

## CITY OF WHEELER, OREGON ZONING ORDINANCE

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### ARTICLE 16: AMENDMENTS

#### Section 16.010. Purpose.

Periodically, as local goals and needs change and new information is obtained, the zoning ordinance should be updated. The purpose of the zoning ordinance amendment process is to provide a method for carefully evaluating potential changes to ensure that they are beneficial to the city.

#### Section 16.020. Authorization to Initiate.

An amendment to the text of the ordinance codified by this title may be initiated by the City Council, Planning Commission, a person owning property in the city, or a city resident. An amendment to a zone boundary may only be initiated by the City Council, Planning Commission, or the owner or owners of the property for which the change is proposed.

#### Section 16.030. Application.

Property owners or local residents which are eligible to initiate an amendment, or their designated representatives, may begin a request for an amendment by filing an application with the City Recorder, using forms prescribed by the city.

#### Section 16.040. Investigation and Report.

The City Recorder shall make or cause to be made an investigation to provide necessary information on the consistency of the proposal with the Comprehensive Plan and the criteria in this section. The report shall provide a recommendation to the Planning Commission on the proposed amendment.

#### Section 16.050. Classification of Actions.

- A. The following amendment actions are considered legislative under this title:
1. An amendment to the text of the ordinance in this title;
  2. A zone change action that the City Recorder has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that processing the request as a quasi-judicial action would be inappropriate.
- B. The following amendment actions are considered quasi-judicial under this title: a zone change that affects a limited area or a limited number of property owners.

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### Section 16.060. Procedures.

- A. The following procedures shall be followed for amendments determined to be legislative:
1. Notice of public hearings shall be in accordance with Article 13. However, notice of the hearing need not include a mailing to property owners when the matter at issue does not relate to a specific geographic area. Where such mailing is omitted, the City Recorder shall prepare a notice program designed to reach persons believed to have a particular interest and to provide the general public with a reasonable opportunity to be aware of the hearings on the proposal.
  2. The review of the proposed amendment shall be in accordance with Section 16.040. Both the Planning Commission and the City Council shall hold a public hearing on the proposal. After the Planning Commission hearing, the Planning Commission shall forward its recommendation to the City Council.
- B. The following procedures shall be followed for amendments determined to be quasi-judicial:
1. Notice of public hearing shall be in accordance with Article 13.
  2. The review of the proposed amendment shall be in accordance with Section 16.040. The Planning Commission shall hold a public hearing on the proposal. The City Council may hold a public hearing on the proposal. After the Planning Commission hearing, the Planning Commission shall forward its recommendation to the City Council.

### Section 16.070. Criteria.

- A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:
1. The amendment is consistent with the Comprehensive Plan;
  2. The amendment will not adversely affect the ability of the city to satisfy land and water use needs.
- B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:
1. The amendment is consistent with the Comprehensive Plan;

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2. The amendment will either:
  - a. Satisfy land and water use needs; or
  - b. Meet transportation demands; or
  - c. Provide community facilities and services.
3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations.
4. Resource lands, such as wetlands are protected.
5. The amendment is compatible with the land use development pattern in the vicinity of the request.

### Section 16.080. Conditional Zone Amendment.

Purpose. The purpose of the conditional zone amendment provision is to enable the City Council to attach specific conditions to a request for a zone boundary change where it finds that such conditions are necessary to achieve a stated public purpose.

- A. The City Council, with or without the recommendation of the Planning Commission, shall have the authority to attach conditions to the granting of amendments to a zone boundary. These conditions may relate to any of the following matters:
  1. The uses permitted;
  2. Public facility improvements such as street improvements, dedication of street right-of-way, sewer, storm drainage, and water;
  3. That all or part of the development or use be deferred until certain events, such as the provision of certain public facilities to the property, occur;
  4. The time frame in which the proposed use associated with the zone boundary change is to be initiated.
- B. Conditions, applied to potential uses other than needed housing types as defined by OAR 660-08-005, may be imposed upon a finding that:
  1. They are necessary to achieve a valid public purpose; and

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2. They are designed to achieve their intended purpose and are reasonably related to the land or its proposed use.

Conditions applied to property with the potential to be used for needed housing types as defined by OAR 660-08-005 may be imposed upon a finding that:

3. They are necessary to achieve a valid public purpose;
  4. They are designed to achieve their intended purpose and are reasonably related to the land or its proposed use; and
  5. They shall not have the effect, either singly or cumulatively, of discouraging or preventing the construction of needed housing types.
- C. Conditions attached to a zone boundary change shall be completed within the time limitations set forth. If no time limitations are set forth, the conditions shall be completed within two years from the effective date of the ordinance enacting the zone boundary change.
  - D. The City Council may require a bond from the property owner or contract purchasers in a form acceptable to the city in such an amount as to assure compliance with the conditions imposed on the zone boundary change. Such a bond shall be posted prior to the issuance of the appropriate development permit.
  - E. Conditions shall not be imposed which would have the effect of limiting use of the property to one particular owner, tenant or business. Conditions may limit the subject property as to use, but shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.
  - F. Conditions that are imposed under the provisions of this section shall be construed and enforced as provisions of this zoning code relating to the use and development of the subject property. The conditions shall be enforceable against the applicant as well as their successors and assigns.
  - G. Requests for modification of conditions shall be considered by the zone amendment application and review procedure of Sections 16.010 through 16.070 of this ordinance.
  - H. Failure to fulfill any condition attached to a zone boundary change within the specified time limitations shall constitute a violation of this section and may be grounds for the city to initiate a change in the zone boundary pursuant to the procedures of Section 16.020.

Section 16.090. Limitations on Reapplications.

No application of a property owner or local resident for an amendment to the text of the ordinance codified in this title or to the zone boundary shall be considered by the Planning Commission within the one year period immediately following a previous denial of such request. The Planning Commission may permit a new application if, in the opinion of the Planning Commission, substantial new evidence or a change of circumstances warrant reconsideration.

Section 16.100. Changes of Zone for Manufactured Dwelling Parks.

If an application would change the zone of property which includes all or part of a manufactured dwelling park as defined by ORS 446.003, the city shall give written notice by first class mail to each existing mailing address for tenants of the manufactured dwelling park at least twenty days but not more than forty days before the date of the first hearing on the application. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change.