



# PARTICIPATING IN LAND USE PLANNING

TIPS FOR ENGAGING WITH LAND USE CHANGES  
HAPPENING IN YOUR COMMUNITY



OCTOBER 2022

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# ABOUT ROGUE ADVOCATES



**WE ARE DEDICATED TO  
CULTIVATING LIVABLE AND  
SUSTAINABLE COMMUNITIES  
IN SOUTHERN OREGON'S  
ROGUE VALLEY.**

Through advocacy, education, and outreach around local land use issues, we work to preserve productive rural lands and to promote vibrant urban centers. Rogue Advocates monitors the decision-making processes across Jackson and Josephine Counties for any land use proposals that could have a damaging effect on the livability and sustainability of the Rogue Valley.

We educate the public about projects or policies that have the potential to negatively affect the quality of life in the valley and we advocate for policies protective of our communities. We conduct outreach to community residents to encourage them to engage in the land use planning process, as state law authorizes and invites them to do. Learn more about our work at <https://roqueadvocates.org>.

## DISCLAIMER

This guide is intended for educational purposes only and does not constitute legal or other professional advice. It is intended to provide informational background on the land use system and not specific legal advice or instructions. Please consult a lawyer or other professional before relying on information in this guide. Keep in mind that this guide is intended to be accurate at the time of publication, but details and hyperlinks may have changed since publication. Also note that laws and details vary by jurisdiction so some statements may not be applicable to your local context.





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# INTRODUCTION

## PUBLIC PARTICIPATION IS CENTRAL TO OREGON'S LAND USE PLANNING SYSTEM

Public participation is a core foundation of Oregon's land use planning system, and it is appropriately enshrined as the first of 19 Statewide Planning Goals that form the framework of that system. Under Goal 1, all governing bodies overseeing planning activities, including city and county officials, must ensure that the public has the opportunity to be notified of and involved in planning decisions that impact the way a community develops and grows.

Public involvement often takes the form of providing written or oral testimony on a land use hearing or application. Anyone can submit comments or testimony, regardless of how they are impacted or where they live. Community input provides decision-makers with additional evidence for consideration in making their decision and has the potential to impact the outcome of an application.

Providing comments or testimony also preserves your ability to appeal a final land use decision if you believe it was improperly made.

Despite the intended central role of the public in land use planning, it can be difficult to track the countless decisions being made in your community and to understand how and when to get involved. This document serves as a guide to track and engage with land use decisions being made in your community.



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# PARTICIPATING IN LOCAL LAND USE DECISIONS



You just heard about a proposal to build a new development in your community and you are concerned. Where do you find more information? How do you express your concerns? How will the decision be made? This guide is designed to help you answer these questions and others to navigate the local planning process.

## **STEP 1** Tracking land use proposals

Find more information on the land use change that is being proposed.

Understand the process involved for the type of application at issue, including if/when there will be a public hearing.

## **STEP 2** Understanding the process

## **STEP 3** Participating in the process

Submit comments or provide oral testimony on the application.

Consider appealing the decision on the application if you believe it was improperly made.

## **STEP 4** Appealing a land use decision

## STEP 1 Tracking land use proposals

Details about a land use application being considered and upcoming public hearings are often found in the sources below. You can also call the local Planning Department for information.

### CITY AND COUNTY WEBSITES

Notice and materials for pending applications and upcoming hearings are often found on a city or county's website. Visit Rogue Advocates' [Public Participation](#) webpage for links to where to find this information for the Rogue Valley.

### MAILED NOTICE

Owners of property within certain distances of the subject property must be mailed notice of a land use hearing and/or decision. No matter where you live, you can request to be added to the notice list by contacting the governing body considering the application.


### LOCAL NEWSPAPERS

Public notice must be published in the Legal Notices section of local publications at least 10 days prior to a hearing. For the Rogue Valley, notices can often be found in the Mail Tribune, Daily Courier, and Upper Rogue Independent.

### POSTED NOTICE

Public notice of proposed land use changes may be physically posted at the subject property and/or the site of the hearing, such as city hall or the county courthouse.

## Example of public notice for a land use hearing



March 30, 2022

Community Development  
Planning Division  
(541) 474-5421  
700 NW Dimmick Street, Suite C  
Grants Pass, OR 97526  
[www.josephinecounty.gov](http://www.josephinecounty.gov)

**NOTICE OF LAND USE HEARING**  
***Before the Josephine County Board of Commissioners***

The Josephine County Board of Commissioners will conduct a hearing on the land use request described below. This hearing is fully open to the public and anyone interested in testifying or submitting evidence may do so. The hearing procedures are governed by Chapter 19.31, Public Hearings, of the Josephine County Code (JCC). Anyone interested in participating in the hearing should examine or purchase a copy of Chapter 19.31 at the Planning Office (the basic hearing format is described below). A copy of the application, all documents and evidence submitted by or on behalf of the applicant, and the applicable criteria may be inspected at the Planning Office during business hours without cost. Copies may be purchased. If a staff report is published, it will be available for inspection without cost at least 7 days before the hearing. Copies of the staff report may also be purchased.



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## STEP 2

### Understanding the process

After you've found some more information on what's being proposed, you'll want to understand how the decision-making process will unfold for a particular application. Below we walk through a typical process. Note that the details will vary by jurisdiction, so you should consult your local land use laws and/or Planning Department for details.

## ABOUT LOCAL LAND USE LAWS

All cities and counties have a **Comprehensive Plan** with Goals that serve as the broad policy framework for local land use planning. The Goals need to be balanced against each other with discretion, so no single Goal is determinative of an outcome (e.g. a goal seeking to promote economic development will be balanced against a goal to protect natural resources).

The Plan is implemented with more specific requirements in regulations such as a **Development Ordinance** as part of the city or county Code. Every land use change must comply with these requirements, which include standards for zone changes, minimum lot sizes, minimum densities, and development.



## TYPES OF LAND USE DECISIONS

The process will vary based on the type of land use change being proposed. Some land use applications don't require a public hearing at all, while others require multiple public hearings. You will need to know the process that will be followed for a particular application in order to know when you will have an opportunity to provide comments or testimony to be considered in the decision.

Notices of land use hearings or decisions should include information on the timeline, process, and how to submit written testimony or attend a hearing. The following chart provides a general overview of types of land use applications and the associated process, but note that details differ across jurisdictions.

## Examples of process for different types of land use applications

TYPE OF APPLICATION	DESCRIPTION	EXAMPLES	DECISION-MAKER	PUBLIC PARTICIPATION REQUIREMENTS
<b>TYPE 1, TYPE 2</b> MINISTERIAL OR ADMINISTRATIVE	Decisions involving no discretion; use permitted outright or based on "clear and objective standards"	Site development plan, partition, property line adjustment	Planning staff	No notice or comment for Type 1 (not appealable), yes for Type 2. No public hearing required for either
<b>TYPE 3</b> QUASI-JUDICIAL	Involves discretion in applying standards, criteria, or conditions	Variance, zone change, subdivision	Planning Commission	Notice, opportunity to comment, and public hearing required
<b>TYPE 4</b> LEGISLATIVE	Impacts all or many properties within a jurisdiction; involves changes to the Comprehensive Plan	Comprehensive plan amendment (including goal exceptions), land use regulation amendments	Board of Commissioners or City Council (with recommendation from Planning Commission)	Notice, opportunity to comment, and two public hearings required.

**Note:** Requirements and classifications vary by jurisdiction. This table is only intended as a general example of the different kinds of processes applied for different types of applications.



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## STEP 3

### Participating in the process



By following Steps 1 and 2, you've identified the deadline for submitting comments on a particular land use application and/or the date of an upcoming public hearing on that proposal.

If you are opposed to a particular land use change, it is important to provide either written or oral testimony in order to:

- (1) alert the decision-makers to potential issues and community opinion on the application, potentially impacting their decision, and
- (2) to preserve your ability to appeal the decision.

If an application is considered by multiple decision-makers, you must have submitted testimony to the final decision-making body (often the Board of Commissioners or City council) to preserve your ability to appeal.

## TIPS FOR PROVIDING TESTIMONY ON A LAND USE PROPOSAL

- **BEST PRACTICES FOR SUBMITTING WRITTEN COMMENTS.** Note clearly what land use matter you are commenting on. Request confirmation that your comments have been received and will be included in the record. Your testimony will be most effective if submitted prior to the release of a staff report (generally released at least 7 days before a public hearing); otherwise it may not be reviewed by the decision-maker prior to the public hearing.
- **REQUEST ADDITIONAL TIME.** You can request a continuance or open record period to allow more time to submit evidence or testimony. If the request is made at the first public hearing on the matter, the decision-maker must grant an extension of at least 7 days. This can be an important tool to allow participants more time to conduct outreach for additional community support, collect evidence, and develop arguments regarding the proposal.
- **ADDRESS THE RELEVANT CRITERIA.** Your comments should address the approval criteria required for the application, which will be listed on the notice, in the staff report, and/or in the application materials. These criteria are based on state and local law. The application can only be approved if the local decision-maker finds that all of the criteria are met, so describe why the criteria are not satisfied. Appeals often hinge on whether these criteria were satisfied based on all evidence and testimony submitted.
- **PARTICIPATE REMOTELY.** As of 2022, all public hearings must allow the opportunity to participate and provide testimony remotely, removing the barrier of having to travel potentially far distances to provide your input. Instructions for participating remotely should be included on the public notice for the hearing; if not, contact the planning department for details.

## STEP 4

### Appealing a land use decision

If you have submitted testimony on a land use application and believe the decision was improper, you can appeal the final decision to the Land Use Board of Appeals (LUBA). A decision is “final” only when the final local decision-maker has made its decision (e.g., if a decision involves an initial recommendation from the Planning Commission, the decision is only final when the City Council/Board of Commissioners makes a decision based on that recommendation). Depending on the type of application, you may be required to appeal a decision to a higher local body such as a Hearings Officer prior to appealing to LUBA.

LUBA is a special agency that exclusively reviews land use decisions. LUBA reviews local decisions for compliance with, and proper construction of, the local comprehensive plan, applicable land use regulations, and state law, including statutes, land use goals, administrative agency rules, and Oregon’s constitution.

A key component of complying with these laws, and a guiding principle for appealing, is that the decision must be supported by “substantial evidence” in the record. In practice, this means that the written “findings”

adopted as part of the final decision must demonstrate that the evidence in the application and hearing materials (the “record”) support a decision that all criteria and requirements for approval have been met.

A decision can also be improper if the local government failed to follow proper procedures in a way that “prejudiced the substantial rights” of the appealing party. Improper procedures appropriate for appeal could include:

- Improper notice (e.g. failing to send notice to the proper parties or inadequately describing the proposal)
- Not allowing proper opportunity to participate in a hearing
- Not providing necessary information to parties prior to a hearing.

A final land use decision must be appealed to LUBA within 21 days by filing a “Notice of Intent to Appeal.” For more detailed information on appealing to LUBA, including timing, costs, what land use decisions are eligible for appeal, grounds for LUBA to reverse or remand a land use decision, and more, see [1000 Friend’s Guide to Land Use Appeals](#) and/or consult an attorney.



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# OTHER RESOURCES

## ADDITIONAL BACKGROUND ON OREGON LAND USE LAW AND THE PUBLIC'S ROLE IN LAND USE PLANNING

**1000 Friends of Oregon, Guide to Land Use Appeals (2018),**

<https://friends.org/sites/default/files/2019-04/Guide%20to%20Land%20Use%20Appeals%202018.pdf>

- This guide provides an overview of the appeals process from the local level to the Land Use Board of Appeals (LUBA). It includes guidance on deciding whether to appeal, how to appeal, timing requirements, and how to do legal research. It also includes sample filings such as a sample Notice of Intent to Appeal and sample Petition for Review.

**City of Phoenix, Land Use Handbook (2018),**

[https://www.phoenixoregon.gov/sites/default/files/fileattachments/building/planning/page/7361/land\\_use\\_handbook.pdf](https://www.phoenixoregon.gov/sites/default/files/fileattachments/building/planning/page/7361/land_use_handbook.pdf)

- Provides very useful background on the land use planning process, including details on decision-makers, application types, decision-making process, engaging with planning staff, and advice on participating in public hearings. The timelines and process details are specific to Phoenix, but the background material is still highly relevant no matter where you are located.

**Department of Land Conservation and Development, An Introductory Guide to Land Use Planning for Small Cities and Counties in Oregon (2007),**

[https://www.oregon.gov/lcd/Publications/Intro\\_Guide\\_LandUsePlanning\\_SmallCitiesCounties\\_2007.pdf](https://www.oregon.gov/lcd/Publications/Intro_Guide_LandUsePlanning_SmallCitiesCounties_2007.pdf)

- Provides basic information regarding the land use planning process in Oregon. It covers typical land use actions such as variances, partitions and subdivisions, comprehensive plan map amendments, zoning map amendments, types of public hearings, public notice, and more.

**Department of Land Conservation and Development, Putting the People in Planning**

**(2019),** [https://www.oregon.gov/lcd/Publications/PPIP-Final\\_2019-06-30.pdf](https://www.oregon.gov/lcd/Publications/PPIP-Final_2019-06-30.pdf)

- This guide is designed to educate local decision-makers on facilitating public participation in planning. It provides background information on what local governments should ideally be doing to involve the public in their planning processes.

**Oregon Coastal Management Program, Oregon's Land Use Planning Program Online**

**Training (2020),** <https://www.oregonlandusetraining.info/>

- A video training program intended to educate citizens and decision-makers on Oregon's Statewide Planning Program. Topics include "What is a Comprehensive Plan?"; "Urban Growth: Goal 14, Urbanization"; "Natural Hazard Planning: Goal 7, Natural Hazards"; "Local Land Use Decisions"; and much more.

**Rogue Advocates, Public Participation,**

<https://rogueadvocates.org/publicparticipation/>

- This webpage includes jurisdiction-specific sources for finding information on upcoming hearings and applications being considered, and other resources for engaging with local land use decision-making in Jackson and Josephine Counties.