

Draft

Procedures –Legislative Amendments

4/13/2010

These draft procedures are intended to complement the legislative procedures found in CDC Chapter 98.

Develop a work program

1. **Scope the project.** Identify topics and potential issues to be addressed; identify stakeholders, including city staff, and consider alternative approaches for involving them in the formative development of the proposed code/plan amendments. Give the Planning Commission the option of participating in the initial project scoping.
2. **Develop a draft work program.** (This can be done independently or in collaboration with the John/other staff). Identify and consider alternative approaches for conducting the project (e.g., use of an advisory committees, a Planning Commission subcommittee, staff generated), public outreach, and the time and budget implications of alternative courses of action.
3. **Review/finalize the draft work program.** Come to agreement with John regarding the project approach, schedule and the points in the process to check in with John and, as appropriate, the Planning Commission, City Manager, and City Council. **If it is a high profile/controversial project or will involve significant public outreach, we will request review of the work program by the City Manager, Planning Commission and City Council prior to finalizing it. [Does the Council want to review work programs?]**

Prepare and refine proposed amendments

4. **Set up the project file** with Teresa.
5. **Develop draft amendments** per the work program.
6. Conduct **internal review** of the initial draft per the work program.
 - a. As appropriate, provide for review by planning staff and other departments that could be affected; revise as appropriate before John's review.
 - b. Following staff review, provide for John's review of the refined draft. Allow at least 3 days, but preferably 1 week, for comments and sufficient time to make revisions; revise as appropriate before submitting for legal review.
 - c. Provide for legal review following John's review – allow at least one week turn around unless legal staff commit to a speedier review; revise as appropriate.
7. **Optional early Planning Commission and/or City Council review.** On significant/controversial projects, the Planning Commission and/or the City Council may want to have an opportunity to shape the draft or decide upon alternative approaches prior to the release of the draft to the public. This optional step would be decided upon prior to finalizing the work program. **[Does the Council want the option of having project briefings/work sessions at key points in the project?]**

8. **Submit the LCDC Notice of Proposed Amendment** (FORM 1), unless exempt by [ORS 197.610\(2\)](#), so it is **received** at least 45-days prior to first Planning Commission hearing. Submit an electronic copy by email to larry.french@state.or.us. On the same day, mail one hard copy to:
Attention: Plan Amendment Specialist
Department Of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
(Note: The step above could occur earlier in the process if necessary to expedite the project.)
9. Provide for **review** of the preliminary draft **by interested parties** (e.g., neighborhoods, interest groups and other knowledgeable people), consistent with the work program, following internal review (on bigger projects we could have open houses, forums, neighborhood meetings, workshops, etc at this stage). Revise in response to public comments.
10. **Schedule Planning Commission** briefing, hearing, and post hearing work session dates with Teresa, as appropriate.
11. **Draft the staff report.** See CDC 98.040A(2)(b) for minimum contents.
12. **Submit the draft staff report for John's review.** Allow at least 3 working days for review. Revise as appropriate.

Planning Commission *(Note: On some projects, the Planning Commission may be involved in the formative stage of developing amendments).*

13. **Planning Commission briefing.** Brief the Planning Commission regarding the proposed amendments before the public hearing notice goes out in case they want changes to the public hearing draft or, if authorized by the Planning Commission chair, two weeks before the hearing.
14. **Legal notice.**
 - a. Produce a list of those to receive notice per CDC 98.070.
 - b. Prepare a draft legal notice and submit it for John's review at least 1 day before it is due Teresa. Revise as appropriate.
 - c. Submit the final legal notice to Teresa at least 24 days prior to the hearing.
 - d. Publication in paper. Teresa submits the legal to provide to the paper at noon 7 days in advance of publication which occurs two weeks prior to the hearing; Teresa puts the affidavit of publication in the project file.
 - e. Teresa sends the notice (Type A) 20 days in advance of the Planning Commission hearing to affected government agencies (e.g., Metro, Trimet and ODOT), neighborhood associations, advisory committees, people with standing, interested people consistent with CDC 98.070.
15. **Post the draft amendments concurrent with publication of the hearing notice.** Make a few paper copies of the draft available to the public. *(Note: distribution will be different for projects*

under Periodic Review). No changes may be made to drafts after they are released for public review.

16. **Produce copies** of the staff report and proposed amendments for the Planning Commission. Submit documents to Teresa by noon on the Monday in advance of distribution to the Planning Commission/public (which occurs on a Friday 10 days prior to the meeting). Teresa numbers and copies the materials.
17. **Distribute the public hearing draft and staff report** 10 days (14 days if it will be handed out instead of mailed) in advance of the hearing to the Planning Commission, post on web, send to neighborhood associations, any applicable state agencies, Metro, stakeholders, notify any email list etc.).
18. **Prepare a presentation** that describes the key proposed amendments and the problem, opportunity or mandate addressed. **Present the proposed draft** at a public hearing.
19. **Conduct a Public hearing.** Compile public hearing comments/written testimony by topic and provide the summary to the Planning Commission along with analysis at a subsequent work session (unless there was little comment and the Planning Commission can act immediately following the hearing).
20. **Conduct a work session** with Planning Commission to the refine draft based on public comments.
 - Submit the revised draft for legal review (and, if needed, editorial polishing) prior to the Planning Commission making a final recommendation (at the next meeting).

City Council *(Note: On some projects, the City Council may be briefed and provide direction during the formative stages of the project.)*

21. **Schedule a pre hearing briefing and hearing date** with the City Council; submit the request to Teresa at least 38 days in advance on desired date, who will convey it to Tina. CC John
22. **Prepare a draft ordinance** and proposed findings pertaining to the draft amendments and submit it for legal review at least 10 working days before it is submitted to Teresa under #24 below.
23. **Submit the draft staff report**, ordinance/findings, final draft amendments, and the record for the Council hearing (see CDC 98.040A(4)) to John (digital version of the staff report and ordinance) no later than 5:00 PM the Wednesday before it is due to Teresa. John will return the draft no later than 8:00 AM on Monday morning before it is due to Teresa.
24. **Submit the staff report**, proposed amendments, draft ordinance/findings and related materials to Teresa no later than 8:00 AM on the Tuesday before it is due to Tina (the Wednesday before work sessions and two Wednesdays before Council meetings). Teresa will scan everything, put it on the L-drive, and submit it to Tina via email no later than 12:00 pm on Wednesday 12 days before the City Council meeting; the City Manager will review the material and may call for revisions. The final document (hard copies) will be sent to Council on Friday, 10 days before the meeting. Teresa will make copies for staff and other interested parties.

25. **Prepare public hearing materials/presentation.**

26. **Conduct City Council pre-hearing briefing.**

The current practice is to have a City Council work session the week prior to the hearing regarding the draft that was released 13 days earlier to the public. Councilors may propose substantive changes at this point. Amendments called for by Council are either made to the public hearing draft or identified in a separate memo, posted on the web, sent to people who have standing, and highlighted at the hearing.

This approach raises the following concerns:

- *People interested in the proposal need to track web postings and email updates during the week before the hearing to ensure that they are reviewing and preparing to comment on the current proposal.*
- *Work sessions are rescheduled and hearings are continued, sometimes multiple times, when Councilors are not prepared to engage in a substantive work session prior to a scheduled hearing. This makes it challenging for community members attempting to track the project. Some people come to testify on the proposal only to find it has been continued. (In addition, preparing for and attending works sessions that are continued is an unproductive use of staff time).*
- *There has been confusion by both the public and Council about which version of the draft amendments is under consideration at the hearing.*

Options for the City Council to consider:

- ***Option 1: Conduct a briefing the week prior to the hearing.** Staff would present the proposal and identify the problems/opportunities addressed by the proposed amendments and any unresolved or contentious issues that may surface at the City Council hearing. Staff may also identify alternatives to the proposal that were considered. The City Council would ask questions, raise concerns, and identify additional information they want at the hearing. However, the Council would not alter the draft proposal. So there would be no need to postpone the work session and continue the hearing. The Council would wait until the work session following the public hearing, after they have had the benefit of hearing public testimony, to discuss and act upon amendments to the public hearing draft.*
- ***Option 2: Conduct a briefing/work session regarding the Planning Commission's recommended draft prior to issuing the notice for the public hearing and releasing the public hearing draft.** The City Council would be briefed as in Option 1 but they could identify changes that they want incorporated in the public hearing draft. This approach would enable the Council to solicit public review and comment on alternative language that they are considering. Because the Council's amendments would be incorporated in the public hearing draft, the public would have sufficient time to review the entire proposal prior to offering testimony. There would be no confusion at the hearing about multiple versions of drafts and last minute changes. Under this approach work sessions could be postponed if Council members are not ready.*

- **Option 3: Continue the substantive work sessions a week prior to the hearing, keep the public hearing draft intact, and identify proposed amendments in a memo. This approach would avoid the confusion regarding multiple versions of the draft amendments.**

27. **Conduct the City Council hearing.**
28. **Compile the public hearing comments/written testimony by topic and provide/present to the City Council along with analysis at a subsequent work session (unless there was little comment and the Council can act immediately following the hearing).**
29. **Conduct City Council work session(s)** as needed to refine the draft in light of public comments.
30. **Adoption.** Finalize the proposed amendments/ordinance for adoption per City Council direction.
 - a. Prepare the final version of the ordinance/findings in collaboration with our Attorney that include specific references to the actions taken and the specific justifications for the amendments stated at the hearings and work session(s).
 - b. If any changes to the proposed amendments occurred subsequent to legal review, submit the final version to our Attorney for review and approval.
 - c. The Attorney should sign the ordinance prior to the mayor signing. This can be accomplished at the Director's meeting on Tuesday at noon following the Council's action. If the ordinance is not available at the Director's meeting, send it to Jenny DeGregorio, Jenny.DeGregorio@jordanschrader.com who will get the Attorney's signature.
 - d. Submit LCDC FORM 2: Notice of Adoption within 5 days of adoption with signed ordinance. Provide the notice of adoption to Metro, the County and other as appropriate.
 - e. Maintain the file per CDC 98.040A(5).
31. **Celebrate**