



## WASHINGTON COUNTY

Dept. of Land Use & Transportation  
Planning and Development Services  
Current Planning  
155 N. 1<sup>st</sup> Avenue, #350-13  
Hillsboro, OR 97124  
Ph. (503) 846-8761 Fax (503) 846-2908  
<http://www.co.washington.or.us>

# Rules Of Procedure for the Washington County Land Use Hearings Officer

**SECTION 1. PURPOSE.** The Washington County Land Use Hearings Officer (the Hearings Officer) will apply the Rules of Procedures in public hearings regarding matters within the Hearings Officer's jurisdiction to ensure that interested parties can offer and rebut all relevant evidence in a timely and orderly manner during such hearings and to comply with the ordinances of Washington County (the County).

**SECTION 2. APPLICABLE POLICIES AND LAWS; LIMITS ON AUTHORITY.** The Hearings Officer holds public hearings to consider whether the facts in a given case warrant approval of an application for certain land use actions within the hearings Officer's jurisdiction, based on the applicable policies and laws of the County. It is not the Hearings Officer's responsibility to change existing policies or laws or to waive policies and laws that otherwise apply unless permitted by law.

**SECTION 3. EX PARTE CONTACTS AND CONFLICTS OF INTEREST.** The Hearings Officer shall declare if he or she had *ex parte* contact with parties to the application and summarize the substance of the contact. The Hearings Officer may not participate in a hearing regarding any application in which he or she has an actual conflict of interest except to continue the hearing to another date for action by another hearings officer. Any party may challenge the impartiality of the Hearings Officer during the hearing. In the event a challenge is made, the Hearings Officer shall have an opportunity to respond.

**SECTION 4. HEARING PROCESS.** In general, the Hearings Officer will conduct hearings in the following order. The Hearings Officer may waive or modify procedures when he or she determines the rights of parties will not be adversely affected thereby.

1. The Hearings Officer will call the meeting to order, summarize the procedures to be followed and any deviations from the printed agenda, and swear in County staff.
2. The Hearings Officer will announce the application to be considered.
  - a. Staff will identify the relevant approval criteria and development standards from the Community Development Code and other applicable laws. Witnesses will be instructed (by the Hearings Officer) to direct testimony to those relevant criteria and standards or other standards the witness believes apply.
  - b. The Hearings Officer shall state that witnesses must sign a list provided by the County, and shall identify where the list is available.
  - c. The Hearings Officer will notify witnesses that, to appeal a decision of the Hearings Officer, a person must give oral or written testimony before the public record is closed (*does not have to provide support, i.e. can say "no evidence in record about traffic" - burden of proof is on applicant*) and must offer evidence in support of that testimony, and that failure to raise an issue or provide evidence with sufficient specificity orally or in writing before the close of the public record will preclude appeal of those issues to the Board of Commissioners or to state courts.  
**Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow local government or its designee to respond to the issue precludes an action for damages in circuit court.**
  - d. The Hearings Officer shall state that a witness may request that the hearing be continued to a future date or may request that the public record be held open to receive additional testimony and evidence, and the reasons that may warrant doing so.
3. A representative of the County will summarize the proposed request and recommend a decision. If the recommendation is for approval, the County representative also may recommend conditions of approval with which the applicant must comply before, during and/or after development authorized by the decision. Other representatives of the County, including consulting professionals under contract to the County, also may testify at this time.
4. The applicant (or appellant) and all those testifying in favor of the application (or appeal) shall testify after having been recognized for that purpose and sworn in by the Hearings Officer. The Hearings Officer may set

time limits (*on testimony*) for those who testify and may request that a group choose a spokesperson and set time limits on that testimony.

5. Persons opposed to the application (or appeal) or with questions and concerns regarding the application (or appeal) shall testify after having been recognized for that purpose and sworn-in by the Hearings Officer. Witnesses may ask questions of the applicant or applicant's (or appellant's) representative, provided the Hearings Officer may decline to allow questions that he or she finds are not relevant or probative or are argumentative. The Hearings Officer may decide to whom to direct a question for a response and may decide how and when witnesses may respond to questions.

6. If there is opposition testimony or there are questions, the applicant (or appellant) may respond to them after having been recognized for that purpose by the Hearings Officer. If the applicant (or appellant) introduces new evidence when responding to opposition testimony or a question, the Hearings Officer shall invite all parties to testify further in response to that new evidence only.

7. Throughout a hearing, the Hearings Officer may ask questions and discuss facts and issues with the County representatives (and other witnesses). If new information is introduced as a result, the Hearings Officer shall invite all parties to testify further regarding that information only.

8. When the Hearings Officer concludes all available, relevant testimony has been received, he or she shall close the public hearing. No further public testimony is permitted.

9. If a party requests a continuance, the Hearings Officer shall decide whether to continue the hearing. If the Hearings Officer continues the hearing, he or she shall announce the date to which the hearing is continued or that the hearing is continued indefinitely.

10. If a hearing is not continued and a party requests that the public record be held open, the Hearings Officer shall decide whether to hold open the public record. If the Hearings Officer holds open the public record, he or she shall announce when the record will close and what testimony and evidence may be introduced until that time. The Hearings Officer shall hold the record open to the applicant at least seven days after the record is closed to all other parties to receive final written argument (no new evidence) by the applicant, unless waived by the applicant.

11. If the hearing is not continued and the public record is not held open, the Hearings Officer shall announce his or her decision orally or announce that he or she will take the matter under advisement. The Hearings Officer shall issue a written decision within a stated time period after the close of the public record. The decision is sent to the Planning Director, who distributes it to parties of record and to people who request a copy of the decision in writing.

**SECTION 5. APPEALS.** Interested Parties of Record are entitled to appeal the decision of the Hearings Officer, but an appeal must contain certain information and must be filed within a certain time after the County mails notice of the Hearings Officer's decision. Interested parties should contact County staff regarding appeals.

**SECTION 6. TESTIMONY.** All oral testimony shall be given at a microphone so that it can be recorded. Witnesses shall give their name and address, including zip code. In general, testimony should be as brief as possible, shall not be repetitive, and shall not deal with personalities or matters not relevant to the applicable policies and laws. If a witness represents a group, he or she should explain who is represented. The Hearings Officer may limit testimony as he or she deems necessary and shall exclude irrelevant or unduly repetitious testimony. Audience demonstrations are prohibited. The Hearings Officer may suspend a hearing or take other action to restore decorum, including removal of disruptive parties.

**SECTION 7. EXHIBITS.** If a witness wants to submit an exhibit into the record, such as a letter, petition, photograph, or the like, he or she should hand 3 copies of it to the Hearings Reporter before or after testifying about it. The Hearings Reporter will mark it with an exhibit and case number, retain it until a final order is written, and return it to the Director to be kept until all appeal opportunities expire. Once an additional copy has been made of the exhibit the person who submitted it may obtain it from the Director.