

§153.004 APPLICATION PROCEDURES AND FEES

1. Application for Land Use Action.

A. Initiation. An application for a land use action may be initiated by the owner(s) of the property involved or an authorized agent of that owner(s). It may include the following: Conditional Use Permit, Land Partition, Site Plan Review, Variance, Zoning Ordinance/Comprehensive Plan Amendments and/or Zone Change. An application for a change of zone may also be initiated by the Council or the Commission, in accordance with the provisions of subsection 2 below. Applications submitted by or on behalf of a public entity or public, utility having the power of eminent domain with respect to the property subject to the application, are not subject to the ownership requirement. Authorization to act as an agent shall be in writing and filed with the application. Such applications shall be filed on the appropriate form provided by the Planning Department. When any such application requires the submission of a site plan, the site plan shall be submitted in a form as described within §153.073.

1. Each land use action's requirements are listed separately in the following sections of this ordinance:

- a. Conditional Use Permit – §153.070.
- b. Land Partition – §153.072.
- c. Site Plan Review – §153.073
- d. Variance – §153.075.
- e. Zone Change/Amendment – §153.071.

2. Administrative actions are listed in subsection 15 of this section.

3. A Land Use Action does not include the following:

- a. Single-family detached dwellings;
- b. Manufactured homes on individual lots;
- c. A duplex, which is not being reviewed as part of any other development;
- d. Minor modifications;
- e. Home occupations

B. Consolidated Application Procedure. If a proposed development requires more than one application for a permit or other land use request, the applicant may choose to apply for all necessary applications at once. The Planning Commission or City Council may consolidate their review of all necessary applications. This consolidated application procedure shall be subject to the requirements of subsection 16, Final Application for Permit or Zone Change Request.

2. Initiation by Planning Commission/City Council.

The Commission and/or Council may initiate proceedings to rezone land by motion and conduct a public hearing in accordance with all applicable provisions of this Ordinance. If the

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Council shall initiate such proceedings, the matter of the proposed change of zone shall first be referred to the Commission which shall then conduct proceedings as hereinafter provided. If the Commission and/or Council initiate proceedings for a change of zone, they shall so advise the Planner, who shall set a date for public hearing before the Commission.

3. Ownership List.

The applicant shall file with such applications a list of the names, addresses, and tax lot numbers of all owners of property situated within the following radii, including public rights-of-way, of the external boundaries of the property affected by the application:

A. Four hundred feet for Annexations, Zone Changes, and UGB/Comprehensive Plan Map Amendments;

B. Two hundred fifty feet for all other actions covered by Ordinance unless otherwise proscribed by State Law;

Such names, addresses, and tax lot numbers shall be those listed on the last preceding tax roll of the Assessor of Tillamook County. The applicant shall also file with the application an affidavit attesting to the validity of said ownership list.

5. Hearing Date.

Upon receipt of a valid and complete application and fee as required in subsection 9 herein, the Planner shall, within thirty (30) days of determination of completeness set a date for public hearing at the next available Planning Commission hearing, unless the applicant requests a hearing at a later date, and provide notice as required within subsection 12 herein.

6. Application for Vacation.

A. Procedure. Whenever any person desires to vacate all or part of any public square, or other public place, plat, street or similar area, such person shall file an application for vacation with City on forms provided by the Planning Department. Such forms shall conform to the requirements of ORS 271.080 (1). Attached to such application shall be forms reflecting the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby as defined in ORS 271.080 (2) and described below (C2). Such consent shall be in writing and duly acknowledged before an officer authorized to take acknowledgments of deeds.

1. The City shall review, under ORS 271.080 - 271.230, proposals for the vacation of public easements or rights-of-way which provide access to or along the estuary. The following requirements shall be met.

a. Petitioner first consults with Public Works and Planning.

b. Petitioner initiates vacation and submits the required fee to initiate process and petition (letter) which includes

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1. Description of the ground proposed to be vacated;
 2. Map and legal description of ground to be vacated;
 3. Reason for the vacation; and
 4. Proposed use for vacated property
- c. Petitioner will be provided a map delineating the required 200 x 400 foot area required for the consent of property owners. Absolute consent of all property owners that are adjacent to the property to be vacated is required. In addition, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof, the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing. (Note: The “absolute consents” can be considered as part of the two-thirds)
- d. Petitioner will bring signed Consents to Vacate to the City for review.
- e. A date will be set for petition on Council agenda for public hearing.
- f. City will notify Petitioner of date Council will hear petition and Public Hearing.
- g. City will publish Public hearing notice two consecutive weeks prior to Public Hearing.
- h. City will prepare two signs (consisting of public hearing notice and map) at least 14 days prior to public hearing but not more than 5 days after first publication announcing public hearing. Signs to be posted by City at each end of proposed vacation.
- i. If Council does not deny petition at Public hearing, a motion may be made for a first reading of vacation ordinance after public hearing. The ordinance authorizing vacation shall be prepared for first and second reading by Council.
- j. Deed of Dedication shall be prepared and adopted with the ordinance authorizing vacation, and the original ordinance (and Deed) shall be sent to County Clerk for recording.
- B. Hearing Date. Upon receipt of a valid and complete application and fee, the Planning Department shall set a date for public hearing upon the application before the City Council.

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C. Maintenance of Public Access to Estuaries

1. Existing public ownerships, rights-of-way, and similar public easements, which provide access to or along the estuary shall be retained or replaced if sold, exchanged or transferred. Rights-of-way may be vacated to permit redevelopment of existing developed shoreland areas provided public access across the affected site is retained.
2. The City shall review, under the provisions of ORS 271.300 - 271.360, proposals for the sale, exchange or transfer of public ownership, which provide access to or along the estuary. A public hearing shall be held to review such proposals.

7. Application for Annexation.

- A. Procedure. Whenever any person seeks to extend the boundaries of the City through annexation, such person shall file an application for annexation on forms provided by the Planning department. The applicant will be required to meet the land use criteria, and submit the appropriate fee, listed under 'Annexation' in subsection 9 below.
- B. Consent Petition. If the applicant desires to negate the need for an election as provided in ORS 222.170 (1) said application shall contain the written consent to annexation of more than half of the owners of land in the territory to be annexed, who also own more than half of the land in such territory and who own real property therein representing more than half of the assessed value of the real property in said territory.
- C. Initiation by Council. A proposal to annex unincorporated territory surrounded by the City may be initiated by the Council. Such initiation shall be by resolution subject to referendum.
- D. Hearing Date. Upon receipt of a valid and complete application and fee or resolution by the Council, the City Manager shall set a date for public hearing upon the application before the appropriate body.

8. Improper Application. If it is determined by the Planner that any of the aforementioned applications do not provide the desired information nor have attached thereto other pertinent data requested, the application may not be accepted.

9. Application Fees and Required Submittals. The application fees as set by resolution of the City Council and application submittals are required to defray costs incidental to the proceedings and shall accompany each respective land use request. Such fees shall be paid at the time of the filing of each application and shall not be refundable. Ten copies of the applicable land use information shall be submitted on one or more sheets of paper measuring a minimum of 11" x 17" and shall be drawn to a minimum scale of 1 inch equals 10 feet (1"=10'). A copy of the proposed drawing and applicable land use information shall also be submitted by PDF for electronic circulation.

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Required Submittals: the following information is required, as listed above, for all land use actions, handled administratively and brought before the Planning Commission, within the Urban Growth Boundary of the City of Tillamook

<u>Request</u>	<u>Required Land Use Criteria</u>
Annexation	A, B, C, D
Appeals*	Not Applicable
Change of Zone	A, B, C, D, P
Conditional Use	All
Site Plan Review	All (except P)
Flood Hazard Permit	A, B, C
Urban Growth Boundary Amend.	A, B, C, D, P
Right-of-Way Vacation	A, B, C, D, E
Variance	A-L
Partition	A, B, C, D, E, F, O
Planned Unit Development	All (except P)
Subdivision	All (except P)

- A. A list of the names, addresses, and tax lot numbers of all property owners situated within the distances listed under subsection 3 of this section.
- B. A drawing of the affected area shall contain the date of preparation, a NORTH arrow, and written and graphic scale.
- C. A written statement of the intended use of the property, and a written response to the standards and criteria listed separately for each of the land use actions (e.g. for a Site Plan Review, the criteria listed in §153.073), and include the site plan procedures listed separately for each land use action.
- D. Statement of utility availability.
- E. Location, dimensions and names of adjacent streets and proposed internal streets showing center line radii and curb return radii.
- F. The size and location of all existing and proposed public and private utilities, easements, or rights-of-way.
- G. The building envelope, size, setback dimensions and height of all proposed structures which are to be retained on the site.
- H. Existing site specific physical features including drainage ways, ponding areas and structures, with indication as to which are to be retained. Adjacent properties and their physical features within 50 feet of the property line shall be identified, including setback dimensions of adjacent structures.

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- I. The location of all existing trees and shrubs and those which are to be retained on the property, the location and dimensions of landscaped areas, location of proposed plant material and ground cover and other pertinent landscape features.
- J. The proposed layout of the parking lot including location and dimension of parking spaces, curb islands, internal planter strips, maneuvering aisles, and access driveways with indication of direction of travel.
- K. Statement of maintenance responsibility for all improvements shown on the site plan.
- L. Site data including:
 - 1. Total area of the property (square feet).
 - 2. Building coverage (square feet), setback and dimensions.
 - 3. Parking and other impervious surface coverage (square feet).
 - 4. Parking lot landscape area (square feet).
 - 5. All other landscape area coverage (square feet).
 - 6. Number and type of parking stalls provided.
 - 7. Number of units as appropriate.
 - 8. Existing and proposed gross floor area (square feet).
- M. Finished floor elevation related to curb, street or other established grade or bench mark, and drainage pattern. All lots shall show grading and drainage with existing grades or contours and finished grades or contours clearly indicated.
- N. Location of all fencing used to divide properties.
- O. A legal description of the property. If the property is part of a recorded plat, a reference to the plan may be used.

P. Transportation System Plan Compliance.

- 1. Review of Applications for Effect on Transportation Facilities. When a development application includes a proposed comprehensive plan amendment or land use regulation change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – “TPR”). “Significant” means the proposal would:
 - a. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity of “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the City of Tillamook Transportation System Plan (“TSP”); or
 - b. Change the standards implementing a functional classification system; or

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- c. Allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility;
or
 - d. Reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.
2. Amendments That Affect Transportation Facilities. Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one of the following:
- a. Amending the TSP to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirements of the TSP; or,
 - b. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.
 - c. Traffic Impact Study. A Traffic Impact Study shall be submitted with a plan amendment or land use district change application.
- Q. The location of all pedestrian and bicycle circulation areas and bicycle racks/storage, including sidewalks, internal pathways, pathway connections to adjacent properties and any bicycle lanes or trails.
10. Pre-Application and Post-Application Meetings.
- A. A pre-application meeting shall be scheduled prior to the submittal of the land use application. The pre-application meeting shall be coordinated by the City Planner. A plan review committee meeting shall be conducted after the submittal of the land use application, but prior to public notice and may include participation by City Public Works, Fire District, Police Department, and other appropriate agencies (including State and Federal) that need to be involved.
 - B. A post-application meeting shall follow the submission and approval of a land use application, but shall be scheduled prior to the construction and/or submission of a Zoning Clearance Permit.
11. Rehearing. The Council, Commission, or Planning Department, shall not consider any application involving a lot, parcel, or structure which has been the subject of the same application within twelve (12) months following final action on such application, unless substantial new evidence is submitted which could not reasonably have been presented at the previous meeting.

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NOTIFICATION REQUIREMENTS

12. Public Hearings. Unless otherwise required by this Ordinance, any hearing before the Commission or Council required by any provision of §153.004 to §153.099 shall be in a public hearing held in accordance with the notification and procedure requirements hereinafter provided.

Hearings on land use and limited land use actions shall include findings that describe the applicable substantive criteria listed in the applicable section(s) of this ordinance which will be used to review the land use action.

- A. Testimony at the hearing must be directed towards the criteria, and other city and state land use standards that apply, which will be used to review the land use action;
- B. Failure to address a criterion precludes an appeal based on that criterion.

The general public has a right to have members free from pre-hearing or ex-parte contacts on matters heard by them. It is recognized that a contravening public right is free access to public officials on any matter. Members of the hearing body shall place on the record the substance of any written or oral ex-parte communications concerning a decision or action at the first hearing on the decision or action which occurs after the communication was made. Parties shall be given the right to rebut the substance of the communication. If such contacts have impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall abstain therefrom.

13. Notice of Hearings. Upon fixing the time of public hearing before the Commission, the Planner shall cause notice of such hearing to be given by mail, posting, publication, or broadcast as required by the provisions of subsections 11 and 12 herein. In case of public hearing before the Council, the City Recorder shall cause such notice to be given in accordance with the provisions of subsections 11 and 12 herein.

- A. Notice of a public hearing shall include the following information:
 - 1. The name of the applicant;
 - 2. The date, time, and location of the hearing;
 - 3. A description of the location of the property for which a permit or other land use action is pending, including the street address and the subdivision lot and block designation, or tax lot number. (This information is required only for quasi-judicial actions.)
 - 4. A concise description of the proposed development action;
 - 5. A general description of the applicable comprehensive plan and zoning code criteria which apply to the proposal.

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6. A statement that a failure to raise an issue in person or by letter precludes appeal and that failure to specify to which criterion the comment is directed precludes appeal based on that criteria.
 7. A statement describing where the complete application, criteria and other relevant information is available for review, and how written comments may be submitted.
- B. Notice of any hearing shall be given to the applicant and to property owners required to be notified not less than twenty (20) days prior to the hearing and as follows:
- 1) By first class mail to applicant and all property owners as shown on the ownership list filed with the application. However, failure to receive such notice shall not invalidate any of the proceedings involved.
- C. Each notice of a public hearing on a zone change for property which includes all or part of a mobile home park shall be sent by first class mail to each existing mailing address for tenants of the mobile home park at least 20 days but not more than 40 days before the date of the first hearing on the application. The city may require the applicant for the zone change to pay the costs of the notice.
- D. Mailed notice to the Oregon Department of Transportation (ODOT) for all land use requiring a public hearing with the Planning Commission or City Council of land use applications related to property within 500 feet of a state highway or that impact State facilities.
- E. Mailed notice to the Oregon Department of Transportation (ODOT) for the following public hearings; subdivisions and partitions and any land use application affecting private access.
14. Posting Notices. The City Planner shall require that affected applicants post notices of public hearings to be held by the Council or Commission for any land use action by posting a sign in a manner clearly visible on the subject property within 10 feet of whatever boundary line of such land abuts each public road or street. If a public road abuts thereon, then such sign shall face in such a manner as may be most readily seen by the public. The template for such signs shall be provided to affected applicants by the Planner.
15. Administrative Review.
- A. Types of land use requests eligible for administrative review:
1. Conditional Use Permits involving one of the following issues:
 - (a) Signs according to §153.032 and §153.053 of this Ordinance;
 - (b) Modifications of an existing conditional use permit.

[Note: if the exterior structural addition, extension or relocation of, or to, an existing structure conditionally approved, or the proposed accessory uses and buildings customarily appurtenant to a permitted or approved conditional use, does not equal

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or exceed 50% of the market value of the structure before the improvement or repair is started, Conditional Use approval is not required].

2. Partitions/Property Line Adjustments/Flag Lot Development.
3. Site Plan Reviews for:
 - a. Conversions of residences to commercial uses.
 - b. Expansion of existing commercial, industrial, or public facility uses and structures if the expansion is less than 50% of the existing structure or less than 10,000 square feet (whichever is smaller) and exceeds 50% of the market value before improvement or repair is started.

[Note: if the exterior structural addition, extension or relocation of, or to, an existing structure, or the proposed accessory uses and buildings customarily appurtenant to a permitted or approved conditional use, does not equal or exceed 50% of the market value of the structure before the improvement or repair is started, Site Plan Review approval is not required].

- c. Previously approved site plan reviews that are null and void and no changes are proposed.
4. Variances involving one of the following:
 - a. Deviation from the minimum building setback of not more than twenty percent (20%).
 - b. Deviation from the building height limitation of not more than ten percent (10%).
 - c. Deviation from any other zoning requirements of not more than ten percent (10%) (i.e. required % of area, required coverage, required density, sign requirements, lot requirements, off-street parking requirements).
 - d. Deviation from a residential accessory dwelling living area of not more than five percent (5%).
 - e. Expansion of a conditional or nonconforming use by not more than twenty percent (20%) of the gross building volume.
5. Time Extensions on the following land use actions:
 - a. Tentative Land Partitions
 - b. Preliminary Subdivision/PUD Plat Approval
 - c. Conditional Use Permits
 - d. Site Plan Reviews

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- e. Variances
- B. A property owner may initiate an administrative land use request by filing an application with the Planning Department. The Planning Department may require other drawings or information necessary for a complete understanding of the proposal and its relationship to surrounding properties. An application will not be considered complete for purposes of any time limitations until all requested information is received by the Planning Department. An application will not be accepted until all fees are paid according to the provisions of subsection 9.
- C. The Planner shall, within thirty (30) days of receipt and acceptance of an application for a land use request act administratively according to the procedure set forth in A through J or shall refer the application to the Planning Commission for a public hearing and decision. The application shall be referred to the Planning Commission if the Planner decides that the land use request would have significant impacts that extend beyond areas of notice per subsection 3. If the Planner elects to refer the application to the Planning Commission, it shall be set for a public hearing at the next available Planning Commission hearing, unless the applicant requests a hearing at a later date.
- D. At the time the Planner acts administratively based on the requests set forth in Section 4 (14) (A), he or she shall cause notice of the application for a land use request to be mailed by First Class Mail to the following persons:
 - 1. the applicant;
 - 2. all owners of adjacent property per subsection 3 of this section;
 - 3. such other persons, agencies or departments as the Planner deems appropriate.
- E. No land use request approval shall be invalidated because of failure to receive the notice provided for in D hereof.
- F. The notice sent pursuant to 'D' shall be mailed within ten (10) days of receipt of a complete application. The notice shall state the general nature of the request and that there is a right to respond with comments or objections in writing within ten (10) days of mailing. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision and have a right to appeal that decision to the Planning Commission.
- G. In addition to the notice by mail provided to the persons listed in 'D', notice of a land use request application shall be posted on the property at least ten (10) days before any administrative decision is made. The posting shall inform the public of the general nature of the request and announce that written comments and objections will be accepted by the Planning Department for seven (7) days from the date of posting. The notice shall also say that only those persons who respond in writing will receive a copy of the written decision and have a right to appeal that decision to the Planning Commission.

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- H. After any written comments or objections are received and the period of time for public input has passed, the Planner shall have ten (10) days to prepare a written decision approving, disapproving, or approving with conditions the application for a land use request. The Planner shall consider in making the decision all written comments, the information in the application and the applicable criteria of the ordinance.
- I. The applicant and all persons who submitted written comments in response to the mailed or published notice shall be considered parties to the written decision and shall be entitled to written notice of the decision within ten (10) days of the date of the decision. Any party may appeal the decision of the Planner to the Planning Commission in accordance with §153.076. Only those who are considered to be parties that have standing to make an appeal of an administrative decision made pursuant to subsection 13 may do so.
- J. Copies of all on administrative actions shall be provided to Planning Commission members for their review.

16. Final Action of Application for Permit or Zone Change Request.

The following section shall apply to all applications for permits or zone change requests, except those which involve an amendment to the Comprehensive Plan or zoning codes, or the adoption of a new land use regulation.

- A. The City shall take final action on an application for a permit or zone change requests, including resolution of all local appeals, within 120 days after the application is deemed complete. This 120 day period may be extended for a reasonable period of time at the request of the applicant.
- B. If an application for a land use request is incomplete, the City shall notify the applicant of the additional information required within 30 days of the receipt of the application. The applicant shall be given 180 days to submit the additional information. The application shall be deemed complete upon receipt of the additional information required. If the applicant refuses to submit the required additional information, the application shall be handled administratively for action with the issues related to incompleteness noted.
- C. If the application was complete when first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, the City's approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.