

Chapter 16.170

APPLICATION REQUIREMENTS AND REVIEW PROCEDURES Administration, Limited Land Use, Quasi-Judicial & Legislative Decisions

16.170.000 General Provisions

The following lists set forth the type of review procedure for administrative and land use applications:

A. Type I Administrative Permits by City Staff

1. Accessory Structures, residential
2. Extension for a Type I Permit
3. Fence, Wall and Hedge Permit
4. Home Occupation Permit Type 1
5. Sign Permit
6. Building Permit (plot plan review)
7. Code Interpretation
8. Final Plat with Minor Modifications
9. Grading Permit
10. Lot of Record Determination
11. Lot Line Adjustment Permit
12. Right-of-Way Permit
13. Temporary Use Permit for a Sales Office or Model Home

B. Type II Land Use Permit by the City Manager, Planner, or Engineer

1. Accessory Structures, non-residential up to 500 square feet or 20% of existing structure, whichever is greater
2. Minor Design Review
3. Minor Modifications to development approvals per code
4. Minor Variance Permit
5. Other application not specifically described
6. Temporary use for seasonal and special events
7. Extension of Type II Permit
8. Minor Land Partition without Right-of-Way Creation

C. Type III Quasi-Judicial Permits by Planning Commission

1. Appeal of Type I and Type II Land Use Decisions

2. Conditional Use Permit
3. Design Review Permit
4. Final Plat approval with major modifications
5. Extensions of Type III Permits
6. Flood Plain Development Permit
7. Historic Overlay Demolitions
8. Home Occupation (conditional use)
9. Minor Land Partition with Right-of-Way Creation
10. Multi-family Dwellings (conditional use)
11. Nonconforming Structure/Use Permit
12. Planned Unit Development Permit
13. Significant Natural Resource Permit
14. Similar Use Permit
15. Subdivision Permit
16. Major modifications to Development Approvals
17. Variance Permit
18. Historic Overlay Alterations
19. Accessory Structures, non-residential over 500 square feet or 20% of existing structure, whichever is greater.
20. Heritage Tree
21. Temporary Use Permit for a Building, Kiosk or Structure

D. Type IV: Legislative & Other Decisions made by both the Planning Commission and City Council

1. Appeal from Planning Commission
2. Annexation
3. Comprehensive Plan Map or Text Amendment
4. Zoning Code Map or Text Amendment

16.170.001 Pre-application Conference

A pre-application conference is recommended for Type II and required for Type III and IV permits. The City Manager may waive this requirement in writing.

The applicant shall file the appropriate application, pay the review fee and meet with the City Planner, other city staff and affected agencies. At the conference the City Planner shall identify the relevant comprehensive plan policies, map designations, zone and development standards and procedural requirements that apply to the application. The

planner, staff and affected agencies shall provide technical direction and identify opportunities or constraints concerning the application.

Failure of the City to provide any information required by this section does not constitute a waiver of any of the standards, criteria or requirements for the application. Due to possible changes in federal, state, regional and local law, the applicant is responsible for assuring the application complies with all applicable laws on the day the application is deemed complete.

16.170.002 Neighborhood Meeting

The applicant or the applicant's representatives should meet with adjacent property owners and neighborhood representatives prior to submitting an application to the City in order to solicit input and exchange information about the proposed development. The applicant for a Type III application must provide for a neighborhood meeting with a recognized neighborhood or community organization. If no organization exists, then the applicant must provide for a meeting with adjacent property owners within a radius of 250 feet of the development site.

16.170.003 Traffic Impact Study

The purpose of this section is to assist in determining compliance with Section 660-012-0045 (2) of the State Transportation Planning Rule that requires the City to identify potential traffic impacts and apply conditions to development proposals to minimize certain impacts and protect transportation facilities.

This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts, when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities, what must be in a Traffic Impact Study, and who is qualified to prepare the Study.

A. When a Traffic Impact Study is required.

The City or other authority with jurisdiction over an affected roadway may require a Traffic Impact Study (TIS) as part of an application for development, a change in use, or a change in access. A TIS may shall be required when a land use application involves one or more of the following actions:

1. A change in zoning or a plan amendment designation;
2. Any proposed development that the road authority determines will have adverse operational or public safety impacts to the facility;
3. An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more; or

4. An increase in site traffic volume of a particular movement to and from the State Highway by 20 percent or more; or
5. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or
6. The location of an access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or vehicles leaving or entering the property will queue or hesitate on the State Highway, creating a safety hazard; or
7. A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.

B. Traffic Impact Study Preparation.

A Traffic Impact Study shall be prepared by a professional engineer in accordance with the requirements of the road authority. If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

C. City Street Improvement Requirements.

In addition to street improvement requirements in this code for new development, see Chapters 16.145 and 16.150 for street improvement requirements related to residential and commercial and industrial developments and expansions.

16.170.010 Type I Administrative Review by City Staff

Type I administrative applications are reviewed under clear and objective criteria. If a Type I application requires the exercise of discretion, the City shall process the request as a Type II application. Review of a Type I administrative applications described in Section 16.170.000A shall be reviewed by the City Staff according to the following procedures:

- A. An application shall be made on forms provided by the City and shall include the property owners signature of consent.
- B. A dated notice shall be given to the applicant when the application is deemed complete. Within 120 days of this notification, unless extended with the consent of the applicant, the City shall issue a written decision.
- C. The decision shall be based on all applicable provisions of this development code and accompanied by written findings of fact which support the decision, where applicable.
- D. Written notice of the decision shall be provided to the applicant and anyone who requested notice of the decision in writing.

- E. The City's written decision is final unless appealed to the Planning Commission. See Appeals section of this chapter.

16.170.011 Type II Land Use Decisions by City Manager or Planner

A Type II land use application described in Section 16.170.000.B shall be reviewed according to the following procedures:

A. Application forms.

An application shall be made on forms provided by the City Planner or designee. If the application is referred to a quasi-judicial hearing, either voluntarily by the applicant or by staff, a new application is not required.

B. Submittal Information. The application shall:

1. Be made on forms provided by the City and shall include the property owner's signature of consent. Applicants who are entities with condemnation authority are not required to provide an owner's signature.
2. Be filed with one copy of a narrative statement that explains how the application satisfies all of the relevant criteria and standards in sufficient detail for review and decision-making.
3. Be accompanied by the required fee pursuant to Chapter 16.00.070; and
4. Include one set of pre-stamped and pre-addressed envelopes for the record owner of all real property located within 250 feet of the site. The records of the Washington County Assessor's office are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of the appropriate fee, the City may prepare the public notice mailing list. The City or the applicant shall use the most current County real property assessment records to produce the notice list. The City shall mail the notice of application.

C. Completeness

Within 30 days of receiving the application, the City shall provide a dated notice to the applicant indicating whether the application is deemed complete or incomplete. If the application is incomplete the City shall notify the applicant in writing of exactly what information is missing. If deemed incomplete, the applicant has 180 days to submit the missing information, or 14 days to submit a refusal statement or withdraw the application. If the applicant refuses to submit the required information and does not withdraw, the application shall be deemed complete upon receipt of the refusal letter.

D. Final Action

Final action on the application shall occur within 120 days of the date the application is deemed complete unless extended by the applicant in writing.

E. Hearing Option

The City Planner or the applicant may request a public hearing on the application before the Planning Commission. The procedures for the public hearing are described in Section 16.170.012.C and D. The applicant is responsible for the additional city costs associated with the public hearing.

F. Notice. The City shall mail notice of the application to:

1. All owners of record of property within 250 feet of the subject site.
2. Any person who submits a written request to receive a notice and any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, or required by State statute.
3. The road authority, or rail authority and owner, when a proposed development abuts or affects the rail or transportation facility.
4. The City may notify other affected agencies, as appropriate, of the application.

G. Contents of Notice. The notice shall:

1. Provide a 14-day period for submitting written comments.
2. Identify the specific land use decision or decisions requested.
3. Describe the site by the street address or other easily understandable reference.
4. List the relevant criteria by name and number of code sections.
5. State the place, date and time that comments are due and the person to whom the comments should be addressed, including the name and telephone number of the contact person.
6. State that the failure to address an issue with enough detail may preclude an appeal on that issue. Only comments on the applicable criteria are considered relevant evidence.
7. State that all evidence relied upon by the City to make this decision is in the public record and available for public review. Copies of the evidence may be obtained at a reasonable cost from the City.

8. State that after the comment period closes, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

H. Decision

The City Manager or Planner shall review the application and make a decision based on an evaluation of the application, the evidence and the applicable criteria as set forth in this code.

I. Conditions of Approval.

1. Authorization of Approval. Approval of a land use application may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall either ensure compliance with standards of the Code or may be added to address a need for public services created by the proposed use.
2. Timing of Conditions and Development Agreement. Unless otherwise specified in the decision, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Planner may require a performance bond or other guarantee to assure compliance with zoning regulations or fulfillment of required conditions. The City may also require a development agreement between the City and the owner or developer to specify the developer's or owner's obligations for completing construction and any public improvements.
3. Modify Conditions. A request to change or alter conditions of approval shall be processed as a new land use action under the same procedure that was used for the initial approval.

J. Notice of Decision.

1. Within five (5) working days after a decision is made, a Notice of Decision shall be transmitted to:
 - a. The applicant and all property owners or contract purchasers of record.
 - b. Any person who submits a written request to receive notice of the decision, or provides comments during the application review period.
 - c. Any governmental agency entitled to notice under an intergovernmental agreement entered into with the City, and other

agencies that were notified or provided comments during the application review period.

2. The City Planner or designee shall cause an affidavit of transmission to be prepared and made a part of the file. The affidavit shall show the date the notice was transmitted, demonstrate that the notice was sent to the parties above and within the time required by law.
 3. The Notice of Decision shall contain a description of the proposal, where to obtain the decision, the date the decision becomes final unless appealed, and a statement of who may file an appeal, how to file an appeal and the deadline to file an appeal.
 4. Effective Date: The Decision is final for purposes of appeal when it is sent by the city. The decision is effective the day after the appeal period expires or as otherwise provided in the decision.
- K. Appeals. A decision issued by the City Manager or Planner under this section may be appealed to the Planning Commission as described in the appeals section of this chapter.

16.170.012 Type III Quasi-Judicial Decisions by the Planning Commission

A pre-application conference is required for all Type III quasi-judicial applications under this Section. The City Manager may waive this requirement at the request of the applicant.

- A. The requirements and procedures for a pre-application conference are described in Chapter 16.170.001.
- B. Application Requirements.
 1. Application form. A quasi-judicial application shall be made on forms provided by the City Planner or designee. The application shall include all property owner's signatures of consent. Entities with condemnation authority are not required to provide a consent signature.
 2. Submittal Information. A quasi-judicial application shall include:
 - a. The information requested on the application form;
 - b. One copy of a narrative statement that explains how the application satisfies each of the relevant criteria and standards in sufficient detail for review and decision-making.
 - c. The required fee pursuant to Chapter 16.00.070;
 - d. One set of pre-stamped and pre-addressed envelopes for the record owner of all real property located within 250 feet of the site. The

records of the Washington County Assessor's office are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of the fee noted on the City's fee list, the City may prepare the public notice mailing list. The City or the applicant shall use the most current County real property assessment records to produce the notice list. The City shall mail the notice of application.

3. **Completeness.** Within 30 days of receiving an application for a Type III application, the City staff shall provide a dated notice to the applicant indicating whether the application is deemed complete or incomplete. If the application is incomplete, the City Planner shall notify the applicant in writing of exactly what information is missing. If deemed incomplete, the applicant has 180 days to submit the missing information, a refusal statement, or to withdraw the application. If the applicant refuses to submit the required information and does not withdraw, the application shall be deemed complete upon receipt of the refusal letter.
4. **Final Action.** Final action on an application under this section shall occur within 120 days of completeness pursuant to Chapter 16.00.090.

C. Notice of Application.

1. **Mailed notice.** The City shall mail and publish notice of a Type III application. The records of the Washington County Assessor's Office are the official records for determining ownership. Notice of the initial hearing or an appeal hearing shall be given by the City in the following manner:
 - a. At least 20 days before the hearing date, notice shall be mailed to:
 - i. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
 - ii. All property owners of record within 250 feet of the site;
 - iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application;
 - iv. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;

- v. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
 - vi. Any person who submits a written request to receive notice;
 - vii. For appeals, the appellant and all persons who provided testimony in the original decision;
 - viii. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS227.175;
- b. The City Planner or designee shall prepare an affidavit of notice. The affidavit shall state the date that the notice was mailed to the persons who must receive notice; and
 - c. At least 14 business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.
2. Content of Notice. Notice of a Type III application shall contain the following information:
- a. The nature of the application and the proposed land use or uses that could be authorized for the property;
 - b. The applicable criteria and standards that apply to the application;
 - c. The street address or other easily understood geographical reference to the subject property;
 - d. The date, time, and location of the public hearing;
 - e. A statement that the failure to raise an issue in sufficient detail to afford the decision-maker an opportunity to respond to the issue may preclude an appeal based on that issue with the State Land Use Board of Appeals or the circuit court;
 - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
 - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can reviewed at North Plains City Hall at no cost and that copies shall be provided at a reasonable cost;

- h. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at reasonable cost;
- i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- j. The following notice: "Notice to mortgagee, lien holder, vendor or seller: if you receive this notice it shall be promptly forwarded to the purchaser."

D. Conduct of the Public Hearing

- 1. At the commencement of the hearing, the hearings body shall state:
 - a. The applicable approval criteria and standards that apply to the application or appeal;
 - b. That testimony and evidence must address the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
 - c. That failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made on that issue;
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
- 2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;

3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.
4. When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
5. An extension of the hearing or record is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
6. Unless expressly waived by the applicant, the City shall allow the applicant at least seven (7) days after the record is closed to all other persons to submit final written arguments in support of the application. The applicant’s final submittal shall be part of the record but shall not include any new evidence;
7. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;
8. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports).
9. Participants in a land use hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts as reasonably possible.
 - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts concerning the application or appeal. The member shall state whether the contact has impaired the member’s impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
 - b. A member of the hearings body shall not participate in any proceeding in which they have a direct or substantial conflict of interest. Any actual or potential conflict of interest shall be disclosed at the hearing;
 - c. A member of the hearings body may be disqualified due to contacts or conflict and may be ordered not to participate in the vote by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

- d. If a member of the hearings body abstains or is disqualified, the City may provide a substitute in a timely manner subject to the impartiality rules in this section. In this case, a member of the City Council appointed by the Mayor may substitute for a member of the Planning Commission.
- e. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall make the decision;
- f. Any member of the public may raise conflict of interest issues prior to ordering the hearing, to which the member of the hearings body shall reply in accordance with this section.

E. Ex parte communications

A decision or action of the hearings body is not invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

- 1. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
- 2. Publicly announces the content of the communication and the participants' right to dispute the substance of it. The announcement shall be made at the first hearing following the communication.
- 3. Communication between City staff and the hearings body is not ex parte contact.

F. Presenting and receiving evidence.

- 1. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
- 2. Verbal testimony shall not be accepted after the record is closed. Written testimony may be received after the close of the public hearing, only as provided in Section D. Conduct of Hearing;
- 3. A member of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support the member's decision, provided the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

G. The Decision Process.

1. Basis for decision. Approval or denial of a land use application shall be based on standards and criteria in the development code and other applicable laws.
 2. Findings and conclusions. The decision shall include written findings that explain the relevant criteria and standards, the facts relied on in rendering the decision, and justify the decision according to the criteria, standards, and facts.
 3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2 and any conditions of approval. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required.
 4. Decision-making time limits. A final order for an action under this section shall be filed with the City Planner or designee within ten business days after the close of the deliberation.
 5. Notice of Decision. Written notice of a decision under this Section shall be mailed to the applicant and to all participants of record within ten business days after the hearings body decision. Failure of a person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.
 6. Final Decision and Effective Date. The decision of the hearings body on an application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notice and hearings procedures for a quasi-judicial application on appeal to the City Council shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within the period required by state law.
- H. Appeals. A decision issued by the Planning Commission under this section may be appealed to the City Council as described in the appeals section of this chapter.

16.170.013 Type IV Legislative and Other Decisions

A. Pre-Application Conference

A pre-application conference is required for all Type IV legislative applications initiated by a party other than the City of North Plains. The City Manager may waive this requirement upon request of the applicant. The requirements and procedures for a pre-application conference are described in Chapter 16.170.001.

B. Timing of Requests

The City accepts legislative requests at any time. The City Council may initiate its own legislative proposals at any time.

C. Application Requirements.

1. Application forms. A legislative application shall be made on forms provided by the City.
2. Submittal Information. The application shall contain:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards insufficient detail for review and decision (as applicable);
 - c. The required fee pursuant to Chapter 16.00.070; and
 - d. One copy of a letter or narrative statement that explains how the application satisfies all of the relevant approval criteria and standards.

D. Notice of Hearing

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all legislative applications.
2. Notification requirements. Notice of public hearings for the application shall be given by the City in the following manner:
 - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, rezone property, or amend the development code a notice shall be mailed to:
 - b. Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment if a zone change will be required to implement the proposed comprehensive plan amendment);
 - c. Owners of property within 250 feet of property to be rezoned.
 - d. Any affected governmental agency;
 - e. Any person who requests notice in writing;

- f. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
 - g. For a zone change affecting an airport, the owners of the airport in accordance with ORS 227.175.
3. At least 10 days before the scheduled Planning Commission public hearing date and 14 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.
4. The City Planner or designee shall:
- a. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection 2.a; and
 - b. For each published notice, file in the record the affidavit of publication in a newspaper that is required in Subsection 3.
 - c. The Oregon Department of Land Conservation and Development (DLCDC) shall be notified in writing of proposed comprehensive plan and development code amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received, or at such lesser time as the law may allow. The notice to DLCDC shall include a DLCDC Certificate of Mailing.
 - d. Notice of a proposed annexation shall follow the provisions of Chapter 16.205.
 - e. Content of notices. The mailed and published notices shall include the following information:
 - i. The number and title of the file containing the application, and the address and telephone number of the City Planner or designee's office where additional information about the application can be obtained;
 - ii. The proposed site location;
 - iii. A description of the proposed site and the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - iv. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and

rules of procedure 16.170 - 19 adopted by the Council and available at City Hall (See Section E. below); and

- v. Each mailed notice required by Section D above shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: If you receive this notice it shall be promptly forwarded to the purchaser."
- f. Failure to receive notice. The failure of a person to receive notice shall not invalidate the action, provided:
 - i. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
 - ii. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedures

Unless otherwise provided in the rules of procedure adopted by the City Council:

1. The presiding officer of the Planning Commission and of the City Council have the authority to:
 - a. Regulate the course, sequence, and decorum of the hearing;
 - b. Direct procedural requirements or similar matters;
 - c. Impose reasonable time limits for oral presentations.
2. A person may not address the Commission or the Council without:
 - a. Receiving recognition from the presiding officer; and
 - b. Stating the person's full name and address.
3. Disruptive conduct such as, but not limited to, applause or cheering may be cause for expulsion from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
4. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:
 - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;

- b. The City Planner or designee's report and other applicable staff reports shall be presented;
- c. The public shall be invited to testify. The public hearing may be continued to allow additional testimony or it may be closed; and
- d. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing

The Planning Commission or the City Council may continue any hearing and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

G. Approval Process and Authority

1. The Planning Commission shall:
 - a. After notice and a public hearing, prepare and vote on a recommendation to the City Council whether to approve, approve with modifications, approve with conditions or deny the proposed change, or adopt an alternative; and
 - b. Within 14 days of adopting a recommendation, the presiding officer shall sign the written recommendation and it shall be filed with the City Planner or designee.
 - c. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file in the City planning file a written statement of opposition prior to the hearing on the proposal before the City Council. City planning staff shall send a copy to each Council member and place a copy in the record;
2. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change, City staff shall:
 - a. Report the failure together with the proposed change to the City Council;
 - b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing and make a decision. Thereafter, no further action shall be taken by the Commission.

3. The City Council shall:
 - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change. The City Council also may remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
 - b. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
4. The City Council shall approve any legislation by ordinance, which shall be signed by the Mayor after adoption.

H. Vote Required for a Legislative Change

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, and approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

I. Notice of Decision

Notice of a Legislative decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within twenty (20) days after the City Council's decision. The City shall also provide notice to all persons as required by other applicable laws.

J. Final Decision and Effective Date

A Legislative decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

K. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;

3. The official record shall include:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by City staff to the hearings body regarding the application;
 - c. The verbatim record made by the stenographic, mechanical or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices that were given as required by this Chapter.

160.170.015 Appeals

A decision issued under the procedures of this chapter may be appealed to the Planning Commission or City Council as follows:

A. Who may appeal.

The following people may appeal a land use Decision:

1. The applicant or owner of the subject property;
2. Any person who was entitled to written notice of the decision;
3. Any other person who participated in the proceeding by submitting written comments.

B. Appeal filing procedure.

1. Notice of appeal. A person described in subsection A above may appeal the decision by filing a Notice of Appeal.
2. Time for filing. A Notice of Appeal shall be filed with the City Planner or designee within 14 days of the date the Notice of Decision was mailed.
3. Content of Notice of Appeal. The Notice of Appeal shall:
 - a. Identify the decision being appealed, including the date of the decision;
 - b. Demonstrate that the person filing the Notice of Appeal has standing to appeal;

- c. Explain the specific issues being raised on appeal; and
- d. Include the filing fee for each appeal.

C. Scope of appeal.

Appeal of a Type I or Type II Land Use Decision shall be to a de novo hearing before the Planning Commission. The hearing appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review by the City Staff. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criteria, condition or issue.

D. Appeal procedures.

Quasi-Judicial notice, hearing procedures and decision process shall also be used for all appeals under this section;

E. Appeal to City Council.

A decision of the Planning Commission regarding a land use issue or an appeal of a Type II Limited Land Use Decision is the final decision of the City unless appealed to City Council. An appeal to City Council is de novo and shall be based on the record before the Planning Commission public hearing and any new evidence or testimony entered into the record before the City Council without substantive changes to the application reviewed by the Planning Commission. The appeal shall follow the same notification and hearing procedures as for the original Planning Commission hearing. The decision of the City Council on an appeal is final and effective on the date it is sent by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.