

CHAPTER 2 - PROCEDURES FOR DECISION-MAKING

2.000 Types of Procedures for Taking Public Action. Three separate procedures are established for processing development applications (quasi-judicial) and one procedure is established for public actions (legislative) which do not involve land use permits or require consideration of a plan amendment, land use regulation, or city policies. These are Types I-III and Type IV respectively (see Table below):

DECISION-MAKING PROCEDURES

Type I Procedure
(Objective decisions)

Little, if any, discretion required

Because of minimal or no effect on others, issuance of permits is not dependent upon involving others

Type III Procedure
(Complex or subjective decisions)

Discretion required

Possible significant effect on some persons or broad effect on a number of persons

In addition to the applicant, others affected are invited to present information

Type II Procedure
(Objective decisions)

Little, if any, discretion required

Application of the standards may require knowing of some effect upon others

Nearby property owners invited to respond to a development application

Type IV Procedure
(Complex or subjective decisions)

Discretion required

Possible significant effect on some persons or broad effect on a number of persons

In addition to the applicant, others affected are invited to present information

[Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]

2.010 Procedures for Processing Permits.

- A. An application shall be processed under a Type I, II, III, or IV procedure as they are described in sections 2.090 to 2.120 of this chapter. The differences between the procedures are generally associated with the different nature of the decisions as described in Table the table in section 2.000.
- B. When an application and proposed development is submitted, the Director shall determine the type of procedure the code specifies for its processing and the potentially affected agencies. When there is a question as to the appropriate type

procedure, or if the Director contemplates that persons being notified of the application can be expected to question the application's compliance with the code, the application proposal shall be processed under the higher type procedure. An application shall be processed under the highest numbered procedure required for any part of the development proposal. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]

- 2.020 Coordination of Permit Procedure. The Director shall be responsible for the coordination of the permit application and decision-making procedure, and shall issue any necessary permits to an applicant whose application and proposed development is in compliance with the provisions of this code. Sufficient information shall be submitted to resolve all determinations that require furnishing notice to persons other than the applicant. In the case of a Type II or III procedure, an applicant may defer submission of details demonstrating compliance with standards where such detail is not relevant to the approval under those procedures. Before issuing any permits, the Director shall be provided with the detail required to establish full compliance with the requirements of this code. [Adopted by Ord. 550, ef. 9/25/90]
- 2.030 Pre-Application Conference. The applicant or authorized representative shall request that the Director arrange a pre-application conference, unless the Director determines that the conference is not needed. The conference shall be held within 30 days of the request. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the code, provide for an exchange of information regarding applicable elements of the Comprehensive Land Use Plan and development requirements, arrange such technical and design assistance which will aid the applicant, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The Director, if requested by the applicant, shall provide the applicant with a written summary of the conference within ten days of the conference. The summary should include confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]
- 2.040 Application Materials. An application shall consist of the materials specified in this section, plus any other materials required by this code.
- A. A completed application form.
 - B. An explanation of intent, stating the nature of the proposed development, reasons for the request, pertinent background information, information required by this code, and other information that may have a bearing in determining the action to be taken.
 - C. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property.
 - D. State identification number(s) of the property affected by the application.
 - E. List of affected property owners.

1. Type II and III - All owners of properties within 250 feet of the property boundaries of the parcel(s) identified in an application.
 2. Type IV (quasi-judicial) - All owners of properties within 250 feet of the property boundaries of the parcel(s) identified in an application or as otherwise required by state law based on the nature of the application.
- F. Additional information required by other sections of this code because of the type of development proposal or the area involved. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]

2.050 Submission of Application.

- A. Application materials shall be submitted to the Director who shall have the date of submission indicated on the land use application form. Within 15 working days from the date of submission, the Director shall determine and shall notify the applicant in writing whether an application is complete. If the Director determines that the application is incomplete or otherwise does not conform to the provisions of this code, the Director shall notify the applicant in writing of what information is missing; and shall allow the applicant to submit the missing information.
- B. The application shall be deemed complete for the purpose of rendering a final action as required under ORS 227.178 upon receipt, within 180 days of the date the application was first submitted, of:
1. All of the missing information;
 2. Some of the missing information and written notice from the applicant that no other information will be provided; or
 3. Written notice from the applicant that none of the missing information will be provided.
- C. On the 181st day after first being submitted, the application shall be void if the applicant has been notified of the missing information as required under subsection (A) of this section and has not submitted:
1. All of the missing information;
 2. Some of the missing information and written notice that no other information will be provided; or
 3. Written notice that none of the missing information will be provided.
- D. The application fee that was submitted with an application that has been determined to be void, shall be forfeited. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 653, ef. 9/12/97; Amended by Ord. 791, ef. 2/21/08]

2.060 Referral and Review of Applications. Within five days of deeming an application complete, the Director shall do the following:

- A. Transmit one copy of the application, or appropriate parts of the application, to applicable city departments and referral agencies for review and comment, including those responsible for determination of compliance with state and federal requirements. If a notified department or referral agency does not comment within 14 days, it is presumed to have no comment.
- B. Provide written notice to surrounding property owners as set forth in this chapter.
- C. If a Type III or IV procedure is required, provide for notice and hearing as set forth in Chapter 16, Public Deliberations and Hearings, of this code. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 653, ef. 9/12/97; Amended by Ord. 791, ef. 2/21/08]

2.070 Development Decision.

[Adopted by Ord. 550, ef. 9/25/90; Repealed by Ord. 791, ef. 2/21/08]

2.080 Action on Resubmission of Denied Application.

[Adopted by Ord. 550, ef. 9/25/90; Repealed by Ord. 791, ef. 2/21/08]

2.090 Type I Procedure.

- A. Under the Type I procedure, an application shall be processed without a need for a public hearing or notification of other property owners.
- B. Within 30 days of the date of acknowledging an application complete as set forth in section 2.050 of this chapter, the Director shall approve, conditionally approve, or deny the request. The decision of the Director shall be based upon the application, evidence, comments from city departments and referral agencies, and approvals required by others. The Director shall notify the applicant and, if required, others entitled to notice of the decision. The notice shall indicate the date that the decision will take effect and describe the right of appeal pursuant to Chapter 16, Public Deliberations and Hearings, of this code.
- C. The Director shall approve a development if he or she finds that applicable approvals by others have been granted and the proposed development, with or without conditions, otherwise conforms to the requirements of this code.
- D. The Director shall deny the development if required approvals are not obtained or the application otherwise fails to comply with code requirements. The notice shall describe the reason for denial.
- E. A decision of the Director under the Type I procedure may be appealed to the Planning Commission by an affected party in accordance with Chapter 16, Public Deliberations and Hearings, of this code except that, an appeal of a Type I decision is a review of the record supplemented by oral commentary relevant to the record presented by parties to the prior decision. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]

2.100 Type II Procedure.

- A. Under the Type II procedure, an application shall be processed without a need for a public hearing; however, the Director shall provide notification to all owners of property within 250 feet of the property boundaries of the parcel identified in the application. The notice shall summarize the nature of the application and shall list the relevant standards and criteria of the code. The notice shall invite persons to submit information relevant to the standards that are pertinent to the proposal within 14 days, giving reasons why the application should or should not be approved, or proposing modifications the person believes are necessary for approval according to the standards.
- B. Within 45 days of the date of acknowledging an application complete as set forth in section 2.050 of this chapter, the Director shall review any information received under subsection (A) of this section, make a findings, and make a decision on the application by approving, conditionally approving, or denying the application. The Director's decision may be appealed to the Planning Commission by the applicant or by any person who responded to the notice. The procedure for the appeal is in accordance with Chapter 16, Public Deliberations and Hearings, of this code, except that review of a Type II decision is a review of the record supplemented by oral commentary relevant to the record presented by parties to the prior decision. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]

2.110 Type III Procedure.

- A. Under the Type III procedure, an application is scheduled for public hearing pursuant to Chapter 16, Public Deliberations and Hearings, of this code before the Planning Commission which may approve, approve with conditions, or deny an application. The form of notice and persons to receive notice are as required by the relevant sections of this code. At the public hearing, the staff, applicant, and interested persons may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or proposing modifications and the reasons the person believes the modifications are necessary for approval. The Planning Commission may attach certain development or use conditions beyond those warranted for compliance with the standards in granting an approval if the Planning Commission determines the conditions are necessary to avoid imposing burdensome public service obligations on the City, to mitigate detrimental effects to others where such mitigation is consistent with an established policy of the City, and to otherwise fulfill the criteria for approval. If the application is approved, the Director will issue any necessary permits when the applicant has complied with the conditions set forth in the final order and other requirements of this code.
- B. A decision of the Planning Commission may be appealed to the City Council by a party to the hearing in accordance with Chapter 16, Public Deliberations and Hearings, of this code. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]

2.120 Type IV Procedure. The City Council is the decision-making body under this procedure after the Planning Commission has forwarded its recommendation to the Council. Actions taken under this procedure may be either quasi-judicial or legislative. This procedure is for situations that do not involve approval of specific development proposals or when consideration of a development proposal requires consideration of a plan amendment,

adoption of a land use regulation, a planned development overlay, or a master development plan required by a Master Planned Mixed Use (MPMU) Plan designation.

- A. Under the Type IV procedure, the Director shall first schedule a public hearing pursuant to Chapter 16, Public Deliberations and Hearings, of this code and this section before the Planning Commission. Following action by the Planning Commission, the Director shall schedule a public hearing before the City Council. The form of notice and persons to receive notice are as required by the relevant sections of this code. At the public hearings the staff and interested persons may present testimony relevant to the proposal. If pertinent, they may give information on whether the proposal does or does not meet appropriate criteria and standards for approval, or they may give proposals for modifications they consider necessary for approval. If criteria are involved, the Planning Commission shall make a finding for each of the criteria applicable, including whether the proposal conforms to applicable Comprehensive Land Use Plan goals and policies. A written report and recommendation shall be submitted to the City Council. The decision of the City Council shall also address each of the applicable criteria.
- B. If the Planning Commission has recommended against a legislative proposal, or has failed to act on a legislative proposal, the City Council may terminate further consideration of the proposal by a majority vote of the Council. For a proposal on which the Planning Commission has made a favorable recommendation, and for other proposals that have not been terminated, the City Council shall conduct a public hearing pursuant to Chapter 16, Public Deliberations and Hearings, of this code. The Director shall set a date for the hearing. The form of notice and persons to receive notice are as required by the relevant sections of this code. At the public hearing, the staff shall review the report of the Planning Commission and provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission, make final arguments why the matter should or should not be approved and, if approved, the nature of the provisions to be contained in approving action. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 653, ef. 9/12/97; Amended by Ord. 791, ef. 2/21/08]

2.130 Legislative Enactments Not Restricted. Nothing in this chapter shall limit the authority of the City Council to make changes in zoning districts boundaries or development regulations as part of some more extensive revision of the Comprehensive Land Use Plan or the implementing ordinances. Nothing in this chapter shall relieve a use or development from compliance with other applicable laws. [Adopted by Ord. 550, ef. 9/25/90; Amended by Ord. 791, ef. 2/21/08]

2.140 Expedited Land Division. A land division shall be processed pursuant to the expedited land division procedures set forth in ORS Chapter 197 if:

- A. The land division qualifies as an expedited land division as that term is defined in ORS Chapter 197; and
- B. The applicant requests in writing that the land division be processed as an expedited land division. [Adopted by Ord. 638, ef. 2/23/96; Amended by Ord. 791, ef. 2/21/08]