

**DETAILED TABLE OF CONTENTS**  
**CHAPTER 2 DEVELOPMENT APPROVAL PROCEDURES**

<b><u>SECTION</u></b>	<b><u>TITLE</u></b>	<b><u>PAGE</u></b>
2.010	PURPOSE	2-1
2.020	REVIEW PROCESS	2-1
2.030	COORDINATION OF DEVELOPMENT APPROVAL	2-1
2.040	WHO MAY APPLY	2-1
2.050	PRE-APPLICATION CONFERENCE	2-2
2.060	APPLICATION	2-2
2.070	FILING FEES	2-4
2.080	NOTICE	2-5
2.090	CONTENTS OF NOTICE	2-6
2.100	ADMINISTRATIVE ACTION PROCEDURE OF THE DIRECTOR	2-7
2.110	THE DECISION OF THE DIRECTOR	2-8
2.120	NOTICE OF A DECISION BY THE DIRECTOR	2-10
2.125	TIME LIMITS FOR PERMITS AND EXTENSIONS OF TIME	2-10
2.130	ESTABLISHMENT OF PARTY STATUS	2-11
2.140	HEARING PROCEDURE	2-12
2.150	OFFICIAL NOTICE	2-14
2.160	APPEAL FROM DECISION OF THE DIRECTOR	2-14
2.170	REVIEW OF A DECISION OF THE PLANNING COMMISSION	2-16
2.180	REVIEW BY THE COUNTY GOVERNING BODY	2-17
2.190	GENERAL CONDUCT OF ALL HEARINGS; LEGISLATIVE, ADMINISTRATIVE OR QUASI-JUDICIAL	2-19
2.200	ADDITIONAL HEARING NOTIFICATION REQUIREMENTS	2-19



## **CHAPTER 2 DEVELOPMENT APPROVAL PROCEDURES**

### **SECTION 2.010 Purpose**

The purpose of this Chapter is to establish procedures for approval of development required by this Ordinance, appeals from aggrieved persons and parties, and review of any decision by a higher authority.

### **SECTION 2.020 Review Process**

An application for development approval required by Wasco County shall be processed by quasi-judicial public hearing or by Administrative Action, pursuant to applicable sections of this Ordinance. Quasi-judicial hearings shall be held on all applications for a permit or approval required by these regulations, provided that hearings shall not be held in those matters the Director has authority to act upon, unless the Director, under Section 2.100(C), schedules a hearing before the Planning Commission or an appeal be taken. (Revised 5-93)

### **SECTION 2.030 Coordination of Development Approval**

- A. The Director or the Director's designee shall be responsible for the coordination of a development application and decision-making procedures and shall approve developments when proper application is made and the proposed development is in compliance with the provisions of this Ordinance and the Wasco County Comprehensive Plan. Before approving any development the Director or the Director's designee shall be provided with information by the applicant sufficient to establish full compliance with the requirements of this Ordinance. (Revised 5-93)
- B. The coordination of development application shall include the opportunity for the applicant to apply for all permits necessary for a development project at one time. The consolidated procedure shall be subject to the time limitations set out in this chapter. (added 2-89)
- C. After an application has been submitted, no building permit for the proposed use shall be issued until final action has been taken. Following final action on the application, the issuance of a building permit shall be in conformance with the zoning regulations of this Ordinance, and any conditions of development approval.

### **SECTION 2.040 Who May Apply**

- A. Development request may be initiated by one or more of the following:

1. The owner of the property which is the subject of the application; or
2. The purchaser of such property who submits a duly executed written contract, or copy thereof, which has been recorded with the Wasco County Clerk; or
3. The purchaser of such property who submits a duly executed earnest money agreement stating the land use action proposed; or (Added 1-92)
4. A lessee in possession of such property who submits written consent of the owner to make such application; or
5. Resolution of the County Governing Body; or
6. County Road Department, (when dealing with land involving public works projects).

Any of the above may be represented by an agent who submits written authorization by his principal to make such application.

#### SECTION 2.050 Pre-Application Conference

An applicant shall request a pre-application conference prior to submitting a request for a subdivision, planned unit development, conditional use, farm dwelling or site plan review for a home occupation. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the Ordinance, provide for an exchange of information regarding applicable elements of the Comprehensive Plan and development requirements, arrange such technical and design assistance as will aid the applicant, and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development. (Revised 5-93)

#### SECTION 2.060 Application

Application for development approval shall be made pursuant to applicable sections of this Ordinance on forms provided by the Planning Director.

An application shall be considered complete when it contains the information required by these regulations, and addresses the appropriate criteria for review and approval of the request and is accompanied by the required fee, unless waived by the County Governing Body, pursuant to Section 2.070.

- A. The Director shall have the authority to review the following applications for Administrative Action, and shall follow the procedure provided by this Ordinance to accomplish such review. Matters required by this Ordinance that are not subject to other provisions of this Ordinance include, but are not limited to:

1. Conditional Use Review (Chapter 5)
  2. Administrative Variances (Chapter 7)
  3. Temporary Use Permits (Chapter 8)
  4. Partition, Replat and Lot Line Adjustment Approval, except as provided for in section 2.060 B.10 (Chapter 21)
  5. Site Plan Reviews (Chapters 3 and 20)
  6. Uses Permitted Subject to Standards (Chapter 3)
  7. Similar use.
  8. Significance Determination for Aggregate Overlay (Chapter 3, Section 3.815)
  9. Nonconforming Use Verification, Restoration, or Alteration (Chapter 13)
- B. The following matters shall be heard by the Planning Commission, pursuant to Sections 2.080, 2.090, 2.130, 2.140, 2.150, and 2.190 of this Ordinance:
1. Recommendation to County Governing Body on a Legislative or Quasi-Judicial Plan Amendment (Comprehensive Plan)
  2. Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment (Chapter 9)
  3. Subdivision (Chapter 21)
  4. Planned Unit Development (Chapter 18)
  5. Mobile Home Parks (Chapter 16)
  6. Recreational Vehicle Parks (Chapter 17)
  7. Division of Non-Resource Land in Designated Resource Areas (Chapter 10)
  8. Variance (Chapter 6)
  9. Private Road Approval (Chapter 21)
  10. Preliminary Partitions involving private or public road approval.

11. Recommendation to the County Governing Body on public road dedications (Chapter 21).
12. Revocation of Conditional Use Permits (Chapter 5)
13. Appeals of Decision of Director made pursuant to Section 2.060 (A) (1), (2), (3), (4) & (5), and any ministerial action of the Director.
14. Matters which the Director elects not to review, pursuant to Section 2.060 (A)(1), (2), (3), (4), (5), (6), (7), and (8).
15. Recommendation for implementation of Aggregate Overlay zone (Chapter 3, Section 3.800)

#### SECTION 2.070 Filing Fees

- A. Any application filed with the Planning Department shall be accompanied by the appropriate filing fee to reimburse the County for processing costs attendant upon the application.
- B. Fees shall not exceed the actual or average cost of providing the service.
- C. Any and all fees shall be established by County Governing Body Order, be separate from this Ordinance, and may be revised whenever necessary.
- D. A filing fee may be waived by the County Governing Body 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 County Governing Body prior to submitting an application or appeal to the Planning Office. FAX 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. All fees received pursuant to this Section shall be deposited in the County General Fund.
- F. Fees are not transferable or refundable.

## SECTION 2.080 Notice

Citizen and Agency Involvement. The County shall provide opportunities for public and agency input in the planning process. To ensure that there is a coordinated effort to permit land use projects, notice of applications for development approval shall be sent to interested agencies and departments such as County departments, sheriff and fire departments, school districts, utility companies, and the applicable city departments for those municipalities within Wasco County. Affected jurisdictions and agencies could include the Department of Environmental Quality, the Oregon Department of Transportation, Wasco County Transportation Network, and other applicable local, state or federal agencies.

If the subject property is being considered for a comprehensive plan or zone change, notice of receipt of the application shall be provided to the Oregon Department of Transportation.

- A. At least twenty (20) days prior to the date of a quasi-judicial public hearing under Section 2.060 (B), notice shall be sent to: (Revised 1-92)
  1. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
  2. All owners of property within one hundred feet (100') if located wholly or in part within an urban growth boundary, three hundred feet (300') if located outside an Urban Growth Boundary and not within a farm, farm/forest or forest zone, and five hundred (500) feet within a farm, farm/forest or forest zone. (Revised 1-92)
  3. The appropriate Citizen Advisory Group;
  4. Any affected governmental agency or public district within whose boundary the subject property lies;
  5. The city within whose recognized Urban Growth Boundary the subject property lies or whose facilities may be impacted;
  6. Other persons as may be clearly and necessarily affected by the result of the development request.
- B. Notice of Administrative Action for the use listed in Sections 2.060(A) (1) and (9), shall be given as prescribed by subsection (A) (1) – (6) of this Section, with the exception that notice be given at least ten (10) days prior to a decision. (Revised 1-92, 5-93, 9-99)
- C. Notice shall be given by publication in the official newspaper of Wasco County at least fifteen (15) days prior to the date of a quasi-judicial public hearing, pursuant to Section

2.060 (B). An affidavit of publication shall be made part of the record. (Revised 1-92)

- D. Notice of Review by the County Governing Body pursuant to Section 2.180 shall be sent to all parties, posted in at least two (2) different public locations and published in the official newspaper of Wasco County ten (10) days prior to the date set for the hearing. (Revised 1-92)
- E. An affidavit of all mailing notices shall be made part of the record.
- F. Notice shall be sent to 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. (added 2-89)

#### SECTION 2.090 Contents of Notice

- A. Notice of a quasi-judicial hearing on any development request shall be filed with the Director and also given pursuant to Section 2.080 and shall include the following information:
  - 1. The date, time and place of hearing and the name of the hearing body;
  - 2. The general location of the subject property and legal description;
  - 3. The legal owner of record of the property and the name of applicant seeking the review;
  - 4. The present zoning of the subject property and applicable Ordinances and sections that apply to the application at issue;
  - 5. The request and purpose of the proposal;
  - 6. That failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;
  - 7. The name of a local government representative to contact and the telephone number where additional information may be obtained;
  - 8. 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 reasonable cost;

9. 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 reasonable cost; and
  10. General explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- B. Notice of an Administrative Action on a conditional use permit shall be filed with the Director and also given pursuant to Section 2.080, and shall include the following information: (Revised 1-92, 5-93)
1. The location, title of the request and the date such notice was sent;
  2. The general location of the subject property and legal description;
  3. The legal owner of record and the name of applicant seeking review;
  4. The present zoning of the subject property and applicable Ordinances and sections;
  5. The nature of the application;
  6. The deadline established for rendering a final decision;
  7. The deadline for filing comments on the request.

#### SECTION 2.100 Administrative Action Procedure of the Director

- A. After accepting an application for Administrative Action pursuant to Section 2.060(A) (1) - (9) of this Ordinance, the Director shall act on or cause a hearing to be held on the application within the time requirements of O.R.S. 215.428(1). (Revised 2-89, 5-93)

The Director shall not accept any application which he/she deems cannot be acted upon initially in a rational manner within the time requirements of O.R.S. 215.428(1), unless the applicant consents to a longer period for action. (Revised 5-93)

- B. Within such time period, the Director shall (Revised 5-93):
1. Publish or otherwise file notice pursuant to Section 2.080;
  2. Prepare findings of fact and conclusions of law;
  3. Prepare a decision to approve or deny the request. Approvals may include conditions considered necessary to assure conformance with the Comprehensive

Plan pursuant to Section 2.110(D).

4. Provide opportunity for and conclusion to all local appeals. (Added 5-93)
- C. If the application does not meet the criteria or if written objections are received, or if the applicant or the Director so desires for any reason, the Director may schedule any application made under Section 2.060(A) for public hearing before the Planning Commission, pursuant to Section 2.060 (B) (14), and the Commission shall decide the matter, as if the matter were listed under Section 2.060 (B). (Revised 1-92)

#### SECTION 2.110 The Decision of the Director

- A. A decision on an Administrative Action under Section 2.060(A) shall be rendered by the Director within the time limitations of this Ordinance.
- B. In making a decision, the Director shall consider the following:
1. The burden of proof is placed upon the petitioner seeking an action pursuant to the provisions of this Chapter. Unless otherwise provided for in this Chapter, such burden shall be to prove:
    - a. The proposed action fully complies with the applicable map elements of the relevant Comprehensive Plan and also the goals and policies of the applicable plan.
    - b. The proposed action is in accordance with the applicable criteria of this Ordinance.
  2. Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors.
  3. Written comments from parties or other persons.
- C. In all cases, the Director shall enter findings and conclusions to justify his decision.
- D. The following limitations shall be applicable to conditional approvals:
1. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no specific time has been set forth, within a reasonable time.
  2. Such conditions shall be reasonably conceived to fulfill public needs emanating from the proposed land use as set forth in the application in the following respects:

- a. Protection of the public from the potentially deleterious effects of the proposed use; or
  - b. Fulfillment of the need for public service demands created by the proposed use.
3. Changes or alterations of conditions shall be processed as a new Administrative Action.
  4. The conditional approval may require the owner of the property to sign a contract with the County for enforcement of the conditions. Such contract shall be executed within thirty (30) days after conditional approval is granted, provided, however, that the Director may grant time extensions due to practical difficulty. The Director shall have the authority to execute such contracts on behalf of the County. If a contract is required by a conditional approval, no building permit shall be issued for the use covered by the application until the executed contract is recorded on the real property records of Wasco County and filed in the County Journal. Such contract shall not restrict the power of subsequent administrative action, with or without conditions. Such contracts shall be enforceable against the signing parties, their heirs, successors, and assigns by Wasco County by appropriate action in law or suit in equity for the benefit of public health, safety and welfare.
  5. Failure to fulfill any conditions of approval within the time limitations imposed may be grounds for initiation of Administrative Action or revocation of approval by the Director.
  6. A bond, in a form acceptable to the Director or, upon appeal or review, by the Commission or County Governing Body or a cash deposit from the property owner(s) or contract purchaser(s) in such amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond or deposit shall be posted at the same time the contract containing the conditions of approval is filed with the Wasco County Clerk.
- E. If an application is denied by the Director, and no higher authority reverses such denial upon appeal, no new application for the same or substantially similar action shall be filed for at least twelve (12) months from the date of the final order of the action denying the application.

#### SECTION 2.120 Notice of a Decision by the Director

- A. Notice of a decision by the Director pursuant to Section 2.060 (A) (1) - (9) shall be filed in the records of the Director and also mailed to the applicant, the owner(s) or contract purchasers of the subject property, and all parties within the required notification areas,

as described by Section 2.080. (Revised 1-92)

B. Notice of a decision shall contain:

1. Identification of the application;
2. The findings of fact and conclusions of law of the Director;
3. Other information pertinent to the application, if any;
4. The date of the filing of the decision of the Director;
5. Notice that any party may appeal the decision within twelve (12) days from the date such notice was sent by filing a timely statement with the Director.

C. The decision of the Director pursuant to Section 2.060 (A)(1) - (9) shall be final unless an appeal from an aggrieved person is received by the Director within ten (10) days after the filing of a decision on an Administrative Action or unless the Commission or County Governing Body on its own motion, orders review within ten (10) days after the filing of the proposed decision. (revised 2-89, 5-93, 9-99)

#### SECTION 2.125 Time Limits for Permits and Extensions of Time

A. Time Limits for Permits: A permit will become invalid without special action if:

1. Development has not commenced within two (2) years of the date of approval;
2. The use approved is discontinued for any reason for one (1) continuous year or more.

B. Extension of Time Request: If an extension of time is required, the holder of the approved permit must file an application which will be processed as an administrative action. A one time extension may be granted for a maximum of two (2) years. Extensions shall be granted only upon findings that:

1. 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 likely to necessitate significant modification of the development approval or conditions of approval.
3. The applicant has provided reasons that prevented the applicant from beginning or continuing development within the approval period.

## SECTION 2.130 Establishment of Party Status

- A. In order to have standing under this Chapter, a person shall be recognized as a party by the Approving Authority.

Party status, when recognized by the Approving Authority, establishes the right of the person to be heard, either orally or in writing and to pursue a review or appeal under this Chapter.

- B. A request for establishment of party status may be made at least ten (10) days before the date set for a quasi-judicial public hearing by any person who files a written statement regarding the application being considered.
- C. Seven (7) or more days prior to the date set for a public hearing, the Director shall mail the applicant any statements that have been filed and a copy of the staff report.
- D. With respect to applications under Section 2.060 (B) of this Chapter, the Approving Authority may authorize a person to have party status, at any time prior to the close of a hearing, if that person is not otherwise a party, as defined by Section 1.090 of this Ordinance. (Revised 1-92)
- E. A request for establishment of party status for an Administrative decision pursuant to Section 2.060(A) of this Chapter shall be made by filing a written statement within a ten (10) day notification period. Such statement shall include:
1. The name, address and telephone number of the person filing the statement;
  2. How the person qualifies as a party; as defined in Section 1.090 of this Ordinance; and
  3. Comments which the party wishes to make with respect to the application under consideration.
- F. Any party may appeal a decision of the Director relative to an Administrative Action. In the conduct of a hearing, the Approving Authority shall establish the appellant as a party or the appeal shall not be heard and the contested decision shall become final.

## SECTION 2.140 Hearing Procedure

- A. In the conduct of a public hearing, the Approving Authority shall have the authority, pursuant to Rules of Procedure approved by the County Governing Body, to:

1. Determine who qualifies as a party.
2. Regulate the course, sequence and decorum of the hearing.
3. Dispose of procedural requirements or similar matters.
4. Rule on offers of proof and relevancy of evidence and testimony.
5. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, and rebuttal testimony. (Revised 1-92)
6. Take such other action appropriate for conduct commensurate with the nature of the hearing.
7. Grant, deny, or in appropriate cases, attach conditions pursuant to Section 2.110(D) of this Chapter to the matter being heard.

B. Order of Procedure: Unless otherwise specified, the Approving 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. Recognize parties.
3. Ask for disclosure of any potential conflicts of interest by those on the decision-making body. (added 2-89)
4. Ask parties to the hearing if there is a challenge to the ability of any member to make an unbiased decision on the case. (added 2-89)
5. Request the Director or his designee to present a summary of staff findings and recommendation, if any, and explain any graphic or pictorial displays which are part of the staff report.
6. Allow the applicant to be heard first, on his own behalf or by representative.
7. Allow parties or witnesses in favor of the applicant's proposal to be heard.
8. Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.
9. Upon failure of any party to appear, the Approving Authority may take into consideration written material submitted by such party.

10. Allow only the proponent to offer rebuttal testimony. The scope and extent of rebuttal shall be limited to issues raised during testimony and shall not be used to introduce new evidence. (Revised 1-92)
11. Close the hearing to public testimony. Questions may be asked at this time by the Approving Authority. Questions by the Director or his designee may be allowed by the Approving Authority upon request.
12. At the conclusion of the hearing, the Approving Authority shall either make a decision and state findings which may incorporate findings proposed by any party, or the Director, or may take the matter under advisement. The Approving Authority may request proposed findings and conclusions from any party to the hearing.
13. The Approving Authority, before finally adopting findings and conclusions, may circulate the same in proposed form to the parties for written comment. All actions taken by the Approving Authority pursuant to adopting findings and conclusions shall be made a part of the record. The decision and findings and conclusions which support the decision of the Approving Authority shall be final when signed by the Approving Authority. For the purpose of signing the decision and findings and conclusions, the Approving Authority may be either the Chairman of the Planning Commission or the Director of Planning. (Revised 1-92)
14. At the latest, the next regularly scheduled meeting shall be the time the Approving Authority shall grant, deny or, in appropriate cases, pursuant to Section 2.110(D), attach such conditions as may be necessary to carry out the Comprehensive Plan in approving the proposal being heard. The Director may extend the deadline for rendering a decision upon consent of the applicant. The Director shall notify parties of the decision by mail. (Revised 5-93)
15. The Approving Authority shall render a decision, may affirm, reverse or modify the action of a lesser authority, and may reasonably grant approval subject to the conditions necessary to carry out the Comprehensive Plan pursuant to Section 2.110(D) of this Ordinance.
  - a. For all cases the Approving Authority shall make a decision based on the record before it as justification for its decision.
  - b. The Director shall send a notice of the Approving Authority's decision to all parties to the matter and a copy of such decision shall be filed in the records of the Director.

## SECTION 2.150 Official Notice

- A. The Approving Authority may take official notice of the following:
  - 1. All facts which are judicially noticeable. Judicially noticed facts shall be stated and made part of the record.
  - 2. The Comprehensive Plan and other officially adopted plans, ordinances, 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 Approving Authority in the determination of the application.

SECTION 2.160 Appeal from Decision of the Director

- A. Any action taken by the Director or his designee in the interpretation, administration or enforcement of this ordinance shall be subject to review by the Planning Commission, pursuant to Section 2.060 (B)(13). (Revised 1-92)
- B. Any party may appeal a decision of the Director relative to an Administrative Action. In the conduct of a hearing, the Approving Authority shall establish the appellant as a party or the appeal shall not be heard and the contested decision shall become final.
- C. The Approving Authority may review the action of the Director upon receipt of a Notice of Appeal as prescribed in Section 2.160. For the purpose of this section, an appeal shall be filed with the Director no later than twelve (12) days following the date of the decision or action of the Director. The decision of the Director may also be reviewed by the County Governing Body upon its own motion passed within twelve (12) days of the written decision sought to be reviewed if no appeal is filed. County Governing Body review shall be conducted pursuant to Section 2.180.
- D. Every Notice of Appeal shall contain:
  - 1. A reference to the application sought to be appealed.
  - 2. A statement as to how the petitioner qualifies as a party.
  - 3. The specific grounds relied upon in the petition request for review.
  - 4. The date of the final decision of the action.
  - 5. The required fee, unless waived pursuant to Section 2.070.

- E. At least twenty (20) days prior to the date of the Approving Authority meeting, the Director shall give notice to all parties to the case as provided by Section 2.080 of the time, date and place of the meeting. (Revised 1-92)
- F. Members of the Approving Authority shall neither:
  - 1. Communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; nor
  - 2. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.
- G. During the course of the review, the Director shall first present to the Approving Authority the decision and the reasons for such action. The appellant then may present its argument and may call witnesses to give additional relevant testimony.
- H. Appeal of an administrative decision to the Planning Commission shall be "de novo"; i.e., conducted as a new hearing before the public. (Revised 5-93)
- I. The review shall be accomplished in accordance with the Rules of Procedure adopted by the County Governing Body. The Approving Authority may continue its hearing from time to time to gather additional evidence or to consider the application fully. Unless otherwise provided by the Approving Authority no additional notice need be given of continued hearings if the matter be continued to a certain date.
- J. All evidence offered and not objected to may be received unless excluded by the Approving Authority on its own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their everyday affairs. Evidence shall be received and notice may be taken of those facts in a manner similar to that provided for in contested cases before state administrative agencies pursuant to Oregon Revised Statutes 183.450 except as otherwise provided for herein.
- K. The Approving Authority shall render a decision, may affirm, reverse or modify the action of a lesser authority and may reasonably grant approval subject to conditions necessary to carry out the Comprehensive Plan pursuant to Section 2.110(D).
  - 1. For all cases the Approving Authority shall make a decision based on findings and conclusions from the record before it as justification for its action.
  - 2. The Director shall send a copy of the Approving Authority's decision to all parties to the matter and a copy of such decision shall be filed in the records of the Director.

**SECTION 2.170 Review of a Decision of the Planning Commission**

Twelve (12)-days from the date of a final decision of the Planning Commission, the decision shall become effective unless review is sought pursuant to this Section. (Revised 1-92)

**A. Review of the decision of the Planning Commission: (Revised 1-92)**

1. Shall be made by the County Governing Body Court, pursuant to Section 2.180, upon any party filing a Notice of Review with the Director within twelve (12) days from the date of the final decision sought to be reviewed; or (Revised 1-92)
2. May be made by the County Governing Body, pursuant to Section 2.180, on its own motion passed within twelve (12) days from the date of the final decision sought to be reviewed. (Revised 1-92)

**B. Notice of the time and place of the review together with any Notice of Review filed shall be mailed to parties at least ten (10) days prior to the date of review.**

**C. Every Notice of Review shall contain:**

1. A reference to the decision sought to be reviewed;
2. A statement as to how the petitioner qualifies as a party;
3. The specific grounds relied upon in the petition request for review; and
4. The date of the decision sought to be reviewed.

**D. A Notice of Review shall be accompanied by a fee as set forth on the fee schedule established by the County Governing Body.**

1. If the Court does not desire a transcript, the applicant or any party may request a transcript. Any such transcript request shall be paid for by the person requesting it. The estimated cost of the transcript shall be specified by the Director. Within five (5) days of such estimate, the person filing the Notice of Review shall deposit the estimated cost with the Director. Any deposit excess shall be returned to the depositing person. Failure to comply with this subsection shall be a jurisdictional defect.
2. If a transcript is desired by the Court, the costs shall be borne by Wasco County.

**SECTION 2.180 Review by the County Governing Body**

- A. Except as provided in Sections B. and C. below, appeal to the Governing Body of all final decisions of the Planning Commission shall be confined to the record. The record shall include:
1. All materials received as evidence at any previous stage;
  2. Verbatim Record:
    - a. For quasi-judicial plan amendments, unless waived by the Court, a verbatim record of the hearing below, in the form of audio tapes, together with a transcription thereof, or the minutes thereof if no verbatim record is available due to mechanical failure or inadvertent error.
    - b. In appeals of all other development actions, unless waived by the Court, a verbatim record of the hearing below in the form of audio tapes or the minutes thereof if no verbatim record is available due to mechanical failure or inadvertent error. However, a party may prepare all or a portion of the transcript for submission to the Court.
  3. The findings and conclusions supporting the action being appealed; and
  4. Oral and written argument from the parties as defined by Section 2.130, or their representatives presented during the hearing or appeal but not including new evidence.
- B. A party, or the Director, may request that the Court conduct a de novo or partial de novo hearing on appeal. The party filing the petition for review must make such a request as part of the petition. Any other party must make such a request no more than seven (7) calendar days after the deadline for filing a petition for review has expired. When practicable, the requesting party shall advise the other parties and attempt to gain their consent. The request shall:
1. Reference the name, case number and date of the decision;
  2. Contain the name and address of the requesting party;
  3. Indicate the reasons for the request without addressing the merits of the land use action; and
  4. Indicate any persons known to be opposed to the request.
- C. The request for a de novo hearing for appeal of a quasi-judicial plan amendment shall be decided by the Court as a nonpublic hearing item, except that the Court may make such provision for notice to the parties and may take such testimony as it

deems necessary to fully and fairly address significant procedural or substantive issues raised. The Court shall grant the request only upon findings that:

1. A de novo hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action;
  2. The substantial rights of the parties will not be significantly prejudiced; and
  3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.
- D. In conjunction with determining whether to conduct a de novo hearing for the appeal of a quasi-judicial plan amendment, the Court may remand the matter to the Planning Commission. The decision on whether to remand shall not be appealable. Upon remand, the appealing party shall be entitled to return of the appeal fee less actual costs incurred by the County. Appeal from a decision on remand shall be taken as any other appeal.
- E. Review by the County Governing Body upon appeal by a party shall be limited to the grounds relied upon in the petition request for review.
- F. The County Governing Body may affirm, reverse or modify the action of the Planning Commission and may approve or deny the request, or grant approval subject to conditions necessary to carry out the Comprehensive Plan as provided by Section 2.110(D).
1. For all cases the Approving Authority shall make a decision based on findings and conclusions from the record before it, as justification for its action.
  2. The Director shall send a notice of the Approving Authority's decision to all parties to the matter and a copy of such decisions shall be filed in the records of the Director.
- G. Only those members of the County Governing Body reviewing the entire record may act on the matter reviewed. The agreement of at least two (2) members is necessary to amend, reverse, or remand the action of the Planning Commission. Upon failure of at least two (2) members to agree, the decision of the prior Approving Authority shall stand.

SECTION 2.190 General Conduct of All Hearings; Legislative, Administrative or Quasi-Judicial

The following rules apply to the general conduct of the hearing:

- A. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- B. No person shall testify without first receiving recognition from the Approving Authority and stating full name and address.
- C. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence. Formal rules of evidence as used in courts of law shall not apply. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs.
- D. Audience demonstrations such as applause, cheering, and display of signs, or other conduct disruptive of the hearing shall not be permitted.
- E. The person 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 above rules of conduct. Violations of the above rules of conduct shall further be grounds for the immediate suspension of the hearing.

## SECTION 2.200 Additional Hearing Notification Requirements

### A. Notice

- 1. Notice of a legislative hearing will be sent to public agencies and local jurisdictions (including those providing transportation facilities and services) that may be impacted by the proposed action. Affected agencies and jurisdictions could include the Department of Environmental Quality, the Oregon Department of Aviation, cities within Wasco County, and neighboring jurisdictions.
- 2. Notice of a legislative or 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, will 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:
  - a. Project location
  - b. Proposed land use action

c. Location of project access point(s)