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## **CITY OF OREGON CITY HISTORIC REVIEW BOARD WORKSESSION AGENDA**

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Hanlon Commission Chambers, Libke Public Safety Building, 1234 Linn Ave, Oregon City,  
OR 97045  
Tuesday, February 24, 2026 at 6:00 PM

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Ways to participate in this public meeting:

- Attend in person, location listed above. Please see the public comment guidelines below.
- Attend the livestream of the meeting on the City's YouTube Channel:

<https://www.youtube.com/user/CityofOregonCity>

- Register to provide electronic testimony (email [ocplanning@orc.city.org](mailto:ocplanning@orc.city.org) or call 503-722-3789 by 3:00 PM on the day of the meeting to register)
  - Email [ocplanning@orc.city.org](mailto:ocplanning@orc.city.org) (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)
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### **1. CALL TO ORDER AND ROLL CALL**

### **2. PRESENTATIONS**

- a. Legal 101- Carrie Richter, City Attorney

### **3. COMMUNICATIONS**

### **4. ADJOURNMENT**

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## **PUBLIC COMMENT GUIDELINES**

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Complete a Comment Card prior to the meeting and submit it to the clerk. When the Chair calls your name, proceed to the speaker table, and state your name and city of residence. Each speaker is given 3 minutes to speak. As a general practice, the committee does not engage in discussion with those making comments. Complaints shall be addressed at the department level prior to addressing the committee.

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## **ADA NOTICE**

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The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

**Video Streaming & Broadcasts:** The meeting is streamed live on the [Oregon City's website](#) and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.

# CITY OF OREGON CITY

## HISTORIC REVIEW BOARD TRAINING

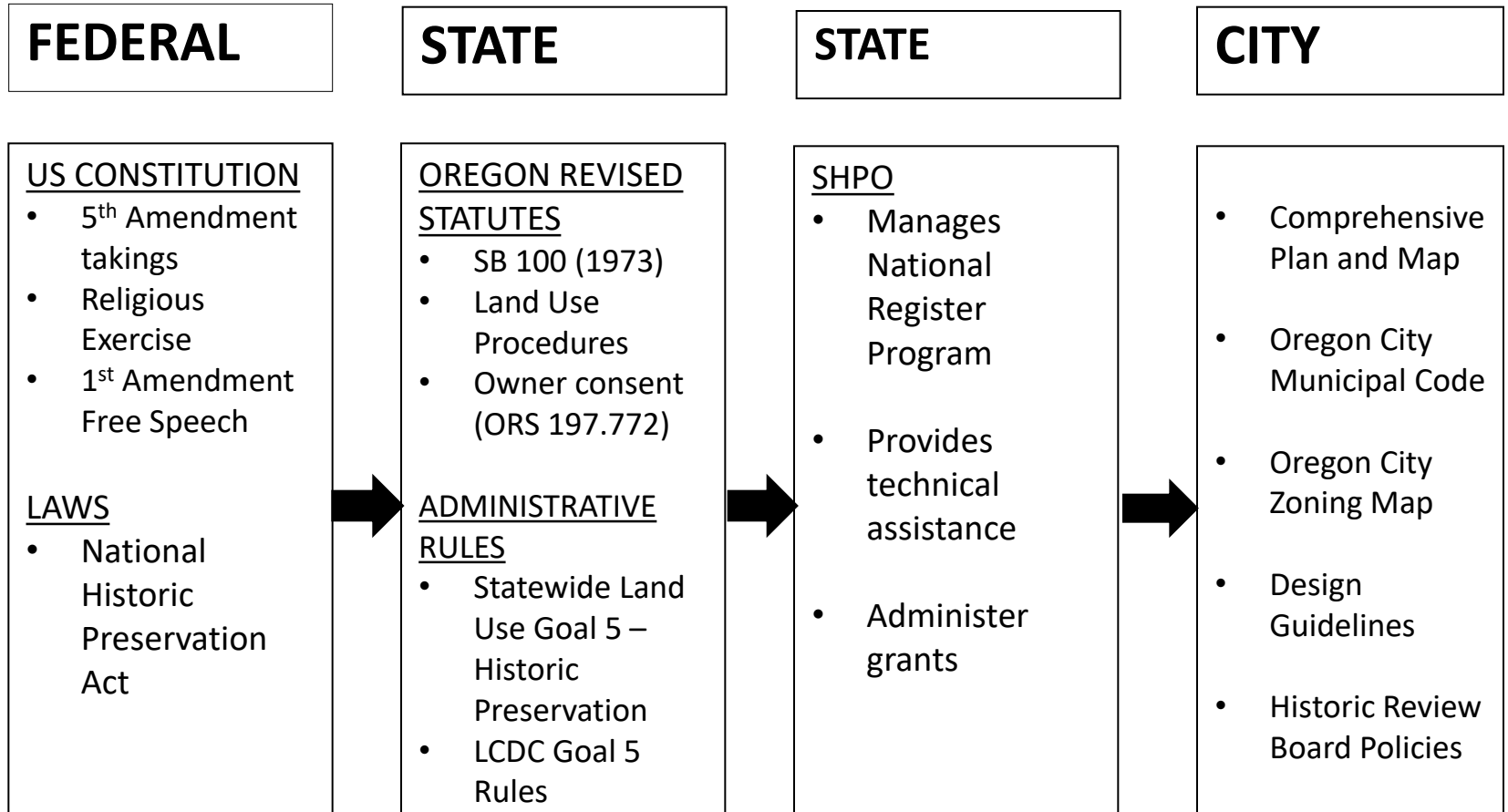
February 24, 2025

By Carrie A. Richter



Bateman Seidel Miner Blomgren Chellis & Gram, P.C.

# OREGON'S LAND USE PLANNING FRAMEWORK



# OREGON CITY AS A CERTIFIED LOCAL GOVERNMENT

Oregon City is a certified local government (CLG):

- recognized by the National Park Service and the State Historic Preservation Office (SHPO)
- Requires the existence of a local preservation ordinance
- A qualified historic preservation commission
- A system for surveying, inventorying and protecting local historic resources

By retaining its CLG status, Oregon City is eligible for federal preservation grants, technical assistance from SHPO and recognition as a voice for National Register properties.

# HRB ROLES:

Educating and advocating for historic resources and the City's historic preservation program.

Reviewing applications for designation of a historic or conservation district, landmark or historic corridor.

Reviewing applications for new construction, alterations, incentives and demolition on properties that have been designated within the the City's Historic Resource Overlay District or on the National Register of Historic Properties.

# TYPE III DECISION PROCEDURE:

## PREDICTABILITY AND A LEVEL PLAYING FIELD

- Pre-application meeting w/ staff / neighborhood meeting
- Application filed and completeness review – 120-day decision limit
- Mailed and posted notice of hearing includes identification of the applicable criteria – These notice rules are set by state law and local code
- Staff report available 7 days in advance of hearing.
- Hearing
  - Must including opening presentation:
    - Instructions on the submittal of evidence into the record
    - Testimony must be directed to the criteria
    - Raise it or waive it
    - Failure to raise constitutional issues precludes an action for damages in circuit court
    - Right to an impartial tribunal
- Right to a continuance / Rebuttal
- Record closes, deliberation and decision
- Right to appeal to City Commission with review that is on the record

# DECISION-MAKING DEADLINES

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ONCE APPLICATION IS COMPLETE, CITY HAS 120 DAYS TO MAKE ITS FINAL DECISION INCLUDING ALL APPEALS

- Applicant controls the timeline
  - Can force City to begin processing application, even if not complete
  - Once an application is “deemed” complete, only question is whether applicant has met its burden to show compliance with criteria
  - Applicant can extend the 120-day, but entirely their choice
- Only at the initial (1<sup>st</sup>) hearing, Commission must grant a requested continuance or open record
  - If continued, next hearing must be at least 7 days later
  - If open record, 7-7-7 process is typically used.
  - After the record closes to all new evidence, applicant may exercise right to submit final written argument

# RIGHT TO AN IMPARTIAL TRIBUNAL:

## **Decisions must be based on the testimony and evidence that is part of the record:**

Disclose the substance of an ex parte contacts on the record giving the public an opportunity to question decision-maker further.

- Ex parte contacts are facts gleaned outside the record from:
  - Media reports
  - Neighborhood meetings or social media
  - Site visits
  - Personal or Professional Experience
- An objection must be made in order to preserve a challenge at LUBA on that basis.

## **Decision-makers must be free of actual bias:**

• “Actual Bias” – Bias exists if the decision was the produce of positive or negative bias rather than an independent review of the facts and law. *Rosenzweig v. McMinnville*.

## **Decision-makers may not have any actual conflict of interest:**

- No actual conflict of interest - If the decision will have a direct pecuniary benefit or detriment to the decision-maker or a family member of the decision-maker, the decision-maker may not participate.
- Potential conflict of interest – Announce and determine whether to participate.
- In addition to appeal issues, can result in personal liability for the official (fines plus up to 2x the financial gain (call OGEC)

# OTHER GOVERNMENT ETHICS ISSUES:

## **Use of Position or Office (ORS 224.040(1))**

- Cannot use public position to obtain a financial benefit.

## **Gifts (ORS 224.025)**

- A “gift” is anything of economic value (including discounts or forgiveness of debt) not offered to the general public
  - If so, maximum is \$50 total per calendar year.

**Includes relatives, household and businesses**

**Can result in personal liability for the official (fines, plus up to 2x financial gain)**

**Call Oregon Government Ethics Commission (OGEC)**

# PUBLIC MEETINGS AND RECORDS REQUIREMENTS

**“Public Meeting”** – Majority or a quorum “deliberating to a decision” – may include meeting substitutes such as conference calls or emails.

- General rule is that they are open to the public
- Notice and minutes
- Enforcement
- Public meeting vs public hearing differences

**“Public Records”** – Almost any writing, data storage or other record relating to city business.

- Work done on private e-mail accounts, personally purchased computers and hand-held devices might be a public record.
- Avoid commenting on instant messaging or chat rooms unless mechanism to capture this information.
- Therefore, we **STRONGLY** recommend the use of the City’s designated account for city business.
- When in doubt, ask the City Recorder

# WHICH CRITERIA APPLY?

<p><b>Canemah National Register Historic District -</b> All structures contribute toward the district significance as a whole.</p> <ul style="list-style-type: none"> <li>•New construction and exterior alteration subject to OCMC 17.40.060</li> <li>•Any demolition also subject to demolition review provided in the Goal 5 rule.</li> </ul>	<p><b>McLoughlin Conservation District –</b> All resources, including new construction, must contribute toward the district significance as a whole.</p> <ul style="list-style-type: none"> <li>•New construction and exterior alteration subject to OCMC 17.40.060.</li> </ul>
<p><b>Individual Landmarks / Historic Corridor</b></p> <ul style="list-style-type: none"> <li>•New construction and exterior alteration subject to OCMC 17.40.060</li> </ul>	<p><b>National Register Designation w/out local designation</b></p> <ul style="list-style-type: none"> <li>•Not subject to OCMC 17.40 review but demolition would be subject to Goal 5 demolition review.</li> </ul>

Secretary of Interior's Standards for the Treatment of Historic Properties necessary for federal grants or tax credits: preservation (stabilizing the material form), rehabilitation (allows for alteration for modern use while preserving historic character), restoration (removing non-contributing alterations), and minimizing damage (avoiding destruction of historic materials)

Compliance with SOI standards are not independent approval criteria but can provide helpful guidance.

# CONSIDERING ONLY THE “APPLICABLE APPROVAL CRITERIA”:

Decision-making must be based on “standards and criteria” in the development ordinance or the comprehensive plan. ORS 227.173:

- Criteria must be clearly delineated as applicable;
- Application submittal requirements are not criteria, unless so stated;
- Purpose statements are not criteria, but can provide helpful context for interpreting the criteria;
- Fixed Goal Post Rule – Only those standards and criteria in place when the application was filed apply

The applicant has a right to know what the applicable criteria require before the record closes:

- Apply meaning to ambiguous standards in the purpose or policy of the provision.
- Focus on the plain meaning of terms taken in context

# DELIBERATION AND THE DECISION

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DETERMINATION OF WHETHER THE APPLICANT HAS MET ITS BURDEN TO SHOW THAT THE APPLICABLE STANDARDS ARE SATISFIED:

Identify and **interpret** the applicable approval criteria;

**Identify the facts (evidence)** in the record that led to a conclusion that the criterion is satisfied or not;

- Personal knowledge is not evidence in the record – put personal feelings aside
- Denial of an application cannot be based on facts not in the record
- Where there is conflicting evidence, state why certain evidence is more reliable, credible or entitled to greater weight;

**LUBA standard of review for evidence:** Could a reasonable person looking at all of the evidence in the record come to the same conclusion?

**Adequate Findings:** Must explain how the evidence leads to a finding of compliance or non-compliance with the criterion.

**Conditions of Approval** – may be attached to ensure that all applicable approval standards are or can be met.

# CONDITIONS OF APPROVAL – NEXUS AND PROPORTIONALITY IN EXACTIONS

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- Legal term used to describe a direct connection between a condition of approval and the impact created by the proposal.
- The nexus must be related to the Approval Criteria and must be explained in the findings.
- The nexus must also show that the requirement of the condition is of the same weight as the expected impact.

# RECOMMENDATIONS FOR EFFECTIVE PARTICIPATION

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- **Try to avoid ex parte contacts or evidence**, be aware and prepared to disclose.
- **Be attentive and prepared** – It is unfair to the applicant and participants to act on issues without adequate preparation.
- **Don't be afraid to ask questions** but keep them focused and directed on the approval criteria and/or the evidence in the record.
- **Focus on issues and don't make assumptions about what you hear** – Ask open ended questions and perhaps start with a summary or paraphrase of what you hear as a framework for the question.
- **Don't make up your mind before hand – Avoid prejudgment**– Saying that “this project will increase traffic” implies that a decision is already made. Instead say “this project might increase traffic.”
- **Don't be afraid to disagree** – Sharing perspectives ensures a decision that in the City's best interest.

# QUESTIONS?

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## Additional Resources:

- Oregon land use training info:  
<https://www.oregonlandusetraining.info/>
- OGEC Guide for Public Officials (for conflicts of interest and other ethics issues): <https://www.oregon.gov/ogec/pages/guide-for-public-officials.aspx>

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