

ARTICLE II. PROCEDURES FOR MAKING LAND USE DECISIONS

Section 2.010. Purpose.

The purpose of this Article is to establish the procedures for applications provided for 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 Curry County shall be processed by quasi-judicial public hearing or 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 an appeal be taken.

Section 2.030. Coordination of Application Review.

The review of all applications for development permits shall be a coordinated process between the various county departments and other affected agencies.

1. The Director shall be responsible for the coordination of application review procedures.
2. After an application has been submitted, no on-site sewage disposal permit, building permit or license for the proposed use shall be issued until final action including the resolution of all local appeals has been taken. Following final action on the application, the issuance of permits or licenses shall be in conformance with the zoning regulations of this ordinance, and any conditions of development approval.

Section 2.040. Who May Apply.

Applications for development approval may be initiated by one or more of the following:

- a) The owner(s) of the property as listed in the records of the Curry County Assessor which is the subject of the application; or
- b) The purchaser of such property who submits a duly executed written contract or copy thereof which has been recorded with the Curry County Clerk; or
- c) The lessee in possession of such property who submits written consent of the owner to make such application; or
- d) A person or entity authorized by resolution of the Board or Commission; or
- e) Any department of the Curry County government or a federal, state or local government entity when dealing with land involving public works projects; or

- f) A public utility agency, when dealing with land involving the location of facilities necessary for public service.
- g) The agent of any of the foregoing who states on the application that he/she is the duly authorized agent and who submits evidence of being duly authorized in writing by his/her principal.

Section 2.050. Preapplication Conference.

An applicant shall request a preapplication conference prior to submitting a request for development approval. 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. When the proposed development will have an impact on a transportation facility, the provider of the affected transportation facility shall be included in the preapplication exchange of information.

Section 2.060. Application.

Application for development approval shall be made pursuant to applicable sections of this ordinance on forms provided by the Director. An application shall be complete, contain the information required by these regulations and address the appropriate criteria for review and approval of the request. All applications shall be accompanied by the required fee which must be paid in U.S. currency, check or money order at the time of filing. Failure to pay said fee at the time of filing is a jurisdictional defect which will result in the application being rejected. Three (3) copies of all supporting material shall be submitted with the application form. All material submitted shall be of page size (8 1/2" x 11") or other size approved by the Director.

- 1. The Director shall have the authority to review, and approve or deny the following applications which shall be Administrative Actions:
 - a) Development of property subject to the following overlay zoning districts including:
 - (1) Riparian Corridor Buffer Overlay Zone. (Section 3.280)
 - (2) Geological hazards. (Section 3.252)
 - (3) Airport related areas. (Section 3.270)
 - b) Uses listed as "Conditional Uses Subject to Administrative Approval by the Director" in each of the various zoning classifications of Article III within this ordinance.
 - c) The determination of the existence and/or alteration of a nonconforming use (Section 5.060-5.062).
 - d) Variance (Article VIII).
 - e) Waivers of minimum lot size (Section 5.040).

- f) Historical site provisions pursuant to Section 3.262.
2. The Planning Commission shall have the authority to review and approve or deny the following:
- a) Zone Change not involving a comprehensive plan amendment or Statewide Planning Goal exception. Upon approval of a zone change by the Commission (if not appealed) the order shall be forwarded to the Board which may implement the approval of the ordinance without the necessity of additional public notice under this ordinance.
 - b) Appeal of Director's decisions pursuant to Sections 2.060(1).
 - c) Referrals of Administrative Actions by the Director, and
 - d) Other land use actions not specified in (1) above and (3) below.
3. The Board shall have the authority to review and approve or deny the following:
- a) Comprehensive Plan Amendments.
 - b) Exceptions to Statewide Planning Goals.
 - c) Appeals from Commission decisions.

Section 2.070. Notice.

1. At least twenty (20) days before the evidentiary hearing in a quasi judicial hearing under Section 2.060(2) and (3) notice shall be sent to:
- a) the applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - b) any affected governmental agency which has entered into an agreement with Curry County to coordinate planning efforts and to receive notices of such hearings;
 - c) Oregon Department of Transportation to coordinate review of consistency with the functions, capacities, and level of service of facilities identified in the Transportation System Plan.
 - d) owners of property within 100 feet of the site where the site is wholly or partially within an urban growth boundary, also further notice of only the time and place of the hearing shall be extended to property owners from greater than 100 feet to 250 of the site;
 - e) owners of property within 250 feet of the site where the site is outside an urban growth boundary and not within a farm or forest zone; and
 - f) owners of property within 500 feet of the site where the site is within a farm or forest zone.

- g) any neighborhood or community organization recognized by the governing body and whose boundaries include the site.
- 2. At least twenty (20) days prior to an Administrative Decision under Section 2.060(1) notice shall be given to:
 - a) those persons listed in 2.070(1)(a-e);
 - b) those persons who have indicated to the Director that they will be aggrieved by the decision.
- 3. Written notice shall be provided to the Oregon Division of State Lands of applications which involve lands that are wholly or partially within areas that are identified as wetlands on the State-wide Wetlands Inventory as follows:
 - a) Within five (5) working days of the acceptance of a complete application for the following:
 - 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 permits 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.
 - b) If , after acceptance of an application, the county receives information that there is a possible wetland on the subject property from a party responding to the public notice for any of the above the county will also provide written notice to the Oregon Division of State Lands.
 - c) Such notice is not required for any of the applications in (a) above if a permit has been issued by the Division of State Lands for the activity.
 - d) If the Division of State Lands fails to respond to the notice from the county within twenty (20) days of the postmark date of the notice, the county may issue an approval for the proposed activity with written notice to the applicant and owner of record that the proposed activity may require state or federal permits.
 - e) The county may issue an approval for a comprehensive plan map or zoning map amendment for parcels identified as or including wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the Division of State Lands with a copy of the notification of comprehensive plan map or zoning map amendments for specific properties.

- f) The county may issue approval for any activity listed in (a) above providing that the approval includes one of the following statements:
 - i) Issuance of a permit under ORS 196.665 and 196.800 to 196.900 by the Division of State Lands is required for the proposed project before any physical alteration takes place within the wetlands;
 - ii) Notice from the Division of State Lands that no permit is required; or
 - iii) Notice from the Division of State Lands that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted to the division.
 - g) Notice of activities authorized within an approved wetland conservation plan shall be provided to the Division of State Lands within five days following approval by the county.
 - h) Failure of the county to provide notice to the Division of State Lands as required in this section will not invalidate county approval of the proposed activity.
4. The records of the Curry County Assessor's Office shall be used for notice required by this ordinance. Persons whose names and addresses are not on file at the time of the filing of the application need not be notified of the action. The failure of a property owner to receive notice shall not invalidate the action if a good-faith attempt was made to notify all persons entitled to notice.
5. Notice for comprehensive plan amendments and exceptions to Statewide Planning Goals shall also be made in accordance with relevant Oregon Statute and Administrative Rules.
6. Any person who requests, in writing, and pays a fee established by the Director, shall be entitled to receive copies of public notices for Administrative Actions and Commission and Board Hearings.

Section 2.080. Contents of the Notice.

1. Notice of a public hearing before the Commission or Board shall include the following information:
- a) an explanation of the nature of the application and the proposed use or uses which could be authorized;
 - b) a list of the applicable criteria from the ordinance and plan that apply to the application at issue.
 - c) a description of the street address or easily understood geographical reference to the subject property;
 - d) location of access points to the subject property;

- e) the date, time, and location of the hearing;
- f) a statement that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, precludes appeal to LUBA based upon that issue;
- g) a statement that failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue;
- h) the name of a local government representative to contact and the telephone number where additional information may be obtained;
- i) a statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
- j) a statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;
- k) a general explanation of the requirements for submission of testimony and the procedures for conduct of hearings.

2. Notice of an Administrative action shall include the following information:

- a) that which is required in 2.080(1) (a)(b)(c)(d)(h) and (i); and
- b) the deadline for filing comments on the request.

Section 2.090. Administrative Action Procedure of the Director.

- 1. After accepting a completed application for Administrative Action pursuant to Section 2.060(1) of this ordinance, the Director shall act on or cause a hearing to be held on the application.
- 2. The Director shall:
 - a) Publish or otherwise give notice per Section 2.070(2).
 - b) Review the application and all comments that have been received regarding the application.
 - c) Review the findings and evidence submitted to determine if the request proposed in the application meets the relevant standards of the comprehensive plan, zoning ordinance and other state or federal regulations.
 - d) Prepare a final order with supportive findings and conclusions of law.
- 3. If the Director determines that he/she has:
 - a) an actual conflict of interest;

- b) a potential conflict of interest;
- c) a direct or substantial financial interest in the matter to be decided; or
- d) an inability to render fair judgment because of prejudice or prejudgment; he/she shall refer the matter to the Planning Commission.

Notice for such hearing shall be the same as that specified for the application under Section 2.070.

Section 2.100. Administrative Action Decisions of the Director.

In making an Administrative Action decision, the Director:

1. Shall consider the following:
 - a) The burden of proof is placed upon the applicant. Such burden shall be to prove:
 - (1) The proposed action fully complies with the applicable goals, policies and elements of the Curry County Comprehensive Plan; and
 - (2) The proposed action is in accordance with the applicable criteria of this ordinance, applicable Oregon Statutes and Oregon Administrative Rules.
 - (3) The proposed action shall not impose an undue burden on the public transportation system. For developments that are likely to generate significant change in trip generation, the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding road system. The determination of impact or effects and the scope of the impact study should be coordinated with the provider of the affected transportation facility. A significant change in trip generation is defined as a change in the use of property, including land, structures or facilities, or an expansion of the size of structures or facilities causing an increase in the trip generation of the property exceeding: (1) local facilities; 10 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under local jurisdiction; or (2) State of Oregon facilities; 25 percent more trip generation (either peak or daily) and 100 vehicles per day more than the existing use for all roads under state jurisdiction.
 - b) The possibility of the proposed action causing substantial change in the neighborhood area or community area or other relevant geographic area.
 - c) Written comments from affected agencies or persons.
 - d) The results of any traffic study submitted by the applicant.

2. Shall enter findings and conclusions to justify his or her decision.
3. May impose conditions in making a decision to approve an Administrative Action. However, the following limitations shall be applicable to conditional approvals:
 - a) Conditions shall be fulfilled within any time limitations set forth in the approval.
 - b) 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:
 - (1) Protection of the public from the potentially deleterious effects of the proposed use; or
 - (2) Maintain compatibility with the surrounding area and land uses.
 - (3) Protection of the function of existing and planned roadways. The applicant shall be required to mitigate impacts attributable to the proposed use. Mitigation measures may include, but are not limited to, the following:
 - i) Dedication of land for roads, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.
 - ii) Improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways, paths, or roads that serve the proposed use where the existing transportation system may be burdened by the proposed use.
 - (4) Changes or alterations of conditions shall be processed as a new Administrative Action.
 - (5) Failure to fulfill any conditions of approval within the time limitations provided may be grounds for revocation by the Director or Commission.
4. If an application is denied by the Director, and no higher authority reverses such denial upon appeal, a new application for the same or substantially similar action shall be filed in accordance with Section 2.200.

Section 2.110. Notice of Administrative Decisions by the Director.

1. Notice of an administrative decision shall be filed in the records of the Director and also mailed to the applicant and all persons entitled to notice under 2.070(2).
2. Notice of an administrative decision shall contain:

- a) Identification of the application.
 - b) A summary of the findings of fact and conclusions of law of the Director.
 - c) Notice that any party may appeal the decision within fifteen days from the date such notice was mailed (postmarked) by filing a timely application with the Director.
3. The administrative decision of the Director shall be final upon the expiration of fifteen days from the date of the mailing (postmarked date) of the notice under Section 2.110 unless an appeal from a person who qualifies under 2.120 is received by the Director within such fifteen day period or unless the Commission or Board, on its own motion, orders review within such fifteen day period after the date of approval or disapproval.

Section 2.120. Establishment of Party Status.

1. To be recognized as a party in an appeal of a land use decision under this ordinance the person shall comply with a and b below; except that the applicant is always a party in an appeal;
 - a) File a Notice of Appeal in accordance with Sections 2.170, and
 - b) Appear before the local governing body regarding this matter of record either orally or in writing.
2. The appeals body shall first determine whether a person is a party before deciding the merits of the issue.

Section 2.130. Submission of Staff Report and Evidence.

1. Any staff report used at the hearing shall be available at least seven days prior to the hearing.
2. All documents or evidence relied upon by the applicant shall be submitted to the Planning Department and made available to the public at least 20 days prior to the evidentiary hearing.

Notwithstanding the above, if additional documents, evidence, or written materials are provided contrary to the above deadline, any party shall be entitled to a fourteen (14) day continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 215.428.

3. If additional documents or evidence is provided at the hearing in support of the application, any party shall be entitled to a fourteen (14) day continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 215.428.

Section 2.140. Hearing Procedure.

1. In the conduct of a public hearing on a land use matter, the decision making body shall have the authority to:

- a) Determine who qualifies as a party.
- b) Regulate the course, sequence and decorum of the hearing.
- c) Dispose of procedural requirements or similar matters.
- d) Rule on offers of proof and relevancy of evidence and testimony.
- e) Set reasonable time limits for oral presentation, cross examination of witnesses and rebuttal testimony.
- f) Take such other action appropriate for conduct commensurate with the nature of the hearing.
- g) Grant, deny or, in appropriate cases, attach such conditions to the matter being heard as may be necessary to carry out the Comprehensive Plan.

2. Order of Procedure:

Unless otherwise specified, the decision making body, in the conduct of a hearing, shall:

- a) Announce the following information:
 - (1) a statement of the nature and purpose of the hearing;
 - (2) a summary of the rules for conducting the hearing;
 - (3) a list of the applicable substantive criteria (this may be read into the record through the staff report);
 - (4) a statement that testimony and evidence must be directed toward the criteria described in a) (3) above or other criteria in the plan or land use regulation which the person believes to apply to the decision; and
 - (5) a statement that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to LUBA based upon that issue;
 - (6) a statement that issues must be raised by the close of the record at or following the final evidentiary hearing, in person or by letter, see ORS 197.763 (1);
 - (7) a statement that any party shall be entitled to a continuance hearing if additional documents or evidence is provided in support of the application, see ORS 197.763 (4) (b); and
 - (8) a statement that if a participant at the hearing so requests before the hearing concludes, the record shall be kept open for at least fourteen (14) days, unless there is a continuance.

- b) Permit members of the decision making body to announce:
 - (1) Actual conflict of interest; and
 - (2) Potential conflict of interest as defined by Oregon Revised Statute.
 - (3) A direct or substantial financial interest in the proceeding of the member or those persons or businesses described in ORS 244.135.
 - (4) The inability of the member to render a fair judgment because of prejudice or prejudgment (bias).No member shall serve on any proceeding in which such member has bias or the member (including those persons or businesses described in ORS 244.135) has direct or substantial financial interest.
- c) Allow any parties present to challenge members of the decision making body regarding conflict of interest or personal bias in the matter to be decided.
- d) Recognize parties.
- e) Request the Director to present his staff report, explain any graphic or pictorial displays which are a part of the report, and provide such other information as may be requested by the decision making body.
- f) Allow the applicant to be heard first, on his or her own behalf or by a representative.
- g) Allow parties or witnesses in favor of the applicant's proposal to be heard.
- h) Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.
- i) Upon failure of any party to appear, the decision making body shall take into consideration written material submitted by such party or staff.
- j) Allow the parties to offer rebuttal evidence and testimony and to argue the merits of their case regarding the issue to be decided. The scope and extent of rebuttal shall be determined by the decision making body.
- k) Allow the continuance of the hearing if authorized by these rules or if so requested by the decision making body. Unless there is a continuance, the decision making body shall allow the record to remain open for fourteen days after the hearing if a participant so requests before the conclusion of the initial evidentiary hearing. At the end of the fourteen day continuance the parties will be allowed to argue based on evidence submitted during the continuance period when the hearing is reconvened. If the record is reopened, it shall allow any person to raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.

l) Conclude the hearing.

Questions may be asked at any time by the decision making body. Questions by the parties or Director may be allowed by the decision making body, and questions may be submitted directly to the witnesses or parties. The witnesses or parties shall be given a reasonable amount of time to respond solely to the questions.

m) Conclusion and findings.

At the conclusion of the hearing, the decision making body shall make its decision with a motion, duly seconded, which shall pass with a majority vote of the members present to constitute a quorum of the decision making body. The decision making body may state findings which may incorporate findings proposed by any party, or the Director, or may take the matter under advisement. The decision making body may request proposed findings and conclusions from any party to the hearing. The decision making body, before finally adopting findings and conclusions, may circulate the same in proposed form to the parties for written comment. All actions taken by the decision making body pursuant to adopting findings and conclusions shall be made a part of the record. The decision making body shall announce the time, date and place that it will adopt its final written order regarding the matter being heard at the conclusion of the hearing.

n) Decision.

The decision, findings and conclusions which support the decision shall not be final until reduced to writing and approved by a vote of the majority of the members present to constitute a quorum of the decision making body. The written decision shall be signed by the Chair of the Commission or majority of the Board whichever is applicable. The Director shall send a copy of the final decision notice of the Commission or Board to all parties with standing in the matter who have provided a proper mailing address and have indicated that they want a copy of the notice and shall, at the same time, file a copy of the final written order in the records of the county. A copy of the final written order shall be provided to the applicant and appellant who have paid an application or appeal fee. Others who request a copy of the order shall pay a copy fee for the document.

3. General Conduct of Hearing:

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 presiding officer and stating his or her 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. Any such conduct may result in the removal of the person(s) from the hearing.
4. If the Commission declines a case for any reason, such case shall be reset for review by the Board. Upon withdrawal of the Commission from such case, the Board shall have the final local authority in that case.
5. Miscellaneous Provisions
- a) The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in an area, the greater is the burden on the proponent.
 - b) Substantial, not technical compliance with these rules is required.
 - c) Any rule of procedure not required by law may be amended, suspended, or repealed at any time by majority vote of those Board members present and voting.
 - d) Failure to raise an issue by the close of the record or following the final evidentiary hearing, in person, or by letter, precludes an appeal to LUBA based upon that issue.
 - e) Failure to provide sufficient specificity to allow the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue.

Section 2.150. Official Notice.

- 1. The decision making body may take official notice of the following:
 - a) All facts which are judicially noticeable. Judicially noticed facts shall be stated and made part of the record.
 - b) The Comprehensive Plan and other officially adopted plans, ordinances, rules and regulations of Curry County.
- 2. Matters officially noticed need not be established by evidence and may be considered by the decision making body in the determination of the application.

Section 2.160. Record of Proceeding.

1. A record of the proceeding shall be made by stenographic or electronic tape recording means. It shall not be necessary to transcribe testimony. In all cases the tape, transcript of testimony or other evidence of the proceedings shall be part of the record.
2. All exhibits received shall be marked so as to provide identification upon review.

Section 2.170. Appeal of a Land Use Decision.

1. In the matter of all appeals, the decision making body shall take up the appeal as a de novo issue and the final written order or conclusions of the lower decision making body being appealed shall not be considered in the appellate review.
2. Administrative actions taken by the Director shall be subject to appellate review by the Commission.
3. Decisions of the Commission shall be subject to appellate review by the Board.
4. Any person who qualifies under 2.120 may appeal a decision of the Director relative to an Administrative Action. In the conduct of a hearing, the Commission shall establish the appellant as a party who has timely appealed or the appeal shall not be heard and the contested decision shall become final.
5. The Commission shall review the Administrative Action of the Director upon receipt of a Notice of Appeal. For the purpose of this section, an appeal shall be filed with the Director no later than fifteen (15) days following the date of the mailing notice (postmarked date) under Section 2.110. Any decision of the Director may also be reviewed by the Commission upon its own motion passed within fifteen (15) days of the written decision sought to be reviewed if no appeal is filed.
6. Any party in a Commission decision may appeal a decision of the Commission to the Board. For purpose of this section an appeal shall be filed with the Director no later than fifteen (15) days following the date of the mailing of the notice of appeal (postmarked date) of the decision by the Commission. A person who has been denied party status by the Commission may appeal that decision by filing a Notice of Appeal to the Board.

7. Every Notice of Appeal shall be on a form supplied by the Director and contain the following information:
 - a) A reference to the application sought to be appealed;
 - b) The name of the appellant and statement describing his/her standing in the matter being appealed; and
 - c) The date of the final decision on the action.
8. The appeal shall be accompanied by the required fee paid in U.S. currency, check or money order or other negotiable instrument.
9. Notice shall be given in accordance with Section 2.070.
10. Members of the decision making body shall neither:
 - a) Communicate, directly or indirectly, with any party or his/her representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; nor
 - b) Take notice of any communication, reports, memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed.
11. During the course of the review, the Director shall present to the decision making body any materials submitted by the applicant as part of his/her application, staff exhibits used in making the decision, and an explanation of the request. The appellant then may present his/her argument.
12. The review shall be accomplished in accordance with the Rules of Procedure contained in Section 2.130. The decision making body may continue its hearing from time to time to gather additional evidence or to consider the application fully. Unless otherwise provided by the decision making body, no additional notice need be given of continued hearings if the matter to be continued is given a date and a time certain.
13. Action upon the appeal shall be taken within 120 days of the filing of the original application unless such time limitation be extended with consent of the applicant or as otherwise provided by statute. Unless otherwise ordered by the decision making body, the Director shall take such appeals in the order in which they are filed.
14. All evidence offered and not objected to may be received unless excluded by the decision making body 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 ORS 183.450 except as otherwise provided for herein.

15. The decision making body shall render a decision, may affirm, reverse or modify the action of a lesser authority and may reasonably attach conditions necessary to carry out the Comprehensive Plan.
 - a) For all cases the decision making body shall make a decision based on findings and conclusions from the record before it as justification for its action.
 - b) The Director shall send a copy of the notice of the decision to all parties to the appeal and shall, at the same time, file a copy of the final order in the records of the County.

Section 2.180. Review by the Commission.

1. The review of an administrative decision of the Director by the Commission shall be a de novo review of the issue, which will include the following:
 - a) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and recorded or considered as evidence;
 - b) All materials submitted by the Director with respect to the application;
 - c) The written findings, conclusions and decision.
2. The Commission may amend, reverse, affirm, or request the Board to review the decision below. The Commission shall review the evidence presented and make written findings and conclusions supporting its action if it affirms, amends, reverses or requests review by the Board. Such findings and conclusion may incorporate findings of the lesser authority. The Commission, before finally adopting findings and conclusions, may circulate them in proposed form to the parties for written comment. All actions taken by the Commission pursuant to adopting findings and conclusions shall be made part of the record. The Commission shall amend, reverse, affirm, or request review by the Board of the decision of the lesser authority.
3. Only those members of the Commission reviewing the entire record may act on a decision of the Director. Upon failure of a majority of the members present which constitute a quorum of the decision making body to agree on a decision, the decision of the lesser authority shall stand.
4. If the Commission sustains, amends or reverses the decision of the lesser authority, any party may request review by the Board by following the procedure prescribed in Section 2.190.

Section 2.190. Review by the Board.

1. Review by the Board shall be a de novo review of the proceeding below, which will include the following:

- a) All materials, pleadings, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered as evidence; and
 - b) All materials in the record submitted by the Director with respect to the application;
2. The Board may affirm, reverse, or modify the decision and may approve or deny the request, or grant approval with conditions necessary to carry out the Comprehensive Plan.
- a) For all cases, the Board shall make findings and conclusions, and make a decision based on the record before it as justification for its action.
 - b) The Board shall cause copies of the notice of the final decision to be sent to all parties participating in the review before it.
3. Only those members of the Board reviewing the entire record may act on the matter reviewed. The agreement of a least two members is necessary to amend, or reverse, the decision. Upon failure of at least two members to agree, the decision of the lessor authority shall stand.

Section 2.200. Limitation on Reapplication.

No application for any provision of this ordinance shall be considered by the Director, Commission, or Board within a one year period immediately following a previous denial of such request, except the decision maker may permit a new application if new evidence is discovered or if there is a change of circumstances.