

# BASIC PROCESS OF LOCAL LAND DEVELOPMENT

## 1. Development of Property

### Land Use Application

- Landowners must file a completed land use application with the city or county to develop their property.
- Cities decide on applications for properties within city boundaries, which are typically within an urban growth boundary (UGB). Counties decide on properties not inside any city boundary, which are typically outside a UGB.
- Each city and county may have different procedures for processing applications. In some small cities, applications go directly to the City Council.
- Cities have 120 days to decide on land use applications, including any local appeals allowed by the local process. (ORS 227.178)
- Counties have 150 days to decide on land use applications outside a UGB. (ORS 215.427).

## 2. Local Land Use Review & Approval

### Review of Land Use Applications

- All land use applications require public notice to neighboring property owners, but a public hearing is not always required.
- When a local government applies “clear and objective” standards, staff usually decides whether the application meets the criteria without a public hearing. However, if a person receiving notice asks, a public hearing is held. In all cases, the local government must apply only “clear and objective” criteria.
- When a local government applies discretionary criteria, in addition to public notice, it usually holds a public hearing.
- Appeals typically go to the local planning commission and often to a city council or county commission..

### Planning Commission

- Applications that include discretionary approval criteria are often reviewed by the Planning Commission or a Hearings Officer through a public hearing process. Note: For cities without planning commissions, the City Council makes discretionary decisions.
- Most local governments then allow appeal of the decision to the City Council or County Commission. (ORS 197.763)

### City Council / County Commission

Typically, the final body to hear an appeal.

## 3. Administrative & Judicial Review (optional)

To appeal, an individual must have “standing,” which means they must have testified on the issue at the local hearing (“raise it or waive” rule).

### Land Use Decision

Under ORS 197, a “land use decision” means the final action to:

- Amend the local comprehensive plan or development code; or
- Apply development code standards to a specific land use application.

Statutory exceptions, such as expedited land division, can be found in ORS 197.010.

### Administrative Review

- DLCD can appeal local decisions to LUBA if endorsed by the Land Conservation and Development Commission.
- This option rarely used, and DLCD has the same status as any other party.

### Land Use Board of Appeals (LUBA)

Governor appointed three-person board that specializes in the judicial review of local land use decisions. (ORS 197.805)

### Court of Appeals

Reviews land use decisions by LUBA.

### Supreme Court

Chooses to hear appeals from the Court of Appeals.