

**1301 GENERAL PROVISIONS**

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The review of all administrative actions under this Ordinance shall be subject to Section 1300.

[Amended by Ord. ZDO-230, 9/26/11]

**1301.01 DEFINITION AND REVIEW PROCEDURE**

- A. An administrative action is a proceeding:
  - 1. In which the legal rights, duties, or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.233 and 215.402 to 215.422 or any ordinance, rule, or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard; or
  - 2. Identified as a Planning Director decision by this Ordinance.
- B. Hearings Officer, Planning Commission, and Board of County Commissioners responsibilities shall be as follows:
  - 1. The Hearings Officer shall hear all administrative actions identified under Subsection 1301.01(A)(1) and appeals of decisions issued pursuant to Subsection 1301.01(A)(2), except as set forth in Subsections 1301.01(B)(2) and (3).
  - 2. The Planning Commission shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property; and appeals of Planning Director Interpretations of the Comprehensive Plan.
    - a. On Comprehensive Plan amendments and concurrent applications on the same property, the Planning Commission shall not render a decision but may forward a recommendation to the Board of County Commissioners.
    - b. On appeals of Planning Director Interpretations of the Comprehensive Plan, the Planning Commission shall make a decision, which shall be final unless appealed to the Board of County Commissioners. An appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written decision of the Planning Commission, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.

3. The Board of County Commissioners shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property; and appeals of Planning Commission decisions on interpretations of the Comprehensive Plan. In addition, the Board of County Commissioners may decide to hear an appeal of a Hearings Officer decision on an interpretation of this Ordinance pursuant to Subsection 1304.01. Board of County Commissioners consideration of Comprehensive Plan amendments and concurrent applications on the same property shall follow Planning Commission consideration of these applications.

C. Public Hearing Review Procedures:

1. Planning Commission: An administrative action requiring review by the Planning Commission shall be conducted in accordance with the bylaws adopted by the Planning Commission and the provisions of Section 1300 and Subsection 1402.01(A) and (B).
2. Hearings Officer/Board of County Commissioners: An administrative action requiring review by the Hearings Officer or Board of County Commissioners shall be conducted in accordance with the rules of procedure adopted by the Hearings Officer or Board of County Commissioners and the provisions of Section 1300. This subsection authorizes the Hearings Officer and Board of County Commissioners to adopt rules of procedure for the conduct of hearings.
3. At least seven days prior to the hearing, a copy of the staff report for the hearing shall be available for inspection at the County Planning and Zoning Division and copies shall be provided at reasonable cost.
4. Ex Parte Contact; Hearings Officer: The Hearings Officer shall not:
  - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved, except upon notice and opportunity for all parties to participate;
  - b. Take notice of any communications, reports, staff memoranda, or other materials prepared in connection with a particular case, unless the parties are afforded an opportunity to contest the material so noted; nor
  - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. The Hearings Officer may inspect the site alone but must put the circumstances of the inspection on record.
5. Ex Parte Contact; Planning Commission and Board of County

Commissioners: While every effort must be made to avoid ex parte contact, no decision of the Planning Commission or Board of County Commissioners shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1301.01(C)(4), if the member of the Planning Commission or Board of County Commissioners receiving the contact:

- a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and
  - b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
6. A communication between County staff and the Hearings Officer, Planning Commission, or Board of County Commissioners shall not be considered an ex parte contact for purposes of Subsections 1301.01(C)(4) and (5).

[Amended by Ord. ZDO-230, 9/26/11]

#### 1301.02 APPOINTMENT OF HEARINGS OFFICER

The Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of and at a salary fixed by the Board of County Commissioners. When the Board of County Commissioners serves as the Hearings Officer, it may be referred to as the "Board of County Commissioners" rather than the "Hearings Officer".

#### 1301.03 INITIATION OF ADMINISTRATIVE ACTION

- A. An administrative action, unless otherwise specifically provided for by this Ordinance, may only be initiated by order of the Board of County Commissioners, or a majority of the whole Planning Commission, or by the petition of the owner, contract purchaser, option holder, or agent of the owner, of the property in question.
- B. A property owner, contract purchaser, option holder, or agent of the owner shall initiate an administrative action by filing a complete application with the Planning Director on forms provided by the Planning Director, and accompanied by the applicable fee.

[Amended by Ord. ZDO-230, 9/26/11]

1301.04 PREAPPLICATION CONFERENCE

- A. When an administrative action is to be initiated by a property owner, contract purchaser, option holder, or agent of an owner, the applicant or authorized representative shall meet and confer with the Planning Director in a preapplication conference for those actions requiring a conference, as specified elsewhere in this Ordinance.
- B. For an administrative action not requiring a preapplication conference, the applicant or authorized representative has the option to request a preapplication conference.
- C. A request for a preapplication conference shall be filed with the Planning Director on forms provided by the Planning Director, and accompanied by the applicable fee.
- D. The Planning Director will identify County and outside agency staff with a potential interest in the proposed development, based on the regulations administered by such staff. The Planning Director will notify the identified staff of the preapplication request and invite them to attend the conference or provide comments on the development proposal, as deemed necessary by the Planning Director.
- E. During a preapplication conference, views may be exchanged as to the requisites for formal application and the feasibility of approval may be discussed.

[Amended by Ord. ZDO-230, 9/26/11]