unless it addresses each element required by the form and each element required by this title and is accompanied by the required fee.

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F. The planner shall not accept an incomplete application.

G. The planner may require information in addition to that required by a specific provision of this title, provided the planner determines this information is needed to properly evaluate the proposed development proposal; and the need can be justified on the basis of a special or unforeseen circumstance.

H. The planner may waive the submission of information for a specific requirement provided the planner finds that specific information is not necessary to properly evaluate the application; or the planner finds that a specific approval standard is not applicable to the application.

I. Where a requirement is found by the planner to be inapplicable, the planner shall:

1. Indicate for the record and to the applicant the specific requirements found inapplicable; and

2. Advise the applicant in writing that the finding may be challenged on appeal or at the hearing or decision on the matter and may be denied by the approval authority; and

3. Cite in the staff report on the application the specific requirements found inapplicable, the reasons therefor and the specific grant of authority. (Ord. 791 §2, 2007; Ord. 634 §1 Exh. A (part), 1995)

17.160.025 Notice requirements. A. The planning commission shall hold at least one public hearing on each application request within sixty days of receipt of a completed application.

B. The Council shall hold at least one public hearing on each application request within forty-five days of the planning commission's recommendation.

C. Notice of legislative public hearings shall be given by the planner in the following manner:

1. At least forty-five days before the final hearing on adoption of any proposal to amend the comprehensive plan or to adopt a new land use regulation, notice shall be sent to the LCDC;

2. At least ten days prior to the scheduled hearing date, notice shall be sent to:

a. The applicant;

- b. Any affected governmental agency;
 - c. The affected recognized neighborhood planning organization; and
 - d. Any person who requests notice in writing.
3. At least seven days prior to the scheduled public hearing date, notice shall be given in a newspaper of general circulation in the city.
4. Notice may be given for both the commission and council hearings in one consolidated notice.
- D. The planner shall:
- 1. Cause a copy of the notice and the applicable mailing list to be filed and made a part of the record; and
 - 2. Cause a copy of the notice to be published to be filed and made part of the record. (Ord. 634 §1 Exh. A (part), 1995)

17.160.030 Staff reports. A. The planner shall prepare a staff report which includes:

- 1. The facts found relevant to the proposal and found by the planner to be true;
- 2. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;

3. Any federal or state statutes or rules found applicable;
 4. The applicable comprehensive plan policies and map;
 5. The applicable provisions of the implementing ordinances;
 6. If applicable, proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application;
 7. An analysis relating the facts found to be true by the planner to the applicable criteria and a recommendation for approval, approval with modifications or denial and if applicable, any alternative recommendations.
- B. The staff report and all case file materials shall be available seven days prior to the initial scheduled planning commission hearing.
- C. Prior to the initial council hearing, the planner shall transmit the following to the council members:
1. A copy of the staff report as submitted to the commission;
 2. A copy of the commission recommendation; and
 3. A copy of the minutes of the commission public hearing. (Ord. 634 §1 Exh. A (part), 1995)

17.160.040 Hearings procedure. A. Unless otherwise provided in the rules of procedure adopted by the city council the presiding officer of the planning commission and of the council shall have the authority to:

1. Regulate the course, sequence and decorum of the hearing;
2. Dispose of procedural requirements or similar matters;
3. Rule on offers of proof and relevancy of evidence and testimony;
4. Impose reasonable time limits for oral presentation and rebuttal testimony; and
5. Take such other action appropriate for conduct commensurate with the nature of the hearing.

B. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the planning commission and of the council, shall conduct the hearing as follows:

1. Opening statement: The hearing shall be opened by a statement from the presiding officer setting forth the nature of the matter before the body, a general summary of the procedures set forth in this section, and whether the decision which will be made is a recommendation to the city council or whether it will be the final decision of the council.

2. Hearing process:

- a. A presentation of the staff report and other

applicable reports shall be given.

b. Presentation by applicant or representative.

c. The public shall be invited to testify.

d. Staff shall be invited to comment on testimony or evidence presented.

e. The public hearing may be continued to another hearing date to allow additional testimony or it may be closed.

f. The body's deliberation may include questions to staff, comments from the staff or inquiries directed to any person present.

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g. The hearing body may make a decision on the matter, continue its deliberation, table the matter or, if the body deems it necessary or advisable, it may direct that additional hearings be held.

h. The planning commission or the council may continue any hearing and no additional notice shall be required if the matter is continued to a place, date and time certain.

C. Unless otherwise provided in the rules of procedures adopted by the council, the following rules shall apply to the general conduct of the hearing:

1. The approval authority may ask questions at any time before the close of the hearing, and the answers shall be limited to the substance of the question.

2. Parties or the planner must receive approval from the approving authority to submit questions directly to other parties or witnesses or the planner.

3. A reasonable amount of time shall be given to persons to respond to questions.

4. No person shall testify without first receiving recognition from the approval authority and stating his full name and address.

5. The approval authority may require that testimony be under oath or affirmation.

6. Audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing or removal of persons responsible.

7. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing. (Ord. 634 §1 Exh. A (part), 1995)

17.160.120 The standards for the decision. A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:

1. Any applicable statewide planning goals and

guidelines adopted under Oregon Revised Statutes Chapter 197;

2. Any federal or state statutes or rules found applicable;

3. The applicable comprehensive plan policies and map; and

4. The applicable provisions of the implementing ordinances.

B. Consideration may also be given to: Proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application. (Ord. 634 §1 Exh. A (part), 1995)

17.160.130 Approval process and authority. A. Following the public hearing, the planning commission shall formulate a recommendation to the council to approve, to approve with modifications or to deny the proposed change, or to adopt an alternative.

Within ten days of the planning commission's recommendation, the planner shall provide written notification to the council and to all persons who provided testimony.

B. Any member of the commission who voted in opposition to the recommendation by the commission on a proposed change may file a written statement of opposition with the planner prior to any council

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public hearing on the proposed change. The planner shall transmit a copy to each member of the council and place a copy in the record.

C. If the planning commission fails to recommend approval, approval with modification, or denial of the proposed legislative change within sixty days of its first public hearing on the proposed change, the planner shall:

1. Report the failure to approve a recommendation on the proposed change to the council; and

2. Cause notice to be given, the matter to be placed on the council's agenda, a public hearing to be held and a decision to be made by the council. No further action shall be taken by the planning commission.

D. The council shall:

1. Have the responsibility to approve, approve with modifications or deny an application for the legislative change or to remand to the planning commission for rehearing and reconsideration on all or part of an application transmitted to it under this title. The council may set conditions of approval that require conveyances and dedications of property needed for public use as a result of the development, title, plan or map amendment;

2. Consider the recommendation of the planning commission, however, it is not bound by the planning commission's recommendation; and

3. Act by ordinance on applications which are approved and shall be signed by the mayor after the council's adoption of the ordinance.

E. The approved legislative change shall take effect after adoption as specified in the enacting ordinance. (Ord. 634 §1 Exh. A (part), 1995)

17.160.140 Vote required for a legislative change.

A. An affirmative vote by a majority of members of the planning commission present shall be required for a recommendation for approval, approval with modifications, or denial.

B. An affirmative vote by a majority of the members of the council present shall be required to decide any proposed change. (Ord. 634

17.160.170 Reapplication. if an application has been made and denied in accordance with the provisions set forth in this title or by action by the land use board of appeals, the land conservation and development commission, or the courts, no new application for the same or substantially similar change shall be accepted within one year from the date of the final action denying the application; except the council may re-initiate an application upon a finding that there has been a substantial change in the facts surrounding the application or a change in policy which would support the reapplication. (Ord. 634 §1 Exh. A (part), 1995)