

1560 **APPENDIX OF OPTIONAL SECTIONS**

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1562 This Appendix contains provisions that are made optional. Some are entire sections, and some
1563 are paragraphs from sections that are part of the model law.

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1565 **103 Exemptions for Corridor Maps**

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1567 This Chapter does not apply to applications and decisions on, development on land reserved in
1568 corridor maps.

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1570 **201 Development Permit; Unified Development Permit Review Process; Inclusion of Amendment of**
1571 **Zoning Map**

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1573 Optional additional language for paragraph (2):

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1575 For each such development permit, the list shall include:

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1577 (a) citation to the land development regulations, statute, rule, or other legal authority under which the
1578 development permit is required;

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1580 (b) the category of development to which it applies;

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1582 (c) the stage or sequence of the development process at which it must be obtained;

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1584 (d) the designation of the officer or body of the local government responsible for reviewing and granting
1585 the development permit and the subsequent certificate of compliance; whether a record hearing is
1586 required; [and] the approximate time necessary for review and grant of such development permit; [and]
1587 the time limit for granting, granting subject to conditions, or denying such development permit pursuant
1588 to Section [10-210]. The time limit shall:

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1590 1. commence from the time the local government makes a written determination that a development
1591 permit application is complete, or from the time a development application is deemed complete; and

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1593 2. be reasonably based on the approximate time determined under paragraph (2)(d) above.

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1595 **204 Administrative Review**

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1597 The following provisions in paragraph (6) are optional:

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1599 (a) The ordinance establishing the unified development permit review process may describe the
1600 type and sequence of inspections regarding a development authorized by a development permit
1601 in order that a determination of compliance may be issued at the completion of the development.

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1603 (b) An owner of land for which a development permit has been issued may apply upon
1604 completion of the development for a determination of compliance, and may introduce
1605 documentation and evidence, including the written reports of inspections performed according to
1606 paragraph (6)(a) above, and if the agency that issued the development permit finds that the

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1607 completed development was in accordance with the terms and conditions of the development
1608 permit as of a particular date, the determination of compliance shall be effective as of that date.
1609 The determination of compliance shall only address matters of physical construction, not
1610 conditions that concern ongoing operations, such as hours of operation, lighting and
1611 maintenance.

1612
1613 (c) The ordinance establishing the development review process may also provide for the periodic
1614 review of compliance with development permits.

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1616 (d) A local government may bring enforcement proceedings to remedy a violation of this
1617 paragraph, as authorized by law.

1618 1619 **207 Record Hearings**

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1621 The following provisions in paragraph (11) are optional:

1622
1623 (a) The ordinance establishing the unified development permit review process may describe the
1624 type and sequence of inspections regarding a development authorized by a development permit
1625 in order that a determination of compliance may be issued at the completion of the development.

1626
1627 (b) An owner of land for which a development permit has been issued may apply upon
1628 completion of the development for a determination of compliance, and may introduce
1629 documentation and evidence, including the written reports of inspections performed according to
1630 paragraph (6)(a) above, and if the agency that issued the development permit finds that the
1631 completed development was in accordance with the terms and conditions of the development
1632 permit as of a particular date, the determination of compliance shall be effective as of that date.
1633 The determination of compliance shall only address matters of physical construction, not
1634 conditions that concern ongoing operations, such as hours of operation, lighting and
1635 maintenance.

1636
1637 (c) The ordinance establishing the development review process may also provide for the periodic
1638 review of compliance with development permits.

1639
1640 (d) A local government may bring enforcement proceedings to remedy a violation of this
1641 paragraph, as authorized by law.

1642 1643 **208 Consolidated Permit Review Process**

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1645 (1) As part of the ordinance establishing the unified development permit review process, the
1646 legislative body of each local government [shall *or* may] establish a consolidated permit review
1647 process in which an applicant for a development permit may apply at one time for all
1648 development permits or zoning map amendments needed for a development.

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1650 (2) If an applicant for a development permit applies for a master permit, the local government
1651 shall determine what procedures apply to the review of the development, and shall designate a

1652 permit coordinator who shall coordinate the consolidated permit review process. A consolidated
 1653 permit review process may provide different procedures for different categories of development
 1654 permits. If a development requires permits from more than one category of development permit
 1655 as well as zoning map amendments, the local government [shall *or* may] provide for a
 1656 consolidated permit review process with [1] record hearing and no more than one record appeal.
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1658 (3) The local government may authorize the permit coordinator to issue a master permit. The
 1659 permit coordinator shall issue a master permit if all required development permits have been
 1660 granted.

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1662 **HEARING EXAMINERS**

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1664 **301 Hearing Examiner System**

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1666 (1) The legislative body of each local government may adopt an ordinance, as part of its land
 1667 development regulations, which establishes a hearing examiner system. The ordinance shall
 1668 specify those matters on which a hearing examiner may hear and make decisions and
 1669 recommendations including, but not limited to, the following;

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1671 (a) development permit applications;

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1673 (b) proposals for the adoption or amendment of a local comprehensive plan or subplan, or the
 1674 text or map amendment of a land development regulation;

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1676 (c) the administration, interpretation, and enforcement of land development regulations;

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1678 (d) such other matters as the legislative body believes should be heard and decided by a hearing
 1679 examiner.

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1681 (2) The ordinance establishing a hearing examiner system may also authorize the hearing
 1682 examiner to exercise some or all of the powers and duties delegated to [*insert names of officials*
 1683 *and boards*]. Sections [10-301] to [10-307] apply to hearing examiners when they exercise the
 1684 powers and duties of the [*insert names of officials and boards*].

1685

1686 (3) The ordinance establishing a hearing examiner system shall specify the qualifications for
 1687 hearing examiners and the terms and conditions under which they shall serve. Hearing examiners
 1688 shall have such training and experience as will qualify them to conduct hearings and make
 1689 decisions and recommendations as authorized by this Chapter.

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1691 [(4) A local government may also contract with [*insert name of state official*] for the use of
 1692 administrative law judges appointed under [*cite to state administrative procedure act*] to hear
 1693 any matter a hearing examiner may hear.]

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1695 **302 Hearing Examiner's Jurisdiction**

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1697 The ordinance establishing a hearing examiner system shall specify the procedures for initiating
1698 hearings before a hearing examiner, which may include, but shall not be limited to, procedures
1699 that authorize:

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1701 (1) an applicant for a development permit to file an application with a hearing examiner when a
1702 record hearing is required, after the local government has determined that the application is
1703 complete, or after it is deemed complete under this Chapter;

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1705 (2) a permit coordinator appointed under Section [10-208] to refer applications for development
1706 permits submitted in a consolidated review process to a hearing examiner;

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1708 (3) an appeal, within [30] days after a land-use decision is issued[, or within [30] days after the
1709 date a land-use decision is deemed approved under Section [10-210]]:

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1711 (a) if there has been a record hearing, by the applicant for the development permit, and by any
1712 party to the record hearing; and

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1714 (b) if there has been an administrative review:

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1716 1. by the applicant for the development permit; and

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1718 2. by any person, neighborhood planning council, neighborhood or community organization, or
1719 governmental unit, if it is aggrieved by the land-use decision.

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1721 (4) the legislative body, the local planning commission, the [Land-Use Review Board], and any
1722 other body or official to refer any matter delegated to them to a hearing examiner.

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1724 **303 Decision to Recuse**

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1726 The ordinance establishing a hearing examiner system shall authorize the hearing examiner to
1727 recuse himself or herself in any matter submitted, referred, or appealed to the examiner, and to
1728 refer the matter back so that the appointment of another hearing examiner can be considered.

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1730 **304 Decisions Based on Record Hearings**

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1732 (1) The hearing examiner shall hold a record hearing on an application for a development permit.
1733 If a record hearing has not been held on any other matter submitted, referred, or appealed to him
1734 or her, the hearing examiner shall hold a record hearing within [15] days of receiving an a
1735 referral from an officer or body of the local government, or an appeal.

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1737 (2) The hearing examiner shall:

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1739 (a) give notice of the record hearing as required by Section [10-205], through the methods
1740 specified in the local government's unified development permit review process ordinance;

1741 (b) conduct the record hearing as required by the local government's unified development permit
 1742 review process; and

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1744 (c) make findings, make a decision or recommendations, and give notice of that decision or
 1745 recommendations as required by Section [10-207(9)];

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1747 **305 Decisions Based on Record Appeals**

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1749 If a record hearing has been held on any matter submitted, referred or appealed to the hearing
 1750 examiner, the examiner shall conduct a record appeal within [15] days of receiving an
 1751 application for a development permit, a referral from a board or official of the local government,
 1752 or an appeal. Section [10-209] shall govern record appeals held by the hearing examiner.

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1754 **306 Effect of Hearing Examiner's Decisions**

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1756 (1) A hearing examiner's decision on the adoption or amendment of a local comprehensive plan
 1757 or subplan, or the textual or map amendment of a land development regulation, shall only be
 1758 given the effect of a recommendation to the legislative body.

1759

1760 (2) The ordinance establishing a hearing examiner system shall specify the legal effect of all
 1761 other decisions by a hearing examiner, and may provide that their legal effect may vary for the
 1762 different categories of development permits, referrals, and appeals heard by the hearing
 1763 examiner. The ordinance may include any or a combination of the following:

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1765 (a) it may give the hearing examiner's decision the effect of a recommendation to the legislative
 1766 body, board or official having jurisdiction; or

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1768 (b) it may give the hearing examiner's decision the effect of a final decision, and may specify
 1769 whether the decision is appealable to the legislative body or to a designated official or body, or
 1770 whether the decision is a final decision subject only to judicial review as provided by this
 1771 Chapter.

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1773 **307 Review of Hearing Examiner Recommendations**

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1775 (1) If the hearing examiner has held a record hearing on the recommendation, the legislative
 1776 body, board, or officer shall consider the recommendation as a record appeal and shall make a
 1777 decision on the recommendation as provided by Section [10-209].

1778

1779 [(2) If the hearing examiner has not held a record hearing on the recommendation, the legislative
 1780 body, board, or officer shall hold a record hearing on the recommendation and shall make a
 1781 decision on the recommendation as provided by Section [10-207]

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1783 [(3) The legislative body, board, or officer shall give [due regard *or* substantial weight] to the
 1784 recommendation of the hearing examiner.]

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1786 **308 Filing and Publication of Hearing Examiner Decisions**

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1788 The ordinance establishing the hearing examiner system shall require the filing of hearing
1789 examiner decisions in a manner that makes them available to the public, and may require the
1790 publication of hearing examiner decisions in print or electronic media.