

BINGEN MUNICIPAL CODE

Chapter 17.100

JUDICIAL APPEALS OF LAND USE DECISIONS

Sections:

- 17.100.010 Purpose.
- 17.100.020 Definitions.
- 17.100.030 Land use petition.

17.100.010 Purpose.

The purpose of this chapter is to provide consistent, predictable, and timely judicial review of the city's land use decisions, except that this does not apply to judicial review of:

- A. Land use decisions that are subject to review by a quasi-judicial body created by state law, such as the shorelines hearing board;
- B. Judicial review of applications for a writ of mandamus or prohibition; or
- C. Claims provided by any law for monetary damages or compensation. (Ord 440 Att. A (part), 1997).

17.100.020 Definitions.

Whenever the following words and phrases appear in this chapter, they shall be given the meaning attributed them by this section.

“Land use decisions” means a final determination by a city body or officer with the highest level of authority to make the determination, including those with authority to hear appeals on:

1. An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations; and excluding applications for business licenses;
2. An interpretation or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and
3. The enforcement of ordinances regulating the improvement, development, modification, maintenance, or use of real property. However, when the city is

required by law to enforce the ordinances in a court of limited jurisdiction, a petition may not be brought under this chapter.

“Person” means an individual, partnership, corporation, association, public or private organization, or governmental entity or agency. (Ord 440 Att. A (part), 1997).

17.100.030 Land use petition.

- A. Proceedings for review under this section shall be commenced by filing a land use petition in superior court within twenty-one days of the issuance of the land use decision and serving the following persons who shall be parties to the review;
1. The City of Bingen, which for purposes of the petition shall be the corporate entity and not an individual decision maker or department;
 2. Each of the following persons if the person is not the petitioner:
 - a. Each person identified by name and address in the city’s written decision as an applicant for the permit or approval at issue: and
 - b. Each person identified by name and address in the local jurisdictions written decision as an owner of the property at issue;
 3. If no person is identified in a written decision as provided in subsection (A) (2) of this section, each person identified by name and address as a taxpayer for the property at issue in the records of the county assessor, based upon the description of the property in the application; and
 4. Each person named in the written decision who filed an appeal to a quasi-judicial decision maker regarding the land use decision at issue, unless the person has abandoned the appeal or the person’s claims were dismissed before the quasi-judicial decision was rendered. Persons who later intervened or joined in the appeal are not required to be made parties under this subsection.
- B. For purposes of this section, the date on which a land use decision is issued is:
1. Three days after a written decision is mailed, or if not mailed, the date on which the city provides notice that a written decision is publicly available;
 2. If the land use decision is made by ordinance or resolution by a city body sitting in a quasi-judicial capacity, the date the body passes the ordinance or resolution; or
 3. If neither subsection (B) (1) or (2) of this section applies, the date the decision is entered into the public record.

- C. Notice of judicial appeal and any other pleadings required to be filed with the court shall be served on the city clerk and the city attorney within the applicable time period.
- D. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be refunded to the appellant within thirty days of filing the certified records with the superior court.
- E. The procedure for judicial appeals shall be provided in the Land Use Petition Act, Chapter 36.70C RCW. (Ord 440 Att. A (part), 1997).