City of Portland, Oregon - Bureau of Development Services

1900 SW Fourth Avenue • Portland, Oregon 97201 • 503-823-7300 • www.portlandoregon.gov/bds

Type II and IIx Decision Appeal Form

LU Number:

FOR INTAKE, STAFF USE ONLY

Date/Time Received _____ ❑ **Action Attached** _____

Received By _____ **Fee Amount** _____

Appeal Deadline Date _____ [Y] [N] **Fee Waived**

❑ **Entered in Appeal Log** _____ **Bill #** _____

❑ **Notice to Dev. Review** _____ **Neighborhood** _____

APPELLANT: Complete all sections below. Please print legibly.

PROPOSAL SITE ADDRESS _____ **DEADLINE OF APPEAL** _____

Name _____

Address _____ **City** _____ **State/Zip Code** _____

Day Phone _____ **Email** _____ **Fax** _____

Interest in proposal (applicant, neighbor, etc.) _____

Identify the specific approval criteria at the source of the appeal:

Zoning Code Section 33. _____ . _____ **Zoning Code Section 33.** _____ . _____

Zoning Code Section 33. _____ . _____ **Zoning Code Section 33.** _____ . _____

Describe how the proposal does or does not meet the specific approval criteria identified above or how the City erred procedurally:

_____

_____

_____

Appellant's Signature _____

FILE THE APPEAL - Submit the following:

- ❑ This completed appeal form
- ❑ A copy of the Type II or IIX Decision being appealed
- ❑ An appeal fee as follows:
  - ❑ $250, payable to City of Portland
  - ❑ No appeal fee is charged when appeal is filed by ONI recognized organizations for properties within organization's boundaries
  - ❑ Fee waiver for low income individual approved (attach letter from Director)
  - ❑ Fee waiver for Unicorporated Multnomah County recognized organizations is signed and attached

The appeal must be filed by 4:30 pm on the deadline listed in the Decision. To ensure the appeal is received within this deadline, the appeal should be filed in the Development Services Center at 1900 SW 4th Ave, 1st Floor, Suite 1500, Portland, Oregon, between 8:00 am and 3:00 pm on Monday through Wednesday and Friday, and between 8:00 am and 12:00 pm on Thursday. After 3:00 pm on Monday through Wednesday and Friday, and after 12:00 pm on Thursday, the form(s) must be submitted at the Reception Desk on the 5th Floor.

A public hearing on the appeal will be held. The land use review applicant, those who testified and everyone who received notice of the initial hearing will receive notice of the appeal hearing date.

Information about the appeal hearing procedure and fee waivers is on the back of this form.

Type II and IIx Appeal Procedure

For land use review applications that follow a Type II and IIx procedure, the Bureau of Development Services makes the decision on the application. This decision is called the Administrative Decision and may be appealed. The applicant and/or an interested person who does not agree with the Administrative Decision may appeal it by using the Type II and IIx Decision Appeal Form and submitting an appeal fee. No appeal fee is charged for Type II and IIx appeals when filed by an ONI recognized organization; the appeal must be for property located within the organization's boundaries, and the vote to appeal must be in accordance with the organization's bylaws. An appeal of a decision triggers an initial hearing before a City review body.

There is a 14-day appeal period that starts the day that the decision is mailed. The last day to appeal is stated in the decision. If appealed, a specific review body hears the case and makes the final City decision. These review bodies include:

- The Hearings Officer
- The Design Commission
- The Portland Historic Landmarks Commission
- The Adjustment Committee

Type II and IIx Appeal Hearing

When a decision is appealed, the Bureau of Development Services schedules a public hearing and sends out a notice within five days of receiving the appeal. The hearing is held at least 21 days from the mailing of the notice.

At the hearing, everyone attending is allowed to speak to the review body. The testimony must address whether or not the proposal meets the approval criteria as described in the Administrative Decision or how the City erred procedurally. Written testimony is also accepted prior to or at the hearing. This may include additional information submitted by the applicant and/or appellant.

If a committee reviews the appeal, a decision is made at the hearing. If the Hearings Officer is the review body, they may make a decision at the hearing, or make a decision later. Both the Hearings Officer and the committee must make a written decision and send notice of the decision within 17 days after the hearing. The decision is mailed to the appellant, applicant, and to anyone who submits oral or written testimony at the hearing.

The review body may adopt, modify, or overturn the Administrative Decision based on the information presented at the hearing and in the case record.

Appeal Fees

An appeal of a land use decision must include an appeal fee. There is a $250 fee charged for appealing a Type II and IIx decision. This fee is refunded if the decision-maker grants the appeal; i.e. agrees with the appellant.

In order for an appeal to be valid, an appeal fee must accompany the appeal form or a fee waiver request must be approved before the appeal deadline as stated in the specific land use decision (Section 33.730.020 of the Portland Zoning Code). See below for fee waiver eligibility information.

Low Income Fee Waiver

The appeal fee may be waived for low income applicants who appeal a land use decision on the site of their primary residence in which they have an ownership interest. In addition, the appeal fee may be waived for low income individuals who have resided for at least 60 days within the required notification area for the land use review. Low income individuals requesting a fee waiver will be required to certify their annual gross income and household size. The appeal fee will only be waived for households with a gross annual income of less than 50 percent of the area median income as established and adjusted for household size by the federal Department of Housing and Urban Development (HUD). All financial information submitted to request a fee waiver is confidential. Fee waiver requests must be approved prior to appeal deadline to be considered for a fee waiver.

An information sheet on how to apply for a fee waiver for a low income individual is available at Development Services Center, 1900 SW 4th Avenue; 1st floor, 503-823-7526.

Information is subject to change