

BYLAWS
OF THE
TILLAMOOK COUNTY PLANNING COMMISSION

ARTICLE I
Objectives and Authority

The organization and operation of the Planning Commission of Tillamook County, Oregon, are in accord with Oregon Revised Statutes, Chapter 215, and amendments and supplements thereto, and those powers and duties delegated to the Planning Commission by the Tillamook County Board of Commissioners by ordinance in accordance with the enabling law.

ARTICLE II
Membership

Section 1: Appointment and Service

The Planning Commission shall consist of seven Tillamook County Residents appointed by the Tillamook County Board of Commissioners in accordance with ORS 215.030. Members will serve for four-year terms unless appointed to serve the unexpired portion of a term. Members may be reappointed by the Board of Commissioners. A member shall continue to serve after the expiration of their term until they are reappointed, or a replacement has been appointed or they have submitted their resignation.

Section 2: Removal

Planning Commission members may be removed by the Tillamook County Board of Commissioners for misconduct or nonperformance of duty. Three consecutive unannounced or unexplained absences or absence from more than one-third of the Planning Commission meetings held in a six-month period shall constitute nonperformance. The Board of Commissioners shall conduct a hearing before removal of a member. The member is entitled to notice of the hearing and may be present at the hearing. The Board of Commissioners may grant a Planning Commission member's request for a leave of absence for not more than three months in a calendar year. Only one Planning Commission member may be on leave of absence at any given time.

ARTICLE III
Officers and Their Duties

Section 1: Officers

The officers of the Planning Commission shall consist of a Chair, a First Vice-Chair and a Second Vice-Chair.

Section 2: Chair

The Chair shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally conferred by parliamentary usage on such officers. The Chair shall be one of the members of the Commission. He or she shall have the same discussion and voting privileges as other members.

Section 3: First Vice-Chair

The First Vice-Chair shall act for the Chair in his or her absence.

Section 4: Second Vice-Chair

The second Vice-Chair shall act for the First Vice-Chair in Chair absence.

ARTICLE IV
Election of Officers

Section 1: Nominations

Nomination of officers shall be made from the floor at a regular meeting in October each year, and the elections shall follow immediately thereafter.

Section 2: Election

A candidate receiving a majority vote of the entire membership of the Planning Commission shall be declared elected and shall serve as Chair until the successor shall take office.

Section 3: Vacancies

Vacancies in offices shall be filled immediately by regular election procedures.

ARTICLE V
Meetings

Section 1: Schedule

Regular meetings will be held as necessary on the second Thursday of each month at 7:30 P.M. in the Courthouse, Tillamook, Oregon, unless otherwise specified in the notice of the meeting. Meetings on other dates may be scheduled as needed. All meetings shall be open to the public.

Section 2: Quorum and Voting Procedure

A majority of the current membership of the Commission shall constitute a quorum which is required for the transaction of any Planning Commission business. A quorum shall not be less than three members. The number of votes necessary to pass a motion shall be a majority of those in attendance who are qualified to vote, or who have not disqualified themselves from voting, but not less than two. Any Commission member having a conflict of interest in the item of business being discussed shall not speak to the matter as a member of the Commission, but shall speak only from the floor as any other private citizen, and shall be disqualified from voting on the particular item in which he or she has the conflict of interest. Voting shall be by show of hands. A record of disqualifications due to conflict of interest shall be governed by ORS 215.035. Those who abstain from voting shall state the reason for their abstention.

Section 3: Discussion

Opportunity for public discussion of any issue on the agenda shall be given. All members of the public attending a meeting who wish to be heard on any agenda item may be requested to sign an official roster indicating their name and the item or items on which they want to be heard. The Chair, at his or her discretion, may limit the length of time each person may speak on a matter. Such limitation shall be announced before any testimony is heard, and every speaker, excluding members of the Commission and staff, shall be held to this time limit. Every person who has signed to speak on an agenda item shall be heard before any person is given an opportunity to speak a second time on that same item.

Section 4: Postponement or Continuation

Consideration of an agenda item may be postponed or continued until the next meeting, or a subsequent meeting, at the discretion of a majority of the members in attendance. No item of business shall be taken up after 11:00 P.M. unless such action is supported by said majority.

Section 5: Agenda

An agenda of items to be discussed at each meeting shall be prepared by planning staff members for the Commission and shall be forwarded by mail to each member of the Commission at least five (5) days prior to such meeting. In preparing the agenda, the staff shall consider the probable amount of discussion time which will be required for each item and shall endeavor to limit the agenda to that number of items which can reasonably be considered in the time allotted to a meeting.

ARTICLE VII Order of Business

The order of business at regular meetings shall be:

- (a) Call to order

- (b) Approval of minutes
- (c) Old business
- (d) New business
- (e) Discussion items
- (f) Planning Director's Report and Committees
- (g) Announcements
- (h) Adjournment

ARTICLE VIII
Committees

Section 1:

The Chair may appoint committees subject to approval of a majority of the members of the Commission.

ARTICLE IX
Amendment

Section 1:

The bylaws may be amended by a two-thirds vote of the Planning Commissioners voting, a quorum being present, or by four members, whichever number is greater.

Section 2:

An amendment to the bylaws shall be submitted to the Planning Commission at the regular meeting previous to that at which action is taken concerning the amendment.

TILLAMOOK COUNTY LAND USE HEARING PROCEDURE

- (A) Chair states that a sign-up list is being circulated for those who wish to testify, and for those who wish to provide their names and addresses so that we may formally notify them of the results of the hearing.
- (B) Chair states that staff will hand out copies of the applicable criteria.
- (C) Chair then makes following statements: (Noting that they are required by ORS 197.763)
 - (1) Testimony and evidence must be directed toward these criteria or other criteria in the plan or land use regulation which the person testifying believes to apply to the decision.
 - (2) Failure to raise an issue with sufficient specificity to afford us and other interested persons an opportunity to respond to the issue precludes appeal to LUBA on that issue.
 - (3) Any party is entitled to a continuance of this hearing if anyone provides documents or evidence in support of the application in addition to what was available at the time that notice of this hearing was provided.
- (D) In the conduct of quasi-judicial land use hearings, unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing [ORS 197.763 (6)].
- (E) Chair then states procedures for hearing (order of presentation and time limits, if necessary).
- (F) Order of Presentations
 - (1) Staff Report
 - (2) Applicant's presentation
 - (3) Other testimony in support of the applicant
 - (4) Testimony from opponents
 - (5) Other testimony
 - (6) Rebuttals
 - (7) Further comments from Staff
- (G) The hearing will then be closed to all testimony. The Board or Commission may discuss the issue amongst themselves. They will then either make a decision at that time, or continue the public hearing until a specified time, or take the matter under advisement and announce their decision at a specified time.

APPENDIX D

TYPES OF LAND USE DECISIONS

Under the statutes, land use decisions are either legislative or quasi-judicial. The kind of decision to be made greatly affects the process used to make the decision, the duties of the decision maker, the rights of the parties involved, and the way the decision is handled on appeal.

LEGISLATIVE LAND USE DECISIONS

Legislative land use decisions create and adopt as law general policies and regulations for future land use within the jurisdiction. Examples of legislative decisions are adoption and amendment of a comprehensive plan or a zoning or subdivision ordinance. Local legislative bodies have a smaller range of discretion in legislative land use decisions than for other legislative actions, because they may have to apply LCDC goals to such decisions. In the case of development ordinance adoptions and amendments, they just apply the policies of the comprehensive plan.

Rules that apply to local government legislative land use decisions, but not to other kinds of local legislative actions, include special requirements for notice, public hearing, findings and appeals. In addition, of course, legislative land use decisions are subject to such general legal requirements as those in the state open meeting, public records, and government ethics laws, as well as applicable provisions of the city charter and, in some cases, the county charter.

QUASI-JUDICIAL LAND USE DECISIONS

While legislative land use decisions make the law, quasi-judicial decisions apply the law to specific land development or use proposals. Examples of decisions that are quasi-judicial under provisions of most city and county plans and implementing ordinances include small-tract zoning designations, conditional use permits, and major land divisions. The decision-making official or body exercises discretion in applying general criteria of the plan or applicable ordinance to the facts of a land use development application in quasi-judicial decisions. As in the case of legislative land use decisions, quasi-judicial decisions have special requirements for notice, hearing, findings and appeal. However, quasi-judicial requirements are more stringent than those for legislative land use decisions. One reason for this is that quasi-judicial decisions always involve property rights of specific persons, and, therefore, they are to be made only after adequate protection of those rights. Another reason is that local legislative decisions may be subject to referendum, while quasi-judicial decisions may not be submitted to a popular vote. Legislative decisions must be made by the city or county governing body. Quasi-judicial decisions may be delegated to another body or to an individual.

MINISTERIAL DECISIONS

The statutes exempt from the definition of "land use decisions" ministerial decisions made under "clear and objective standards" for which the local government provides no right to a hearing. For example, an application for a use expressly allowed by the ordinance presents no problem of interpretation and requires no discretionary or subjective judgment, provided it meets all ordinance standards for the use in that location. The approval is a "ministerial" decision and may be made by staff without notice, hearing or other special procedures. Examples of decisions that are quasi-judicial in some jurisdictions, but are made by staff "ministerially" in other jurisdictions, are minor partitionings and certain minor variances, such as a 10 percent deviation from yard or lot area dimensions. Because, by definition, ministerial decisions merely apply objective standards to a set of facts, there is no exercise or discretion or judgment. Accordingly, there is no need for notice or hearing, and the final decision may be made by staff within the scope of the delegated authority after finding no violation of standards. The decision may be made by a board or committee, such as a site or design review board, if the ordinance contains provisions for such a procedure.

June 6, 2000

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