

CHAPTER 6

QUASI-JUDICIAL PLAN AMENDMENT

SECTION 6.100 Purpose

This Chapter provides the substantive requirements for quasi-judicial amendments of the Douglas County Comprehensive Plan. Procedural provisions for such plan amendments, unless otherwise provided by this chapter are set forth in Chapter 2 of this ordinance. A quasi-judicial amendment is a change in the Comprehensive Plan Map for a particular parcel or limited number of parcels of land.

SECTION 6.200 Initiation of Amendment

A Quasi-Judicial Plan Amendment may be initiated by an application as provided in §2.040 of this ordinance.

SECTION 6.300 Application Dates

Applications for a Quasi-Judicial Plan Amendment may be submitted at any time, and shall include a completed application on forms provided by the Planning Department and the appropriate fee. Quasi-Judicial Plan Amendment hearings shall normally be scheduled and conducted on regularly scheduled meeting dates of January, April, July and October of each year. Exceptions to the dates may be allowed for hearings at other times of the year to accommodate:

1. Amendments initiated by the Board of Commissioners to provide for public projects; and
2. Amendments initiated by an applicant for development which would promote new industries which create new employment opportunities or economic diversification for the County and for which the Board directs the Planning Director to establish an alternate hearing date in the interest of reducing processing time.

In any case, all applications shall be filed with the Director at least 73 days prior to a hearing date.

SECTION 6.400 Fee

An application for a Quasi-Judicial Plan Amendment shall be accompanied by the required fee established by the Board.

SECTION 6.500 Application Form and Content, and Amendment Standards

1. The Director shall prescribe forms for applications for Quasi-Judicial Plan Amendments. Applications may include generalized site maps and plans supporting the application. The completed application shall be sufficient to describe the nature and effect of the proposed Amendment.
2. The application shall address the following requirements which shall be the standard for Amendment:
 - a. That the Amendment complies with the Statewide Planning Goals and applicable Administrative Rules (which include OAR 660-12, the Transportation Planning Rule) adopted by the Land Conservation and Development Commission pursuant to ORS 197.240 or as revised pursuant to ORS 197.245.
 - (1) The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the County Transportation System Plan.
 - (a) The applicant shall cite the identified Comprehensive Plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the County Transportation System Plan.
 - (b) The jurisdiction providing direct access (County or ODOT) may require the applicant to submit a Traffic Impact Study certified by a Traffic Engineer that supports the findings used to address §6.500.2.a(1)(a).
 - b. That the amendment provides a reasonable opportunity to satisfy a local need for a different land use. A demonstration of need for the change may be based upon special studies or other factual information.
 - c. That the particular property in question is suited to the proposed land use, and if an exception is involved, that the property in question is best suited for the use as compared to other available properties.
3. If it appears that it is not possible to apply an appropriate Goal to specific properties or situations, then the application shall set forth the proposed exception to such Goal when:
 - a. The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

- b. The land subject to the exception is irrevocably committed as described by the Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or
- c. The following standards are met.
 - (1) Reasons justifying why the state policy embodied in the applicable goals should not apply;
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (3) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. (Compatible as used in this paragraph, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses).
- 4. Applications for Quasi-Judicial Plan Amendments may be combined with an application on the same property for an Administrative Action. If a combined application is made, the time periods in this chapter shall apply even if such periods conflict with time periods set forth in other parts of this ordinance.

SECTION 6.600 Notice

- 1. At least 45 days prior to the hearing by the Commission or Hearings Officer, notice shall be given as provided in §2.065 of this ordinance. Any special notice shall be given as provided in Chapter 2 of this ordinance.
- 2. If the application proposes an Exception to a Goal as described in §6.500.2.a, such Exception shall specifically be noted in the notice.

SECTION 6.700 Hearing

The Commission or Hearings Officer shall conduct a public hearing on the proposed Plan Amendment and, if the proposed Amendment is combined with an application for Administrative Action, the Commission or Hearings Officer may conduct any other required hearing simultaneously with the Plan Amendment. The hearing shall be conducted pursuant to the provisions of Chapter 2 of this ordinance.

1. The Commission or Hearings Officer may deny a Plan Amendment application for residential development based on a lack of school capacity if:
 - a. The school capacity issue was raised by the affected school district;
 - b. The lack of school capacity is based on a School Facility Plan that has been jointly adopted by the school district and the County governing body; and
 - c. The County has considered options to address school capacity.

SECTION 6.800 Decision

1. Ten (10) days from the date of the Commission or Hearings Officer decision, the decision shall become final unless a Notice of Review is filed pursuant to §2.500 of this ordinance. An appeal shall be heard by the Board pursuant to §2.700. However, the Commission or Board may review the lower decision on its own motion by adopting an order or resolution within 10 days from the date of the Commission or Hearings Officer decision.
2. If the Commission elects to review the decision of the Hearings Officer on its own motion, notice shall be given pursuant to §2.500.3 of this ordinance. A hearing shall be held and decision rendered pursuant to §2.600 and the hearing procedure provided in Chapter 2 of this ordinance.
3. If the Board elects to review the decision on its own motion, notice of hearing shall be given pursuant to §2.500.3 and review shall be conducted pursuant to §2.700 and the hearing procedure provided in Chapter 2 of this ordinance.

SECTION 6.900 Board Action

1. Within 30 days of a signed Plan amendment decision, except for any Plan Amendment for which an exception is required under ORS 197.732 or for any lands designated under a statewide planning goal addressing agricultural lands or forestlands, the Board shall adopt an order affirming the Findings, Conclusions and Decision of the Commission or Hearings Officer at a regular public meeting unless the Board elects to review the decision on their own motion or Notice of Review has been filed.
2. Within 30 days of a signed Plan Amendment decision for which an exception is required under ORS 197.732 or which involves lands designated under a statewide planning goal addressing agricultural lands or forestlands, the Board shall hold a hearing, limited to the record established by the lower authority, at a public meeting unless the Board elects to review the decision on their own motion or Notice of Review has been filed. At the hearing, or at a subsequent hearing, the Board shall take final action on the decision of the Commission or the Hearings Officer.

- a. Notice of the hearing shall be provided only to those parties qualified by the Commission or Hearings Officer. Such notice shall be mailed at least 7 days in advance of the Board hearing.
 - b. Parties shall be given an opportunity to speak at the hearing.
 - c. A copy of the Board decision shall be mailed to the qualified parties.
3. If a Notice of Review is filed with the Director, the Board shall review the decision pursuant to §2.500 and 2.700 and the hearing procedure provided in Chapter 2 of the Ordinance.
 4. If the Commission elects to review the Hearings Officer decision on its own motion, the decision of the Commission shall be considered to overrule the decision of the Hearings Officer. All other provisions of this section shall apply to Board actions taken in relation to lower decisions.