



City of Portland

Bureau of Development Services

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INTERIM RULE

RELATING TO
Title 33.750 Planning and Zoning Fees

FOR INFORMATION CONTACT
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TOPIC: Administrative Fees for Land Use Processes During COVID

AUTHORITY:

The Bureau of Development Services (BDS) has the authority for application, implementation and enforcement of the provisions of Planning and Zoning Regulations, Title 33. Under Section 3.30.040 A, the Director of BDS has the authority to adopt written policies and procedures for the enforcement of applicable Code provisions and laws. Sections 33.750.010 and 33.750.020 of the Planning and Zoning Regulations create the general framework for administering fees related to Title 33. The purpose of this Administrative Rule is to establish guidelines for fee charges, refunds and waivers for Land Use Services (LUS) in relation to land use processes during the COVID-19 emergency. This Administrative Rule does not establish guidelines for other BDS services or for services of other bureaus, including those related to a land use process.

CITATION:

3.30.010 Duties of the Bureau of Development Services.

The Bureau of Development Services shall be responsible for:

C. The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 as delegated by the Director of the Bureau of Planning and Sustainability.

33.750.010 Purpose

Application fees aid in defraying the City's cost for processing applications. Fees charged are not intended to exceed the average cost for processing the type of review requested.

33.750.020 Fee Schedule and Procedures

Required fees for Title 33 land use reviews and appeals of land use decisions are stated in the bureau's Fee Schedule, available at the Development Services Center. Rules and Procedures for the payment of fees, refunds, and waiver of fees are determined by the Director of BDS.

Administrative Rule

Administrative Fees for Land Use Processes

I. Intent and Purpose.

The purpose and intent of this rule is to establish criteria by which the Director of the Bureau of Development Services will charge, refund or waive fees associated with Land Use Services (LUS) applications. This rule does not establish guidelines for other BDS services or for services of other bureaus, including those services related to a land use process.

II. General Fees

The Bureau of Development Services (BDS) has the authority to charge a fee for the services identified on the adopted fee schedule.

Current fees are available in the BDS fees schedule available on-line at www.portlandoregon.gov/bds .

III. Intake of Land Use Application and fees

A. Application Submittal

1. Applications submitted via email for Land Use Reviews must be emailed to **Landuseintake@portlandoregon.gov**. Applications will be considered “received” on the date the email reaches the **Landuseintake@portlandoregon.gov** email inbox. If an application is emailed to any other city or bureau email address, it is not considered “received” until that application reaches the **Landuseintake@portlandoregon.gov** email inbox. Land use review applications that are emailed to **Landuseintake@portlandoregon.gov** after 5 p.m. Monday through Friday or on weekends or holidays will be identified as "received" on the following business day.
2. A Land Use Services technician will contact the applicant with instructions for providing payment for emailed applications. If payment is not made within 3 business days after instructions have been provided to the applicant, the application will not be considered “received”.
3. All land use review and final plat applications must have documents unlocked and able to be edited. An application will not be considered “received” until it is unlocked.

IV. Intake of an Appeal Application

- A.** Applications submitted for Land Use Review Appeals must be emailed to LandUseIntake@portlandoregon.gov or received through mail by the deadline provided in the Notice of Decision. If an application is emailed to any other city or bureau email address, it is not considered "received".
- B.** Appeal applications that are emailed after 5 p.m. Monday through Friday or on weekends or holidays will be identified as "received" on the following business day.
- C.** A Land Use Services technician will contact the appellant with instructions for providing payment for an appeal application. If payment is not made within 2 business days after instructions have been provided, the appeal application will not be considered "received".

V. Change of a condition of approval

All requests to change any conditions of approval of a final land use review decision must include a review fee. The review fee is either the current fee for the applicable land use review or the unassigned review fee, whichever is less.

VI. Fee Waivers or Refunds

The Director of BDS will consider fee waivers or refunds on a case by case basis. The decision of the Director to waive or refund fees is final.

A. Fee Waivers

The Director may waive BDS land use review application or appeal fees as specified below for recognized organizations, low-income applicants, City government or nonprofit organizations. (A "recognized organization" is defined in PCC 33.910.) An application for a fee waiver may be filed concurrently with the land use review application or appeal form.

1. Recognized organization appeal fee waivers.

- a. Type II and IIx land use review appeals.** Per state law, no appeal fee is charged to recognized organizations for the appeal of a Type II or Type IIx land use review and the site must be within that neighborhood or community organization's boundaries. To be deemed "recognized" by the Office of Neighborhood Involvement (ONI), the organization has to abide by the Oregon Public Records and Public Meeting Laws, and ONI requires that any vote of the neighborhood association be in accordance with the organization's bylaws.
- b. Type III land use review appeals.** The Director may waive land use review appeal fees for recognized organizations for Type III land use reviews if all of the following conditions are met: The recognized organization has standing to appeal. (See City Zoning Code Section 33.730.030.F, Ability to appeal);

- 1) The appeal is being made on behalf of the recognized organization; and
- 2) The appeal contains the signature of the chairperson of the organization, as recognized by the Office of Neighborhood Involvement, or the signature of other persons authorized by the organization, confirming the vote to appeal was done in accordance with the organization's bylaws.

2. Low-income fee waivers for land use review applications.

The Director will determine eligibility only for BDS Land Use Services land use review application fee waivers; the Director cannot consider fee waivers for other bureaus' fees associated with land use review applications. Financial information provided by the applicant will remain confidential to the extent permitted under Oregon public records law.

a. Land use review application fees. A low-income applicant may request a land use review application fee waiver on the site of the applicant's primary residence, if the applicant owns the site in whole or in part.

- 1) An applicant receiving a fee waiver must be an individual or noncorporate entity.
- 2) An applicant for a fee waiver will be required to certify gross annual income and household size. The fee will be waived only for households with a gross annual income of less than 50 percent of the area median income as established by the Department of Housing and Urban Development (HUD), as adjusted for household size. The Director must make information relating to fee waivers available for review.

b. Appeal fees.

- 1) Appeal fees may be waived for applicants qualifying for a land use review application fee waiver who are appealing the decision on their application.
- 2) Appeal fees also may be waived for a low income individual or noncorporate entity appealing a land use review decision in their neighborhood, provided the following are met:
 - a) The individual resides or the entity is located within the required notification area for the review; and
 - b) The individual has resided in a dwelling unit at that address for at least 60 days.

3. City government fee waiver for land use review applications.

The Director may waive the LUS land use review fees when a City Bureau is the applicant.

4. Nonprofit fee waiver for land use review applications.

The Director may waive the LUS land use review fees for nonprofit organizations that directly serve low-income individuals. To waive the fees, the Director must find that the activities, but not necessarily the specific request of the organization, are consistent with and further City goals and policies.

B. Fee Refunds.

The BDS Director will consider refunds for the BDS Land Use Services' portion of the required fees for appeals, land use reviews, final plats, pre-application conferences, early assistance appointments, or public registry applications as noted below

1. **Appeals of land use reviews.** Appeal fees are refunded for the appeal of Type II, IIX and III land use review decisions meeting the following conditions:
 - a. **Type III land use reviews.** The appeal hearing was limited to evidence found in the case record and no new evidence was allowed to be presented; and
 - b. **Type II, IIX and III land use reviews.** The appellant must prevail if a refund is to be granted. An appellant has prevailed if the appellant succeeds in:
 - 1) Overturning the lower decision maker's decision; or
 - 2) Persuading the appellate decision maker to modify the lower decision maker's decision in the appellant's favor for one or more of the reasons identified in the appeal.

It is not necessary for the appellant to prevail on all of the issues raised--prevailing on just one issue is sufficient.

2. **Unnecessary fees.** When a fee is accepted for a Land Use Services application that is later found to not be required, a full refund of all Land Use Services application fees for the unnecessary review will be given.
3. **Errors.** When an error is made in calculating a fee, overpayment will be refunded.

4. Withdrawn Land Use Services applications. Refunds for withdrawn land use review applications, final plat applications, pre-application conferences, early assistance appointments, or public registry applications shall be granted as provided below:

a. Withdrawn land use review applications. Requests for withdrawal of a land use review application must be in writing. Fees will be refunded as follows:

When a written request for the withdrawal of a Type I, Ix, II or Iix Land Use Review application is received:	Amount of refund of BDS Land Use Services fee:
Before the Notice of Proposal is sent to Printing & Distribution.	75% However, in no case should the amount the City retains be less than \$200 or more than \$1,500.
After the Notice of Proposal is sent to Printing & Distribution but before staff sends the Notice of Decision to Printing & Distribution.	25% However, in no case should the amount the City retains be less than \$300 or more than \$4,000.

When a written request for the withdrawal of a Type III or IV Land Use Review application is received:	Amount of refund of BDS Land Use Services fee:
Before the Request For Response is sent to the responding bureaus.	75% However, in no case should the amount the City retains be less than \$400 or more than \$2,000
After the Request For Response is sent to the responding bureaus, but before the Notice of Public Hearing is sent to Printing & Distribution.	50% However, in no case should the amount the City retains be more than \$7,000
After the Notice of Public Hearing is sent to Printing & Distribution, but before the staff recommendation is published.	30% However, in no case should the amount the City retains be more than \$10,000

- b. Withdrawn final plat applications.** Requests for withdrawal of a final plat application must be in writing. Fees will be refunded as follows:

When a written request for the withdrawal of a Final Plat application is received:	Amount of refund of BDS Land Use Services fee:
Before staff sends the first redlines or plat comments to the customer.	75%
After staff sends the first redlines or plat comments to the customer.	50%
After staff sends the second redlines or plat comments to the customer.	25%

- c. Withdrawn pre-application conferences.** Fees for withdrawn pre-application conferences will be refunded as follows:

When a Pre-application Conference is withdrawn:	Amount of refund of BDS Land Use Services fee:
Before staff sends the conference information to the responding bureaus	75%
After staff sends the conference information to the responding bureaus, but at least 7 days prior to the conference	50%
Within 6 calendar days prior to the conference.	25%

- d. Withdrawn early assistance appointments.** Fees for withdrawn early assistance appointments will be refunded as follows:

When an Early Assistance Appointment request is withdrawn	Amount of refund of BDS Land Use Services fee:
At least 7 calendar days prior to the appointment.	50%

- e. Withdrawn public registry applications.** Fees for withdrawn public registry applications will be refunded as follows:

When a Public Registry application is withdrawn:	Amount of refund of BDS Land Use Services fee:
Before staff sends first checksheet to the customer.	75%
After staff sends first checksheet to the customer.	50%
After staff sends second checksheet to the customer.	25%