Update Packet #154 (effective 5/16/12)
This Code update is the result of a further extension of Land Use Review expiration deadlines, and a change to the annual date for adjustments to dollar thresholds. These amendments were adopted by emergency ordinance and are already in effect.

Code Update Packet: 154
Effective Date: May 16, 2012
Contact: Douglas Hardy, (503-823-7816)
Amends Chapter: 33.565, 33.663, 33.700, 33.730

CONTENTS OF UPDATE PACKET #154 (effective May 16, 2012)

Chapter	**Remove Pages**	**Insert Pages**	**Changed because of:**
565	3-4	3-4	Typo
663	1-6 (all)	1-6 (all)	Amendment to 33.663.110.A.3
700	9-10	9-10	Amendment to 33.700.075
730	15-30	15-30	Typo; Amendments to 33.730.130.B.1.b.; 4.b.; 6.b.; 8.b.; 9a.2.; 10.c.; 11.c.

Substantive Changes:

1. Extends expiration date of land use approvals due to slow recovery from economic recession.
2. Creates a maximum period for applicant to provide all missing information for Final Plat applications.
3. Changes annual date for automatic adjustment for inflation required by Section 33.700.075, Automatic Changes, to March 1

Use Regulations

33.565.100 Additional Allowed Uses in the Airport Subdistrict

The following additional uses are allowed in the IG2 zone in the Airport Subdistrict:

A. Aviation and Surface Passenger Terminals; and

B. Hotels and motels.

Development Regulations

33.565.110 Archaeological Resource Protection

Archaeological evidence has confirmed that American Indians used the plan district area prior to entry of EuroAmericans to the Portland area. The Port of Portland continuously updates an inventory of cultural resource sites on Port-owned property and is required by Federal regulations to address cultural resources in any development project.

Although the zoning code does not address new discoveries of archaeological resources found during project construction, applicants should be aware of state and federal regulations that apply to such discoveries.

Areas shown on Map 565-2 must meet the requirements of Section 33.515.262 Archeological Resources Protection.

Regulations in the Airport Subdistrict

33.565.200 Supplemental Application Requirement

Applications for building permits, zoning permits, or land use reviews in the IG2 zone must include documentation of current activity levels in terms of Million Annual Passengers. This demonstrates whether a Transportation Impact Analysis Review is required. See Section 33.565.240, Transportation Impact Analysis Review.

33.565.210 New Airport Capacity

A. Purpose. Because the potential impacts of a third parallel runway at the airport are so significant, this section prohibits additional runways. The effect of the prohibition is that a legislative project to amend this plan district would be necessary to add a third runway. The legislative project would require the City and Port of Portland to engage the regional community in a cooperative effort to create a development plan for the airport that addresses transportation and infrastructure needs, as well as community impacts, by exploring alternatives to a potential third runway.

B. Regulations:

1. New runways are prohibited; however, extending, widening, or reconfiguring existing runways, taxiways, or airfield roadways is allowed; and

2. New passenger terminals.

a. New passenger terminals for General Aviation are allowed.

b. New commercial passenger terminals with passenger processing facilities are allowed only if they have access directly from Airport Way; if they do not have access directly from Airport Way, they are prohibited.

33.565.220 Landscaping

A. Purpose. Plant selection is an especially important component of the plan district. Collisions between birds and aircraft ("bird strikes") are a significant hazard to aircraft, birds, and public safety in and around Portland International Airport due to existing natural features and ecosystems. In an effort to reduce this hazard, the Airport Plant List provides a selection of appropriate plant materials and spacing standards that increase the distance between plants that may be used in the plan district. The Airport Plant List is part of the Portland Plant List. These plants were selected because they are generally non-seeding or non-fruiting and therefore do not attract wildlife. In addition, they do not provide attractive roosting habitat for species posing a threat to aviation safety.

The airport landscaping standards:
- Preserve and enhance Portland's urban forest;
- Promote the reestablishment of vegetation in urban areas for aesthetic reasons;
- Establish and enhance a pleasant visual character which recognizes aesthetics, wildlife hazard, and aviation safety issues;
- Unify development, and enhance and define public and private spaces; and
- Define the parking and circulation areas

B. Airport subdistrict. No landscaping is required inside the perimeter fence or within 300 feet of the perimeter fence. All landscaping, screening, and development outside the perimeter fence in the Airport Subdistrict must meet the following requirements:

1. Only trees and shrubs listed in the Airport Plant List section of the Portland Plant List may be planted. An applicant may request to use a tree or shrub not listed in the Airport Plant List by using the process outlined in the Airport Plant List.

2. All trees and shrubs must meet the spacing and diversity requirements of this section.

3. Where meeting the spacing standards results in fewer plants or less plant diversity than required by other provisions of this Title, the number of plants required is reduced to meet the spacing standard of this section.

4. Spacing standards:

   a. Non-columnar trees must be planted at a distance of at least 40 feet on center.

   b. Columnar trees must be planted at a distance of at least 25 feet on center.

CHAPTER 33.663
FINAL PLATS

(Added by: Ord. No. 179980, effective 4/22/06. Amended by: Ord. No. 182429, effective 1/16/09; Ord. No. 182810, effective 5/27/09; Ord. No. 184524, effective 7/1/11; Ord, No. 185333, effective 5/16/12)

Sections:

General
33.663.010 Purpose
33.663.020 Where These Regulations Apply
Review of Final Plats
33.663.100 Review Procedures
33.663.110 Voiding of Final Plat Application
Standards for Approval
33.663.200 Approval Standards
33.663.210 Staged Final Plat
Changes to Final Plat
33.663.310 Changes to Final Plat Before Recording
33.663.320 Changes to Final Plat Survey After Recording

General

33.663.010 Purpose

These regulations ensure that Final Plats are processed with the appropriate level of city review. This chapter contains clear procedures and approval standards for Final Plats.

33.663.020 Where These Regulations Apply

A. Generally. The regulations of this chapter apply to proposals for Final Plats in all zones, except those listed in Subsection B and C.

B. Final Plats of Manufactured Dwelling Parks. The regulations for the review of Final Plats of Manufactured Dwelling Parks are in Chapter 33.670, Review of Land Divisions of Manufactured Dwelling Parks.

C. Final Plats for Large Sites in Industrial Zones. The regulations for the review of Final Plats for Large Sites in Industrial Zones are in Chapter 33.664, Review of Land Divisions on Large Sites in Industrial Zones.

Review of Final Plats

33.663.100 Review Procedure

Final Plats are reviewed through a non-discretionary, administrative procedure. The decision of the Director of BDS is final and is indicated through a signature on the Final Plat.

33.663.110 Voiding of Final Plat Application

A. Generally. An application for Final Plat review will be voided where:

1. The Director of BDS has sent written comments to the applicant, requesting additional information or identifying outstanding requirements that must be completed prior to final plat approval; and

2. The final plat review has remained inactive for 180 days from the date the Director's letter was mailed. The plat is considered inactive if the applicant has not provided any of the requested information, or completed steps toward meeting any of the outstanding requirements for final plat approval; or

3. It has been more than three years from the date the Director's written comments were mailed, even if the plat has been active. This paragraph applies to applications for Final Plat Review submitted after May 16, 2012.

B. Exception. For final plat applications that were submitted before December 31, 2009, the 180 day period identified in A.2, above, is extended to 365 days. This exception applies only to applications that have not expired or been voided as of May 27, 2009.

Standards for Approval

33.663.200 Approval Standards

These approval standards apply to land divisions where the Preliminary Plan was reviewed under the regulations of Chapter 33.660 or Chapter 33.662. The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the approval standards have been met. The approval standards are:

A. Conformance with Preliminary Plan. The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:

1. A decrease in the number of lots by one, if minimum density requirements continue to be met;

2. An increase or decrease in the width or depth of any lot by less than 5 percent;

3. A decrease in the area of any lot by less than 5 percent**;**

4. An increase in the area of any lot;

5. An increase or decrease of up to 5 percent in the area of a stormwater tract;

6. An increase of up to 5 percent in the area of a shared parking tract;

7. An increase in the area of the following tracts or easements:

a. Environmental resource tracts;

b. Tree preservation tracts;

c. Flood hazard easements or tracts;

d. Landslide hazard easements or tracts; and

e. Recreation area tracts.

8. Moving a public or private right-of-way if approved by the appropriate service bureau;

9. Changes to a stormwater facility if approved by the appropriate service bureau;

10. An increase of up to 5 percent in the area approved for clearing and grading.

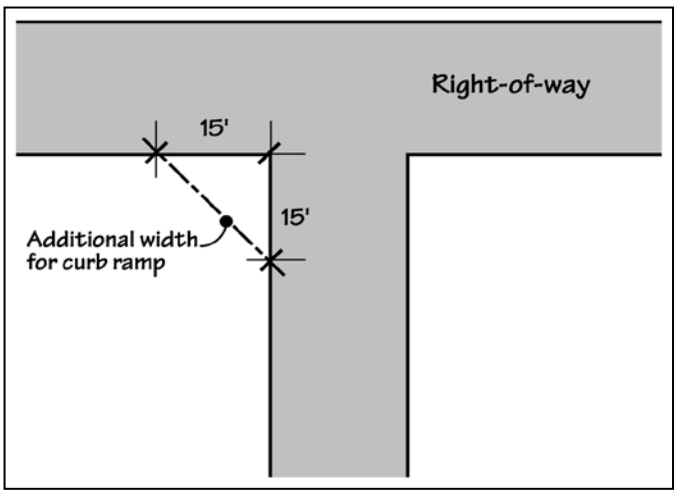
11. A decrease in the area approved for clearing and grading.

12. Increasing the width of a right-of-way within 15 feet of an intersection to accommodate curb ramps, if approved by the appropriate service bureau. See Figure 663-1.

13. Changes or deletions, other than those listed in this subsection, to a tract or easement for a service, if approved by the appropriate service bureau; and

14. Changes or deletions, other than those listed in this subsection, to a tract or easement for a utility.

Figure 663-1
Allowed Increase to Right-of-Way Width



B. Conditions of approval. The Final Plat must comply with all conditions of approval that apply to the Final Plat. All other conditions of approval remain in effect;

C. Services. All services must meet the requirements of the City Code;

D. Dedications, tracts, and easements.

1. Dedications. All dedications of property to the City or the public must be shown on the Final Plat, and must be made at the time the Final Plat is recorded; and

2. Tracts and easements. All tracts and easements must be shown on the Final Plat, and the requirements of Chapter 33.636, Tracts and Easements, must be met;

E. Sureties. All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to Final Plat approval;

F. Legal documents. Required legal documents, such as maintenance agreements, Conditions, Covenants and Restrictions (CC&Rs), and acknowledgements of tree preservation requirements or other conditions of approval, must be reviewed and approved by the Bureau of Development Services prior to Final Plat approval. These documents must also be reviewed and approved by the City Attorney prior to final plat approval or submitted on forms approved by the City Attorney. The required legal documents must be submitted to the County Recorder to be recorded with the Final Plat within 90 days of the Final Plat approval; and

G. Variations beyond the limits allowed in this Section.

1. Generally. If the Final Plat contains variations that exceed the limits listed in this section and that were not specifically allowed under the Preliminary Plan approval, the land division is subject to a review of changes to an approved preliminary plan stated in Section 33.660.300 for land divisions in Open Space and Residential zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones. If a Land Use Review is required for the changes to the approved preliminary plan, the revised Final Plat must also undergo a Final Plat Review.

2. Changes to tree preservation requirements. If the only changes proposed are to tree preservation requirements, the changes are processed as described in Chapter 33.853, Tree Review.

33.663.210 Staged Final Plat

If approved as part of the Preliminary Plan review, the applicant may stage the Final Plat. Staged Final Plats are defined in Chapter 33.633, Phased Land Divisions and Staged Final Plats. Each stage must meet the all of the Final Plat approval standards of Section 33.663.200.

Changes to Final Plat

33.663.310 Changes to Final Plat Before Recording

Before the Final Plat has been recorded with the County Recorder and Surveyor, changes are processed as changes to an approved Preliminary Plan. Where a land use review of the changes is required by Section 33.660.300 for land divisions in Open Space and Residential Zones or Section 33.662.300 for land divisions in Commercial, Employment and Industrial Zones, the revised Final Plat must undergo Final Plat review again.

33.663.320 Changes to Final Plat Survey After Recording

After the Final Plat Survey has been recorded with the County Recorder and Surveyor, changes are processed as a new land division or alternative process, such as a Property Line Adjustment under Chapter 33.667 or Lot Consolidation under Chapter 33.675, if allowed.

c. The regulations for plan districts and overlay zones also supersede conflicting regulations for a specific use or development stated in the 200s series of chapters; and

d. The regulations in the 200s series of chapters supersede regulations in the 600s series of chapters.

2. Regulations at the same level. When regulations at the same level conflict, those that are more specific to the situation apply. An example would be the parking space requirement for houseboats in moorages, two spaces per unit, which is stated in the Floating Structures chapter. This would supersede the standard residential requirement of one space per unit stated in the Parking chapter. When the regulations are equally specific or when it is unclear which regulation to apply, the most restrictive applies. Regulations at the same level include such situations as two different standards in a base zone or regulations from separate chapters in the 200s series of chapters.

3. Figures, tables, and maps. Where there are differences of meaning between code text and figures or tables, the code text controls. When there are differences between code text and maps, the maps control.

F. Sites in more than one zone. When a site is in more than one zone, the development standards of each zone apply to the portion of the site in that zone.

G. Applying the code to specific situations. Generally, where the code cannot list every situation or be totally definitive, it provides guidance through the use of descriptions and examples. In situations where the code provides this guidance, the descriptions and examples are used to determine the applicable regulations for the situation. If the code regulations, descriptions, and examples do not provide adequate guidance to clearly address a specific situation, the stated intent of the regulation and its relationship to other regulations and situations are considered.

H. Determining whether a land use request is quasi-judicial or legislative. Quasi-judicial and legislative are terms describing two different types of land use actions. In general, legislative actions involve the adoption of law or policy applicable Citywide or to a broad geographical area of the City. Quasi-judicial actions involve the application of existing law or policy to a small area or a specific factual situation. There are different legal requirements for the processing of these two types of actions. In general, quasi-judicial actions require greater notice and procedural protections than do legislative actions. If there are questions as to whether a specific request for a land use review is quasi-judicial or legislative, the decision will be made by the City Attorney. The decision will be based on current law and legal precedent. Requests for decisions on this issue must be in writing and must be filed with the Director of BDS, who will forward the request to the City Attorney.

33.700.075 Automatic Changes to Specified Dollar Thresholds

The sections listed below include dollar thresholds. These thresholds will be increased or decreased each year on March 1. The change will occur automatically, and the new dollar amount will be placed in the Zoning Code without being subject to the procedures for amending the Zoning Code. The change will be based on the annual national average of the Construction Cost Index (CCI), as published in the second January issue of the Engineering News-Record.

A. The following sections are subject to this regulation. Any increase or decrease that is not a multiple of $50 will be rounded to the nearest multiple of $50:

1. 33.258.070.D.2.a;
2. 33.258.070.D.2.d(2);
3. 33.440.230.D.1;
4. 33.480.040.B.2.b(2);
5. 33.510.253.D.1.a;
6. 33.515.278.B.17.a(1);
7. 33.560.020
8. 33.565.310.B.2
9. 33.825.025.A.1.a;
10. 33.825.025.A.1.b;
11. 33.825.025.A.1.e;
12. 33.825.025.A.1.f;
13. 33.825.025.A.2.a;
14. 33.825.025.A.2.b;
15. 33.825.025.A.2.c;
16. 33.846.060.B.2.a;
17. 33.846.060.B.2.b;
18. 33.846.060.B.2.f;
19. 33.846.060.B.2.g;
20. 33.846.060.B.4.a;
21. 33.846.060.B.4.b;
22. 33.846.060.B.4.c; and
23. 33.846.060.B.4.d;

B. The following sections are subject to this regulation. Any increase or decrease that is not a multiple of $0.10 will be rounded to the nearest multiple of $0.10:

1. 33.510.205.G.2.f;
2. 33.510.210.C.15; and
3. 33.510.210.C.18.

G. Time limit. A pre-application conference is valid for one year. If more than one year has elapsed between the date of the pre-application conference and the date the land use review application is submitted, a new pre-application conference is required.

33.730.060 Application Requirements

A. Check for complete application.

1. Initial check. An applicant must submit a request for a land use review on the appropriate forms supplied by the Director of BDS. The Director of BDS will review the application for completeness.

2. Incomplete applications. If the Director of BDS finds that the application is not complete, the following procedures apply:

   a. The Director of BDS must notify the applicant of any missing information or materials within 14 days from the date of original submittal for Type II land use review procedures, and within 21 days from the date of original submittal for all other land use review procedures;

   b. The applicant has 180 days from the date of original submittal to provide the missing information or material;

   c. The application will be determined complete on the date the Director of BDS receives one of the following responses from the applicant:

      (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.

   d. If none of the responses listed above in A.2.c are received within 180 days of the date of the original submittal, the application will be voided on the 181st day. The City will not refund the filing fee.

3. The 120 day limit. The 120 day processing time limit required by ORS 227.178 will begin on the day the application is determined to be complete.

B. Changes to applications. Any changes to the application which substantially alter the request must be made at least 10 days before notice of the request is mailed.

C. Required information for land use reviews except land divisions. Unless stated elsewhere in this Title, a complete application for all land use reviews except land divisions consists of all of the materials listed in this Subsection. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request.

1. Two copies of the completed application form bearing an accurate legal description, tax account number(s) and location of the property. The application must include the name, address, and telephone number of the applicant, the name and addresses of all property owners if different, the

signature of the applicant, and the nature of the applicant's interest in the property.

2. One copy of a written statement that includes the following items:
   - A complete list of all land use reviews requested;
   - A complete description of the proposal including existing and proposed use(s) or change(s) to the site or building(s);
   - A description of how all approval criteria for the land use review(s) are met. As an alternative and where appropriate, this information may be placed on the site plan; and
   - Additional information needed to understand the proposal, or requested at the pre-application conference, if applicable.

3. Four copies of a site or development plan. At least one complete copy must be 8-1/2 inches by 11 inches, suitable for photocopy reproduction. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:

   - All property lines with dimensions and total lot area;
   - North arrow and scale of drawing;
   - Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
   - Existing natural features such as watercourses including the ordinary high water line and top of the bank;
   - All trees greater than 6 inches in diameter, measured 5 feet above the ground, in areas to be disturbed;
   - Easements and on-site utilities;
   - Existing and proposed development with all dimensions;
   - Building elevations;
   - Location of adjacent buildings;
   - Distances of all existing and proposed development to property lines;
   - Types and location of vegetation, street trees, screening, fencing, and building materials;
   - Percentage of the site proposed for building coverage, and landscaping coverage;
   - Motor vehicle and pedestrian access and circulation systems, including connections off-site;
   - Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas;
   - Bus routes, stops, pullouts or other transit facilities on or within 100 feet of the site; and
   - Additional requirements of the specified land use review.

4. In the case of a land use review that requires a pre-application conference, a copy of the completed pre-application conference summary or proof of participation, if available.

5. A transportation impact study, if required by the Office of Transportation at a pre-application conference.

D. Required information for land divisions. Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted

with the request. At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.

1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include all of the following:

   a. Application form. Three copies of the completed application form bearing an accurate legal description, tax account numbers and location of the site. The application must include the name, address, telephone number, and signature of the applicant and all property owners, and the nature of the applicant's interest in the site;

   b. Written statement. Two copies of a written statement that includes the following:

      - A complete list of all land use reviews requested;
      - A complete description of the proposal including site layout and circulation, natural features, existing and proposed development and uses, and changes to the site or existing buildings;
      - A description of how all approval criteria are met for the land division and any concurrent land use reviews;
      - Additional information needed to understand the proposal, or requested at the pre-application conference;
      - Names and address of land division designer or engineer and surveyor;
      - Proposed maintenance agreements or Conditions, Covenants and Restrictions; and
      - If Preliminary Plan phasing is proposed, a description and timeline of each phase and timing of associated improvements;
      - If more than 3 lots are proposed, the proposed name of land division;
      - Proposed names of all streets;
      - A description of the type and location of any known potential geologic hazards such as liquefaction hazards, seismic hazards and faults, landfills, contamination; and
      - A description of past uses on the site that may affect the suitability of the site for development, such as industrial uses, landfills, railroad yards, mining, and Quick Vehicle Servicing;

   c. Vicinity map. Three copies of a vicinity map. The map must cover an area extending at least 800 feet in each direction from the land division site, and show the following existing conditions for both the site and the vicinity:
      - Zoning and Comprehensive Plan designations;
      - Streets;
      - Transit, pedestrian, and bicycle facilities and connections; and
      - Water bodies, wetlands, special flood hazard areas, floodways, and potential landslide hazard areas; and
      - Location of utilities and services;

   d. Copies of the proposed land division, drawn to scale and of a format, material, and number acceptable to the Director of BDS. The required information may be grouped on several maps. The location of items not

required to be surveyed must be accurately shown on the maps. The proposed land division maps must include the following information:

(1) Base map. The following information must be on all maps:

Surveyed information:
- Boundary lines of the site with dimensions and total site area;
- North arrow and scale of map;
- Identification as the Preliminary Plan Map
- Stamp of surveyor; and
- If more than 3 lots are proposed, the proposed name of land division;

Additional information:
- Proposed lot layout with sizes, dimensions, and lot numbers;
- Proposed tract layout with sizes, dimensions, purpose, and name;
- Proposed layout and widths of all rights-of-way including dimensioning and roadway width;
- Dimensions of proposed right-of-way dedications, including those to be added to existing rights-of-way; and
- Proposed location, dimensions, and purpose of all easements;

(2) Existing conditions map. The following existing site conditions must be shown:

Surveyed information:
- Ground elevations shown by contour lines at 5-foot vertical intervals for slopes greater than 10 percent, and at 2-foot vertical intervals for ground slopes of 10 percent or less;
- Existing development, including dimensions and distances to property lines. Structures and facilities to remain must be identified;
- All trees on the site at least 6 inches in diameter. Trees more than 25 feet inside a tract within which all trees will be preserved do not have to be surveyed. Trees on a Land Division site that propose to use the Tree Preservation Standard in 33.630.100.A.5 Option 5 do not have to be surveyed;
- Location and dimensions of existing driveways, curb cuts, and sidewalks on and abutting the site;
- Seeps and springs, wetlands, watercourses, and all water bodies including the ordinary high water line and top of bank; if there is a seep or spring on the site, a wetland delineation is required to determine the edge of the seep or spring. This delineation must be performed by an environmental scientist;
- The centerline of existing drainageways, including ditches, swales, and other areas subject to wet weather inundation; and
- Location of flood hazard areas, including elevations of the special flood hazard area and floodway boundaries. Sites that contain a water body not shown on the special flood hazard area maps must identify the location of the special flood hazard areas;

Additional information:
- Zoning and Comprehensive Plan designations; and

- Location, dimensions, and purpose of existing easements on and abutting the site;

(3) Proposed improvements map. The following proposed improvements must be shown:

- Enough information to determine that minimum lot width requirements are met for each proposed lot including footprint of structures and locations of driveways if necessary;
- Distances of all known proposed development to proposed lot lines;
- Proposed pedestrian connections;
- If proposed lots are within a special flood hazard area or landslide hazard area, proposed building locations, and
- If Preliminary Plan phasing is proposed; boundaries of sequence of the proposed phasing.
- Existing and proposed services and utilities; and
- Preliminary Stormwater Plan that meets the requirements of the Stormwater Management Manual and the BES Sewer Design Manual. This plan must show the capacity, type, and location, as well as the land area required, of the stormwater management system and stormwater disposal facilities proposed. The plan must also provide information on the feasibility of the stormwater management system being proposed;

(4) Preliminary Clearing and Grading Plan. A Preliminary Clearing and Grading Plan that identifies all areas of clearing and grading. The plan must show the following:

- Existing contours and drainage patterns;
- Existing drainageways, wetlands, streams, seeps and springs, and other water bodies;
- Existing trees and vegetation;
- Areas of the site where fill has been placed;
- Boundaries of Environmental Overlay Zones;
- Proposed areas of clearing and grading, including grading and clearing for:
  - Rights-of-way;
  - Services and utilities; and
  - Structures, such as retaining walls, necessary for the construction of these elements. Proposed areas of clearing and grading for individual lots and tracts may also be shown;
- Proposed contours within areas to be cleared and graded;
- Proposed stormwater and sedimentation control devices to be used during construction;
- Proposed stockpile areas;
- Proposed trees and vegetation to be preserved;
- Proposed location and material of construction fencing for proposed tree preservation tract;
- Proposed location and material of construction fence;
- Proposed amount (cubic yards) of soil to be disturbed; and
- Proposed structures necessary to construct streets or pedestrian connections;

e. Tree map. A tree map showing the following:
   - Proposed lots and tracts;
   - Surveyed location of all trees required to be surveyed by D.1.d(2);
   - Tree numbers corresponding to the arborist report;
   - Significant Trees, showing type and size, and indicating which will remain and which will be removed;
   - Heritage and Historic Landmark Trees;
   - Location, type, and size of trees to be removed;
   - Location, type, and size of trees to be preserved*;* and
   - Existing and proposed tree preservation tracts.

f. Tree Report. A tree report including the following:
   - How the regulations of Chapter 33.6310, Tree Preservation, are met; and
   - An arborist's report as required in Chapter 33.630, Tree Preservation.

g. Landslide Hazard Study. If any part of the site is in a potential landslide hazard area as shown on the City's Potential Landslide Hazard Areas Map the application must include a Landslide Hazard Study prepared by a Certified Engineering Geologist and a Geotechnical Engineer. The Landslide Hazard Study must identify landslide hazard areas within the site and identify the safest part of the site in terms of the risk of a landslide affecting the site, adjacent sites, and sites directly across a street or alley from the site. The Landslide Hazard Study should make recommendations for the layout and design of the land division and development. The study must provide adequate detail to show the design of all proposed structures and improvements*,* and must include a statement of on-site slope stability after the proposed development is complete. The study must also include a statement of the estimated effect of the developments on stormwater and groundwater runoff as it relates to slope stability and landslide hazard, and a proposed method of control.

   The study may also include

   - Review of aerial photography including stereo views;
   - Review of geologic literature or previous reports;
   - Site reconnaissance including mapping of observable geologic features or hazards;
   - Field explorations as necessary; and
   - Laboratory testing;

h. Final Plat staging. When the Final Plat for a land division is to be submitted in stages, the application must include the number of stages, the areas each stage includes, and the sequence and time schedule for application for Final Plat approval of the various stages.

i. Neighborhood Contact letters. Two copies of letters required by Section 33.700.025, Neighborhood Contact;

j. Pre-application conference summary. In the case of a land division that requires a pre-application conference, two copies of the completed pre-application conference summary or proof of participation;

k. Transportation Impact Study. Three copies of the Transportation Impact Study, if required; and

2. Preliminary Plan for Land Divisions on Large Sites in I Zones. An application for a Preliminary Plan taking advantage of Chapter 33.664, Land Divisions on Large Sites in Industrial Zones, must include all the elements listed in Paragraph D.1., above, except the lot and proposed building locations. Block pattern layout with dimensions and areas and all required tracts must be shown.

3. Final Plat. An application for a Final Plat must include all of the following:

   a. Final Plat Survey. Copies of a Final Plat survey drawn to scale and of a format, material, and number acceptable to the Director of BDS. The following information must be on the Final Plat survey:

      - The statement: "This plat is subject to the conditions of City of Portland Case File No. LUR…"; and

      - Easements and tracts, including their purpose;

   b. Supplemental plan. A supplemental plan, the number determined by the Director of BDS and that uses the Final Plat survey map as a base map. The supplemental plan must show how all conditions of approval that may restrict the use of all or part of the land division site are met. Such restrictions include special development standards such as special setbacks, lot coverage limitations, impervious surface limitations, access restrictions, restrictive building areas, and approved minimum or maximum densities;

   c. Compliance with conditions of approval. Documentation of compliance with all conditions of the Preliminary Plan approval, including all supporting documents or drawings required by conditions of approval such as development envelopes, final tree preservation plans, mitigation plans, and final landscape/ planting plans;

   d. Maintenance agreements and CC&Rs. Three copies of each required maintenance agreement or Conditions, Covenants and Restrictions;

   e. Performance Guarantees. One copy of each Performance Guarantee;

   f. Title report. Current title report issued by a title insurance company verifying ownership and detailing any deed restrictions;

   g. Service bureau requirements. Documentation of submittal of all service bureau requirements, including water system plans, final street construction plans, final sewer and storm water plans, construction management plans, final clearing and grading plans; and

   h. Fees. The applicable filing fees.

4. Final Plat for Land Divisions on Large Sites in Industrial Zones. An application for a Final Plat taking advantage of Chapter 33.664, Land Divisions on large Sites in Industrial Zones, must include all the elements listed in Paragraph D.3., above, for the area being platted. The application must also include enough information for the balance of the site to show how the approval criteria will be met.

33.730.070 Written Notice Requirements

A. General information on notices. The following applies to all notices.

1. Addresses and mailing. Mailing addresses of property owners will be obtained from the latest available county real property tax records. Unless the Director of BDS or City Auditor has received a written request for notice, a person whose name and address does not appear in the tax records will not be mailed notice. The recognized organization address is the address on the most recent list published by the Office of Neighborhood Involvement.

2. The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent.

3. Measurement of notice area. Measurement of the required notice area is made by drawing lines the specified distance, including intervening street widths, from and parallel to the boundary lines of the ownership that includes the lot. If the notice area includes public lands other than right-of-ways that do not exceed 200 feet in depth, the first nonpublic properties in the given direction are included in the notice.

B. Type I notice of request. The notice of request, when processed through a Type I procedure, will contain at least the following information:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal which could be authorized;
- An explanation of the local decision-making process for the decision being made;
- A list, by commonly used citation, of the applicable criteria for the decision;
- An invitation to comment, in writing, on the proposal and the place, date and time that comments are due. This date and time will be at least 30 days from the mailing date of the notice, and at least 5 days before the decision must be rendered;
- A statement that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised prior to expiration of the comment period;
- A statement that issues must be raised with sufficient specificity to afford the Director of BDS an opportunity to respond to the issues;
- A statement that copies of all evidence submitted by the applicant is available for review, and that copies can be obtained for a fee equal to the City's cost for providing the copies; and
- The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

C. Type II and Type IIx notice of request. The notice of request, when processed through a Type II procedure and Type IIx procedure, will contain at least the following information:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site.
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal which could be authorized;
- An explanation of the local decision-making process for the decision being made;
- A list, by commonly used citation, of the applicable criteria for the decision;
- An invitation to comment, in writing, on the proposal and the place, date and time that comments are due;
- A statement that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals (LUBA) must be raised prior to expiration of the comment period or prior to the conclusion of the final hearing if a local appeal is requested;
- A statement that issues must be raised with sufficient specificity to afford the review body an opportunity to respond to the issue;
- A statement that all evidence on the matter is available for review, and that copies can be obtained for a fee equal to the City's cost for providing the copies: and
- The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

D. Type III and Type IV notice of request and hearing. The notice of request and hearing, when processed through a Type III and Type IV procedure, will contain at least the following information:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site.
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal and the proposed use or uses which could be authorized;
- The land use reviews requested and other land use reviews which may be considered as an option;
- An explanation of the local decision-making process for the decision being made;
- The applicable comprehensive plan and code approval criteria;
- The date, time and location of the hearing;
- A general explanation of the requirements for submission of written and oral testimony and the procedure for conduct of the hearing;
- A statement that issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in person or by letter prior to the close of the record at or following the final evidentiary hearing;
- A statement that issues must be raised with sufficient specificity to afford the review body an opportunity to respond to the issues

- A statement that a copy of the application, all evidence on the matter submitted by the applicant, and applicable criteria are available for review at no cost, and that copies can be obtained for a fee equal to the City's cost for such services;
- A statement that a copy of the Director of BDS's report will be made available at least 10 days before the hearing and
- The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

E. Notice of deferral. If written or oral notice of the rescheduling of a hearing is provided during the originally scheduled hearing, no additional notice is required. The hearing must be rescheduled to a specific time and place. If notice of deferral was not made at the hearing, then re-notification is required.

F. Type I and Type IV notice of decision. The notice of decision must include the following:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal, including proposed uses and land use reviews;
- A description of the review body decision, the decision date, and filing date; and
- A statement that the decision is final, but may be appealed to the Land Use Board of Appeals (LUBA) as specified in ORS 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA have appeared during the local proceedings (orally or in writing), and file a notice of intent to appeal with LUBA within 21 days after the decision becomes final.

G. Notice of Type II or Type IIx decision (pending appeal). The notice of Type II or Type IIx decision (pending appeal) will describe the land use request and decision. The notice will include the following information:

- The file number;
- The name and address of the applicant and owner;
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal, including proposed uses and land use reviews;
- An explanation of the local decision-making process for the decision being made;
- A summary of the applicable approval criteria;
- The Director of BDS's decision, the decision date, and the filing date;
- A statement that the decision is final unless appealed;
- A description of the appeal process, time frame, the review body, and the fee for an appeal; and
- The place where information on the matter may be examined and the name of a local government representative to contact and a telephone number to call.

H. Notice of a Type II, Type IIx, or Type III appeal hearing. If a local appeal of a Type II or Type IIx administrative or Type III decision is filed, the notice of appeal hearing will be provided in the same manner as set forth in 33.730.070.D for a Type III notice of request and hearing.

I. Notice of final Type II, Type IIx, or Type III decision following appeal. Where a Type II, Type IIx, or Type III decision is appealed, a subsequent review body decision is made, and no further local appeal is available, a notice of final decision will be sent, containing the following information:

- The file number;
- The name and address of the applicant, owner, and appellant (if different);
- The legal description of the site;
- The street address or other easily understood geographical reference to the subject property;
- A map depicting the subject property in relation to surrounding properties;
- The name and telephone number of the recognized organization(s) whose boundaries include the site;
- A description of the proposal, including proposed uses and land use reviews;
- A description of the review body decision, the decision date, and filing date; and
- A statement that the decision is final, but may be appealed to the Land Use Board of Appeals (LUBA) as specified in ORS 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA have appeared during the local proceedings (orally or in writing), and file a notice of intent to appeal with LUBA within 21 days after the decision becomes final.

33.730.080 Posting Requirements

Posting of notice on the site is required for land use applications processed through a Type III or Type IV procedure. The requirements for the posting of notice are stated below.

A. Number and location on the site. A posted notice must be placed on each street frontage of the site. If a street frontage is over 600 feet long, a notice is required for each 600 feet, or fraction thereof. Notices must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notices may not be posted in a public right-of-way. Notices are not required along street frontages that are not improved and allow no motor vehicle access.

B. Placing notice. When BDS sends a confirmation of a complete application to the applicant, it will also send the following material regarding the posting notice:

- The message that must be placed on the notice;
- The number of notices required;
- The latest date that the notice may be posted; and
- A statement (to be signed and returned) to certify that the notice was posted on the site, and that a failure to post the notice constitutes an agreement by the owner to defer the 120 day process limit, and an acknowledgment that failure to post will result in the automatic postponement of the hearing date.

C. Standards and timing. The applicant must prepare the notice to BDS standards and post it on the site at least 30 days before the scheduled hearing. At least 14 days before the hearing, the applicant must file with BDS a signed statement affirming that the posting was made. Failure to post the notice and affirm that the posting was done will result in automatic postponement of the hearing until the property has been posted for 30 days.

D. Removal. The applicant may not remove the notice before the hearing. The applicant must remove the notice within 2 weeks of a final decision on the request.

E. Content of the notice. The posted notice must contain the following information:
- The file number;
- The date of the hearing;
- A summary of the key items of the request;
- A statement that further information is available from BDS; and,
- The phone number and address of BDS.

33.730.090 Reports and Record Keeping
Required reports and records must contain the information stated below.

A. Decisions. Decisions include any conditions, time limits, or other restrictions that may apply to the land use action.

B. Reports. Reports must include:
- The file number;
- The owner's and applicant's name and address;
- The legal description and site location;
- A brief description of the request;
- The review body;
- The relevant approval criteria;
- The findings applying the facts to the criteria;
- The decision; and
- Any additional information relevant to the case.

C. The public record. The total public record for a case includes, but is not limited to, the application; the decision report; all additional information, correspondence and other items considered as part of the case which were not printed in the report; and the appeal report if applicable.

33.730.100 Public Hearing Requirements

A. Rules of Procedure. All public hearings must conform to the rules of procedure adopted by the review body. The rules of procedure must comply with the Oregon Public Meetings law, statutory land use hearing requirements, and this Title.

B. Initial hearing statements. At the beginning of each hearing, the review body must state:

1. That testimony can only address the applicable approval criteria;

2. The applicable approval criteria;

3. That any party can request the record be kept open for 7 days;

4. That any party is entitled to request a continuance if new information is submitted in support of the application; and

5. That in order to be able to appeal an issue to the Land Use Board of Appeals, the issue must be stated clearly and with enough detail for the review body to consider the testimony in making the decision.

C. Hearing record. Written minutes must be prepared as required by ORS 192.650. A record of all public hearings must be made and retained in written or electronic form for at least 3 years. If a case is appealed beyond the jurisdiction of the City, the record must be retained until the final disposition of the case. Verbatim transcripts will not be produced unless requested and paid for as provided by Chapter 33.750, Fees.

33.730.110 Ex parte Contact

A. Private contacts. Prior to rendering a decision, a member of a review body may not communicate, directly or indirectly, with any person interested in the outcome concerning the decision or action pending before the review body. "Person interested in the outcome" means a person who has some concern, interest in, or relationship to the decision or action pending before the review body. Should such communication occur, at the beginning of the first hearing after which the communication occurs, the member of the review body must:

1. Publicly announce the content of the communication and provide any person an opportunity to rebut the substance of the communication; and

2. If the communication was in written or tangible form, place a copy of the communication into the record.

B. BDS contact. The Director of BDS and BDS staff may communicate with applicants, owners, their representatives, citizens, City agencies and other public and private organizations as part of the processing of land use applications.

After the Final Decision

33.730.120 Recording an Approval

To record a final decision for approval, the applicant pays the recording fee to the County Recorder. The County Recorder records the final decision in the appropriate county records. The decision must be recorded before the approved use is permitted, any permits are issued, or any changes to the Comprehensive Plan Map or Zoning Map are made.

33.730.130 Expiration of an Approval

A. Expiration of unused land use approvals issued prior to 1979. All unused land use approvals issued prior to 1979, except for zoning map or Comprehensive Plan map amendments, where the proposed development is not constructed or where a subdivision or partition is not recorded, are void.

B. When approved decisions expire.

1. Land use approvals, except as otherwise specified in this section, expire if:

   a. Generally.

      (1) Within 3 years of the date of the final decision a City permit has not been issued for approved development; or

      (2) Within 3 years of the date of the final decision the approved activity has not commenced.

   b. Exception. Final decisions that became effective between May 27, 2006 and December 31, 2008 or between May 16, 2009 and June 30, 2011 expire if a City permit has not been issued for approved development or the approved activity has not commenced by June 30, 2014.

2. Zoning map and Comprehensive Plan map amendments do not expire.

3. Conditional Use Master Plans and Impact Mitigation Plans expire as specified in Chapters 33.820 and 33.848, or in the plans themselves.

4. Multiple developments.

   a. Generally. Where a site has received approval for multiple developments, and a City permit is not issued for all development within 3 years of the date of the final decision, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply. Examples of multiple developments include phased development and multi-building proposals.

   b. Exception. On sites where the final decisions became effective between May 27, 2006 and December 31, 2008, or between May 16, 2009 and June 30, 2011, and a City permit is not issued for all development by June 30, 2014, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply.

5. Planned Developments. Where a Planned Development (PD) has been approved, and a building permit is not issued for all development within 10 years of the date of the final decision, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply.

6. Preliminary plans.

   a. Generally. Approved preliminary plans for land divisions expire if within 3 years of the date of the final decision an application for approval of Final Plat has not been submitted.

b. Exception. Final decisions on preliminary plans that became effective between May 27, 2006 and December 31, 2008 or between May 16, 2009 and June 30, 2011 expire if an application for approval of Final Plat has not been submitted by June 30, 2014.

7. Final Plats. Final Plats expire if they are not submitted to the County Recorder to be recorded within 90 days of the final decision.

8. Large industrial sites. Where the Preliminary Plan is approved under the provisions of Chapter 33.664, Review of Land Divisions on Large Sites in Industrial Zones, the following applies:

   a. Generally.

      (1) The approved Preliminary Plan expires if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.

      (2) Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of final approval of the Preliminary Plan. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.

   b. Exception. Final decisions for Preliminary Plans that became effective between May 27, 2006 and December 31, 2008 or between May 16, 2009 and June 30, 2011 expire if an application for approval of a Final Plat for part or all of the site has not been submitted by June 30, 2014. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.

9. Staged Final Plats. Where the Preliminary Plan is approved under the provisions of Sections 33.633.200 through .220, Staged Final Plats, the following applies:

   a. Application for approval of a Final Plat for part or all of the site.

      (1) Generally. The approved Preliminary Plan expires if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.

      (2) Exception. Final decisions for Preliminary Plans that became effective between May 27, 2006 and December 31, 2008 or between May 16, 2009 and June 30, 2011 expire if an application for approval of a Final Plat for part or all of the site has not been submitted by June 30, 2014.

   b. Applications for approval of a Final Plat for the entire site. Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of submittal of the first Final Plat application. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no

longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.

10. Land use approvals in conjunction with a land division. Land use approvals reviewed concurrently with a land division do not expire if they meet all of the following. This includes Planned Unit Developments (PUDs) and Planned Developments (PDs) reviewed in conjunction with a land division. This also includes amendments made to land use approvals where the original approval was reviewed concurrently with a land division:

    a. The decision and findings for the land division specify that the land use approval was necessary in order for the land division to be approved;

    b. The final plat of the land division has not expired; and

    c. Development or other improvements have been made to the site. Improvements include buildings, streets, utilities, grading, and mitigation enhancements. The improvements must have been made within 3 years of approval of the final plat. For final plats approved between May 27 2006 and December 31, 2008 or between May 16, 2009 and June 30, 2011, the improvements must have been made by June 30, 2014.

11. Land use approvals in conjunction with a Planned Unit Development (PUD) or Planned Development (PD). Land use approvals reviewed concurrently with a PUD or PD do not expire if they meet all of the following. If the PUD or PD is as described in Paragraph B.5, the land use approvals reviewed in conjunction with the PUD or PD do not expire, but no additional development may occur without another review.

    Land use approvals reviewed in conjunction with a PUD or PD and a land division are subject to Paragraph B.10 rather than the regulations of this paragraph:

    a. The decision and findings for the PUD or PD specify that the land use approval was necessary in order for the PUD or PD to be approved;

    b. The PUD or PD has not expired;

    c. Development or other improvements have been made to the site. Improvements include buildings, streets, utilities, grading, and mitigation enhancements. The improvements must have been within 3 years of final approval of the PUD or PD. For a PUD or PD receiving final approval between May 27, 2006 and December 31, 2008 or between May 16, 2009 and June 30, 2011, the improvements must have been made by June 30, 2014.

12. Expedited Land Divisions. Land Divisions reviewed through the Expedited Land Division procedure in 33.730.013, are subject to the regulations of ORS 197.365 through .375. When the regulations of ORS 197.365 through .375 conflict with the regulations of this section, the regulations in ORS supercede the regulations of this section.

C. Deferral of the expiration period. If a decision is appealed beyond the jurisdiction of the City, the expiration period will not begin until review before the court(s) or administrative agency has been completed, including proceedings on remand to the City. In this case, the expiration period will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed).