

CHAPTER 3-2
APPLICATION REQUIREMENTS AND REVIEW PROCEDURES

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3.201 GENERAL PROCEDURES

3.201.01 Procedure for Type I-A Review

Applications subject to administrative review shall be reviewed and decided by the City Administrator or his designee.

- A. Upon receipt of an application for a Type I-A land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
 - 1. Upon receipt of the additional information; or, if the applicant refuses to submit the information;
 - 2. On the 31st day after the original submittal the application shall be deemed complete for review purposes.
- C. Referrals will be sent to interested agencies such as City departments, police departments, school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the Yamhill County public works department and/or ODOT.
- D. If the staff finds that the facts of the particular case require interpretation of existing standards, then a public hearing before the Planning Commission shall be scheduled. The procedures for conducting the public hearing shall comply with the standards in Sections 3.203.
- E. Within thirty (30) days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance;
- F. Notice shall be provided consistent with Section 3.202.01.
- G. A Type I-A land use decision may be appealed by the applicant to the Planning Commission. The appeal shall be filed within ten (10) days from the date of the decision, pursuant to the provisions of Section 3.205.

- H. The timing requirements established this Section are intended to allow a final action, including resolution of any appeals, within one hundred twenty (120) days of receipt of a complete application. If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.
1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting with in the 120 day period.
 2. Public notice shall be mailed to affected parties as specified in Section 3.202.
 3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 3.204 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.

3.201.02 Procedure for Type I-B Review

Applications subject to administrative review shall be reviewed and decided by the City Administrator or his designee.

- A. Upon receipt of an application for a Type I land use action; the City staff shall review the application for completeness.
1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
1. Upon receipt of the additional information; or, if the applicant refuses to submit the information;
 2. On the 31st day after the original submittal the application shall be deemed complete for review purposes.

- C. Referrals will be sent to interested agencies such as City departments, police departments, school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the Yamhill County Public Works Department and / or ODOT.
- D. If the staff finds that the facts of the particular case require interpretation of existing standards, then a public hearing before the Planning Commission shall be scheduled. The procedures for conducting the public hearing shall comply with the standards in Sections 3.203.
- E. Within thirty (30) days of receipt of a complete application or such longer period mutually agreed to by both staff and the applicant, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance;
- F. Approvals of a Type I-B action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:
 - 1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
 - a. Ensure that the standards of the development code are met; or
 - b. Fulfillment of the need for public service demands created by the proposed use.
 - 2. Changes of alterations of conditions shall be processed as a new administrative action.
 - 3. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.
 - a. Types of Guarantees

Performance guarantees may be in the form of performance bond payable to the City of Lafayette, cash, certified check, time certificate of deposit, or other form acceptable to the City. The form must be approved by the City Attorney and appropriate documents filed with the City Recorder.

b. Amount of Guarantee

The amount of the guarantee must be equal to at least one-hundred-ten percent (110%) of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of all materials, labor, equipment and other costs of the required performance.

- G. Notice of the decision shall comply with the provisions in Section 3.202.01.
- H. A Type I-B land use decision may be appealed to the Planning Commission, by either the applicant or persons receiving notice of the decision. The appeal shall be filed within ten (10) days from the date of the decision, pursuant to the provisions of Section 3.205.
- I. The timing requirements established this Section are intended to allow a final action, including resolution of appeals for all Type II or Type III land use actions within one hundred twenty (120) days of receipt of a complete application. If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.
1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting with in the 120 day period.
 2. Public notice shall be mailed to affected parties as specified in Section 3.202.
 3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 3.204 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.

3.201.03 Procedures for Type II and Type III Actions

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.

2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
1. Upon receipt of the additional information; or, if the applicant refuses to submit the information;
 2. On the 31st day after the original submittal the application shall be deemed complete for scheduling purposes only.
- C. Applications for more than one Type II or Type III land use action for the same property may, at the applicant's discretion, be combined and heard or reviewed concurrently.
- D. Referrals will be sent to interested agencies such as City departments, police departments, school district, utility companies, and applicable state agencies. If a county road or state highway is impacted, referrals should be sent to the Yamhill County Public Works Department and / or ODOT.
- E. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 3.202.02.
- F. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties.
- G. The public hearing before the Planning Commission shall comply with the provisions in Section 3.203.
- H. Approvals of any Type II or Type III action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:
1. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by a proposed land use described in an application. Conditions shall be related to the following:
 - a. Protection of the public from the potentially deleterious effects of the proposed use; or

- b. Fulfillment of the need for public service demands created by the proposed use.
- 2. Changes of alterations of conditions shall be processed as a new administrative action.
- 3. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates to the satisfaction of the Planning Commission that it is not practical to fulfill all conditions prior to issuance of such permit, the Planning Commission may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.

- a. Types of Guarantees

Performance guarantees may be in the form of performance bond payable to the City of Lafayette, cash, certified check, time certificate of deposit, or other form acceptable to the City. The form must be approved by the City Attorney and appropriate documents filed with the City Recorder.

- b. Amount of Guarantee

The amount of the guarantee must be equal to at least one-hundred-ten percent (110%) of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of all materials, labor, equipment and other costs of the required performance.

- c. Time Periods

The Planning Commission may grant a waiver of performance for a period not to exceed six (6) months. A request for extension of any waiver granted must be submitted to and approved by the City Council.

- I. The applicant shall be notified, in writing, of the Planning Commission's decision or recommendation. In addition, notice of the Commission's decision shall be mailed to individuals who request such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing.
- J. A Type II land use decision may be appealed to the City Council by either the applicant or persons receiving notice of the decision. The appeal shall be

filed within ten (10) days from the date of the decision, pursuant to the provisions of Section 3.205. Type III land use applications are automatically reviewed by the City Council.

- K. The timing requirements established this Section are intended to allow a final action, including resolution of appeals for all Type II or Type III land use actions within one hundred twenty (120) days of receipt of a complete application. If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.
1. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120 day period.
 2. Public notice shall be mailed to affected parties as specified in Section 3.202.
 3. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 3.204 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.

3.202 PUBLIC NOTICE REQUIREMENTS

3.202.01 Type I Actions

- A. Written notice of any Type I-A decision shall be mailed to the applicant.
- B. Written notice of any Type I-B decision shall be mailed to the applicant and all property owners within 100 feet of the subject property.

3.202.02 Type II and Type III Actions

- A. Notice of any public hearings before the Planning Commission or City Council for a Type II or Type III land use action required by this Ordinance shall be published in a newspaper of general circulation in the City at least twenty (20) days prior to the public hearing. Newspaper notice shall only be required for comprehensive plan amendments, subdivisions, vacations, and zone changes.
- B. Written notice of the initial public hearing shall be mailed at least twenty (20) days prior to the hearing date to the owners of property within 100 feet of the boundaries of the subject property.
- C. The City shall post public notice, as described in Subsection E., on the subject property at least seven days prior to the public hearing.
- D. Where a multiple hearing application is scheduled (Type IV) only a ten (10) written and published notice shall be required.

3.202.03 Notice for Appeals

- A. Notice of hearings on appeal to either the Planning Commission or City Council shall be pursuant to Subsection (A) above, and shall include written notice at least ten (10) days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.

3.202.04 Notice Requirements

- A. Public notice shall:
 - 1. Explain the nature of the application and the proposed use or uses which could be authorized;
 - 2. Cite the applicable criteria from the ordinance and the plan which apply to the application at issue;

3. Set forth the street address or other easily understood geographical reference to the subject property;
4. State the date, time and location of the hearing;
5. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Appeals Board of Appeals;
6. Include the name of the City representative to contact and the telephone number where additional information may be obtained;
7. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost;
8. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost;
9. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.

3.203 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

3.203.01 General Provisions

- A. Land use actions which require a public hearing by the Planning Commission under the provisions of this Ordinance shall be initially heard by the Planning Commission within sixty (60) days of the receipt of an application or appeal.
- B. The Planning Commission may continue a public hearing for additional, information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.
- C. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.
- D. The decisions of the Planning Commission on applications for Type II actions shall be final unless appealed to the City Council pursuant to Section 3.205.
- E. The recommendations of the Planning Commission on applications for Type III actions shall be referred to the City Council for final determination, pursuant to Section 3.204.
- F. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.
- G. Appeal of a Type I action shall be heard by the Planning Commission in accordance with provisions of Section 3.205. Findings of the Planning Commission on such appeal shall be final unless further appealed to the City Council.

3.203.02 Public Hearing Procedures

- A. The Public Hearing shall be conducted under the following procedures:
 - 1. Open the public hearing and announce the purpose.
 - 2. Call for abstentions.
 - 3. Ask for objections to jurisdiction.
 - 4. Staff report.
 - 5. Proponents address Commission/Council.
 - a. Principal.
 - b. Others.

6. Opponents address Commission/Council.
7. Questions of proponents and opponents from the floor and Commission/Council directed through Chair/Mayor.
8. Public Agencies.
9. Letters.
10. Proponent rebuttal.
11. Staff recommendation.
12. Close of hearing.
13. Deliberation of Commission/Council of findings of fact.

3.203.03 Evidence

- A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form.
- C. All evidence shall be offered and made a part of the public record in the case.
- D. The Planning Commission may take notice of judicially recognizable facts, and members may take notice of general, technical or scientific facts within their specialized knowledge. Parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Planning Commission members may utilize their experience, technical competence and specialized knowledge in evaluation of the evidence presented.
- E. Every party is entitled to an opportunity to be heard and to present and rebut evidence.
- F. All interested persons shall be allowed to testify.

3.203.04 Record of Hearing

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

3.203.05 Limits on Oral Testimony

The Planning Commission Chairman may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

3.203.06 Exhibits

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

3.204 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL.

3.204.01 General Provisions

- A. Action on Type III Reviews: The City Council shall hear all Type III actions pursuant to Subsection 3.201.02. The City Council action on such requests shall be the final action of the City on the request.
- B. Appeals: The City Council shall hear appeals of all Planning Commission actions conducted pursuant to Section 3.205. The appeal hearing shall be conducted in a manner consistent with Section 3.204. The action of the Planning Commission shall be final and the appeal shall not be heard by the Council if the appeal period has lapsed.
- C. All hearings or reviews required by the City Council shall be heard within thirty (30) days of the Planning Commission's written decision or appeal request. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a complete application, unless voluntarily agreed to by the applicant.
- D. The decision shall be made by the City Council and written findings prepared listing findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council. In no case, however, shall this decision and the preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application, unless voluntarily agreed to by the applicant.

3.204.02 Hearings by City Council

Actions on quasi-judicial requests shall be conducted at public hearings pursuant to the City Council's adopted rules of procedure. The City Council shall allow opportunity for all parties to be heard and may accept new evidence.

3.204.03 Review by City Council

- A. Review on Record: Except as set forth in Subsection 3.203.03 (B), the City Council review of an appeal on an action by the Planning Commission shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the Planning Commission action. The meeting shall be conducted as set forth in the City Council's adopted rules of procedures. The record of the initial proceeding shall include:
 - 1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence;

2. All materials submitted by the City Staff with respect to the application;
 3. The transcript of the hearing; and
 4. The findings and action of the Planning Commission and the notice of decision.
- B. Submission of New Testimony and De Novo Hearings: The City Council may admit additional testimony and other evidence by holding a de novo hearing.

Upon the decision to admit additional testimony or other evidence and to hear the entire matter de novo, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters at the initial hearing.

- C. City Council Action: The City Council may affirm, rescind or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the Comprehensive Plan and as provided for in Subsection 3.201.02. The City Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120 day review period specified in Section 3.201.02 (G).

3.205 APPEAL PROVISIONS

3.205.01 Appeal Period

- A. The decision of the City Recorder shall be final for a Type I land use decision unless a notice of appeal from an appropriate aggrieved party is received by the City within ten (10) days of the date of the final written notice, or unless the City Council, on its own motion, orders review within ten (10) days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal.
- B. The decision of the Planning Commission for a Type II land use decision, or the appeal of a Type 1-A or 1-B decision, shall be final unless a notice of appeal from an aggrieved party is received by the City within ten (10) days of the date of the final written notice, or unless the City Council, on its own motion, orders review within ten (10) days of initial action. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

3.205.02 Form of Appeal

Appeal requests shall be made on forms provided by the City and shall state the alleged errors in the Planning Commission action.

3.205.03 Notice Requirements

- A. Notice of hearings by the Planning Commission on appeal requests shall be as specified in Section 3.202.
- B. Notice of hearings by the City Council on appeal requests shall be as specified in Section 3.202.

3.205.04 Transcript Fees

In addition to other fees for appeal requests, the appellant shall pay a transcript fee equal to the actual cost of the preparation of the transcript up to \$500, plus one-half the actual costs over \$500. The cost of the transcript fee shall be determined by the cost per page for the preparation of such transcripts, at the rate of \$0.25 per page.

The City shall estimate the cost of the transcript at the time of the filing of the appeal request and shall receive a deposit in that amount. The appellant shall be billed for actual costs in excess of the deposit or receive a refund for surplus deposit funds in excess of transcript fees authorized by this Section.

3.206 FEES

3.206.01 Purpose

Fees are for the purpose of defraying administrative costs.

3.206.02 General Provisions

- A. Fees shall be payable at the time of application and shall be as set forth by Ordinance or Resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
- B. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect.
- C. Fees are not refundable unless the application is withdrawn prior to the notification of the hearing.
- D. The City Council may reduce or waive the fees upon showing of just cause to do so.

3.207 TYPE IV ACTIONS

3.207.01 Initiation

Type IV may be initiated by:

- A. Majority vote of the City Council.
- B. Majority vote of the Planning Commission.

3.207.02 Procedure for Type IV Actions

- A. Public Hearings by Planning Commission
 - 1. A public hearing shall be held by a majority of the Planning Commission on all proposed amendments to this Ordinance and on all legislative amendments to the Zoning Maps.

The Planning Commission may continue any hearing in order to make a reasonable decision.
 - 2. Amendments shall be considered and acted upon by the Planning Commission and no extension granted by the City Council, the City Council may act upon the amendment.
 - 3. Notice of the time, place and purpose of the Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than twenty (20) days prior to the date of hearing.
- B. Public Hearing by City Council: Following Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation on proposed amendments. Notice shall be as specified in Section 3.202.

3.208 REVOCATION OF DECISION

3.208.01 Compliance with Conditions

Compliance with conditions imposed by the City Recorder, Planning Commission or City Council in granting a permit for any land use action shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this Ordinance.

3.208.02 General Provisions

- A. The City Recorder may initiate a revocation of any land use permit or approval issued for failure to comply with any prescribed condition of approval. The hearing shall be conducted as a Type II hearing and in accordance with the procedures for a Type II hearing.
- B. Final decisions regarding Comprehensive Plan text or map amendments, Development Code text amendments or zone changes shall not be subject to revocation.