

HEARINGS OFFICE PUBLIC HEARINGS:

A Guide for Presenting Testimony

INTRODUCTION

“It is not the function of our government to keep the citizen from falling into error; it is the function of the citizen to keep the government from falling into error.”

- Supreme Court Justice
– Robert Jackson

Testifying at a public hearing is a principal way to be engaged in civic life and strengthen your community. Elected leaders rely on citizens to broaden their knowledge about neighborhood and community-wide issues. Still, testifying before at a public hearing can be intimidating, especially if you’ve never attended one. This outline is designed to help you prepare and become familiar with the procedures of a public hearing with the Hearings Office. If you know what to expect and are prepared, your message is more likely to be effective.

About the Hearings Office

The City’s Hearings Office conducts impartial administrative hearings and renders decisions in Land Use Hearings, and other hearings. The Hearings Office is under the Auditor’s Office and is separate from, and independent of, other City Departments and government entities.

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This guide is organized into the following sections:

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2. **PREPARING FOR THE HEARING** – things to do in advance of the hearing.
3. **DAY OF THE HEARING** – hearing process, signing in, order and time limits of testifiers.
4. **IMPORTANT CONSIDERATIONS** – reminders and tips for effective testimony.
5. **AFTER THE RECORD CLOSES** – what happens after the public participation part of the hearing is closed.
6. **GLOSSARY OF TERMS** – **terms highlighted in red text** are explained here.
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1. TYPES OF LAND USE ACTIONS

The Hearings Office hears many types of land use actions:

1. **Type III land use reviews** including major Conditional Use, Land Division, Environmental, Zoning Map Amendment, Greenway, Central City Parking, and Conditional Use Master Plan reviews. For these types of reviews, the Hearings Office holds a public hearing on the proposal and considers the staff recommendation, a written report addressing the applicable approval criteria. These types of reviews are considered **quasi-judicial actions** as opposed to **legislative actions**.
2. **Appeals of land use review administrative decisions** (following a Type II process) applies to proposals that are smaller in scale or intensity than Type III proposals. The initial decision of a Type II land use review request is called an administrative decision. A Bureau of Development Services staff planner issues an administrative decision and the Hearings Office hears appeals of these decisions. Appeals may be filed by the applicant, the owner, those entitled to notice, and any person adversely affected by the decision.

2. PREPARING FOR THE HEARING

A. Read the staff recommendation, administrative decision and/or appeal statement.

If the review is a Type III process, a staff recommendation will be published prior to the hearing. For Type II reviews, there will be an administrative decision and an appeal statement that is available prior to the hearing.

Administrative decisions and staff recommendations contain contact information and facts about the subject site, the proposal and the relevant **approval criteria**. Most importantly, they provide the reasons behind the decision or staff recommendation are explained. In addition to the administrative decision for Type II reviews, read the appeal statement and understand what parts of the decision are at issue.

B. Explore other sources of information.

The case planner and other city staff, neighbors, the applicant, property owner, appellant, and neighborhood and business associations can provide you with information about the case. Become familiar with the relevant sections of the Zoning Code, available online at [Portland Zoning Code](#).

C. Tailor your testimony to the relevant **approval criteria**.

Only issues related to the **approval criteria** determine whether the land use review will be approved.

“If you think you’re too small to have an impact, try going to sleep in a room with a mosquito.”

-- Anita Roddick

D. Decide the format of your testimony.

If you wish, you may supplement your oral or written testimony with presentation boards, maps, photos, or PowerPoint presentations. All copies should be submitted to the Hearings Clerk, as follows:

Written testimony will be accepted prior to or at the hearing and should be addressed to the Land Use Hearings Officer, c/o the planner named in the staff report. Written testimony will also be accepted at the hearing.

PowerPoint presentation files (flash drive or other compatible format) should be submitted to the planner prior to the hearing.

Photographs may be provided as part of your testimony. Please provide at least 2 copies of each photograph.

Large scale maps or presentations may also be part of your testimony. You must provide at least one reduced 8-1/2" by 11" copy for the record.

3. DAY OF THE HEARING

"The most common way people give up their power is by thinking they don't have any."

-- Alice Walker

Arrive early. Hearings are usually held at the City of Portland's administrative building, 1900 SW 4th Avenue, Room 3000. Hearings are usually held on Mondays and Wednesdays in the morning. Check the Hearings Officer calendar [here](#).

Testimony. Testimony cards are available as you enter Room 2500A. Please fill in the requested information. You may write comments on this card for the Adjustment Committee to consider, even if you do not want to testify orally. To receive a copy of the final decision, you must provide your complete address. If you are submitting written testimony, provide 10 copies to the Hearings Clerk.

Introducing your Testimony. State your full name and address for the record. Speak directly into the microphone.

Time Limits. Generally, the Hearings Officer does not place time limits on testimony. For hearings involving a large number of testifiers, the Hearings Officer may request that testifiers adhere to a time limit in order for all testimony to be heard.

Hearing: Order of Presenters and Testifiers

	Notes
City Planner, Bureau of Development Services	Presents summary of staff recommendation.
Applicant	Presents proposal and addresses issues.
Supporters of the Applicant	Presents arguments.
Principal Opponent	Presents arguments.
Other Opponents	Presents arguments.
Applicant Rebuttal	Addresses issues raised in testimony.
Hearings Officer discussion	

Appeal: Order of Presenters and Testifiers

	Notes
City Planner, Bureau of Development Services	Presents summary of decision. Explains issues of the appeal.
Appellant	Presents proposal and addresses appeal issues.
Supporters of the Appellant	Presents arguments.
Principal Opponent of the Appeal	Presents arguments.
Other Opponents	Presents arguments.
Appellant Rebuttal	Addresses issues raised in testimony.
Hearings Officer discussion	

4. IMPORTANT CONSIDERATIONS

- **Your testimony can only address the applicable approval criteria or procedural errors.** State how you think the proposal meets or falls short of meeting the **approval criteria**. The staff recommendation or staff decision will cite the relevant approval criteria. Testimony can also address any procedural errors that may have occurred such as applying the wrong approval criteria or not providing written notice.
- **Be clear about your position.** Your testimony should clarify your role and interest in the land use review. Do you agree with the staff recommendation or oppose the appeal? Or, do you support the appeal or disagree with the staff recommendation?
- **The burden of proof is on the land use review applicant** to show that each and every element of the approval criteria can be satisfied. Testifiers may argue the criteria are being incorrectly interpreted, the wrong approval criteria are being applied, or additional approval criteria should be applied.
- **Testifying as a Group.** Instead of each group member restating the same issue, it is more efficient, and equally effective, to have each group member address a different issue and to state that they support the previous testimony on an issue.
- **Requests to the Hearings Officer.** Any party may request that the **hearing be continued** or that the **record be kept open** for submittal of new evidence.

EXAMPLE of Relevant Approval Criterion:

The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

4. AFTER THE RECORD CLOSES

When will the Hearings Officer make a final decision?

Generally, after the record closes, the Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days. For Comprehensive Plan Map Amendments, the Hearings Officer will issue a decision within 30 days. The decision is final and effective on the day the notice of decision is mailed.

Who is notified of the final decision? The Hearings Officer will mail the final decision to the applicant, owner, recognized organizations and persons who responded to the notice, testified at the hearing, or requested notice of the decision. If the hearing was an appeal, the Hearings Officer will also mail the final decision to those who responded to the appeal notice. The final decision is also posted on the Bureau of Development Services website with the other land use decisions [here](#).

Appeal rights. In the case of a Type II appeal, the Hearings Office decision is a final land use decision and may not be appealed to another review body within the City. Those who appeared before the Hearings Officer orally or in writing may appeal the decision to the State Land Use Board of Appeals (LUBA) within 21 days of the date of the final decision.

In the case of a Type III land use review, the Hearings Office decision may be appealed to the City Council as specified in [Portland Zoning Code Section 33.730.030.F](#).

5. GLOSSARY OF TERMS

*“The job of a citizen is to keep
his mouth open.”*

-- Gunter Grass

Approval criteria. The set of statements that must be answered, supported by facts, and be satisfied in their entirety in order for a proposal to be approved. There are many different sets of approval criteria in the Portland Zoning Code; each set is applied to a specific type of review such as a land division or conditional use. The relevant approval criteria for a specific land use review are identified throughout the process in the following documents: the public notice, the administrative decision and the Hearings Office decision. They are also stated during the public hearing for an appeal.

Burden of proof. The burden to present facts and evidence that demonstrate that the approval criteria have been satisfied.

Continued hearing. The Hearings Officer may decide to continue the hearing to a future date, in order to hear additional testimony. The date and time of the continued hearing will be stated at the hearing.

Legislative actions. Generally, legislative actions involve the adoption of law or policy citywide or to a broad geographical area of the city.

Quasi-judicial actions. Generally, quasi-judicial actions involve the application of existing law or policy to a small geographical area or a specific factual situation. Three factors distinguish quasi-judicial decision making: (1) the process results in a decision; (2) pre-existing criteria are applied to the facts to make a decision; and (3) the decision is directed at a closely circumscribed factual situation (site and proposal). A quasi-judicial process must include notice, an opportunity to be heard and present evidence; an impartial decision-maker; and a written decision that explains the basis for the decision.

Record closed. After all testimony, evidence and rebuttal are submitted, the Hearings Officer will end the public participation portion of the hearing. This means no more oral or written testimony may be submitted.

Record held open. A participant may request and the Hearings Officer may decide to leave the record open until a specified date, to allow submission of additional information and rebuttal of that information. The record will close after that date.

6. RESOURCES

Case Planner, Bureau of Development Services (503) 823-7300 (or direct line listed on front page of the decision).

Bureau of Development Services Website

<https://www.portlandoregon.gov/bds/>

Contains information for land use review procedures. Land use decisions are posted by neighborhood area. Adjustment Committee agendas are also posted here.

Portland Zoning Code

<https://www.portlandoregon.gov/bps/31612>

Oregon Dept. of Land Conservation and Development (503) 373-0050

www.oregon.gov/lcd -- publications/citizen involvement.

Tips about How to Testify at Land Use Hearings.

State Land Use Board of Appeals (503) 373-1265

www.oregon.gov/luba – how to file an appeal, hearings schedules, final decisions.

HOW TO GIVE TESTIMONY AT PUBLIC HEARINGS

Tips:

- *Arrive early to sign up to testify. This will also allow you to listen to testimony from others.*
- *Be polite and project a positive image.*
- *Try to anticipate questions you may receive and consider how you would answer them. . . .*