

**AGENDA**

**PLANNING COMMISSION**

April 6, 2023

5:30 p.m.

City Hall Council Chambers  
313 Court Street, The Dalles, Oregon

Via Zoom

<https://us06web.zoom.us/j/82327794645?pwd=c1d2UGhUb1BoVithR0tFUzczcWtXQT09>

Meeting ID: **823 2779 4645** Passcode: **001537**

Dial: 1-669-900-6833 or 1-253-215-8782

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES – February 16, 2023
6. PUBLIC COMMENT – During this portion of the meeting, anyone may speak on any subject that does not later appear on the agenda. Five minutes per person will be allowed.
7. PRESENTATION
  - A. Planning Commissioner Training: Angie Brewer, the City of The Dalles’ regional representative from the Department of Land Conversation and Development will provide training to the Planning Commission, highlighting land use planning laws and programs.
  - B. Legal Requirements for Land Use Decisions: City Attorney Jonathan Kara to present a memorandum of law detailing the legal requirements for land use decisions.
8. DISCUSSION ITEM

Bylaws of the Planning Commission: Consideration to adopt amendments to The Dalles Planning Commission Bylaws.
9. STAFF COMMENTS / PROJECT UPDATES
10. COMMISSIONER COMMENTS / QUESTIONS

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**CITY OF THE DALLES**

"By working together, we will provide services that enhance the vitality of The Dalles."

11. ADJOURNMENT

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Meeting conducted in a room in compliance with ADA standards.

Prepared by/  
Paula Webb, Secretary  
Community Development Department

**MINUTES**

**PLANNING COMMISSION MEETING**

February 16, 2023  
5:30 p.m.

City Hall Council Chambers  
313 Court Street, The Dalles, Oregon 97058  
Via Zoom / Livestream via City Website

**PRESIDING:** Cody Cornett, Chair

**COMMISSIONERS PRESENT:** John Grant, Philip Mascher, Mark Poppoff, Nik Portela

**COMMISSIONERS ABSENT:** Addie Case, Maria Pena

**STAFF PRESENT:** Director Joshua Chandler, Secretary Paula Webb

**CALL TO ORDER**

The meeting was called to order by Chair Cornett at 5:31 p.m.

**PLEDGE OF ALLEGIANCE**

Chair Cornett led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

It was moved by Grant and seconded by Poppoff to approve the agenda as submitted. The motion carried 5/0; Cornett, Grant, Mascher, Poppoff and Portela voting in favor, none opposed, Case and Pena absent.

**APPROVAL OF MINUTES**

It was moved by Portela and seconded by Grant to approve the minutes of January 5, 2023 as submitted. The motion carried 5/0; Cornett, Grant, Mascher, Poppoff and Portela voting in favor, none opposed, Case and Pena absent.

**PUBLIC COMMENT**

None.

**QUASI-JUDICIAL PUBLIC HEARING**

CUP 203-22, Maul, Foster & Alongi, Inc., 3400 River Road, 2N 13E 28 Tax Lot 708

Request: Applicant is requesting approval to site and construct a sanitary sewer lift station with underground storage tanks, meter and valve vaults, diesel generator, underground utilities and associated security fencing and gates. Once completed, ownership and maintenance of the lift station will transfer to the City of The Dalles. Approval of the Conditional Use Permit (CUP) will establish a Community Facilities Overlay (CFO) on the site.

Chair Cornett read the rules of a public hearing. He then asked if any Commissioners had ex parte contact, conflict of interest, or bias which would prevent an impartial decision. Hearing none, he opened the public hearing at 5:44 p.m.

Director Chandler provided the staff report and presentation, Exhibit 1.

City Engineer Dale McCabe stated the location would probably require a rapid flashing beacon to regulate the crosswalk. River Road is a major collector, with speeds of 45 miles per hour.

Director Chandler noted the lift station will support future development of the site. Once completed, ownership of the lift station will transfer to the City of The Dalles. The applicant is responsible for this specific project; the developer will be responsible for improvements on three lots.

Cem Gokcora, Maul, Foster & Alongi, 3140 NE Broadway Street, Portland, Oregon 97232

Mr. Gokcora stated the proposed design was prepared in compliance with all applicable city and state codes.

Chair Cornett closed the public hearing at 6:02 p.m.

It was moved by Mascher and seconded by Poppoff to adopt Resolution PC 613-22, approving Conditional Use Permit 203-22, with the proposed Conditions of Approval included with this report, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report. The motion carried 5/0; Cornett, Grant, Mascher, Poppoff and Portela voting in favor, none opposed, Case and Pena absent.

**RESOLUTION**

Resolution PC 613-22: Adoption of Resolution PC 613-22 for approval to site and construct a sanitary sewer lift station with underground storage tanks, meter and valve vaults, diesel generator, underground utilities and associated security fencing and gates.

It was moved by Grant and seconded by Portela to adopt Resolution PC 613-22, approving Conditional Use Permit 203-22, for approval to site and construct a sanitary sewer lift station with underground storage tanks, meter and valve vaults, diesel generator, underground utilities and associated security fencing and gates. The motion carried 5/0; Cornett, Grant, Mascher, Poppoff and Portela voting in favor, none opposed, Case and Pena absent.

**DISCUSSION ITEM**

Overview and discussion regarding Chapter 10.12 of The Dalles Municipal Code regulating Recreational Vehicle (RV) Parks

Chair Cornett stated the Planning Commission received a series of RV Park applications over the past months. Comments received addressed location, construction, and allowed length of stay.

Commission consensus concluded:

- Quiet hours and check-in/check-out hours will be specifically noted
- An on-site manager is required
- Access requirements will not change
- Traffic impact studies are required on a case-by-case basis
- Applications will be submitted as a Site Plan Review rather than a Conditional Use Permit
- Length of stay: a manageable blend of short- and long-term stays. Staff will review State requirements and return to the Planning Commission.

**STAFF COMMENTS / PROJECT UPDATES**

Staff has compiled a list of proposed Code amendments to correct inconsistencies, minor errors, and clarify language. Over the next year, staff will present the amendments to the Planning Commission for review.

At this time, the March 2, 2023 meeting will be cancelled due to lack of business. The April 6, 2023 meeting will include Commissioner training and review of the PC Bylaws.

At future meetings, the Planning Commission will work with a new Technical Advisory Committee to oversee the Housing Needs Analysis.

**COMMISSIONER COMMENTS / QUESTIONS**

None.

**ADJOURNMENT**

Chair Cornett adjourned the meeting at 7:14 p.m.

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Submitted by/  
Paula Webb, Secretary, Community Development Department

SIGNED: \_\_\_\_\_  
Cody Cornett, Chair

ATTEST: \_\_\_\_\_  
Paula Webb, Secretary  
Community Development Dept.



# City of The Dalles Planning Commission

THURSDAY, FEBRUARY 16, 2023 | 5:30 PM

## Conditional Use Permit No. 203-22

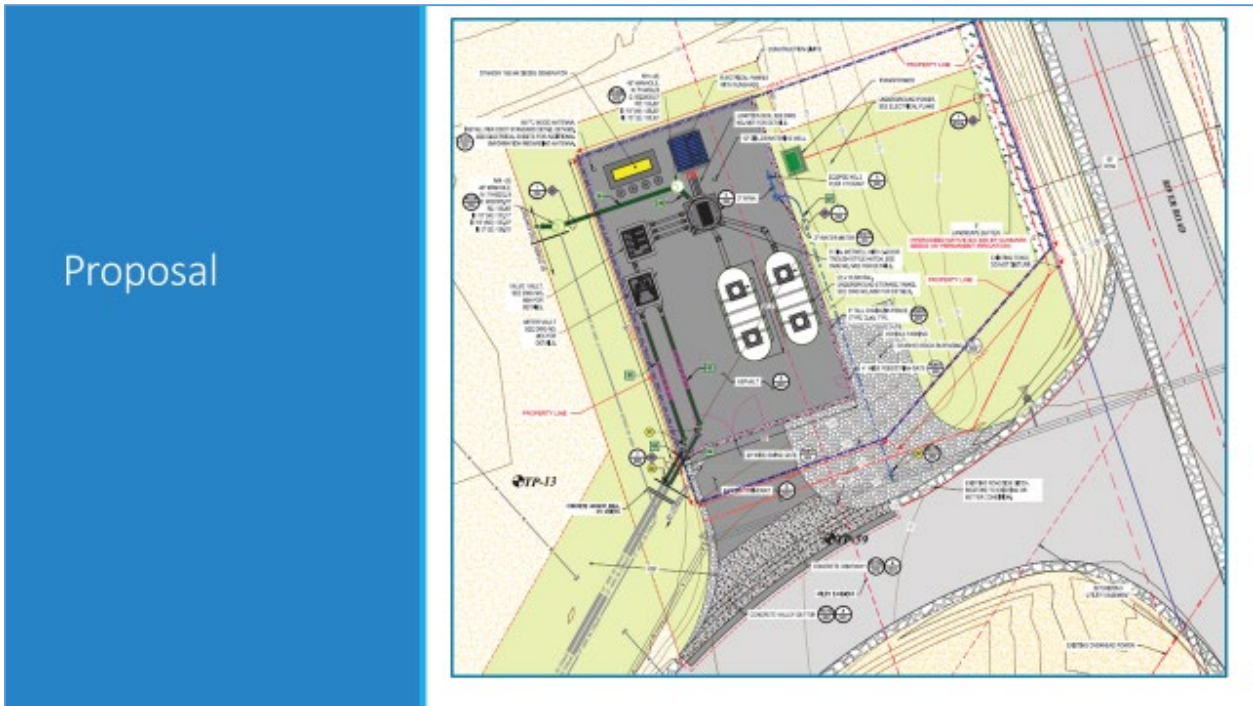
**Applicant:** Maul, Foster, & Alongi, Inc.

**Address:** 3400 River Road

**Assessor's Map and Tax Lot:** 2N 13E 28 708

**Zoning District:** Industrial "I"

**Proposal:** *Applicant is requesting approval to site and construct a sanitary sewer lift station with underground storage tanks, meter and valve vaults, diesel generator, underground utilities and associated security fencing and gates. Once completed, these improvements will be owned and maintained by the City of The Dalles. Approval of the Conditional Use Permit (CUP) will establish a Community Facilities Overlay (CFO) on the site.*



## Impact (TDMC 10.3.050.040)

1. Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this Article shall modify other noise ordinance standards as adopted by the City.
2. Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)
3. Dust and other particulate matter shall be confined to the subject property.
4. The following odors shall be completely confined to subject property:
5. Vibrations shall not be felt across the property line.
6. The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:
- ~~7. In areas designated as Historic Districts, proposed development and redevelopment shall first require review and approval of the Historic Landmarks Commission in accordance with the procedures of Chapter 11.12 Historic Resources.~~

## Impact (TDMC 10.3.050.040)

1. Noise impacts across the property line shall not exceed 60 decibels. Noise related to traffic impacts shall not be included in this determination. Nothing in this Article shall modify other noise ordinance standards as adopted by the City.

### Proposed Conditions:

- 1c. The sound attenuating barrier along the north and west property lines must be shown on a revised site plan.
- 3a. Applicant must install the sound attenuating barrier along the north and west property lines.



## Impact (TDMC 10.3.050.040)

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2. Lighting impacts across the property line shall not exceed 0.5 foot-candles (a foot-candle is the amount of light falling upon a 1-square-foot surface which is 1 foot away from a 1-candlepower light source.)
3. Dust and other particulate matter shall be confined to the subject property.

## Impact (TDMC 10.3.050.040)

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4. The following odors shall be completely confined to subject property:
  - a. *Industrial and/or chemical grade chemicals, solvents, paints, cleaners, and similar substances;*
  - b. *Fuels; and*
  - c. *Fertilizers, manure, or other animal waste products, other than for landscape installation and maintenance.*
5. Vibrations shall not be felt across the property line.

## Impact (TDMC 10.3.050.040)

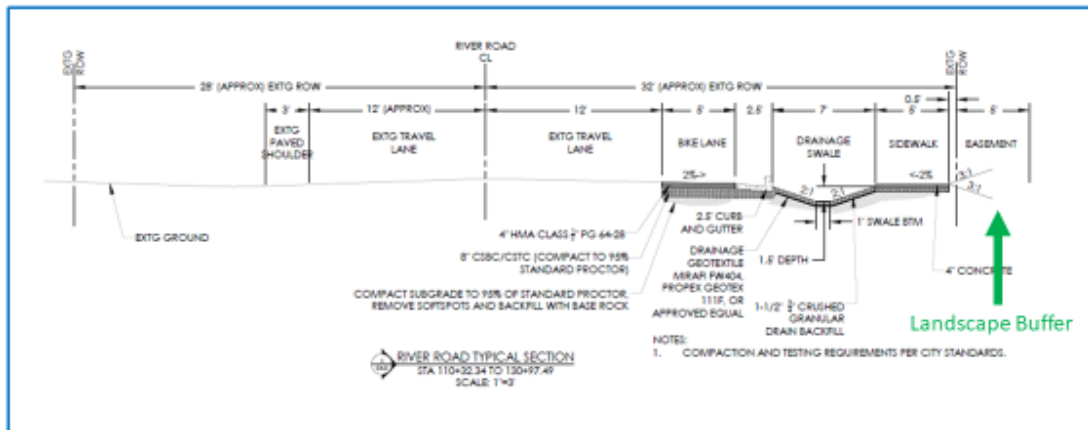
6. The transportation system is capable, or can be made capable, of supporting the additional transportation impacts generated by the use. Evaluation factors shall include, but are limited to:
  - a. *Street designation and capacities;*
  - b. *On-street parking impacts;*
  - c. *Bicycle safety and connectivity;*
  - d. *Pedestrian safety and connectivity*

### Frontage Improvements

- ROW Improvements
- 5' Landscaping Buffer



## Frontage Improvements



## Commission Alternatives

- 1. Staff recommendation:** The Planning Commission move to adopt Resolution PC 613-22 approving Conditional Use Permit 203-22, with the proposed Conditions of Approval included with this report, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report.
2. If the Planning Commission desires to deny Conditional Use Permit 203-22, move to direct staff to prepare a resolution of denial. The Planning Commission shall identify the specific criteria concerning this decision.



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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(541) 296-5481 ext. 1125  
COMMUNITY DEVELOPMENT DEPARTMENT

### MEMORANDUM

**To:** City of The Dalles Planning Commission  
**Meeting Date:** April 6, 2023  
**Re:** Planning Commissioner Training  
**Prepared by:** Joshua Chandler, Community Development Director

#### **DISCUSSION:**

The role of a Planning Commission is to develop, maintain, and implement The Dalles Comprehensive Land Use Plan and Land Use and Development Ordinance, to protect the integrity of the community's planning process, and to foster the community's long-term interests. Similar to City Council, the Commission presides over public hearings to implement state planning laws. As a member of the Planning Commission, it is imperative that each member is well versed in the land use process, understands the opportunities and limits of their authority, and interprets and applies applicable zoning ordinances when making decisions and recommendations.

The Community Development Staff is pleased to be joined by Angie Brewer, AICP from the Oregon Department of Land Conservation and Development (DLCD), to provide training to the Planning Commission. Ms. Brewer is the City's regional DLCD representative located out of the Bend, Oregon office. She has prepared a PowerPoint presentation for the April 6, 2023 meeting that will be made available following the meeting.

The City appreciates the commitment provided by each of our Commissioners and values their continued education.



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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(541) 296-5481 ext. 1125  
COMMUNITY DEVELOPMENT DEPARTMENT

### MEMORANDUM

**To:** City of The Dalles Planning Commission  
**Meeting Date:** April 6, 2023  
**Re:** Legal Requirements for Land Use Decisions  
**Prepared by:** Joshua Chandler, Community Development Director

#### DISCUSSION:

In addition to Planning Commissioner training, the City Attorney has prepared a memorandum detailing the legal requirements for land use decisions as a general reference for current and future Commissioners. Staff will provide a brief overview of this memorandum at the April 6, 2023 meeting and encourages any Commissioner to contact the City Attorney's office for additional advice on any matter not addressed during the meeting.

#### ATTACHMENTS:

- **Attachment A** – Memorandum of Law: *Legal Requirements for Land Use Decisions*. Prepared by City Attorney Jonathan Kara, April 6, 2023.



CITY ATTORNEY'S OFFICE  
 CITY OF THE DALLES  
 313 COURT STREET  
 THE DALLES, OREGON 97058

(541) 296-5481 ext. 1150  
 FAX (541) 296-6906

## MEMORANDUM OF LAW

**TO:** Planning Commission

**FROM:** Jonathan Kara, City Attorney

**DATE:** April 6, 2023

**RE:** *Legal Requirements for Land Use Decisions*

This Memorandum provides Commissioners with the fundamentals on the decision-making expectations imposed by Oregon law on the City and its Planning Commission and is intended to be shared with future Commissioners prior to their attendance at their first meeting after appointment. Any Commissioners with any questions at any time are encouraged to contact the City Attorney's Office for advice on these matters of law.

### I. WHAT IS A *LAND USE DECISION*?

#### A. Land Use Decision

A *land use decision* is a discretionary decision by the City applicable to the City's land use regulations, unless exempt under one or more of the statutory exceptions (discussed below). The statute establishing that definition and its exceptions is codified as ORS 197.015(10)(a).

In simplified and non-exhaustive terms, a *land use decision* is:

1. a final discretionary decision or determination;
2. made by the Community Development Department (**CDD**), Planning Commission, or City Council; and
3. concerning the adoption, amendment, or application of Statewide Planning Goals, The Dalles Comprehensive Land Use Plan (**Comprehensive Plan**) provisions, or the City's Land Use and Development Ordinance (**LUDO**, Title 10 of The Dalles Municipal Code).

#### B. Limited Land Use Decision

Oregon law distinguishes a *land use decision* from a limited land use decision in ORS 197.015(12). The key distinctions are: (1) a *limited land use decision* involves land within an urban growth boundary (**UGB**) and (2) the procedural requirements are less cumbersome for a *limited land use decision*.

Specifically, a *limited land use decision* involves:

1. a final decision or determination;
2. made by CDD, Planning Commission, or City Council regarding a site within the City's UGB; and

3. concerns the approval or denial of a tentative subdivision or partition plat, or the approval or denial of an application based on discretionary standards regulating physical characteristics of an outright permitted use (e.g., site or design review).

Examples of limited land use decisions include tentative subdivision plats for land within the UGB, plan review decisions, and review of uses permitted outright based on discretionary standards (e.g., approval of residential use in a residential zone).

The review process for *limited land use decisions* is less formal and shorter than for land use decisions. ORS 197.195 requires written notice to property owners within 100 feet of the site for which the application is made, a 14-day comment period, a written list of the applicable criteria upon which the decision will be made, and notice of the final decision. The City may, but is not required, to provide a hearing before the City on appeal of the final decision. However, if a local hearing is provided, it must comply with procedural requirements in ORS 197.763. The final decision is not required to have complete or exhaustive findings and may take the form of a “brief statement” explaining the relevant standards and criteria, states the facts relied upon in reaching the decision, and explains the justification for the decision based on those criteria, standards, and facts. However, as a practical matter, the findings for a *limited land use decision* will look nearly identical to the findings for a standard land use decision.

### **C. Land Use Decision Does Not Include...**

One reason for the relative complexity of defining a *land use decision* in Oregon is the statute provides an extensive list of what it does not include. The list below is not comprehensive but describes the actions you are most likely to encounter that are not land use decisions per ORS 197.015(10)(b). The Planning Commission’s decision is not a *land use decision* if it:

1. involves land use standards not requiring interpretation or the exercise of policy or legal judgment (i.e., ministerial decisions);
2. approves or denies a building permit under clear and objective land use standards;
3. is a limited land use decision;
4. involves a transportation facility otherwise authorized by and consistent with the Comprehensive Plan and LUDO;
5. is an expedited land division as described in ORS 197.360; or
6. approves or denies approval of a final subdivision or partition plat, or determines whether a final subdivision or partition plan substantially conforms to the tentative plan.

## **II. LAND USE BASICS**

### **A. City Authority**

In Oregon, several levels of government simultaneously regulate land use — the state, cities, counties, and special districts. A local government, such as a city or county, adopts its own land use plan as well as regulations to implement the plan. However, the local government’s plan and regulations must be consistent with and implement state policies set forth in the Statewide Planning Goals and Oregon Administrative Rules. Additionally, those cities and counties located within Metro must meet regional requirements established by Metro.

Oregon law requires coordination between cities and counties. Except for cities and counties within Metro, counties are responsible for coordinating all planning activities impacting land within the county, including planning activities of cities, special districts, and state agencies. Within Metro’s boundary, Metro is designated by statute to coordinate planning activities.

State law imposes substantial procedural requirements for local land use decisions, depending on the type of land use decision being made. Due to the complexity involved in determining what type of decision is being made, the CDD Staff and the City Attorney will generally evaluate the nature of the particular decision in any given case.

## **B. State's Role in Local Land Use**

### *1. Land Conservation and Development Commission.*

The Oregon Land Conservation and Development Commission (**LCDC**) adopts the statewide land use goals and administrative rules, assures local plan compliance with applicable land use laws, coordinates state and local planning, and manages the coastal zone program. LCDC comprises seven appointed volunteer members and meets about every six weeks to direct the work of the Department of Land Conservation and Development (**DLCD**).

DLCD is the state agency administering the state's land use planning program. DLCD works under and provides staff support for LCDC. DLCD is organized into five divisions: Community Services, Planning Services, Ocean and Coastal Services, Measure 49 Development Services, and Operations Services.

Under ORS 197.090(2), DLCD is authorized to participate in local land use decisions involving statewide planning goals or local acknowledged plans or regulations. With LCDC approval, DLCD may initiate or intervene in the appeal of a local decision when the appeal involves certain pre-established factors laid out in ORS 197.090. DLCD is also involved in reviewing and acknowledging local comprehensive plans.

When *good cause* exists, LCDC may order a local government to bring its plan, regulations, or decisions into compliance with statewide planning goals or acknowledged plans and regulations: this is known as an *enforcement order* and can be initiated by LCDC or a citizen but is infrequently used. LCDC may also become involved in a local government action if a petitioner requests an enforcement order and LCDC finds there is good cause for the petition. If LCDC determines there is good cause, LCDC will commence proceedings for a contested-case hearing under ORS 197.328. Failure to comply with an enforcement order under ORS 197.328 may result in the loss of certain public revenue, including state shared revenue. *Good cause* indicia include (a) the Comprehensive Plan or LUDO provision is not in compliance with the goals by the date set in statute, (b) the City does not make satisfactory progress toward coordination, or (c) the City engaged in a pattern or practice violating the Comprehensive Plan or LUDO.

### *2. Land Use Board of Appeals.*

Most appeals of a local land use decision go to the Land Use Board of Appeals (**LUBA**). LUBA comprises three board members appointed by the governor and confirmed by the state senate. Anyone who participated in a local land use decision may appeal the decision to LUBA within 21 days of the date the decision becomes final. **Note:** the date the decision becomes "final" is when it is put in writing and signed by the decision-maker (e.g., CDD Director, Planning Commission Chair, Mayor).

Once notice of appeal is served, the City must compile and submit the record of the decision to LUBA within 21 days. LUBA is required to issue a decision on the appeal within 77 days after the record is transmitted, though there are some exceptions to this deadline. Finally, LUBA's decision may be appealed to the Oregon Court of Appeals.



An important aspect of an appeal is LUBA's review is limited to the contents in the record. Therefore, it is important the Planning Commission and City Council ensure all applicable criteria, goals, arguments, staff reports, studies, etc. are included in the record in the event of an appeal. Such care can impact the outcome of any appeal.

For example, the Oregon Court of Appeals found the City of Salem's interpretation of its local code provisions was not a "new" issue and prohibited the appellant from raising the issue on appeal because, even though the provision was not specifically referenced in the city's notice of hearing, the record showed a member of the city council raised the provision at the hearing and thus placed the provision in the record.

Because of the specific procedural requirements for an appeal to LUBA, CDD staff and the Planning Commission Chair work closely with the City Attorney on any appeals. It is important to notify the City Attorney immediately upon receipt of an appeal.

### 3. *Statewide Planning Goals.*

The purpose of the Statewide Planning Goals is to implement and consistently apply state land use policies throughout Oregon. The Statewide Planning Goals emphasize citizen involvement, a public planning process, management of growth within UGBs, housing and preservation of natural resources, and specific types of lands called *resource lands*.

Most of the goals are accompanied by "guidelines," which suggest how to apply a goal but are not mandatory. The goals have been adopted as administrative rules codified as OAR Chapter 660, Division 015. The City's Comprehensive Plan and LUDO must be consistent with the goals and are periodically reviewed by LCDC for compliance. Oregon's 19 Statewide Planning Goals comprise:

Goal 1	Citizen Involvement
Goal 2	Land Use Planning
Goal 3	Agricultural Lands
Goal 4	Forest Lands
Goal 5	Natural Resources, Scenic, and Historic Areas, and Open Spaces
Goal 6	Air, Water, and Land Resources Quality
Goal 7	Areas Subject to Natural Hazards
Goal 8	Recreational Needs
Goal 9	Economic Development
Goal 10	Housing
Goal 11	Public Facilities and Services
Goal 12	Transportation
Goal 13	Energy Conservation
Goal 14	Urbanization
Goal 15	Willamette River Greenway
Goal 16	Estuarine Resources
Goal 17	Coastal Shorelands
Goal 18	Beaches and Dunes
Goal 19	Ocean Resource

### III. TYPES OF LAND USE DECISIONS

#### A. Quasi-Judicial Process and Appeals

##### 1. Overview.

A quasi-judicial decision typically applies pre-existing criteria to an individual person or piece of land. Determining whether a proceeding is *quasi-judicial* turns on whether the decision displays the characteristics of such decisions identified by the Oregon Supreme Court in 1979:

- (a) the proceeding must be *bound to result in a decision*;
- (b) the local government must be *bound to apply preexisting criteria to concrete facts*; and
- (c) the decision must be *directed at a closely circumscribed factual situation or a relatively small number of persons*.

While the court held no single factor is determinative, the more closely a local decision comes to meeting these criteria, the more likely the decision is quasi-judicial. Typical examples of quasi-judicial decisions include design review, partition and subdivision, a zone change for a small number of lots or parcels, and development permits and variances.

In Oregon, a quasi-judicial decision must comply with general standards of due process. This requirement arises from a 1973 Oregon Supreme Court decision. Due process standards typically include providing applicants:

- (a) an opportunity to be heard;
- (b) an opportunity to present and rebut evidence;
- (c) an impartial decision-maker; and
- (d) a record and written findings adequate to permit judicial review.

##### 2. Oregon Law Procedural Requirements.

The procedures applicable to the City's review of quasi-judicial applications are largely determined by ORS 197.763. For example, at the *initial evidentiary hearing*, the Planning Commission Chair must read a statement listing the applicable criteria in the LUDO, ask that testimony and evidence be directed at the applicable criteria (or other criteria in the Comprehensive Plan or LUDO the person believes apply to the decision), and stating the failure to raise an issue with sufficient specificity to allow the City and other parties an opportunity to respond prohibits an appeal to LUBA based on that issue. The Planning Commission Chair must also be advised of the requirement to raise any constitutional claims at the beginning of the hearing under ORS 197.796. Typically, these statements are included in a script for the Planning Commission Chair but also may be presented by CDD staff or the City Attorney.

At the close of the *initial evidentiary hearing*, any participant may request the record be held open in order to allow additional evidence regarding the application. The City can either hold the record open for a specific period to allow additional written evidence or continue the hearing to a specific date, time, and place at least seven days in the future. It is the City's choice whether to continue the hearing or leave the record open, which may depend on the nature of the evidence to be submitted and the time available in which to render a final decision.

If new written evidence is submitted at the continued hearing, a person may request the record be left open for at least seven days to submit additional written testimony/evidence. Then, after all of the written evidence has been submitted and the record is closed to all other parties, the

applicant is allowed at least seven days to submit a final written argument in support of the application.

Approval or denial of a quasi-judicial land use application must be based on standards and criteria set forth in the LUDO. The City's interpretation of its LUDO must be consistent with the express language. The courts will defer to a City's interpretation of its own code, provided the interpretation is made by the City Council. Conversely, the courts do not defer to an interpretation made by a lower body such as the Planning Commission or CDD Director.

The City's final decision must include a brief description of the criteria, a description of the evidence addressing each criterion, and the reasoning for approving or denying the application. This part of the decision is generally referred to as the *findings*. The legal requirements applicable to the City's findings may not be cursory or conclusory or arbitrary or capricious.

### 3. *LUDO Requirements.*

Under ORS 227.170(1), a city may establish its own hearing procedures provided they are consistent with ORS 197.763. The LUDO's review procedures are codified as TDMC Chapter 10.3 (*Application Review Procedures*) and the City's quasi-judicial process is detailed in TDMC 10.3.020.050.

#### **B. Final decision (Quasi-Judicial)**

ORS 227.173(4) requires the final decision on a *permit* application be made in writing and sent to "all parties to the proceeding." A *permit* is a discretionary approval of development, excluding limited land use decisions (which have their own statutory process). TDMC 10.3.020.020 details the City procedures for issuing a final decision for different types of decisions.

Pursuant to Oregon law, the City must make a final decision within 120 days of the date the application was *deemed complete*, including resolution of all local appeals. While the applicant may choose to extend the deadline in writing, the total of all extensions may not exceed 245 days. Accordingly, the City must reach a final decision on an application for a *permit*, *limited land use decision*, or *zone change* within one year from the date the application is deemed complete.

#### **C. Legislative Process**

The procedural requirements for a *legislative* land use decision differ from the procedural requirements for a *quasi-judicial* decision. Legislative decisions typically involve the adoption of more generally applicable policies or standards applicable to a variety of factual situations and a broad class of people and land. Common examples include amending the Comprehensive Plan, a zone change applicable broadly to large areas within the city limits, or text changes to the LUDO. TDMC 10.3.020.060 details the City's review procedures and process for legislative actions. Because a legislative decision is the expression of City policy, the City is not required to reach a decision on a legislative proposal and may table the issue or decline to review it altogether.

## **IV. EX PARTE CONTACTS, CONFLICTS OF INTEREST, AND BIAS**

### **A. Right to an Impartial Decision**

The purpose of declaring ex parte contacts, conflicts of interest, and bias is to ensure quasi-judicial land use applications are decided by an impartial hearing body. Your declaration of any

ex parte contacts, conflict of interest, or bias is required prior to conducting a hearing on any quasi-judicial land use decision.

**Note:** as a resident of the community, Commissioners frequently have personal beliefs, business associations, membership with organizations, and relatives living and working within the community who may be impacted directly or indirectly by issues presented by a land use application. Disclosing these beliefs or associations is required only where such beliefs or associations will impact your ability to render an impartial decision. The exception to this general rule is ex parte contacts: in a quasi-judicial setting, you must disclose any ex parte contacts regardless of whether the ex parte contact impacts your impartiality.

Once a Commissioner discloses an ex parte contact, conflict of interest, or bias and announces publicly their ability to render an impartial decision, the burden shifts to the public to prove the person is not capable of making an impartial decision. However, the mere possibility an improper ex parte contact occurred is not sufficient for the public to meet its burden.

With respect to bias or a conflict of interest, a Commissioner may abstain and not participate in a decision if they believe their bias or a potential conflict of interest will prevent them from being impartial. Where a Commissioner (including relatives and business associates) will financially benefit from the decision, Oregon law prohibits them from participating in the decision unless a class exception exists. Bias and conflict of interests are discussed in more detail below.

Although not required, a person who recuses themselves from the decision may step down from the dais and join the general public seating during the discussion and decision. There is no legal requirement preventing an abstaining Commissioner from participating as an interested citizen; however, when a Commissioner would realize an *actual* financial benefit, the City discourages them from so participating as a citizen in an effort to preserve the integrity of these public processes.

## **B. Ex Parte Contacts**

An ex parte contact is commonly understood as a meeting, written communication (including email), or telephone conversation between a Commissioner and an interested party outside of the public hearing process. While this is generally true, the scope of ex parte contacts is actually much broader and encompasses *any evidence (not fully disclosed) relating to a pending application and relied on by a Commissioner in making a final decision*. The purpose of disclosure is to provide interested parties an opportunity to consider and rebut evidence.

**Note:** ex parte contacts are not unlawful. While contact with interested parties to broker a behind-the-scenes deal on a particular decision is often a political disaster, legally such contact is a problem only where the substance of the meeting is not disclosed during a public hearing and recorded as a part of the public record (i.e., in the minutes). In most cases, the better approach is to rely on City staff to work directly with interested parties and avoid the risk of engaging in ex parte discussions.

### *1. Statutory Provisions.*

Consistent with ORS 227.180(3), and with respect to the City's decision-making, no Planning Commission decision or action is invalid due to a Commissioner's ex parte contact if the contacted Commissioner places on the record the substance of any written or oral ex parte communications concerning the decision or action and makes a public announcement of the content of the communication and of the parties' right to rebut its substance at the initial evidentiary hearing on the subject following the communication.

(a) Full Disclosure

Ex parte contact does not render a decision unlawful so long as there is full disclosure. Disclosure must occur at the earliest possible time in the decision-making process. There are two components to full disclosure: (1) placing the substance of the written or oral ex parte contact on the record and (2) a public announcement of the ex parte contact. Both requirements are satisfied by disclosure at the initial public hearing (public announcement included as a part of the record). In addition, the Planning Commission Chair is required to provide the general public with an opportunity to rebut the substance of the ex parte contact.

(b) Communications with Staff

Communications with City staff are not considered an ex parte contact. However, City staff may not serve as a conduit for obtaining information outside of the public process unless that information is disclosed. In practice, decision makers may freely discuss issues and evidence with staff. Where an interested party requests City staff to communicate with a decision maker or other evidence is obtained through City staff the decision maker relies on without disclosure (or is not otherwise included as a part of the public record, such as the staff report), an ex parte contact problem occurs. Because an ex parte contact is a procedural error, the party appealing a decision must show the ex parte contact was prejudicial. In general, evidence a relevant ex parte contact was not disclosed should be regarded as enough to require remand of a decision.

2. *Common Sense.*

Common sense judgment can go a long way in deciding what should be disclosed. Generally, a decision maker's instincts are correct about whether information is relevant to the decision and should be included as a part of the record through disclosure. The ex parte contact rules should not be viewed as an impediment to the Planning Commission's ability to conduct its business. The majority of information used to form general opinions existing prior to but which may impact a decision are not subject to disclosure. Specific information obtained in anticipation of or subsequent to an application being filed directly relevant to the decision and unavailable to the rest of the interested parties should always be included in the public record through disclosure.

3. *Scope of Ex Parte Contacts.*

As indicated, ex parte contacts are not limited to conversations with interested parties or other members of the community. The concept of ex parte contacts is much broader. For example, consider the following when not fully disclosed:

- (a) A site visit is not in itself an ex parte contact unless it involves communication between a decision maker and a party or other interested person. However, site visits do invoke procedural requirements of disclosure and opportunity to rebut. If a site visit is conducted and conversations take place between decision makers and applicants and/or opposition that are then used in making the final decision, or give the appearance of so being used, the content of those conversations must be disclosed or the decision will be remanded.
- (b) Communications with City staff can be ex parte contacts if the staff member acted as a conduit for the transfer of information from persons for or against the proposal or where the contact occurred after the record closes (e.g., staff submittal of evidence after the record closes could prejudice parties' substantial right to rebut evidence and requires remand).

- (c) Allegations CDD staff, who were not the final decision makers, were biased in favor of an application are insufficient (even if true) to demonstrate the final decision makers were biased.
- (d) Newspaper articles and television or radio broadcasts are ex parte contacts when they relate to a pending application and are relied on by a Commissioner in making a final decision.
- (e) All other outside discussions of a pending application are ex parte contacts when they relate to a pending application and are relied on by a Commissioner in making a final decision.

### **C. Conflict of Interest**

The Oregon Government Ethics Commission (**OGEC**) oversees the implementation of the conflict of interest statutes under ORS Chapter 244. OGEC imposes personal liability on a Commissioner's violation of the statute or its regulations. The City Attorney's Office represents the City, including its Planning Commission, in all legal matters but does not represent any Commissioner as an individual with respect to any personal liability.

#### *1. Actual vs. Potential Conflict of Interest.*

An actual conflict of interest is defined under ORS 244.020 as any decision or act by a public official that would result in a *private pecuniary benefit or detriment*. An actual conflict extends not only to financial gain or loss to individual Commissioners but also to any relative, household member, or any business with which the Commissioner or relative is associated. A potential conflict of interest is distinguished from an actual conflict of interest in that the benefit or detriment **could** occur, while the benefit or detriment **would** occur in an actual conflict of interest situation.

In the case of an actual conflict of interest, a Commissioner must both:

- (a) announce the actual conflict of interest; and
- (b) refrain from taking official action.

In the case of a potential conflict of interest, a Commissioner must announce the conflict but may still take action on the issue. The disclosure requirements for both potential and actual conflicts do not apply to *class exceptions*.

#### *2. Class Exceptions.*

Often a land use decision has at least some indirect financial impact on an individual Commissioner and other members of the community. For example, legislative rezoning and LUDO text amendments often entail changes to the development rights of property owners throughout the City. To address this issue, Oregon law provides a class exception to such conflicts of interest. If the Commissioner is part of a class consisting of a larger group of people impacted by a decision, no conflict exists. There is no hard and fast rule on the size or type of class to which the conflict exemption applies. In general, legislative rezoning decisions impacting the community as a whole are exempt. The class exemption depends on the facts of each case. Several examples are provided below.

#### *3. Examples.*

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- (a) Commissioners living within proximity of an application for the continuance of a nonconforming mining operation failed to disclose the location of their residences during the local process, so LUBA remanded and required disclosure.
- (b) If the City develops an ordinance limiting development in proximity of streams and other water bodies, a Commissioner who owns property including an intermittent stream impacted by the ordinance clearly falls within the class exception because they are one of thousands of landowners impacted by the ordinance.
- (c) If a Commissioner owns commercial property in the City and the City considered establishing an urban renewal area including 260 acres of land, but the Commissioner owns two tax lots of approximately 122 acres of commercial area within the proposed urban renewal area, Oregon law provides the class exemption applies so long as the benefits from the urban renewal area apply equally to all owners.
- (d) If a Commissioner owns property directly impacted by the development of a manufactured home park (e.g., by traffic from the proposed development), Oregon law provides the Commissioner may actively oppose the application because the number of property owners impacted by the development was of a sufficient size to trigger the class exception. (**Note:** this example does not address the issue of *bias* at all. Although the OGEC found a class exception in this case, there is a very real chance a Commissioner's participation with an opposition group is evidence of actual bias that would preclude their participation in the final decision.)

#### **D. Bias**

A biased decision maker substantially impairs a party's ability to receive a full and fair hearing. Bias can be in favor of or against the party or the application. Generalized expressions of opinions are not bias.

Local quasi-judicial decision makers are not expected to be free of bias but they are expected to (1) put whatever bias they may have aside when deciding individual permit applications and (2) engage in the necessary fact finding and attempt to interpret and apply the law to the facts as they find them so the ultimate decision is a reflection of their view of the facts and law rather than a product of any positive or negative bias the decision maker may bring to the process.

##### *1. Actual Bias.*

Actual bias means prejudice or prejudgment of the parties or the case to such a degree the decision maker is incapable of being persuaded by the facts to vote another way, including:

- (a) personal bias;
- (b) personal prejudice; or
- (c) an interest in the outcome.

The standard for determining actual bias is whether a Commissioner *prejudged the application and did not reach a decision by applying relevant standards based on the evidence and argument presented during quasi-judicial proceedings*. Actual bias strong enough to disqualify a decision maker must be demonstrated in a clear and unmistakable manner.

The burden of proof a party must satisfy to demonstrate a Commissioner's prejudgment is substantial. The objecting party need not demonstrate a majority of the Commission were influenced by the bias of one Commissioner to warrant a remand: the bias of one Commissioner is enough.

## 2. *Appearance of Bias.*

Appearance of bias will not necessarily invalidate a decision. However, the appearance of bias may call into question a Commissioner's ultimate decision. The main objective is to maintain public confidence in public processes.

## 3. *Examples.*

- (a) General Expressions of Opinion Do Not Invalidate Decisions. The Mayor of the City of Beaverton commented on an adult video store in the City: "While on a personal basis, I think the Council and I \* \* \* don't want these businesses in the community, the fact is our personal [feeling] versus our obligation as elected officials to uphold the law is very different, and so we can't base any decisions tonight based on content." Statements by City officials, including Commissioners, they would prefer a privately funded convention center, rather than a publicly financed one, also do not demonstrate the City decision makers are biased and incapable of making a decision on the merits.
- (b) Mere Association with Membership Organization Not Enough. An applicant for a dog raising farm alleged a county planning commission chair was biased by association with a nonprofit Friends of the Animals. The applicant speculated the chair gave money to this organization and opponents to the application were also members of the association. LUBA found there was no evidence provided of any communications and adequate disclosure was provided by the chair. Also, where a Commissioner is a member of a church congregation and the church applied for a land use permit, and the Commissioner has expressed concern regarding the impact proposed conditions of approval would have on church operations but nevertheless declares they are able to render a decision regarding the church's application based on the facts and law before them, the Commissioner has not impermissibly prejudged the application.
- (c) City May Adopt Applicant's Findings in Support of Decision. CDD staff accepting, reviewing, and adopting findings from the applicant is not evidence of prejudgment or bias.
- (d) Prior Recusal Does Not Prohibit Participation in Subsequent Hearing. LUBA found no error where a county commissioner failed to abstain from a decision even though the commissioner voluntarily withdrew from a prior hearing involving the same matter because of their friendship with an opponent of the proposed change.
- (e) Commissioner May Not Prejudge Applications. A planning commissioner's prior actions and written statements amounted to prejudgment of an application for a business license to operate a real estate office within a residential planned unit development. In this case, the commissioner wrote a letter to the mayor stating that there was no legal basis for permitting the office. Subsequent correspondence also revealed the antagonistic relationship between the



commissioner and the applicant. LUBA found “[i]n view of his history of actively opposing the siting of a real estate sales office within the [planned unit development], it is clear that he had prejudged the application and was incapable of rendering an impartial decision based on the application, evidence and argument submitted during the [c]ity’s proceedings on the application.”

- (f) Commissioners May Not Seek Additional Evidence. Two commissioners sought and obtained additional evidence not in the record and relied on that evidence to make a decision on a permit application. LUBA noted “[t]he role of the local government decision maker is not to develop evidence to be considered in deciding a quasi-judicial application, but to impartially consider the evidence that the participants and City planning staff submit to the decision maker in the course of the public proceedings.”



## CITY of THE DALLES

313 COURT STREET  
THE DALLES, OREGON 97058

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(541) 296-5481 ext. 1125  
COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**To:** City of The Dalles Planning Commission  
**Meeting Date:** April 6, 2023  
**Re:** Planning Commission Bylaw Amendments  
**Prepared by:** Joshua Chandler, Community Development Director

#### **DISCUSSION:**

Similar to other public boards and commissions, The Dalles Planning Commission is governed by a set of bylaws, which provide rules and procedures for Commissioners, meetings, and activities. These bylaws, much like The Dalles Comprehensive Plan and The Dalles Municipal Code (TDMC), are a living document and may be amended over time to address the current needs and issues of the Commission. As a result of the Covid-19 pandemic, overall format of public meetings and actions of approving bodies experienced changes not currently addressed in the current set of bylaws. To address these and other needs, as well as improve the overall efficiency of the Commission, City Staff conducted a comprehensive update of these bylaws and has proposed amendments for the Commission's consideration. Some of these amendments include: updates for meeting participation and decorum, attendance requirements, consistency with Chapter 11.04, and overall layout and formatting changes.

Staff has included the current version of the adopted bylaws for reference, TDMC Chapter 11.04, and will provide a brief summary of the proposed bylaw amendments at the April 6, 2023 meeting.

#### **COMMISSION ALTERNATIVES:**

1. **Staff recommendation:** The Planning Commission move to adopt the proposed Bylaws.
2. The Planning Commission amend the proposed Bylaws and approve as amended.
3. Decline to approve the proposed Bylaws and direct staff as appropriate.

**ATTACHMENTS:**

- **Attachment B** – Proposed Planning Commission Bylaws
- **Attachment C** – Planning Commission Bylaws (adopted October 3, 2019)
- **Attachment D** – The Dalles Municipal Code: Chapter 11.04

**PLANNING COMMISSION  
CITY OF THE DALLES  
BYLAWS**

*Adopted: April 6, 2023*

**WHEREAS**, ORS 227.020 provides a city may create a planning commission for the city and provide for its organization and operations;

**WHEREAS**, TDMC 11.04.010 codifies General Ordinance No. 917 to reestablish the City of The Dalles (**City**) Planning Commission (**Commission**);

**WHEREAS**, TDMC 11.04.110 authorizes the Commission to adopt rules governing its business; and

**WHEREAS**, the Commission wishes to adopt BYLAWS in order to provide rules and procedures for its Commissioners, meetings, and activities.

**NOW, THEREFORE**, the Commission hereby adopts the following:

**SECTION I – ORGANIZATION AND MEETINGS**

- A. Powers and Duties. All rules of the Commission are subject to ORS Chapter 227 (*City Planning and Zoning*), Title 10 of The Dalles Municipal Code (*Land Use and Development*, **LUDO**), and Title 11 of The Dalles Municipal Code (*Planning*), all as amended; specifically, the Commission's powers and duties are a function of ORS 227.090 and TDMC 11.04.080.
- B. Composition and Term. The Commission's membership is a function of ORS 227.030 and TDMC 11.04.020. Each Commissioner shall be appointed by the City's Mayor (**Mayor**) and subject to confirmation by the City Council for four-year terms pursuant to TDMC 11.04.030.
- C. Chair and Vice Chair. Pursuant to TDMC 11.04.060, the Commission shall, at its first meeting in each year, elect one of its Commissioners to serve as Chair and another to serve as Vice Chair for one-year terms. Nominations for Chair and Vice Chair shall be by oral motion, duly made and seconded, placing a name for Commission consideration. All decisions of the Chair shall be subject to review by a majority of the Commissioners present upon motion duly made and seconded, and such a motion shall have priority over all other matters. Aside from the Chair's Presiding Officer responsibilities, the Vice Chair shall perform the Chair's duties in the Chair's absence and shall have at such times the authority to sign appropriate documents.
- D. Presiding Officer. The Chair of the Commission shall be the Presiding Officer for all Commission meetings. In the absence of the Chair and Vice Chair, the remaining Commissioners shall elect a temporary Presiding Officer.
- E. Vacancy and Removal. Commission vacancies and removal is a function of TDMC 11.04.050.

F. Attendance.

- (1) Any Commissioner knowing they will be absent from a Commission meeting shall give at least 24 hours' notice to the Chair, the City's Community Development Department (**Department**) Director (**Director**), and the Secretary to the Commission, to the extent possible.
- (2) Commissioner absences are a function of TDMC 11.04.050.
- (3) In-person Commissioner attendance at the Commission's regular meetings is expected; however, virtual attendance by means of video conference may be made available. Any Commissioner who understands they will be unavailable to physically attend a regular meeting may request a virtual attendance option by providing notice to the Chair, Director, and Secretary to the Commission no later than noon on the date of the regular meeting, to the extent possible.
- (4) All Commissioners participating in Commission meetings through video conferencing must ensure a stable internet connection, be located in a setting with no background noise or visual distractions, mute their microphone unless speaking, and keep their camera on throughout the duration of the meeting.

G. Compensation. Commissioners shall serve without compensation other than reimbursement for duly authorized expenses.

H. Qualifications. Commission qualifications are a function of ORS 227.030(4) and TDMC 11.04.040.

I. Quorum. A quorum is required for all formal decisions made by the Commission; a quorum is not necessary for the Commission to conduct work sessions, continue agenda items, or to talk about discussion items. A quorum requires at least a majority of the Commission, which ordinarily needs four Commissioners; provided, however, if two vacancies exist then a quorum needs only three Commissioners and if four vacancies exist then a quorum needs only two Commissioners.

J. Votes.

- (1) Each Commissioner shall be heard and vote upon any matter before the Commission; provided, however, no Commissioner shall vote or participate in any matter as to which they may be disqualified pursuant to **Section V**.
- (2) When a matter is called for a vote, the Chair shall (before a vote is taken) state the question before the Commission in general terms and announce the decision of the Commission after such vote. Voting shall be by oral vote. All votes, whether positive, negative, or abstentions, shall be recorded in the minutes.
- (3) Decisions shall be rendered by those Commissioners present and the majority vote of those members present shall prevail. Voting *in absentia* or by proxy is not permitted. In cases of tie votes, decisions shall be deemed a denial of the motion before the Commission.

- (4) Commissioners may not vote on approving minutes for a meeting they did not attend. A Commissioner may not vote on a project or application heard at a series of meetings if the Commissioner was not present at all meetings where the project was considered; provided, however, a Commissioner may so vote if they watched or listened to the audio-visual recording of the meeting(s) from which they were absent.
- K. Regular Meetings. The Commission's regular and public meetings are a function of TDMC 11.04.070. The Commission will regularly meet in a location approved by a majority of the Commission (usually City Council Chambers in City Hall). The Commission may elect to change the time and place of the meeting, as appropriate, for the hearing to be scheduled. A regular meeting shall be cancelled if no business is scheduled for discussion. The Department shall notify the Commissioners if a meeting is to be cancelled.
- L. Special Meetings. Special meetings may be scheduled at a prior meeting and so noted in that meeting's minutes. The Chair (upon their own motion) may or (at the request of three Commissioners) shall, by giving notice to the Commission, call a previously unannounced special meeting of the Commission for a time not earlier than 24 hours after such notice is given. Notice of a previously unannounced meeting shall be posted on the City's website and, to the extent feasible, provided to interested persons at least 24 hours prior to the meeting.
- M. Public Comment. Each regular meeting shall offer an opportunity for public comment on matters not on the agenda for that meeting. The Presiding Officer will state the ground rules at the start of each public comment period and shall limit each person's public comment to three minutes; provided, however, the Presiding Officer shall have the privilege of both reasonably shortening or extending the time for any one public commenter. All public commenters must state their name and address for the record prior to their comments. Any person commenting during the public comment portion of the agenda attempting to speak to or actually speaking to a matter on that agenda is subject to removal at the Presiding Officer's reasonable discretion or upon an affirmative motion duly made and seconded by any Commissioner.
- N. Decorum. The Presiding Officer shall preserve decorum during meetings and shall decide all points of order, subject to the Commission's appeal. All Commissioners and meeting attendees are expected to preserve decorum during meetings and shall not, by conversation or action, delay or interrupt any meeting or refuse to obey the Presiding Officer's orders or these BYLAWS. Disruptive behavior shall not be permitted and shall be grounds for the suspension of any meeting at any time. Disruptive behavior specifically includes providing irrelevant, immaterial, or unduly repetitious testimony or evidence. The Presiding Officer shall warn a person engaging in disruptive behavior they may be removed from any meeting after the warning and may cause their removal from any meeting after the warning if their disruptive behavior then continues.

## **SECTION II – COMMISSIONER APPOINTMENTS**

Members shall be nominated, appointed, or re-appointed according to the following procedures:

- A. Selection. Selection of applicants to the Commission will be at the sole discretion of the Mayor, subject to confirmation by the City Council, and may include any reasonable means of selection.
- B. Application. Commission candidates shall submit an application to the City Clerk. The City Clerk shall forward applications received to the Mayor for consideration.
- C. Confirmation. The Mayor shall forward appointments to the City Council for its confirmation at a regularly scheduled City Council meeting. Appointments shall be made as soon as practicable after the close of the application period.
- D. Expiration Notice. The City Clerk shall notice each Commissioner their term is expiring 90 days before their term naturally expires.

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**SECTION III – PLANNING COMMISSION STAFF**

- A. Secretary. The Director or their designee shall serve as Secretary to the Commission and shall keep an accurate, permanent, and complete record of all Commission proceedings.
- B. Minutes. The Secretary to the Commission shall be responsible for the preparation of Commission minutes.
- C. Director and Department Duties. Subject to the direction of the Commission and Chair, the Director and the Department shall perform the following duties:
- (1) Conduct all correspondence of the Commission, send out all notices required by law or ordinances, attend all meetings and hearings of the Commission, keep the dockets and minutes of the Commission's proceedings, compile all required records, and maintain the necessary files and indexes.
  - (2) Enter into the record the number of appeals or applications, the name of the appellant or applicant, a short description by address and legal description of the premises, the nature of the appeal or application, and the final disposition after the case has been disposed of.
  - (3) Enter into the record all continuances, postponements, dates of sending notices, and other steps taken or acts done by the Commission or its officers on behalf of the Commission.
  - (4) Record into the minutes the decision relating to each case acted on by the Commission, together with the vote of each Commissioner, together with all other actions of the Commission and the full reasons for its decisions.
- D. City Attorney Duties. The City Attorney shall act as the Commission's legal advisor in the conduct of all proceedings.
- E. City Engineer Duties. In addition to the Director and City Attorney, the City Engineer shall be considered Commission staff.



## **SECTION IV – PUBLIC HEARINGS**

- A. **Public Hearings Generally.** The Commission's land use and development hearings are a function of Oregon law and TDMC 11.04.090. The Commission shall conduct public hearings on proposed actions in accordance with Oregon law and the LUDO.
- B. **Public Testimony.** Under no circumstances shall a person testify without first receiving recognition from the Chair and then stating their name and address for the record to ensure the Director has the information necessary to comply with the LUDO's and Oregon law's notice of decision requirements. Public hearings shall be conducted in an orderly and professional manner.
- C. **Substantial Evidence.** In all cases, the Commission shall enter findings based upon *substantial evidence* in the whole record before it to justify its decision. *Substantial evidence* is evidence a reasonable person would rely upon to reach a conclusion, notwithstanding different reasonable people could draw different conclusions from the evidence.
- D. **Staff Report.** No action on a public hearing shall be taken unless a staff report is prepared by the Director and delivered to the Commissioners prior to the hearing consistent with Oregon law. Any Commissioner participating in a public hearing must come prepared to the hearing having read the staff report prior to making a decision; if not, such Commissioner shall disclose their failure to prepare to the Commission prior to participating.
- E. **Permissible Actions.** At a hearing, the Commission must either approve an application as submitted, deny an application, or approve an application with conditions deemed necessary to carry out the intent of and consistent with the City of The Dalles Comprehensive Plan and LUDO. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application; in that case, the Commission shall follow the procedures codified as ORS 197.763 (*Conduct of local quasi-judicial land use hearings*).
- F. **Decision and Resolution.** The Commission shall vote on the matter following closure of the public hearing. The Chair shall state the Commission's decision and (where appropriate) shall direct the Director to prepare a resolution stating the Commission's action, including the findings of fact, statements of law, and any conditions of approval.
- G. **One-Year Bar.** If the application is denied by the Commission or by a reviewing body after review, no new application for the same or substantively the same request shall be accepted for at least one year from the date of final order on the action.
- H. **Conditions of Approval.** The Commission may approve a conditional use permit subject to any and all conditions the Commission deems necessary to satisfy the review criteria and mitigate identified impacts, provided such conditions are related to the proposed development or to the operational characteristics of the proposed use. Conditional approvals shall be limited as follows:
- (1) Time limitations may be set by the Commission in which compliance with conditions shall be met.

- (2) Such conditions shall be conceived to fulfill public needs for protection from potentially adverse effects of the proposed use and public service demands created by the proposed use.
  - (3) Changes or alterations to conditions may be processed as a new application.
  - (4) Following the Commission's imposition of a condition at a public hearing, the Director shall verify conditions do not adversely impact any City department or local agency and the City Attorney shall verify conditions do not violate applicable law. If either the Director or City Attorney determine an imposed condition so adversely impacts or violates, the Director is authorized to sever and remove the adversely impacting or violative condition.
- I. Adjournment. The Commission may adjourn any hearing in order to obtain additional information it feels is necessary to make a reasonable decision. Persons previously notified need not be notified of the resumption of said hearing if the date and time of the continued hearing is announced at the adjournment of the initial hearing, unless the Commission orders special notice be given to persons who were previously notified.
  - J. Parties of Record. The following persons only, if making an appearance of record, are hereby defined as *parties* and shall be entitled, either themselves or through counsel, to a full hearing before the Commission and, upon such participation, to review by the City Council and the Oregon Land Use Board of Appeals:
    - (1) The applicant.
    - (2) Those persons entitled to personal notice pursuant to the LUDO.
    - (3) Other persons demonstrating to the Commission the proposed action affects at least one of their substantial rights.
  - K. Appearances of Record. *Appearance of record* shall mean either:
    - (1) an oral statement made at the initial hearing on the proposed action. The statement shall clearly identify the individual, their address, and the identity of the person they represent, if applicable; or
    - (2) a written statement submitted prior to the closing of the hearing, signed and addressed by the individual making the statement or their representative, and clearly indicating how the individual has standing as a party. The statement shall be submitted to the Director and to the Commission at the hearing.
  - L. Review and Appeals. Reviews and appeals of any Commission action at any public hearing is a function of Oregon law and TDMC 11.04.100.
  - M. Hearing Record. A verbatim record of the proceeding shall be made by oral, written, or mechanical means, which record need not be transcribed.
  - N. Public Testimony. The Chair shall limit a person's testimony to three minutes or less to encourage parties to submit as much evidence as possible in writing prior to the public hearing. The Chair may exclude or limit cumulative, repetitious, or immaterial testimony.

The Chair may allow additional time for testimony from an applicant and the principal opponent of an application.

- O. Exhibits. All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be returned when the period for review has expired but shall otherwise be preserved by the Director. Evidence may be received subject to a later ruling as to its admissibility.

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## SECTION V – ETHICS

- A. Ethics Generally. Commissioner ethics is a function of ORS Chapter 244 (*Government Ethics*). All Commissioners are public officials subject to the jurisdiction of the Oregon Government Ethics Commission for violations of and personal liability to the Oregon Government Ethics Law. In addition, Commissioners shall refrain from disclosing confidential information, taking action which benefits special interest groups or persons at the expense of the City as a whole, expressing an opinion contrary to the official position of the Commission without so saying, or conducting themselves in a manner so as to bring discredit on the Commission or the City.
- B. No Conflicts. No Commissioner shall participate in any Commission proceeding in which any of the persons or entities listed in Oregon law or TDMC 11.04.090(B) has or would have a direct or substantial financial interest.
- C. Full Disclosure. Commissioners shall disclose, at the public hearing where the action is considered, any actual or potential financial or other interest potentially leading to bias or partiality.
- D. Challenge for Impartiality. Any party to any action may, in relation to the action, challenge the impartiality of any Commissioner before or during the public hearing on the action. A challenge must include the facts relied upon by the challenging party relating to the Commissioner's alleged bias, prejudice, or personal interest, or other facts from which the party has concluded the Commissioner cannot participate in the decision in an impartial manner.
- E. Bias. In the event of a challenge for bias, the Commissioner shall respond with a statement of capacity to participate in the public hearing, which shall be part of the record. The statement shall refer to the challenge and include the reasons why the Commissioner wishes to participate or be disqualified. The statement of capacity to hear shall not be subject to cross examination but shall be subject to rebuttal by the challenging party.
- F. Ex Parte Contacts. If a Commissioner cannot avoid ex parte contact, the Commissioner shall disclose the contact at the opening of the appropriate public hearing; such disclosure shall be subject to the same rules as for a statement of bias or conflict of interest. With respect to specific ex parte contacts, Commissioners shall not:
- (1) communicate, directly or indirectly, with any party or their representatives in connection with any issue involved except upon notice and an opportunity for all parties to participate;
  - (2) take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed; or
  - (3) inspect a proposed project site with any party or their representative unless all parties are given an opportunity to be present.
- G. Disqualification. Requests for disqualification based upon bias or ex parte contact shall be considered by the entire Commission present and be granted upon majority consent

(excluding the individual disclosing or challenged concerning bias or ex parte contact). The Commission shall consider the evidence in the record and decide whether the individual can reasonably be expected to render an impartial decision. In the event a Commissioner is disqualified, they shall remove themselves from the dais and the remaining Commissioners shall hear the application. In the event of no quorum resulting from the disqualification, the application will be rescheduled to a future meeting.

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**SECTION VI – BURDEN OF PROOF**

- A. Burden on Applicant. The burden of proof is placed upon the applicant seeking approval of the proposed action; such proof shall show:
- (1) the proposed action complies with applicable statewide planning goals, Oregon Revised Statutes and Oregon Administrative Rules, and the City of The Dalles Comprehensive Plan; and
  - (2) the proposed action is in accordance with the applicable standards and criteria of the LUDO.

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## **SECTION VII – REPEAL & LIMITATIONS**

- A. Repeal. These BYLAWS repeal and replace all previous versions.
- B. Severability. Any provision of these BYLAWS deemed illegal or unenforceable is severed from the BYLAWS and the other provisions remain in force.
- C. Limitations. These BYLAWS are authorized by and subject to Oregon law and The Dalles Municipal Code Title 11 (*Planning*), Chapter 11.04 (*Planning Commission*); any rule, requirement, regulation, obligation, duty, or discretion provided by these BYLAWS is at all times limited in impact and applicability by those authorities.
- D. Conflict with Laws. In the event of an apparent or actual conflict between any provision of these BYLAWS and those authorities listed in **Section VII(C)** (as determined by the City Attorney in their sole discretion), the Commission shall attempt to reconcile those conflicting provisions so as to harmonize them; if the City Attorney determines those conflicting provisions are not reasonably reconcilable, Oregon law controls over all, then The Dalles Municipal Code controls, then these BYLAWS control.

**SECTION VIII – AMENDMENTS**

- A. Amendments. Any Commissioner, the Director, or the City Attorney may propose amendments to these BYLAWS, and the Commission must approve an amendment by majority vote of Commissioners present before it becomes effective.

By my signature, I have read and agreed to abide these Planning Commission BYLAWS and understand the consequences of violating any of its provisions.

**DATED:** \_\_\_\_\_

*Cody Cornett, Chair*

\_\_\_\_\_

*Nik Portela, Vice Chair*

\_\_\_\_\_

*Addie Case, Commissioner*

\_\_\_\_\_

*John Grant, Commissioner*

\_\_\_\_\_

*Philip Mascher, Commissioner*

\_\_\_\_\_

*Mark Popoff, Commissioner*

\_\_\_\_\_

*Maria Peña, Commissioner*

\_\_\_\_\_



**APPROVED AND ADOPTED THIS \_\_\_\_ DAY OF APRIL, 2023.**

\_\_\_\_\_  
Cody Cornett, Chair  
Planning Commission

I, Joshua Chandler, Community Development Director for the City of The Dalles, hereby certify the foregoing was duly moved and adopted at the Planning Commission's regular meeting held on the \_\_\_\_ day of April, 2023.

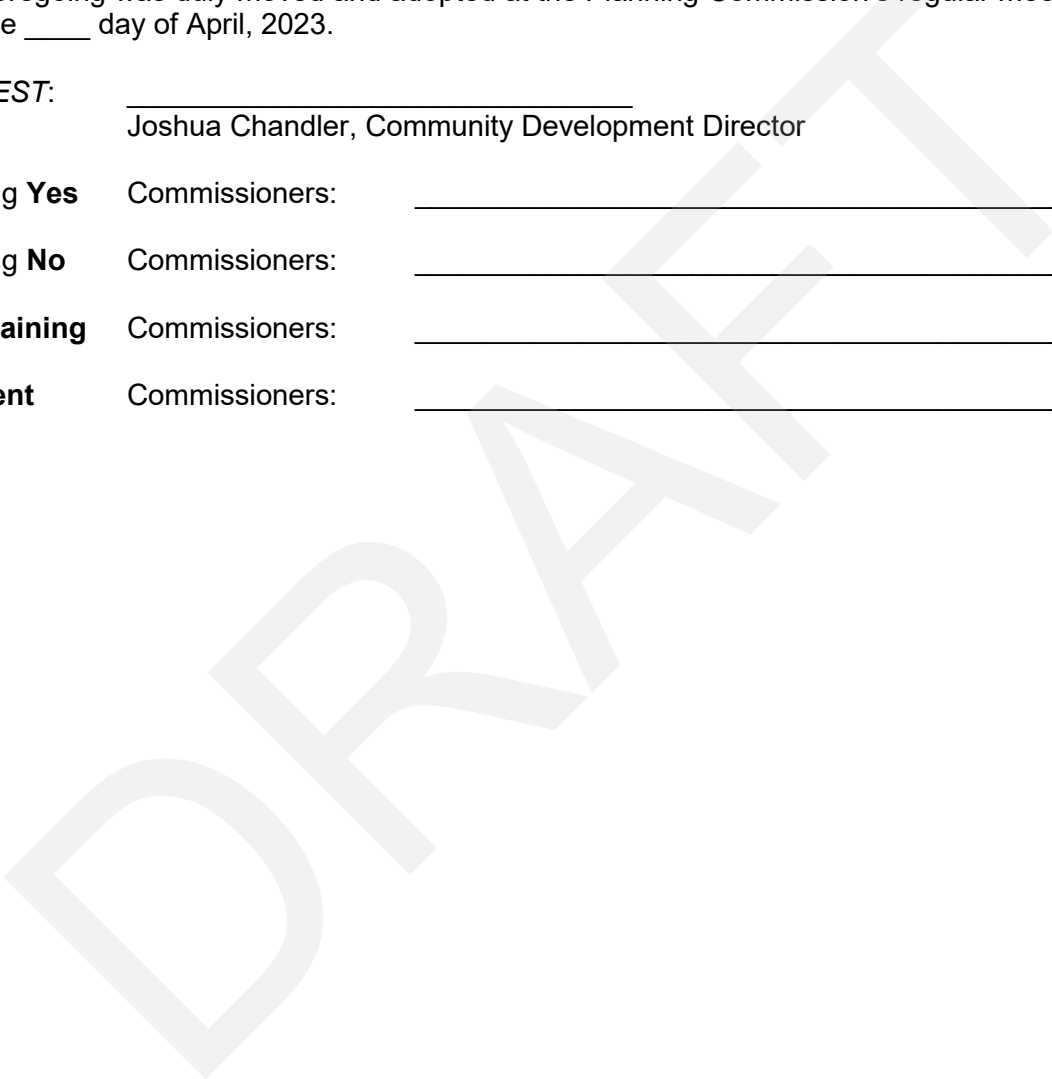
**ATTEST:** \_\_\_\_\_  
Joshua Chandler, Community Development Director

**Voting Yes** Commissioners: \_\_\_\_\_

**Voting No** Commissioners: \_\_\_\_\_

**Abstaining** Commissioners: \_\_\_\_\_

**Absent** Commissioners: \_\_\_\_\_



**BYLAWS**  
**of the**  
**CITY of THE DALLES PLANNING COMMISSION**

*Adopted: October 3, 2019*

**WHEREAS**, the City of The Dalles Planning Commission wishes to adopt BYLAWS in order to provide rules and procedures for its members, meetings and activities. Therefore, the City of The Dalles Planning Commission hereby adopts the following:

**SECTION I – ORGANIZATION OF THE PLANNING COMMISSION**

- A. The City of The Dalles Planning Commission (“Commission”) shall be composed of seven members, appointed by the Mayor of the City of The Dalles (“Mayor”), subject to confirmation by the City of The Dalles City Council (“City Council”).
- B. The Commission shall, at its first meeting in each year, elect one of its members to serve as Chairperson and another to serve as Vice-Chairperson for one-year terms. Nominations for Chairperson and Vice-Chairperson shall be by oral motion, duly made and seconded, placing a name for Commission consideration.
- C. Under normal circumstances, the Vice-Chair Person is anticipated to be the incoming Chairperson for the following year, providing the Vice-Chair Person an opportunity to learn the roles and responsibilities of the position as well as an opportunity for all voting members to serve as Chair Person or Vice-Chair Person over the course of their appointment by the Mayor.
- D. Members of the Commission shall be appointed by the Mayor, subject to confirmation by the City Council, for four-year terms.
- E. Any vacancy shall be filled by the Mayor, subject to confirmation by the City Council, for the unexpired term of the predecessor in the office.
- F. Any member of the Commission may be removed at the request of the Mayor, subject to approval of the request by the City Council, for the reasons set forth in the City Council’s Rules of Procedure.
- G. Any member that knows they will be absent from a Commission meeting shall give at least 24 hours’ notice to the Chairperson or Planning Director, to the extent possible. A member who is absent from three consecutive meetings or is absent from over 15% of the Commission’s meetings in one year, without an excuse as approved by the Commission or provides less than 24 hours’ notice of their absence, is presumed to be in non-performance of duty, and the City Council shall declare the position vacant unless finding otherwise following a hearing.
- H. Members of the Commission shall serve without compensation other than reimbursement for duly authorized expenses.
- I. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership,

or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of business, trade or profession.

- J. Each appointed member shall be heard and vote upon any matter before the Commission, provided however, that no member shall vote or participate in any matter as to which he may be disqualified pursuant to Section V of these rules. The Chairperson is a voting member of the Commission.
- K. The Chairperson of the Commission shall be the Presiding Officer at all Planning Commission meetings.
- L. The Vice-chairperson shall perform the duties of the Chairperson in the absence of the Chairperson and shall have at such times the authority to sign appropriate documents.
- M. In the absence of the Chairperson and Vice-Chairperson, the remaining members shall elect a temporary Presiding Officer.
- N. All decisions of the Chairperson shall be subject to review by a majority of the Commission members present upon motion duly made and seconded. The motion shall have priority over all other matters.
- O. A quorum is required for all formal decisions made by the Commission; a quorum is not necessary for the Commission to conduct work sessions, continue agenda items or to talk about discussion items. A quorum means that at least four (4) members of the Commission are present.
- P. When a matter is called for a vote, the Chairperson shall, before a vote is taken, state the question before the Commission in general terms, and shall announce the decision of the Commission after such vote. Voting shall be by voice vote. All votes, whether positive, negative, or abstentions, shall be recorded in the minutes.
- Q. Decisions shall be rendered by those planning commissioners present, and the majority vote of those members present shall prevail. Voting "in absentia" or by proxy is not permitted. In cases of a tie vote, the decision shall be deemed a denial of the motion before the Commission.
- R. A member of the Commission may not vote on minutes for a meeting that a member did not attend. A member may not vote on a project that has been heard at a series of meetings, where the member has not been present at all meetings where the project was considered. However, a member of the Commission may vote if that member has listened to the tape or audio-visual recording of the meeting(s) from which they were absent.
- S. The Commission will normally meet on the first and third Thursday of each month in such location approved by a majority of the Commission. When such regular meeting date falls upon a legal holiday, the meeting shall be held on the preceding day. The Commission may elect to change the time of the meeting, as appropriate for the hearing to be scheduled.
- T. Meetings other than at regularly scheduled times may be scheduled at a prior meeting and so noted in the meeting minutes. The Chairperson upon his or her motion may, or at the request of three members of the Commission shall, by giving notice to members of the Commission, call a previously unannounced special meeting of the Commission for a time not earlier than 24 hours after the notice is given. Notice of a previously unannounced

meeting shall be delivered or telephoned to a newspaper published in the city and, to the extent feasible, provided to interested persons at least 24 hours prior to the meeting.

- U. A regular meeting shall be cancelled if no business is scheduled for discussion. The Planning Department shall notify Commission members if a meeting is to be cancelled.

## **SECTION II – METHOD OF NOMINATION & APPOINTMENT**

Members shall be nominated, appointed or re-appointed according to the following procedures:

- A. Selection of applicants to the Commission will be at the sole discretion of the Mayor, subject to confirmation by the City Council, and may include the following: reappointment; public service announcement in local media outlets, including use of social media and notification of opening at service clubs; review of applications filed with the City Clerk within the last six months.
- B. Candidates for membership shall submit an application to the City Clerk. The City Clerk shall forward applications received to the Mayor for consideration.
- C. The Mayor shall forward appointment to the City Council for confirmation at a regularly scheduled City Council meeting. Said appointment shall be made as soon as practicable after the close of the application period.
- D. A member of the Commission whose term is expiring shall be notified 90 days prior by the City Clerk.

## **SECTION III – PLANNING COMMISSION STAFF**

- A. The City of The Dalles Planning Director or a member of the Director's staff shall serve as Secretary to the Commission and shall keep an accurate, permanent and complete record of all proceedings before the Commission.
- B. The Planning Director shall be responsible for the preparation of Commission minutes.
- C. Subject to the direction of the Commission and its Chairperson, the Planning Director and the Director's staff shall perform the following duties:
  - 1) Conduct all correspondence of the Commission, send out all notices required by law or ordinances, attend all meetings and hearings of the Commission, keep the dockets and minutes of the Commission's proceedings, compile all required records, and maintain the necessary files and indexes.
  - 2) Enter into the record the number of appeals or applications, the name of the appellant or applicant, a short description by address and legal description of the premises; the nature of the appeal or application; and the final disposition after the case has been disposed of.
  - 3) Enter into the record all continuances, postponements, dates of sending notices, and other steps taken, or acts done by the Commission or its officers on behalf of the Commission.
  - 4) Record into the minutes the decision relating to each case acted on by the Commission, together with the vote of each member of the Commission, those

absent or failing to vote being so marked, together with all other actions of the Commission and the full reasons for its decisions.

- 5) The Planning Director shall not permit any records of the Commission to be removed from the Planning Department's Office without authority of the Chairperson, except that he/she may produce records and files for inspection upon the request of a court of competent jurisdiction. Upon request, the public records and writings of the Commission shall be available for examination and copying by any interested person at the Planning Department's Office during the regular office hours thereof, provided that such inspection or copying will not endanger the safety of such public records or writing.
- D. The City Attorney shall act as legal advisor to the Commission in the conduct of all hearings.
- E. In addition to the Planning Director and City Attorney, the City Engineer, shall be considered staff to the Commission.

#### **SECTION IV – HEARING ON PROPOSED ACTIONS**

- A. Hearings on proposed actions shall be conducted in compliance with Title 10 of the City of The Dalles Municipal Code.
- B. No person shall testify without first receiving recognition from the Chairperson and stating their name and address. Hearings shall be conducted in an orderly and professional manner. Disruptive behavior shall not be permitted and shall be grounds for the suspension of the hearing. No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.
- C. To the extent practicable, the Commission shall conduct a hearing upon an application within forty-five days of an application being deemed complete and in the order in which the applications are deemed complete by the Planning Department.
- D. In all cases, the Commission shall enter findings based upon evidence in the whole record before it to justify its decision.
- E. No action shall be taken unless a staff report is prepared by the Planning Director and mailed or sent to the members of the Commission at least seven days prior to the hearing.
- F. The action at the public hearing may be to approve the application as submitted, deny the application, or approve the application with conditions deemed necessary to carry out the intent of the City of The Dalles Comprehensive Plan and Land Use and Development Ordinance (LUDO). The hearing may be continued to a date certain upon majority vote of the Commission. A continuance shall also be granted to any party so requesting if new information regarding the application has been presented by the applicant after the notice of public hearing is sent.
- G. If there is no continuance, the record shall remain open for at least seven days, only if a party so requests during the initial evidentiary hearing. If the Commission acts to continue the record, then pursuant to ORS 197.763 (6), as amended, the purpose shall be to allow parties an opportunity to present additional evidence, arguments or testimony concerning the application.
- H. Following closure of the hearing the Commission shall vote on the matter. The Chairperson shall state the Commission's decision and where appropriate shall direct the Planning Director to prepare a resolution stating the Commission's action, including the

findings of fact and statement of law, and any conditions of approval. The resolution will be scheduled for the next regularly scheduled meeting for consideration by the Commission.

- I. If the application is denied by the Commission or by the City Council upon review, no new application for the same request shall be accepted for at least one year from the date of final order on the action.
- J. Conditional approvals shall be limited as follows:
  - 1) Time limitations shall be set by the Commission in which compliance with conditions shall be met.
  - 2) Such conditions shall be conceived to fulfill public needs for protection from potentially adverse effects of the proposed use and public service demands created by the proposed use.
  - 3) Changes or alterations to conditions may be processed as a new application.
- K. The Commission may adjourn any hearing in order to obtain additional information it feels is necessary to make a reasonable decision. Persons previously notified need not be notified of the resumption of said hearing if the date and time of the continued hearing is announced at the adjournment of the initial hearing, unless the Commission orders that notice be given to persons who were previously notified.
- L. The following persons only, if making an appearance of record, are hereby defined as "parties," and shall be entitled, either themselves or through counsel, to a full hearing before the Commission and, upon such participation, to review by the City Council and the Land Use Board of Appeals:
  - 1) The applicant.
  - 2) Those persons entitled to personal notice pursuant to Title 10 of the City of The Dalles Municipal Code.
  - 3) Other persons that demonstrate to the Commission that the proposed action affects a substantial right of those persons.
- M. Appearance of record shall mean either:
  - 1) An oral statement made at the initial hearing on the proposed action. The statement shall clearly identify the individual and, his or her address, and the identity of the person being represented, if applicable; or
  - 2) A written statement submitted prior to the closing of the hearing, signed by the individual making the statement or his or her representative, and clearly indicating how the individual has standing as a party. The statement shall be submitted to the Planning Director, Planning Department staff or to the Commission at the hearing.
- N. A verbatim record of the proceeding shall be made by oral, written, or mechanical means, which record need not be transcribed.
- O. The Commission Chairperson shall limit a person's testimony to five minutes or less to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing and the Chairperson may exclude or limit cumulative, repetitious or immaterial matter. The Chairperson may allow additional time for testimony from an applicant and the principal opponent of an application.

- P. All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be returned when the period for review has expired but shall otherwise be preserved by the Planning Director. Evidence may be received subject to a later ruling as to its admissibility.

## **SECTION V – CONFLICT OF INTEREST AND EX PARTE CONTACT**

- A. A Commission member shall not participate in any proceedings in which any of the following has a direct or substantial financial interest: the member, the member's spouse, brother, sister, child, parent, parent in-law, cousin, niece, nephew, employer or partner in any business of which he or she is then a member or has been a member within the previous two years, or in any business with which he or she is negotiating, or has an arrangement or understanding concerning prospective partnership or employment.
- B. Any actual or potential financial or other interest that would lead to bias or partiality shall be disclosed at the hearing where the action is considered.
- C. Any party to any action may, in relation to an action, challenge the impartiality of any member before or during the hearing on the action. A challenge must include the facts relied upon by the challenging party, relating to the member's alleged bias, prejudgment, or personal interest, or other facts from which the party has concluded that the member cannot participate in the decision in an impartial manner.
- D. In the event of a challenge for bias, the member shall respond in a statement of capacity to participate in the hearing, which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member wishes to participate or be disqualified.
- E. The statement of capacity to hear shall not be subject to cross examination but shall be subject to rebuttal by the challenging party.
- F. The members of the Commission shall not:
- 1) Communicate, directly nor indirectly, with any party or his representatives in connection with any issue involved except upon notice and an opportunity for all parties to participate; nor,
  - 2) Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case unless the parties are afforded an opportunity to contest the material so noticed; nor,
  - 3) Inspect the site with any party or their representative unless all parties are given an opportunity to be present.
- G. If ex parte contact cannot be avoided by a member of the Commission, disclosure of the contact should be made by the member at the opening of the appropriate hearing. Such disclosure shall be subject to the same rules as for a statement of bias or conflict of interest.
- H. Requests for disqualification based upon bias or ex parte contact, pursuant to subsections A through F of this section, shall be considered by the entire Commission present, and be granted upon majority consent (excluding the individual disclosing or challenged concerning bias or ex parte contact). The Commission shall consider the evidence in the record and decide whether the individual can reasonably be expected to render an impartial decision.

- I. In the event a member of the Commission is disqualified, that member shall remove themselves from the dais and the remaining members shall hear the application. In the event of no quorum, the application will be rescheduled to a future meeting.

## **SECTION VI – BURDEN OF PROOF**

The burden of proof is placed upon the applicant seeking approval of the proposed action. Such proof shall show that:

- A. The proposed action complies with applicable statewide planning goals, Oregon Revised Statutes and Oregon Administrative Rules, and the City of The Dalles Comprehensive Plan.
- B. The proposed action is in accordance with the applicable standards and criteria of Title 10 of the City of The Dalles Municipal Code.

## **SECTION VII – REPEAL & SEVERABILITY**

These bylaws repeal and replace all previous versions.

If any part of these bylaws is for any reason held invalid, such shall not affect the remainder of these bylaws.

## **SECTION VII – AMENDMENTS**

Any member of the Commission or Planning Department may propose amendments to these bylaws. An amendment must be approved by the Commission to become effective.



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**CITY OF THE DALLES  
PLANNING COMMISSION**

**CERTIFICATE OF RECEIPT  
OF PLANNING COMMISSION BYLAWS**

I, the undersigned Planning Commissioner of the City of The Dalles, hereby certify that I have received and read a copy of the written Planning Commission Bylaws, adopted October 3, 2019.

NAME (Please print): \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

## **Chapter 11.04 PLANNING COMMISSION**

11.04.010 Reestablishment.

11.04.020 Membership.

11.04.030 Term of Office.

11.04.040 Qualifications.

11.04.050 Vacancies and Removal.

11.04.060 Presiding Members.

11.04.070 Meetings.

11.04.080 Powers and Duties.

11.04.090 Hearings

11.04.100 Appeals

11.04.110 Rules

### **11.04.010 Reestablishment.**

There is hereby reestablished a City Planning Commission for the City of The Dalles, Oregon. (Ord. 917)

### **11.04.020 Membership.**

The Commission shall consist of seven members who are not officials or employees of the City. The Mayor, City Manager, City Engineer or his/her designated representatives shall be entitled to sit with the Commission and take part in its discussions, but shall not have the right to vote. (Ord. 917)

### **11.04.030 Term of Office.**

Members of the Planning Commission shall be appointed by the City Council for term of four years from April 30th of the year of appointment, except that initial appointments of some members shall be for other specified terms in order to establish an approximately equal expiration of terms each year. Appointments may be made for the members of the Commission to serve on an interim basis until their regular terms begin on April 30, 1974. (Ord. 917)

### **11.04.040 Qualifications.**

No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of business, trade or profession. (Ord. 917)

### **11.04.050 Vacancies and Removal.**

Appointments to fill vacancies shall be for the remainder of the unexpired term. A member may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. A member who is absent from three consecutive meetings or is absent from over 15% of the Commission's meetings in one year, without an excuse as approved by the Planning Commission, is rebuttably presumed to be in non-performance of duty; and the City Council shall declare the position vacant unless finding otherwise following the hearing. (Ord. 917)

**11.04.060 Presiding Members.**

- A. At its first meeting of each year, the Commission shall elect a chair and vice-chair to serve one-year terms.
- B. Secretary. The Planning Director shall serve as secretary to the Planning Commission and shall keep a record of Commission proceedings. (Ord. 917)

**11.04.070 Meetings.**

A majority of the members of the Planning Commission shall constitute a quorum. The Commission shall meet on the first and third Thursdays of every month. Meetings that fall on public holidays shall be held on the preceding day. Meeting shall be open to the public. Meetings other than at regularly scheduled times may be scheduled at a prior meeting and so noted in the meeting minutes. The chair upon his or her own motion may, or at the request of three members of the Commission shall, by giving notice to members of the Commission, call a previously unannounced special meeting of the Commission for a time not earlier than 24 hours after the notice is given. Notice of previously unannounced meeting shall be delivered or telephoned to a newspaper published in the City and, to the extent feasible, provided to interested persons at least 24 hours prior to the meeting. (Ord. 917)

**11.04.080 Powers and Duties.**

The Commission shall have the powers and duties which are now or may hereafter be assigned to it by charter, ordinances or resolutions of this City and general laws of this state. (Ord. 917)

**11.04.090 Hearings.**

- A. Unless otherwise provided by ordinance, hearings which the laws of the State of Oregon and the ordinances of the City require to be held on matters under state law and the zoning, subdivision, land use planning, land development and building code ordinances of the City shall be held by the Planning Commission.
- B. A member of the Planning Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or his/her spouse, brother, sister, child, parent, father-in-law, mother-in-law; any business in which he or she is then serving or has served within the previous two years; or any business with which he or she is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the Commission where the action is being taken.
- C. Hearing Procedure. The Council shall adopt by resolution a procedure for the conduct of hearings. (Ord. 917)

**11.04.100 Appeals.**

A party aggrieved by the action of the Planning Commission at any hearing provided for by this Title or the laws of the State of Oregon, or any person to whom notice of the hearing was sent as required by state law or the ordinances and resolution of the City, may appeal from such action to the City Council. An appeal to the Council from such action shall be taken by the party or person appealing within 30 days from the date that the written decision of the Planning Commission is filed with the City Clerk. The party or person appealing shall, within this 30-day period, file with the City Clerk a written notice of appeal stating the grounds of his or her appeal and whether or not he or she is appealing from the entire decision or a portion or portions thereof. The City Council, within 30 days from the date of the filing of the decision of the Planning Commission with the City Clerk, on its own motion may review any action taken by the Planning Commission under state law or any of the ordinances of the City. In accordance with rules adopted by the City Council therefor, the City Council shall hold a hearing on the action of the

Planning Commission appealed from or reviewed as set forth in the transcript of the hearing, the written findings of the Planning Commission and the action taken by the Planning Commission with respect to the proposed use of land. The City Council may amend, rescind, or affirm the action of the Planning Commission. (Ord. 933; Ord. 917)

**11.04.110 Rules.**

The Commission may adopt rules governing its business. (Ord. 917)