



## **CHAPTER 2 - DEVELOPMENT APPROVAL PROCEDURES**

Section 2.010 - Purpose .....	1
Section 2.020 - Review Authorities.....	1
Section 2.030 – Pre-Application Conference .....	1
Section 2.040 - Application Submittal and Completeness Review .....	2
Section 2.050 - Filing Fees.....	5
Section 2.080 - Final Action on Permit or Zone Change Application .....	6
Section 2.090 - Review Procedures (Notice, Decision, & Appeal) .....	8
Section 2.100 - Time Limits for Development Permits and Extensions of Time.....	27
Section 2.110 - Hearing Procedure .....	28
Section 2.120 - Official Notice.....	31
Section 2.130 - Appeals Procedures .....	32
Section 2.140 – General Provisions.....	35

### **Section 2.010 - Purpose**

The purpose of this Chapter is to establish uniform procedures for review of land use applications and other actions required by this Ordinance, appeals from aggrieved persons and parties, and review of any decision by a higher authority. This chapter, in conjunction with other chapters of the Land Use and Development Ordinance, implements the goals and policies of the Wasco County Comprehensive Plan as authorized by Chapters 92, 197 and 215 of the Oregon Revised Statutes.

### **Section 2.020 - Review Authorities**

- A. Review Authorities, Generally: Review authorities are those who are designated to make recommendations or decisions regarding development and land use actions and legislative changes. Table 2.1 lists the development and land use actions and legislative changes that are provided by this Ordinance and establishes:
  1. The review authority charged with making the initial decision;
  2. The review authority charged with making the decision on appeal, if any;
  3. Those circumstances where an additional review authority is charged with making a recommendation on the application or proposal to the decision maker.

### **Section 2.030 – Pre-Application Conference**

- A. Purpose: Pre-application conferences are intended to provide applicants with an opportunity to meet with county staff to discuss proposed projects in order to: familiarize applicants with the substantive and procedural requirements of this ordinance; to provide for an exchange of information regarding applicable elements of



the Comprehensive Plan, and development standards; to identify policies and regulations that create opportunities or pose significant constraints for the proposal; and to discuss procedures prior to filing a land use permit application.

- B. **Applicability:** A pre-application conference is required for all applications the Planning Director determines to be complex enough to necessitate it. This includes but is not limited to larger scale commercial energy projects, subdivisions, planned unit developments, and reviews that involve numbers of County departments and other agencies.
- C. **Submittal Requirements:** Pre-application conference requests shall include all the applications components detailed in [Section 2.040 \(B\)](#).
- D. **Scheduling:** Upon receipt of a complete application, the Planning Director will schedule the pre-application conference and coordinate the involvement of other County departments, as appropriate.
- E. **Report:** Subsequent to the pre-application conference, the Planning Director will provide the applicant with a written report of the conference. The purpose of the written report is to provide a preliminary assessment of the proposal, but shall not be deemed to be a land use decision or recommendation by the County or any other outside agency or service provider on the merits of the proposal.
- F. **Validity Period:** A pre-application conference is valid for the rules that apply at the time of the request. The subsequent land use application is subject to the regulations in effect at the time of application.

#### **Section 2.040 - Application Submittal and Completeness Review**

- A. **Initiation of Action:**
  - 1. Type I, II, & III development requests may be initiated by:
    - a. The owner(s) of record; or
    - b. Any person authorized by owner(s) of record to act on the authority of the property owner; or
    - c. Contract purchaser, or lessee of such property, who submits a duly executed written contract; or
    - d. Person or entity authorized by resolution of the County Governing Body; or



- e. A Wasco County Department or public utility agency when dealing with development necessary for public service.
2. Type III quasi-judicial application to amend the Comprehensive Plan text, inventories, maps or figures of the plan; amend a portion of the Comprehensive Plan Land Use Designation map; amend an urban growth boundary; request a zone change or combination of zone change and plan amendment may be initiated by:
    - a. The owner(s) of record; or
    - b. Any person authorized by owner(s) of record to act on the authority of the property owner.
    - c. By resolution of the Board of County Commissioners referring to the Planning Commission a proposal therefore;
    - d. By a majority vote of the Planning Commission confirmed by the Board of County Commissioners;
    - e. By request of the Planning Director, limited to changes required to implement the Comprehensive Plan or to eliminate spot zoning.
    - f. These applications are subject to Chapter 15 of the Wasco County Comprehensive Plan.
  3. Type IV applications for an amendment to one or more policies of the Comprehensive Plan, amend the text, inventories, maps or figures of the plan; amend a portion of the Comprehensive Plan Land Use Designation map; amend this Ordinance; amend the urban growth boundary; or to amend a combination plan change and zone amendment may be initiated by:
    - a. By resolution of the Board of County Commissioners,
    - b. By a majority vote of the Planning Commission, confirmed by the Board of County Commissioners,
    - c. By request of the Planning Director, limited to changes required to implement the Comprehensive Plan or to eliminate spot zoning.
    - d. These applications are subject to Chapter 15 of the Wasco County Comprehensive Plan.



- B. Application Submittal: Type I, II, and III permit applications are subject to the following submittal requirements for an application to be deemed complete:
1. A completed application form, such form to be prescribed by the Planning Director, and containing, at a minimum, the following information:
    - a. The names, mailing addresses, email addresses, and telephone numbers of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
    - b. The address of the subject property, if any, and its map and tax lot number;
    - c. The Wasco County tax identification number;
    - d. The size of the subject property;
    - e. The Comprehensive Plan designation and zoning of the subject property;
    - f. The type of application being submitted;
    - g. A description of the proposal;
    - h. Signature(s) of the applicant(s) and all owners or all contract purchasers of the subject property, or the duly authorized representative(s) thereof, authorizing the filing of the application; and
    - i. Anything required by the underlying zone or review use as determined by staff.
- C. An applicant may apply for all permits necessary for a development project at one time. If the applications involve different review processes, they will be heard and decided under the higher review procedure. The consolidated procedure shall be subject to the time limitations set out in this chapter.
- D. After submittal of an application, the request shall be reviewed for completeness as follows:
1. Except as otherwise provided in [ORS 215.427](#), the application shall be reviewed for completeness within 30 days of receipt.
  2. Determination of completeness shall be based upon the submittal requirements of [Subsection 2.040.B](#) of this Chapter. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the County will make a favorable decision on the application.



3. The County shall begin reviewing the application after it is deemed to be complete.
4. Pursuant to [ORS 215.427\(2\)](#), if an application is determined to be incomplete, written notice shall be provided to the applicant within 30 days of receipt of the application, identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of:
  - a. All of the missing information;
  - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
  - c. Written notice from the applicant that none of the missing information will be provided.
5. The application will be reviewed for consistency with the rules in effect on the date the application was submitted.
6. On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information and either has not submitted the required information or provided written notice that the information will not be provided.

### **Section 2.050 - Filing Fees**

All fees related to land use actions are established by Wasco County Board of County Commissioners Order separately from this Ordinance, and are revised, typically, on an annual or as necessary basis. All fees received are deposited in the County General Fund, are not transferable, and may not be refundable.

- A. Any application or appeal filed with the Planning Department shall be accompanied by the appropriate filing fee.
- B. Pursuant to [ORS 215.416\(1\)](#), fees shall not exceed the actual or average cost of providing the service.
- C. Receipt of an application is the date in which an application is submitted and accepted by the Planning Director. Accepted applications shall be deemed “incomplete” for failure to submit the required fee, including return of checks unpaid or other payment processing failure.



- D. Fees are not transferable. Copies of a purchase order or check for payment of an application or appeal are not acceptable. True payment must be paid prior to the expiration of an appeal period, or prior to acceptance of an application.
- E. An application or appeal filing fee may be waived by the Board of County Commissioners for governmental agencies or nonprofit groups, or upon satisfactory showing that an applicant is without means and is unable to pay the established fee. Said waiver shall be approved by the Board of County Commissioners prior to submitting an application or appeal to the Planning Office.

### **Section 2.080 - Final Action on Permit or Zone Change Application**

- A. Pursuant to [ORS 215.427\(1\)](#), for land within an urban growth boundary and applications for mineral aggregate extraction, the County shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under [ORS 215.422](#), within 120 days after determining the application is complete.
- B. Pursuant to [ORS 197.311](#), the review authority shall take final action on qualifying residential developments including resolution of all local appeals under [ORS 215.422](#), within 100 days after the application is deemed complete.
- C. Pursuant to [ORS 215.427\(1\)](#), the review authority shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under [ORS 215.422](#), within 150 days after determining the application is complete.
- D. Time period extensions and refund criteria are provided within [ORS 215.427](#).



**TABLE 2-1: REVIEW PROCEDURES SUMMARY**

<i>Overlay zones may modify the review procedure.</i>				
Common Land Use Permits/Actions	Review Procedure Type	Public Notice	Review Authority	
			Initial Decision Review Authority	Appeal Review Authority
Structural Without Land Use Application	I		PD	NA
Land Use Verification Letter	I		PD	NA
Ministerial Non Structural	I		PD	NA
Temporary Use Renewal	I		PD	NA
Preliminary Boundary Line Adjustment	I		PD	NA
Preliminary Replat	I		PD	NA
Final Plat Review	I		PD	NA
Telecommunications Tower - Collocation	I		PD	NA
Administrative Variances	II		PD	PC
Temporary Use Permits	II		PD	PC
Preliminary Partition/Replat (Not involving public or private roads)	II		PD	PC
Site Plan Reviews	II		PD	PC
Uses Permitted Subject to Standards	II		PD	PC
Significance Determination for Aggregate Overlay	II		PD	PC
Non-Conforming Use Verification, Restoration, or Alteration	II		PD	PC
Preliminary Partition/Replat (Involving public or private roads approval)	III	X	PC	BOCC
Preliminary Property Line Adjustment (Involving public or private road approval)	III	X	PC	BOCC
Conditional Use Review	III	X	PC	BOCC
Subdivision (Preliminary and Final Plat Approval)	III	X	PC	BOCC
Planned Unit Development (Preliminary and Final Plat Approval)	III	X	PC	BOCC
Mobile Home/Recreational Vehicle Parks	III	X	PC	BOCC
Division of Non Resource Land in Designated Resource Areas	III	X	PC	BOCC
Variance	III	X	PC	BOCC
Private Road Approval	III	X	PC	BOCC
Recommendation to BOCC on public road dedications	III	X	PC	BOCC
Revocation of Conditional Use Permits	III	X	PC	BOCC
Quasi-Judicial Plan Amendment or Zone change request	IV	X	BOCC (Recomm. from PC)	LUBA
Legislative Zone Map Amendment	IV	X	BOCC (Recomm. from PC)	LUBA (PAPA), DLCD (Periodic Review)
Legislative Ordinance Amendment	IV	X	BOCC (Recomm. from PC)	LUBA (PAPA), DLCD (Periodic Review)
Appeal to Board of Commissioners	IV		BOCC	LUBA



## **Section 2.090 - Review Procedures (Notice, Decision, & Appeal)**

All land use applications will be reviewed by the County in accordance with Chapters 92, 197 and 215 of the Oregon Revised Statutes (ORS), and any applicable Oregon Administrative Rule (OAR). To ensure that there is a coordinated effort to permit land use projects, notice of applications for development approval shall be sent to local, state and federal agencies, County departments, and County designated Citizen Advisory Groups. A list of applicable local, state and federal agencies and entities shall be maintained by the Planning Director.

Review procedures for the four review types are described as follows:

### **A. Type I Nondiscretionary Review Procedures (Development Permit):**

1. Notice of Application: Notice of the application to the public is not provided.
  - a. A public hearing is not provided for Type I Permits.
2. Decision: The Planning Director shall approve or deny the application based on the applicable standards and approval criteria, and issue a decision.
  - a. The Planning Director has discretion to determine the form of Type I Permit decisions.
3. Notice of Decision: A copy of the decision shall be provided to the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof by either electronic or postal mail.
4. Appeal: The Planning Director's decision is the County's final decision and may be appealed as provided by law for a non-discretionary decision.

### **B. Type II Administrative Review Procedures (Development Permit)**

1. Notice is not required for all Type II Development Permits. Table 2-1 provides a comprehensive list of land use proposals that require a notice of pending administrative decision before a decision is issued by the Planning Director or other authorized review authority.
2. Notice of Pending Administrative Decision: 12 days prior to the issuance of a decision, written notice of application shall be mailed to:
  - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;



- b. Pursuant to [ORS 215.416\(11\)\(c\)](#), all property owners on the most recent property tax assessment roll:
  - i. Within 100 feet of the property that is the subject of the notice where the property is wholly or in part within an urban growth boundary;
  - ii. Within 250 feet of the property that is the subject of the notice where the property is outside an urban growth boundary and not within a farm or forest zone; or
  - iii. Within 750 feet of the property that is the subject of the notice where the property is within a farm or forest zone;
- c. In addition to notice required under Section 2.b of this section, notice of a replat shall be provided to all current owners of property within the boundary of the replat;
- d. Any active community planning organization, if the subject property lies wholly or partially inside the boundaries of such organization;
- e. Cities within whose recognized Urban Growth Boundary the subject property lies or whose facilities may be impacted, and as prescribed in applicable urban growth management agreements;
- f. A government agency or public district within whose boundary the subject property is located such as county departments, Sheriff's Office, fire departments, school districts, utility companies, and the applicable city departments for those municipalities within Wasco County. These agencies or districts typically include, but are not limited to, the Department of Environmental Quality, Oregon Department of Transportation, Oregon Department of Agriculture, Oregon Fish and Wildlife, the Department of Defense and other applicable local, state or federal agencies;
- g. Persons who requested to be notified of any land use actions;
- k. Other departments required by the provisions of applicable Zones and Environmental Protection Districts;
- l. Owners of a public use airport of any land use action within 5,000 feet of the side or end of a "visual airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the action involves structures less than thirty five (35) feet tall outside the runway approach surface, or if required by [ORS 197.183](#), [ORS 215.223](#), or [ORS 215.416](#).



3. Additional Notice of Pending Administrative Decision Requirements: The following notification requirements are in addition to those set forth in [Section 2.090.B.1](#) of the Chapter.
  - a. Pursuant to [ORS 215.418](#), notice shall be provided to Department of State Lands (DSL) within five working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory provided by DSL;
    - i. Subdivisions;
    - ii. Building permits for new structures;
    - iii. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
    - iv. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
    - v. Planned unit development approvals.
4. At a minimum, the Notice shall include:
  - a. The title of the request, the date such notice was sent, the general location and geographic description, and present zoning of the subject property;
  - b. An explanation of the nature of the application and the proposed use or uses that might be authorized;
  - c. A list of the applicable criteria from this Ordinance, the Comprehensive Plan, and any other state or federal laws, regulations, or rules that apply to the application;
  - d. The legal owner(s) of record, the name of the applicant(s) seeking review, and their mailing addresses;
  - e. The name and telephone number of the County staff member to contact where additional information may be obtained;



- f. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
  - g. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and
  - h. A statement that subsequent to the closing of the public comment period, a decision will be issued and mailed to everyone entitled to the initial notice of the application.
5. Decision and Contents of Decision: If the applicant requests or the Planning Director decides that an administrative review process is elevated to the Planning Commission for decision, the procedural guidelines from [Section 2.090.C](#) shall be applied. The Planning Director's decision to elevate an application to the Planning Commission is not appealable.

In making a decision on the application, the Planning Director or other authorized review authority shall consider the evidence in the record and approve, approve with conditions, or deny the application based on the applicable standards and criteria. The Planning Director shall issue a written decision that details the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts.

The decision shall also include:

- a. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
- b. The conditions of approval, if any;
- c. The general location and geographic description of the subject property;
- d. The name, email address, and telephone number of the County staff member to contact where additional information may be obtained;
- e. A statement that the complete application file is available for inspection at no cost and that copies will be provided at a cost established by the Board of County Commissioners;



- f. The date the review authority's decision becomes effective, unless appealed;
  - g. A statement that the decision will not become final until the period for filing an appeal with the County has expired without the filing of an appeal;
  - h. A statement that any person who is adversely affected or aggrieved or who is entitled to written notice under [Section 2.080.B](#), may appeal the decision by filing a written appeal within twenty-one (21) days from the date such notice of decision was sent;
  - i. A statement that provides location for filing the appeal, a brief statement explaining how to file an appeal, the appeal fee, and where further information may be obtained concerning the appeal process; and
  - j. An affidavit of all mailing notices shall be made part of the record.
6. Additional Considerations for Decision:
- a. The applicant has the burden to demonstrate that the application complies with the applicable standards and criteria. The applicant shall demonstrate by substantial evidence in the record that:
    - i. The proposed action fully complies with the applicable map elements of the Comprehensive Plan.
    - ii. The proposed action fully complies with other applicable elements of the Comprehensive Plan.
    - iii. The proposed action is in accordance with the applicable criteria of this Ordinance.
  - b. Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors.
  - c. Written comments from parties or other persons.
7. Limitations Applicable to Conditions of Approval
- a. Conditions of approval shall be fulfilled within the time limitations set forth in the approval thereof, or, if no specific time has been set forth, within two years from the date of decision.



- b. Changes or alterations of conditions shall be processed as a new review.
  - c. A condition of approval may require the property owner or developer to enter into a development agreement with the County. The Planning Director has authority to execute the agreement on behalf of the County. If a development agreement is required, no building permit shall be issued for the property until the agreement is executed and recorded in the real property records of Wasco County.
  - d. The County may require a bond, cash deposit or other form of financial security, in a form acceptable to the County, to ensure compliance with the conditions of approval. If a bond or other financial security is required, it shall be in an amount equal to 125 percent of any improvements secured by the bond. The bond or other financial security shall be provided to the County prior to the issuance of any building permits for improvements to the site.
  - e. Failure to fulfill any conditions of approval within the time limitations imposed may be grounds for initiation of administrative action, enforcement action or revocation of approval by the Planning Director.
8. Notice of Decision: The notice of decision and all other application materials, documents and other evidence submitted by or on behalf of the applicant or developed by staff for the land use decision shall become part of the record available for public review.

A copy of the decision shall be mailed to those identified in Subsections 2.080.B.2 and 2.080.B.3 of this Chapter.

9. Appeal: A Type II decision is the County's final decision unless an appeal is filed with the Planning Director within 12 days after the date of the decision. The Planning Commission or other authorized review authority, or Board of County Commissioners on its own motion, may order review of the decision within 12 days after the date of the decision. An appeal is subject to the standards and procedures described in [Section 2.130](#) of this Chapter.
10. Re-filing an Application: If an application is denied or a permit revoked by the Planning Director or other authorized review authority, and no higher authority reverses such denial or revocation upon appeal, a new application for the same or substantially similar action may not be filed for at least 12 months from the date of the final order of the action denying the application.

#### C. Type III Quasi-Judicial Review Procedures (Development Permit)



1. Notice of Application and Public Hearing: A minimum of 20 days prior to the first public hearing of each review authority on the proposal, or if two or more evidentiary hearings are allowed, ten days prior to the first evidentiary hearing, written notice of application and hearing shall be mailed to:
  - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - b. All property owners on the most recent property tax assessment roll:
    - i. Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
    - ii. Within 300 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. Within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone;
  - d. The Oregon Department of Land Conservation and Development, at the discretion of the applicant;
  - e. If the application is for a replat of a recorded plat, all owners of lots or parcels in the original plat;
  - f. Any active community planning organization, if the subject property lies wholly or partially inside the boundaries of such organization;
  - g. A city, within whose recognized Urban Growth Boundary the subject property lies or whose facilities may be impacted, and as prescribed in applicable urban growth management agreements;
  - h. Any governmental agency or public district within whose boundary the property is located, such as county departments, Sheriff's Office, fire departments, school districts, utility companies, and the applicable city departments for those municipalities within Wasco County. Impacted jurisdictions and agencies typically include, but are not limited to, the Department of Environmental Quality, Oregon Department of Transportation, Oregon Department of Agriculture, Oregon Fish and Wildlife, the Department of Defense and other applicable local, state or federal agencies;



- i. The owner of a public use airport of any land use action within 5,000 feet of the side or end of a "visual airport" runway, or within 10,000 feet of an "instrument airport" runway, unless the action involves structures less than thirty-five (35) feet tall outside the runway approach surface, or if required by [ORS 197.183](#), [ORS 215.223](#), or [ORS 215.416](#).
2. Additional Notice of Application and Public Hearing Requirements: The following notification requirements are in addition to those set forth in Section 2.090.C.1 of this Chapter.
  - a. The Oregon Department of Land Conservation and Development (DLCD), if required pursuant to [ORS 197.610](#). Procedures for the giving of the required notice shall be those established by [ORS 197.610](#) and [OAR 660-018](#).
  - b. Notice shall be printed by publication in a newspaper of record within Wasco County at least 14 days prior to the date of first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.
  - c. Pursuant to [ORS 215.418](#), notice shall be provided to Department of State Lands, the applicant, and owner of record within five working days of the acceptance of any complete application for the following that are wholly or partially within areas identified as wetlands on the Statewide Wetlands Inventory provided by DSL;
    - i. Subdivisions;
    - ii. Building permits for new structures;
    - iii. Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in floodplains and floodways;
    - iv. Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
    - v. Planned unit development approvals.
  - d. Pursuant to [ORS 197.798](#) and [OAR 660-012-0060](#), notice of a quasi-judicial hearing for any proposal that includes a new transportation facility or



improvement, and where these facilities or improvements include or may impact a collector or arterial street, shall be sent to the Oregon Department of Transportation and any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycle and pedestrian interest groups, and public transit providers.

- e. If a proposed zone change will limit or prohibit uses previously allowed in the zone, the County shall provide mailed notice to each owner of property within the affected zone. The form of the notice shall generally comply with ORS 215.503.
3. Contents of Notice of Application and Public Hearing: At a minimum, the contents shall include:
    - a. The title of the request, the date such notice was sent, the general location and geographic description, and present zoning of the subject property;
    - b. An explanation of the nature of the application and the proposed use or uses that might be authorized;
    - c. A list of the applicable criteria from this Ordinance, the Comprehensive Plan, and any other state or federal laws, regulations, or rules that apply to the application;
    - d. The legal owner of record, the name of the applicant, and their mailing addresses;
    - e. Date, time, and location of the hearing;
    - f. A statement that failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Oregon Land Use Board of Appeals on that issue;
    - g. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a cost established by the Board of County Commissioners;
    - h. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at a cost established by the Board of County Commissioners;



- i. A general explanation of when, where, how, and to whom written comments on the application may be submitted; and
  - j. The name and telephone number of the County staff member to contact where additional information may be obtained;
  - k. A general explanation of the requirements for submission of comments, testimony and the procedure for conduct of hearings; and
  - l. An affidavit of all mailing notices shall be made part of the record.
4. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the Planning Commission or other authorized review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing. All application materials, documents or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided and made available for public review.

Additional considerations include the following:

- a. The applicant has the burden to demonstrate that the application complies with the applicable standards and criteria. Unless otherwise provided for in this Chapter, the applicant shall demonstrate by substantial evidence in the record that:
  - i. The proposed action fully complies with the applicable map elements of the Comprehensive Plan.
  - ii. The proposed action fully complies with other applicable elements of the Comprehensive Plan.
  - iii. The proposed action is in accordance with the applicable criteria of this Ordinance.
- b. Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors.



5. Public Hearing: A public hearing shall be held before the Planning Commission or other authorized review authority for the purpose of receiving testimony and making a decision regarding the application. Rules of public hearing procedure and conduct are provided in [Section 2.110](#) of this Chapter.
  
6. Decision: The Planning Commission or other review authority shall consider the record and approve, approve with conditions, or deny the application based on the evidence in the record and the applicable standards and criteria. The Planning Commission or other review authority shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision shall also include:
  - a. An explanation of the nature of the application and the use or uses that were proposed and, if applicable, are authorized by the decision;
  - b. The conditions of approval, if any;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date the review authority's decision becomes effective, unless appealed; and
  - e. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision by filing a written appeal within 12 days from the date such notice of decision was sent, the date by which an appeal must be filed, the location for filing, a brief statement explaining how to file an appeal, and where further information may be obtained concerning the appeal process.
  
7. Notice of Decision: The notice of decision, staff report, and all other application materials, documents and other evidence submitted by or on behalf of the applicant or developed by staff for the land use decision shall become part of the record available for public review.

A copy of the decision shall be mailed to:

- a. Those identified in [Section 2.090.C](#) of this Chapter;
- b. Anyone who provided evidence, argument, or testimony as part of the record;



- c. Anyone who made a written request for notice of decision; and
  - d. DLCDD, if required pursuant to [ORS 197.615](#). Procedures for the giving of the required notice to DLCDD shall be those established by [ORS 197.615](#) and [OAR 660-018](#).
8. Appeal: The Planning Commission or other authorized review authority's decision is final unless an appeal is filed with the Planning Director within 12 days after the date of the decision. The Board of County Commissioners on its own motion, order review of the decision within 12 days after the date of the decision. An appeal is subject to the standards and procedures described in [Section 2.130](#) of this Chapter.
  9. Re-filing an Application: If an application is denied or a permit revoked by the Planning Director or other authorized review authority, and no higher authority reverses the decision, a new application for the same or substantially similar action may not be filed for at least 12 months from the date of the final order of the action denying the application.
- D. Type III Text Amendment or Zone Change Request (Quasi-Judicial Review Procedures)
1. Notice of Application and Public Hearing: Written notice of an application and hearing shall be mailed within a minimum of 20 days prior to the first public hearing, or if two or more evidentiary hearings are allowed, ten days prior to the first evidentiary hearing, to:
    - a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
    - b. All property owners on the most recent property tax assessment roll that are:
      - i. Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
      - ii. Within 250 feet of the property which is the subject of the proposed plan amendment or zone change request where the subject property is inside or outside an urban growth boundary and not within a farm or forest zone; or
      - iii. Within 750 feet of the property which is the subject of the proposed plan amendment or zone change request notice where the subject property is within a farm or forest zone;
    - c. Those identified in [Subsections 2.090.C.1](#);



3. Additional Notice of Application and Public Hearing Requirements:
  - a. Pursuant to [ORS 197.610](#) and [OAR 660-018-0020](#), a minimum of 35 days prior to the first public hearing, notification shall be provided to the Oregon Department of Land Conservation and Development (DLCD). Procedures for the giving of the required notice shall be those established by [ORS 197.610](#) and [OAR 660-018](#).
  - b. Notice shall be printed by publication in a newspaper of general circulation within Wasco County at least 14 days prior to the date of first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.
  - c. Pursuant to [ORS 197.798](#) and [OAR 660-012-0060](#), notice of a quasi-judicial hearing for any proposal that includes a new transportation facility or improvement, and where these facilities or improvements include or may impact a collector or arterial street, shall be sent to the Oregon Department of Transportation and any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycle and pedestrian interest groups, and public transit providers. Information that should be conveyed with the notice includes the following:
4. Contents of Notice of Application and Public Hearing: At a minimum, the contents shall include:
  - a. Those contents identified in [Subsection 2.090.C.3](#) of this Chapter.
5. Application Review and Staff Report: The Planning Director shall review the application, written comments, and evidence submitted prior to the public hearing; prepare a staff report summarizing the application, comments received to-date, and relevant issues associated with the application; and make a recommendation to the review authority. Additional considerations include the following:
  - a. The applicant has the burden to demonstrate that the application complies with the applicable criteria. Unless otherwise provided for in this Chapter, the applicant shall demonstrate by substantial evidence in the record that:
    - i. The proposed action fully complies with the applicable map elements, goals and policies of the Comprehensive Plan.



- ii. The proposed action is in accordance with the applicable criteria of this Ordinance.
- iii. The site is suitable to the proposed zone;
- iv. Evidence of change in a neighborhood or community, or mistake in the planning or zoning for the property under consideration, are additional relevant factors.
- v. Factors that relate to the public need for health, safety and welfare in applying the specific zoning regulations.
- vi. A text amendment or zone change may be based on special studies or other information that provide a factual basis to support the change. The public need and justification for the particular change must be established.

The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing. All application materials, documents or other evidence submitted by or on behalf of the applicant for any land use approval shall be provided and made available for public review.

#### 6. Additional Review Requirements for Proposed Plan Amendments: Transportation Planning Rule Compliance

A proposed zone change or land use regulation amendment shall be reviewed to determine whether it significantly affects a transportation facility in accordance with [OAR 660-012-0060](#) (the Transportation Planning Rule – “TPR”).

7. Public Hearing: A public hearing shall be held before the appropriate review authority. Rules governing the conduct of the public hearing are provided in [Section 2.110](#) of this Chapter.
  - a. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission or other authorized review authority for the purpose of receiving testimony regarding the application.
    - i. Planning Commission Recommendation: The Planning Commission or other authorized review authority shall consider the evidence in the record and may make a recommendation to the Board of County Commissioners to approve, approve with modifications, or decline to approve the application. If no recommendation is made by the Planning Commission or other authorized review authority, and an extension is not granted by the Board



of County Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.

- b. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners, for the purpose of receiving testimony regarding the application and to make a final decision.
8. Decision: The Board of County Commissioners shall consider the evidence in the record and approve, approve with modifications, or deny the application based on the applicable standards and criteria. The Board shall issue a written decision that explains the standards and criteria considered relevant to the decision, states the facts relied upon in rendering the decision, and explains the justification for the decision based on the standards, criteria, and facts set forth. The decision also shall include:
- a. An explanation of the nature of the application and the plan or zone changes that were proposed and, if applicable, are authorized by the decision;
  - b. The modifications made, if any;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date the review authority's decision becomes effective, unless appealed;
  - e. A statement that any person who presented evidence, argument, or testimony as part of the record may appeal the decision; and
  - f. A statement that the decision may be appealed to the Land Use Board of Appeals pursuant to [ORS 197.830 to 197.845](#).
9. Notice of Decision: A copy of the decision shall be mailed to:
- a. The applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - b. Anyone who provided evidence, argument, or testimony as part of the record;
  - c. Anyone who made a written request for notice of decision; and
  - d. Pursuant to [ORS 197.615](#) and [OAR 660-018-0022](#), to the Oregon Department of Land Conservation and Development (DLCD) within 20 days after the date of a decision to adopt the change. Procedures for notice to DLCD are set forth in [ORS 197.610](#) and OAR 660-018.



10. Appeal: The Board of County Commissioners decision is final. The Board's decision may be appealed to the Land Use Board of Appeals pursuant to [ORS 197.830-845](#).
11. Refiling an Application: If an application is denied or a permit revoked by the Planning Director or other authorized review authority, and the decision is not reversed by a higher authority on appeal, a new application for the same or substantially similar action may not be filed for at least 12 months from the date of the final order of the action denying the application.

E. Type IV Legislative Land Use Proposals (Legislative Review Procedures)

1. A proposed legislative change must be submitted to the Department of Land Conservation and Development (DLCD) at least 35 days before holding the first evidentiary hearing on the proposed change. The proposed change must be submitted to DLCD on the forms and include materials outlined in [OAR 660-18-0020\(2\)](#).
2. Notice of Proposal and Public Hearing: A minimum of 20 days, but no more than 40 days, prior to the first public hearing of each review authority on the proposal, written notice of the proposal and hearing shall be mailed to:
  - a. When the proposed change will limit or prohibit a use allowed in a zone, to the owner(s) of property in the affected zone;
3. Additional Notice of Proposal and Public Hearing Requirements:
  - a. Notice shall be printed by publication in a newspaper of record for Wasco County at least 14 days prior to the first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.
4. Contents of Notice of the Legislative Proposal and Public Hearing:
  - a. Pursuant to [ORS 215.503\(5\)](#), at a minimum, the contents of the notice for individual property owners shall substantially contain the following language:
    - i. This is to notify you that Wasco County has proposed a land use regulation that may affect the permissible uses of your property and other properties in the affected area, and may change the value of your property. On [date of public hearing], Wasco County will hold a public hearing at regarding the adoption of [Ordinance Number or File Number]. Wasco County has



determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property. [Ordinance Number or File Number] is available for inspection at no cost at the Wasco County Planning Department located at [current address]. A copy of [Ordinance Number or File Number] is also available for purchase for the cost of copies. For additional information concerning [Ordinance Number or File Number], you may call the Wasco County Planning Department at [phone number], visit our website [url], or email the staff contact [name and email address].

- ii. Pursuant to [ORS 215.513](#), the notice shall also contain the following statement: NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

- b. An affidavit of all mailing notices shall be made part of the record.

5. Additional Notice Requirements for Periodic Review of the Comprehensive Plan:

- a. Pursuant to [ORS 215.503\(6\)](#), for proposed amendments of a comprehensive plan or land use regulation by the Board of County Commissioners required by periodic review of the comprehensive plan under [ORS 197.628](#), [197.633](#) and [197.636](#), a written individual notice of the land use change shall be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property and contain the language required by [ORS 215.503 \(6\) \(a\) and \(b\)](#).

6. Proposal Review and Staff Report: The Planning Director shall consider the proposal, written comments, and evidence prior to each public hearing; prepare a staff report summarizing the proposal, comments received to-date, and relevant issues associated with the proposal; and make a recommendation to the review authority. The staff report shall be made available to the public for review a minimum of seven days prior to the first evidentiary hearing.

- a. Considerations for Comprehensive Plan amendment proposals can be found in Chapter 15 of the Wasco County Comprehensive Plan.
- b. Considerations for Land Use Ordinance amendment proposals include, but are not limited to the following:



- i. The proposed action fully complies with the applicable map elements, goals and policies of the Comprehensive Plan.
- ii. Substantial evidence that the change is not detrimental to the spirit and intent of the applicable goals.
- iii. Evidence of change in a neighborhood or community, or mistake in the planning or zoning for the property under consideration, are additional relevant factors.
- iv. Factors that relate to the public need for health, safety and welfare in applying the specific zoning regulations.
- v. Revisions may be based on special studies or other information that provide a factual basis to support the change.
- vi. The public need and justification for the particular change must be established.

7. Additional Review Requirements for Proposed Plan Amendments: Transportation Planning Rule Compliance:

A proposed zone change or land use regulation change, whether initiated by the County or a private party, shall be reviewed to determine whether it will significantly affect a transportation facility in accordance with [OAR 660-012-0060](#) (the Transportation Planning Rule – “TPR”).

8. Public Hearing: A public hearing shall be held before the appropriate review authority. Rules governing the conduct of the public hearing are provided in [Section 2.110](#) of this Chapter.
  - a. Planning Commission Public Hearing: A public hearing shall be held before the Planning Commission or other authorized review authority for the purpose of receiving testimony regarding the proposal.
    - i. Planning Commission Recommendation: The Planning Commission or other authorized review authority shall consider the evidence in the record and may make a recommendation to the Board of County Commissioners to adopt, adopt with modifications, or decline to adopt the proposal. If no recommendation is made by the Planning Commission or other authorized review authority and an extension is not granted by the Board of County



Commissioners, the Board of County Commissioners may act upon the proposal notwithstanding the lack of a recommendation.

- b. Board of County Commissioners Public Hearing: A public hearing shall be held before the Board of County Commissioners for the purpose of receiving testimony regarding the proposal.
9. Decision: The Board of County Commissioners shall consider the record and adopt, adopt with modifications or decline to adopt the proposal; remand the matter back to the Planning Commission or other authorized review authority for further consideration; or table the matter. The decision of the Board of County Commissioners to adopt or adopt with modifications shall be by ordinance. The decision also shall include:
- a. A brief summary of the decision;
  - b. If adopted: The date and number of the adopting ordinance; and where and when the adopting ordinance, staff report, and all other materials, documents and other evidence submitted or developed by staff can be obtained;
  - c. A statement that the decision may be appealed to the Land Use Board of Appeals pursuant to [ORS 197.830 to 197.845](#); and
  - d. The name and telephone number of the County staff member to contact where additional information may be obtained.
  - e. An affidavit of all mailing notices shall be made part of the record.
10. Notice of Decision: A copy of the decision shall be mailed to:
- a. The Oregon Department of Land Conservation and Development (DLCD). Procedures for notice to DLCD are set forth in [ORS 197.610](#) and [OAR 660-018](#).
  - b. Parties who both participated in the County proceedings that led to the decision to adopt the change to the Comprehensive Plan or this Ordinance and requested in writing that the County give notice of the change.
11. Appeal: The Board of County Commissioners decision is final. The decision may be appealed to the Land Use Board of Appeals pursuant to [ORS 197.830 to 197.845](#).



## Section 2.100 - Time Limits for Development Permits and Extensions of Time

### A. Time Limits for Permits:

1. A development permit approval is valid for two years from the date of the final decision unless otherwise specified in the approval or by other provisions of the Wasco County Land Use and Development Ordinance, and except as provided for in Subsection 2.100.B below.
2. A permit for a discretionary approval of residential development on agricultural or forest zoned land is valid for four years, consistent with [OAR 660-033-0140](#) and [ORS 215.417\(1\)](#), unless otherwise specified in the approval or by other provisions of the Wasco County Land Use and Development Ordinance, and except as provided in Subsection 2.100.B below. For the purpose of this section “residential development” only includes the dwellings provided for under [ORS 215.213\(3\) and \(4\)](#), [215.284](#), [215.705\(1\) to \(3\)](#), [215.720](#), [215.740](#), [215.750](#), and [215.755\(1\) and \(3\)](#).
3. A permit becomes invalid if development has not commenced within the time limit listed in Section 2.100 (A) 1 and 2, and is not timely extended under Section 2.100 (B). Commencement of development is defined in Chapter 1 of this Ordinance.
4. A permit becomes invalid if the approved use is discontinued for any reason for one continuous year or more.

- B. Extension of Time Request: If an extension of time is required, the holder of the approved permit must apply for an extension. A one-time extension may be granted for a maximum of two years. Extension of time requests will be reviewed as an administrative action. Approval of an extension granted under this rule is not a land use decision as described in [ORS 197.015](#) and is not subject to appeal as a land use decision.

Extensions shall be granted only upon findings that:

1. Written request for an extension of time has been made prior to expiration of the approved permit.
2. There has been no change in circumstances or the law that will necessitate significant modifications of the development approval or conditions of approval.
3. For extensions for applications in an Exclusive Farm Use Zone, the applicant shall provide reasons, for which the applicant is not responsible, that prevented the applicant from beginning or continuing development within the approval period.



## Section 2.110 - Hearing Procedure

- A. General Conduct of All Hearings. The presiding officer in charge of the decision making body shall have the authority, at such person's discretion, to inform, reprimand, or remove any person or persons for violations of the rules of conduct. Violations of the rules of conduct shall be grounds for the immediate suspension of the hearing. The following rules apply to the general conduct of the hearing:
1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
  2. No person shall testify without first receiving recognition from the review authority.
    - a. Recognition shall require that the witness state their full name and address for the record.
  3. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs.
  4. Audience demonstrations such as applause, cheering, and display of signs, or other conduct that disrupts the hearing is not permitted.
- B. In conducting a public hearing, the presiding officer has authority to:
1. Determine the order of the proceedings, including witness testimony.
  2. Regulate the course, sequence and decorum of the hearing.
  3. Dispose of procedural requirements or similar matters.
  4. Impose reasonable limits on the number of witnesses heard and set reasonable time limits for oral presentation and rebuttal testimony.
  5. Take such other action appropriate for conduct commensurate with the nature of the hearing.
  6. When conducted by a hearings officer, grant, deny, or in appropriate cases, attach conditions pursuant to [Subsections 2.090.B](#) & [2.090.C](#) of this Chapter to the matter being heard.



- C. Order of Procedure: Pursuant to [ORS 197.763](#), and unless otherwise specified, the review authority, in the conduct of a hearing, shall:
1. Announce the nature and purpose of the hearing and summarize the rules for conducting the hearing.
  2. List the applicable substantive criteria.
  3. State that testimony, arguments and evidence must be directed toward the applicable substantive criteria or other criteria in the Comprehensive Plan or Land Use Ordinance which the person believes to apply to the decision.
  4. State that failure to raise an issue accompanied by statements or evidence sufficient to afford the review authority and the parties an opportunity to respond to the issue precludes appeal based on that issue.
  5. Recognize parties.
  6. Ask for disclosure of any bias, conflicts of interest or ex parte contact by those on the decision making body.
  7. Allow opportunity for the presenting and receiving of evidence.
    - a. The presiding officer may set reasonable time limits for oral presentations.
    - b. Members of the review authority may visit the property and the surrounding area, and may use information obtained during the site visit to support its decision, if the information is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
  8. Unless otherwise directed by the presiding officer, public testimony shall proceed in the following order:
    - a. The applicant;
    - b. Testimony in support of the application;
    - c. Testimony opposed to the application;
    - d. Neutral testimony;
    - e. Applicant rebuttal.
  9. Members of the reviewing body may ask questions of the applicant, witnesses or staff at any time during the hearing.



10. Following applicant rebuttal, the review authority may ask staff to respond to or clarify issues raised during the testimony.
11. Prior to the conclusion of the initial evidentiary hearing, any party may request that the record be held open to allow additional evidence, argument, or testimony regarding the application.
  - a. The review authority shall grant the request either by continuing the hearing to a time and date certain, or by holding the record open for additional written evidence.
  - b. If the hearing is continued and new evidence is submitted, the review authority shall provide an opportunity for testimony to address the new evidence.
  - c. If the record is left open, it shall be left open for at least seven days, and shall include an additional opportunity to respond to any new evidence that is received during the seven day period.
  - d. The applicant shall have an additional seven days after the record is closed to all other parties to submit final written argument, which may not include new evidence. The additional seven days is not included in the relevant deadline for issuing a final local decision. The applicant may waive the opportunity to file final written argument.
  - e. If the applicant requests the record be held open for additional evidence, the period the record is held open is not included in the relevant deadline for issuing a final local decision.
12. The applicant at its discretion may extend in writing the time for issuing a final decision.
13. The review authority at its discretion may continue the hearing to allow the submission of additional evidence or for deliberation without additional evidence.
  - a. New notice of a continued hearing need not be given so long as the review authority establishes a certain time and location for the continued hearing.
14. After the opportunity to submit evidence has expired, the presiding officer shall close the record and the review authority shall proceed to deliberate. Unless the review authority reopens the record to allow responsive evidence, any evidence that is received after the record is closed shall not be placed before or considered by the review authority.
15. The review authority's decision shall be set forth in writing with appropriate findings, conditions and conclusions. The decision is final when signed by the review authority.



- a. For the purpose of signing a decision of the Planning Commission or other authorized review authority, the Chair of the Planning Commission or authorized reviewing authority or the Planning Director may sign.

16. The Planning Director shall send a notice of the review authority's decision to all parties to the matter.

#### D. Ex Parte Contact, Conflict of Interest and Bias

An impartial review authority as free from potential conflicts of interest and pre-hearing ex-parte (outside the hearing) contacts as reasonably possible shall be a procedural entitlement provided at the public hearing.

Pursuant to [ORS 215.422](#), the following rules and procedures govern a decision maker's participation in a quasi-judicial or legislative proceeding or action affecting land use:

1. **Ex Parte Contact:** In a quasi-judicial proceeding, a member of the review authority who receives information regarding the application through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This subsection does not apply to legislative proceedings or contacts between staff and a member of the review authority.
2. **Conflict of Interest:** A member of a review authority shall not participate in any proceeding or action in which the member has an actual conflict of interest as defined in ORS 244.020. A member of a review authority shall disclose any potential conflict of interest, as defined in ORS 244.020, at the beginning of the initial hearing, but may thereafter participate in the proceeding.
3. **Bias:** All decisions in quasi-judicial matters shall be fair, impartial and based on the applicable approval standards and the evidence in the record. Any decision maker who is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This paragraph does not apply to legislative proceedings.

#### **Section 2.120 - Official Notice**

- A. The review authority may take official notice of the following:
  1. The laws of the State of Oregon, the United States, any federally recognized American Indian tribal government and any state, territory or other jurisdiction of the United States.



2. The Comprehensive Plan and other officially adopted plans, ordinances, joint management agreements, rules and regulations of Wasco County, and comprehensive plans and implementing regulations of cities within Wasco County.
- B. Matters officially noticed need not be established by evidence and may be considered by the review authority in reaching a decision.

### **Section 2.130 - Appeals Procedures**

- A. Appeals of Type II Administrative Decisions
1. Appeal of a Type II Administrative decision is subject to review by the Planning Commission or other authorized review authority. Table 2-1 identifies those Type II decisions and the applicable review authority.
  2. An appeal may be filed by the following:
    - a. The applicant, property owner or contract purchaser, as shown in the Wasco County assessment records.
    - b. A person who submitted written comments on the application.
    - c. A person who received notice of the application.
    - d. A Citizen Advisory Group pursuant to the County Citizen Involvement Program.
    - e. An affected unit of local government, state or federal agency.
  3. Filing an Appeal: An appeal shall be in writing and must be received by the Planning Director within 12 days of the date of mailing of the notice of decision.
    - a. A party to an action who wishes to appeal an administrative decision shall submit the appeal notice on a form prescribed by the Planning Director. The notice must include the required appeal fee. In addition, the appeal notice shall contain:
      - i. A reference to the decision appealed.
      - ii. A description of the reasons the appellant believes the decision is in error.
      - iii. The date of the final decision of the action.
    - b. The failure to submit the appeal notice in a timely manner with the required fee, including return of checks unpaid or other failure of payment, is jurisdictional defect and the appeal will be dismissed.



4. Party Notice of Appeal: 20 days prior to the date of the appeal hearing, the Planning Director shall give notice to all parties to the case of the time, date and place of the hearing.
  - a. Notice shall be printed by publication in a newspaper of general circulation within Wasco County at least 14 days prior to the date of first public hearing of each review authority on the proposal. The notice provisions of this section shall not restrict the giving of notice by other means, including mail, radio, website, and television. An affidavit of publication shall be made part of the record.
  - b. Notice of a quasi-judicial hearing shall be provided as described in [Subsection 2.090.C](#) of this Chapter.
5. A staff report shall be made available to the public for review a minimum of seven days prior to an evidentiary hearing.
6. An administrative action that is appealed to the Planning Commission or other authorized review authority shall be heard "de novo," without limitation to the issues or evidence, and the hearing conducted as the initial evidentiary hearing.
  - a. An appeal hearing shall follow the hearings procedures set forth in [Section 2.110](#) of this Chapter.
7. The Planning Commission or other authorized review authority may affirm, reverse or modify the administrative decision, including such conditions of approval that the Planning Commission or other review authority determines are necessary to ensure compliance with the applicable standards and criteria.
8. The Planning Director shall send a copy of the Planning Commission or review authority's decision to all parties to the matter.

#### B. Appeals of Type III Quasi-Judicial Decisions

1. Appeal of a Type III Quasi-Judicial decision made pursuant to this Chapter is subject to review by the Board of County Commissioners. Table 2-1 identifies those land use decisions that may be appealed to the Board of County Commissioners.
  - a. A Type III decision may be appealed by any person who participated in the proceedings before the Planning Commission or other review authority.





5. Appeal of a Type III Quasi-Judicial decision shall be de novo.
6. The Board of County Commissioners may affirm, remand, reverse or modify the action of the lesser authority, and including conditions of approval the Board determines are necessary to ensure compliance with the conditions of approval. The Board of County Commissioners shall adopt written findings based on the evidence in the record.
7. The Planning Director shall send a copy of the Board's decision to all parties to the matter.
8. The Board of County Commissioners' decision is final. The decision may be appealed to the Land Use Board of Appeals pursuant with [ORS 197.805 to 197.860](#).

C. Appeals of Type IV Legislative Decisions

1. Appeal of a Type IV Legislative decision (Post Acknowledgment Plan Amendments only) made pursuant to this Chapter shall be made to the Land Use Board of Appeals in accordance with [ORS 197.620, 197.805 to 197.860](#).
2. A Legislative Decision made pursuant to periodic review must be appealed first to DLCD using the objection process. The final order can be appealed per ORS 197.650.

**Section 2.140 – General Provisions**

- A. Calculation of Time: For the purposes of this Ordinance, unless otherwise specifically provided, days mean calendar days. In calculating a specific time period, the day on which the period begins to run shall not be included; and the day on which the period ends shall be included. In the event the last day falls on a day on which the County is not open for business, the period of time shall end on the next day on which the County is open for business.
- B. Property Owner's Signature: When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any owner, or when any person states that he or she is buying the property under contract, the Planning Director or other authorized review authority may accept these statements to be true. Nothing herein shall prevent the Planning Director or other authorized review authority, from demanding proof that the signer is the owner, officer, attorney in fact, or agent.



- C. **Property Owner Notice:** Where notice to property owners of record is required by [Section 2.090](#) and [Section 2.120](#) of this Chapter, the records of the County Assessor shall be used to identify the owners and their mailing addresses. Persons whose names and addresses are not on file at the time of the filing of the applicable land use permit application or appeal will not be notified of the application, decision, or hearing. Wasco County is not required to provide more than one notice to a person who owns more than one lot or parcel affected by a change to the Comprehensive Plan or land use regulation. If a property within the notification area is located outside the County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice as provided in [Section 2.090](#) and [Section 2.120](#) of this Chapter shall not invalidate the proceedings, if the County can demonstrate by affidavit that such notice was given.
- D. **Method of Mailing:** When mailing is required by [Section 2.090](#) and [Section 2.120](#), first-class mail shall be used, except that for mailing to any of the following, either first-class mail or electronic mail may be used: community planning organizations, hamlets, villages, cities, special districts, and government agencies.
- E. **Burden of Proof:** Except in a Type IV proceeding, the proponent has the burden of proof on all elements of the proposal. The proposal must be supported by a preponderance of evidence that it conforms to all applicable standards and criteria. The preponderance of evidence standard is often described as enough evidence to make the proponent's point more likely than not.
- F. **Withdrawal:** Prior to the issuance of the written decision, the applicant may submit a written notice of withdrawal of the application. Upon receipt of a written notice of withdrawal, the application shall be deemed dismissed without further action by the review authority. A withdrawal shall not bar filing a new application; withdrawal shall not be deemed a final decision for any purpose. A withdrawal cannot be appealed. If an application is withdrawn after the mailing of notice of application or public hearing, the Planning Director shall mail written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.
- G. **Effective Date of Decision:** The County's final decision on a Type I, II, or III land use permit application becomes effective on:
1. The day the final decision is reduced to writing and signed by the decision maker, if no appeal at the County level is allowed;
  2. The day after the appeal period expires, if an appeal at the County level is allowed and the decision is not appealed; or



3. The day the decision is reduced to writing and signed by the final County appeal body, if an appeal is allowed and notice of appeal is timely filed. However, if the appeal is withdrawn prior to decision, the effective date of the County's final decision shall revert to the day after the appeal period would have expired had an appeal not been timely filed.