CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES

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General

33.730.010 Purpose

This chapter states the procedures and requirements for quasi-judicial reviews. It contains the step-by-step processing requirements. The chapter also describes the rules of conduct for all people involved in the quasi-judicial review process. The assignment of procedures to specific reviews is done in the chapter that establishes the review. The assignment of the review body is done in Chapter 33.720, Assignment of Review Bodies.

The regulations provide standardized methods for processing quasi-judicial land use reviews. The requirements provide clear and consistent rules to ensure that the legal rights of individual property owners and the public are protected. The rules implement state law, including the requirement that most quasi-judicial reviews must be completed within 120

days of filing a complete application. The Type II, Type IIx, Type III, and Type IV procedures, with their varying levels of review, provide the City with options when assigning procedures to each quasi-judicial review in this Title. The Type I and Type Ix procedures are administrative procedures.

The Type I and Ix procedures, or limited land use review, allows local decisions to be made administratively for such reviews as minor design and historic resource cases. The Type II procedure is the shortest and simplest of the other three quasi-judicial reviews. It is intended for reviews which involve lesser amounts of discretion, lower potential impacts, or both. The Type IIx procedure is used primarily for land divisions. It provides more time to make the administrative decision than the Type II procedure. The Type III procedure is a longer and more in-depth review. It is intended for reviews which involve substantial discretion or high impacts. The Type IV procedure is used to review proposals to demolish certain significant historic resources.

Basic Procedures

33.730.013 Expedited Land Division Procedure

The Expedited Land Division (ELD) procedure provides an alternative to the standard procedures for some land divisions. The applicant may choose to use the ELD process if the land division request meets all of the elements specified in ORS 197.360. The steps of this procedure are in ORS 197.365 through .375. The application requirements are listed in Section 33.730.060, below. Two additional steps are required for land division requests using the ELD Procedure:

A. Neighborhood Contact. The applicant must complete the steps in Section 33.700.025, Neighborhood Contact, before applying for an ELD review.

B. Pre-application conference. A pre-application conference is required for all land division requests processed through the ELD procedure. See 33.730.050, Pre-Application Conference. The pre-application conference must be held before applying for an ELD review.

33.730.014 Type I Procedure

The Type I procedure is an administrative process with public notice but no hearing.

A. Pre-application conferences. A pre-application conference is not required.

B. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review. Type I procedures are intended for such reviews as minor historic resource cases.

C. Notice of a request. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to all property owners within 100 feet of the site, and to the recognized organization(s) in which the site is located. The notice will contain all information listed in 33.730.070.B, Type I and Type Ix notice of request.

D. Processing time. Upon determining that the application is complete the Director of BDS will make a decision on the case as follows:

1. The director of BDS will not make the decision until at least 14 days after the notice required by Subsection C is mailed; and

2. The Director of BDS will make the final decision on the case and mail a notice of decision within 21 days after the application is determined to be complete. The applicant may extend this time limit.

E. Administrative decision.

1. In making the decision the Director of BDS may consult with the owner, applicant, other citizens, City agencies, other public and private organizations, to solicit information relevant to the request. The decision is based on the Director of BDS's findings. The Director of BDS's findings are based on an evaluation of the facts, the applicable code regulations, and the applicable design guidelines.

2. The decision report will be prepared as provided in 33.730.090, Reports and Record Keeping, and must be kept with the public record of the case.

3. The decision of the Director of BDS is final.

F. Notice of decision. The Director of BDS will mail notice of the decision to the applicant and to any person or organization who submitted written comments. See 33.730.070.F, Type I, Type Ix, and Type IV notice of decision.

G. Date that decision is final and effective. The decision of the BDS Director is final and effective on the day the notice of decision is mailed.

33.730.015 Type Ix Procedure

The Type Ix procedure is an administrative process with public notice but no hearing.

A. Pre-application conferences. A pre-application conference is optional.

B. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review. Type Ix procedures are intended for such reviews as minor design cases.

C. Notice of a request. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to all property owners within 100 feet of the site, and to the recognized organization(s) in which the site is located. The notice will contain all information listed in 33.730.070.B, Type I and Type Ix notice of request.

D. Processing time. Upon determining that the application is complete the Director of BDS will make a decision on the case as follows:

1. The director of BDS will not make the decision until at least 30 days after the notice required by Subsection C is mailed; and

2. The Director of BDS will make the final decision on the case and mail a notice of decision within 45 days after the application is determined to be complete. The applicant may extend this time limit.

E. Administrative decision.

1. In making the decision the Director of BDS may consult with the owner, applicant, other citizens, City agencies, other public and private organizations, to solicit information relevant to the request. The decision is based on the Director of BDS's findings. The Director of BDS's findings are based on an evaluation of the facts, the applicable code regulations, and the applicable design guidelines.

2. The decision report will be prepared as provided in 33.730.090, Reports and Record Keeping, and must be kept with the public record of the case.

3. The decision of the Director of BDS is final.

F. Notice of decision. The Director of BDS will mail notice of the decision to the applicant and to any person or organization who submitted written comments. See 33.730.070.F, Type I, Type Ix, and Type IV notice of decision.

G. Date that decision is final and effective. The decision of the BDS Director is final and effective on the day the notice of decision is mailed.

33.730.020 Type II Procedure
The Type II procedure is an administrative process, with the opportunity to appeal the Director of BDS's decision to another review body.

A. Pre-application conference. A pre-application conference is optional unless it is a specific requirement of a review. See 33.730.050, Pre-Application Conference.

B. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review.

C. Preliminary notice. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to all property owners within 150 feet of the lot when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the lot is located, and to all recognized organizations within 400 feet of the lot. See 33.730.070.C, Type II and Type IIx notice of request.

D. Processing time. Upon determining that the application is complete, the Director of BDS will make a decision on the case as follows:

1. The Director of BDS will not make the decision until 21 days after the notice required by Subsection C, above, is mailed.

2. The Director of BDS will make a final decision on the case and mail a notice of decision within 28 days after the notice required by Subsection C. above is mailed. The applicant may extend this time limit.

E. Administrative decision.

1. In making the decision, the Director of BDS may consult with the owner, applicant, other citizens, City agencies, and other public and private organizations to solicit information relevant to the request. The decision is based on the Director of BDS's findings, which are based on an evaluation of the facts and the applicable code regulations.

2. The decision report will be prepared as provided in 33.730.090, Reports and Record Keeping, and must be kept with the public record of the case.

F. Notice of decision (pending appeal). The Director of BDS will mail the notice of the decision to the owner, the applicant if different, all property owners within 150 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, to all recognized organizations within 400 feet of the site, and to any person who submitted written comments. See 33.730.070.G, Notice of Type II or Type IIx decision (pending appeal).

G. Ability to appeal. The Director of BDS's decision is final unless appealed. The decision may be appealed by the applicant, the owner, and those entitled to notice, and any person adversely affected or aggrieved by the decision. The appeal must be submitted to the Director of BDS within 14 days of the day the notice of decision is mailed. The review body for the appeal will be as stated in 33.720, Assignment of Review Bodies.

H. When no appeal is filed. If no one appeals the decision, the decision is final and effective on the day after the last day to appeal.

I. When an appeal is filed. Appeals must comply with this subsection.

1. Content of the appeal. The appeal must be submitted on forms provided by the Director of BDS. All information requested on the form must be submitted in order for the appeal form to be accepted. The appeal request must include:
   - The file number and land use review(s) appealed;
   - The appellant's name, address, signature, phone number;
   - A statement of which sections of the Zoning Code or which approval criteria the decision violates; and
   - The required fee.

2. Notification of appeal hearing. The Director of BDS will mail a copy of the appeal within 3 working days of its receipt to the applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of BDS will mail a notice of the appeal hearing to the applicant and all persons and recognized organizations who received the notice of the decision. See 33.730.070.H, Notice of a Type II or Type III appeal hearing.

3. Scheduling of hearing. The Director of BDS will schedule a public hearing to take place at least 21 days from the mailing of the notice of appeal.

4. Submit report to review body. The Director of BDS will forward the decision report and a copy of the appeal to the review body and make the report and copy of the appeal available to the public at least 7 days prior to the date of the hearing.

5. Appeal hearing. Appeal hearings must comply with the provisions of 33.730.100, Public Hearing Requirements, and 33.730.110, Ex Parte Contact.

6. Appeal decision. The review body may adopt the decision report of the Director of BDS, modify it, or reject it based on information presented at the hearing and in the record.

   a. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the close of the record.

   b. Other review bodies. Other review bodies will make all deliberations and decisions at the hearing.

7. Amended decision report. If the review body modifies or rejects the decision report, an amended report with findings supporting the decision must be prepared. For review bodies other than the Hearings Officer, the Director of BDS will prepare the amended decision report and mail notice of the decision within 17 days of the hearing. The report must comply with 33.730.090, Reports and Record Keeping.

8. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the close of the record, the Hearings Officer or Director of BDS will mail notice of the review body's final decision to the applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070 I, Notice of final decision.

9. Date that decision is final and effective. The decision of the review body is final and effective on the day the notice of decision is mailed.

10. Appeal decision final. The appeal decision of the review body is final and may not be appealed to another review body within the City.

33.730.025 Type IIx Procedure
The Type IIx procedure is an administrative process, with the opportunity to appeal the Director of BDS's decision to another review body.

A. Pre-application conference. A pre-application conference is optional. See 33.730.050, Pre-Application Conference.

B. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review.

C. Preliminary notice. Upon receipt of a complete application, the Director of BDS will mail a notice of the request to all property owners within 150 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, and to all recognized organizations within 400 feet of the site. See 33.730.070 C, Type II and Type IIx notice of request.

D. Processing Time. Upon determining that the application is complete the Director of BDS will make a final decision on the case as follows:

1. The Director of BDS will not make the decision until at least 30 days after the notice required by Subsection C is mailed; and

2. The Director of BDS will make the final decision on the case and mail a notice of decision within 42 days after the application is determined to be complete. The applicant may extend this time limit.

E. Administrative decision.

1. In making the decision, the Director of BDS may consult with the owner, applicant, other citizens, City agencies, and other public and private organizations to solicit information relevant to the request. The decision is based on the Director of BDS's findings, which are based on an evaluation of the facts and the applicable code regulations.

2. The decision report will be prepared as provided in 33.730.090, Reports and Record Keeping, and must be kept with the public record of the case.

3. A copy of the decision report will be mailed to the owner, applicant if different, the recognized organization(s) in which the site is located, and will be made available to the public.

F. Notice of decision (pending appeal). The Director of BDS will mail a notice of the decision to all property owners within 150 feet of the site when within the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the site is located, to all recognized organizations within 400 feet of the site, and to any person who submitted written comments. See 33.730.070, Notice of decision (pending appeal).

G. Ability to appeal. The Director of BDS's decision is final unless appealed. The decision may be appealed by the applicant, the owner, those entitled to notice, and any person adversely affected or aggrieved by the decision. The appeal must be submitted to the Director of BDS within 14 days of the day the notice of decision is mailed. The review body for the appeal will be as stated in 33.720, Assignment of Review Bodies.

H. When no appeal is filed. If no one appeals the decision, the decision is final and effective on the day after the last day to appeal.

I. When an appeal is filed. Appeals must comply with this subsection.

1. Content of the appeal. The appeal must be submitted on forms provided by the Director of BDS. All information requested on the form must be submitted in order for the appeal form to be accepted. The appeal request must include:
   - The file number and land use review(s) appealed;
   - The appellant's name, address, signature, and phone number;
   - A statement of which sections of the Zoning Code or which approval criteria the decision violates; and
   - The required fee.

2. Notification of appeal hearing. The Director of BDS will mail a copy of the appeal within 3 working days of its receipt to the applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of BDS will mail a notice of the appeal hearing to the

applicant, unless the applicant is also the appellant and all persons and recognized organizations that received the notice of the decision. See 33.730.070 H, Notice of an appeal hearing.

3. Scheduling of hearing. The Director of BDS will schedule a public hearing to take place at least 21 days from the mailing of the notice of an appeal hearing.

4. Submit report to review body. The Director of BDS will forward the decision report and a copy of the appeal to the review body and make the report and copy of the appeal available to the public at least 7 days prior to the date of the hearing.

5. Appeal hearing. Appeal hearings must comply with the provisions of 33.730.100, Public Hearing Requirements, and 33.730.110, Ex Parte Contact.

6. Appeal decision. The review body may adopt the decision report of the Director of BDS, modify it, or reject it based on information presented at the hearing and in the record.

   a. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 14 days of the close of the record.

   b. Other review bodies. Other review bodies will make all deliberations and decisions at the hearing.

7. Amended decision report. If the review body modifies or rejects the decision report, an amended report with findings supporting the decision must be prepared. For review bodies other than the Hearings Officer, the Director of BDS will prepare the amended decision report and mail notice of the decision within 14 days of the hearing. The report must comply with 33.730.090, Reports and Record Keeping.

8. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 14 days of the close of the record, the Hearings Officer or Director of BDS will mail notice of the review body's final decision to the applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070 I, Notice of final decision.

9. Date that decision is final and effective. The decision of the review body is final and effective on the day the notice of decision is mailed.

10. Appeal decision final. The appeal decision of the review body is final and may not be appealed to another review body within the City.

33.730.030 Type III Procedure

A Type III procedure requires a public hearing before an assigned review body. Subsections A through D apply to all sites. If the site is within the City of Portland, Subsections E through H also apply. If the site is in the portion of unincorporated Multnomah County that is subject to City zoning, Subsection I also applies.

A. Pre-application conference. A pre-application conference is required for all requests processed through a Type III procedure. See 33.730.050, Pre-Application Conference.

B. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review.

C. Processing time. Upon determining that the application is complete, the Director of BDS will schedule a public hearing to take place within 51 days. The applicant may extend the time limit.

D. Notice of a request.

1. Mailed notice. At least 20 days before the scheduled hearing, the Director of BDS will mail a notice of the request to the regional transit agency, Metro, the Oregon Department of Transportation, all property owners within 400 feet of the site when inside the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the lot is located, and to all recognized organizations within 1,000 feet of the lot. See 33.730.070 D, Type III and Type IV notice of request.

2. Posting notice on the site. The applicant must place a public notice about the request on the site. The posting must meet the standards of 33.730.080 below.

E. Decision by review body if site is in City of Portland.

1. BDS recommendation. The Director of BDS will prepare a report with recommendations, and file the report with the review body and make the report available to the public at least 10 days prior to the hearing. A copy will be mailed to the applicant and to any recognized organizations whose boundaries include the site.

2. Public hearing. The public hearing will be conducted by the assigned review body. It will be held in accordance with the requirements of 33.730.100, Public Hearing Requirements.

3. Review body decision. The review body may adopt the Director of BDS's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record.

   a. Hearings Officer.

      (1) Generally. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the close of the record;

      (2) Comprehensive Plan Map Amendments. For Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer will make a written recommendation in the form of a report to City Council and mail notice of the recommendation within 30 days of the close of the record.

b. Other review bodies. Other review bodies will make all deliberations and decisions at the hearing.

4. Amended decision report. If the review body modifies or rejects the Director of BDS's report, an amended report with findings supporting the decision will be prepared. For review bodies other than the Hearings Officer, the Director of BDS will prepare the amended decision report and mail notice of the decision within 17 days of the close of the record. The report must comply with 33.730.090, Reports and Record Keeping.

5. Notice of decision (pending appeal). When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the close of the record, or within 30 days for Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer or Director of BDS will mail notice of the review body's decision (pending appeal) to the applicant, owner, and all recognized organizations or persons who responded in writing to the notice of the request, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice.

F. Ability to appeal. The review body's decision is final unless appealed. The decision may be appealed by the applicant, the owner, and those who have testified orally or in writing at the hearing, provided that the testimony was directed to a specific approval criterion. The appeal must be submitted to the Director of BDS within 14 days of the day the notice of decision is mailed. The review body for the appeal will be the City Council.

G. When no appeal is filed. If no one appeals the decision, the decision is final and effective on the day after the last day to appeal.

H. When an appeal is filed. Appeals must comply with this subsection.

1. Content of the appeal. The appeal must be submitted on forms provided by the Director of BDS. All information requested on the form must be submitted in order for the appeal form to be accepted. The appeal request must include:
   - The file number and land use review(s) appealed;
   - The appellant's name, address, signature, phone number, and relationship to the land use action;
   - A statement of which sections of the Zoning Code or which approval criteria the decision violates; and
   - The required fee.

2. Notice of the appeal hearing. The Director of BDS will mail a copy of the appeal within 3 working days of its receipt to the applicant, unless the applicant is also the appellant. Within 5 working days of the receipt of the appeal, the Director of BDS will mail a notice of the appeal hearing to the applicant, the review body, and all persons and recognized organizations that received the notice of the decision. See 33.730.070.H, Notice of a Type II or Type III appeal hearing.

3. Scheduling of hearing. The City Auditor will schedule a public hearing to take place at least 21 days from the mailing of the notice of appeal.

4. Submit report to City Council. The Director of BDS will forward the appeal as filed, the review body's decision report, and a transcript if requested and paid for, to City Council at least 7 days prior to the date of the hearing.

5. Appeal hearing. Appeal hearings must comply with the provisions of 33.730.100, Public Hearing Requirements, and 33.730.110, Ex Parte Contact. Appeals heard by City Council may be heard "on the record" and must also conform to any rules of procedure adopted by Council for their use. The Director of BDS will represent the review body in appeals heard by City Council.

6. Appeal decision and findings.

   a. The City Council may adopt the review body's decision report, modify it, or reject it based on information presented at the hearing and in the record. If City Council modifies or rejects the decision report, an amended report with findings supporting the decision must be prepared as provided in Subparagraph b. below. The report must comply with 33.730.090, Reports and Record Keeping.

   b. The Council may make a tentative action and direct that proposed findings and a decision be prepared. If the prevailing party is represented by a land use professional or attorney, the prevailing party must provide findings and conclusions to support the Council's decision. If the prevailing party is not represented by a planning professional or attorney, the Director of BDS will provide findings and conclusions to support the Council's decision. Prior to final Council adoption, all findings must be reviewed and approved by the City Attorney. The findings and decision must be adopted by Council vote. An additional public hearing is not required if the vote is at a subsequent public meeting. City Council decisions are in the form of an Order of the Council except when an ordinance is required due to the type of land use request (Comprehensive Plan Map amendments or Statewide Planning Goal exceptions). In these instances, the ordinance serves in lieu of the Order of Council.

7. Notice of the final decision. Within 5 days of final Council action, the City Auditor will mail the notice of final decision to the applicant, owner, and to any recognized organizations or persons who responded in writing to the appeal notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070 I, Notice of final decision.

8. Date that decision is final and effective. The decision of City Council is final and effective on the day notice of decision is mailed by the City Auditor.

9. Appeal decision final. The appeal decision of City Council is final and may not be appealed to another review body in the City.

I. Decision by review body if site is not in City of Portland.

1. BDS recommendation. The Director of BDS will prepare a report with recommendations, and file the report with the review body and make the report available to the public at least 10 days prior to the hearing. A copy will be mailed to the applicant and to any recognized organizations whose boundaries include the site.

2. Public hearing. The public hearing will be conducted by the assigned review body. It will be held in accordance with the requirements of 33.730.100, Public Hearing Requirements.

3. Review body decision. The review body may adopt the Director of BDS's report and recommendation, modify it, or reject it based on information presented at the hearing and in the record.

   a. Hearings Officer.

      (1) Generally. The Hearings Officer will make a written decision in the form of a report and mail notice of the decision within 17 days of the close of the record;

      (2) Comprehensive Plan Map Amendments. For Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer will make a written recommendation in the form of a report to City Council and mail notice of the recommendation within 30 days of the close of the record.

   b. Other review bodies. Other review bodies will make all deliberations and decisions at the hearing.

4. Amended decision report. If the review body modifies or rejects the Director of BDS's report, an amended report with findings supporting the decision will be prepared. For review bodies other than the Hearings Officer, the Director of BDS will prepare the amended decision report and mail notice of the decision within 17 days of the close of the record. The report must comply with 33.730.090, Reports and Record Keeping.

5. Notice of final decision. When the Hearings Officer is the review body, the Hearings Officer will mail notice of the decision. For other review bodies, the Director of BDS will mail notice of the decision. Within 17 days of the close of the record, or within 30 days for Comprehensive Plan Map Amendments and land use reviews processed concurrently with Comprehensive Plan Map Amendments, the Hearings Officer or Director of BDS will mail notice of the review body's final decision to the applicant, owner, and to any recognized organizations or persons who commented in writing, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070.I, Notice of final decision.

6. Effective date of decision. The review body's decision takes effect on the day the notice is mailed.

7. Decision final. The decision of the review body is final and may not be appealed to another review body within the City.

33.730.031 Type IV Procedure

A. Pre-application conference. A pre-application conference is required for all requests processed through a Type IV procedure. See 33.730.050, Pre-Application Conference.

B. Application. The applicant must submit an application on the appropriate form and accompanied by the correct fee. The application must contain all information required by 33.730.060, Application Requirements, and any additional information required for the specific type of land use review.

C. Processing time. Upon determining that the application is complete, the Director of BDS will schedule a public hearing to take place within 71 days. The applicant may extend the time limit.

D. Notice of a request.

1. Mailed notice. At least 20 days before the scheduled hearing, the Director of BDS will mail a notice of the request to the regional transit agency, Metro, the Oregon Department of Transportation, all property owners within 400 feet of the site when inside the Urban Growth Boundary (UGB) and within 500 feet when outside the UGB, to the recognized organization(s) in which the lot is located, and to all recognized organizations within 1,000 feet of the lot. See 33.730.070.D, Type III and IV notice of request.

2. Posting notice on the site. The applicant must place a public notice about the request on the site. The posting must meet the standards of 33.730.080, below.

E. Advice from Historic Landmarks Commission. BDS staff will ask the Historic Landmarks Commission to review the proposal at a public meeting where members of the public may comment. The Historic Landmarks Commission may offer comments or suggestions, in the form of a letter or testimony, to the review body. Such comments or suggestions are advisory to the review body and are not a land use decision. In addition to any comments or suggestions, the Historic Landmarks Commission will forward to the review body tapes or transcripts of any public meetings at which the Historic Landmarks Commission reviewed the proposal, and any correspondence or other documents received at such meetings.

F. Decision by review body.

1. BDS recommendation. The Director of BDS will prepare a report with recommendations, and file the report with the review body and make the report available to the public at least 10 days prior to the hearing. A copy will be mailed to the applicant and to any recognized organizations whose boundaries include the site.

2. Public hearing. The public hearing will be conduced by the assigned review body. It will be held in accordance with the requirements of 33.730.100, Public Hearing Requirements.

3. Review body decision.

   a. The review body may adopt the Director of BDS' report and recommendation, modify it, or reject it based on information presented at the hearing and in the record. If the review body modifies or rejects the report and recommendation, an amended report with findings supporting the decision must be prepared as provided in Subparagraph b., below. The report must comply with 33.730.090, Reports and Record Keeping.

b. The review body may make a tentative action and direct that proposed findings and a decision be prepared. If the prevailing party is represented by a land use professional or attorney, the prevailing party must provide findings and conclusions to support the review body's decision. If the prevailing party is not represented by a planning professional or attorney, the Director of BDS will provide findings and conclusions to support the review body's decision. Prior to final adoption, all findings must be reviewed and approved by the City Attorney. The findings and decision must be adopted by review body vote. An additional public hearing is not required if the vote is at a subsequent public meeting.

4. Notice of the final decision. Within 5 days of final review body action, the City Auditor will mail the notice of final decision to the applicant, owner, and to any recognized organizations or persons who responded in writing to the notice, testified at the hearing, or requested notice of the decision. In the case of multiple signatures on a letter or petition, the person who submitted the letter or petition or the first signature on the petition will receive the notice. See 33.730.070.I, Notice of final decision.

5. Date that decision is final and effective. The decision of the review body is final and effective on the day the notice of decision is mailed by the City Auditor.

6. Decision final. The decision of the review body is final and may not be appealed to another review body within the City.

33.730.040 Final Council Action Required
In the case of certain quasi-judicial land use reviews, such as Comprehensive Plan Map amendments and Statewide Planning Goal exceptions, final City Council action is required in addition to the normal Type III procedure. In these cases, the initial processing of the land use review is the same except the decision of the initial review body becomes a recommendation to Council. The post-acknowledgment procedures required by ORS 197.610 through 197.650 are followed, and the case is scheduled for a public hearing before City Council. The 120-day review period required by ORS 227.178(1) does not apply to Comprehensive Plan Map amendments, including Statewide Planning Goal Exceptions, or to land use reviews processed concurrently with Comprehensive Plan Map amendments.

General Information on Procedures

33.730.042 Concurrent Reviews

The following regulations apply to applications for more than one land use review on a site:

A. Applications for more than one land use review on a site may be consolidated into a single application package;

B. When more than one review is requested and the reviews have different procedures, the overall application is processed using the highest procedure type. A Type III procedure is the highest, followed by Type IIx, Type II, Type Ix and then Type I;

C. When three or more different kinds of land use reviews are requested, and at least three of the land use reviews are assigned to a Type II procedure, the overall application is processed using the Type IIx procedure, unless any of the reviews are assigned to a Type III procedure. If any of the reviews are assigned to a Type III procedure the overall application is processed using the Type III procedure.

D. When more than one review is requested and any of the reviews are assigned to a Type IV procedure, the reviews not subject to the Type IV procedure are reviewed as specified in Subsections B and C. The review subject to the Type IV procedure is reviewed under the provisions of 33.730.031.

E. When a land division proposal requires an adjustment, the adjustment must be processed concurrently with the land division.

33.730.050 Pre-Application Conference

A. Purpose. The pre-application conference informs the applicant of the substantive and procedural requirements of this Title, provides for an exchange of information regarding applicable requirements of other City Codes, and identifies policies and regulations that create opportunities or pose significant problems for a proposal. Technical and design assistance is available at the conference which will aid in the development of an application. The pre-application conference also informs recognized organizations about the proposal and promotes communication between the organizations and the applicant.

B. Requirements. Forms for pre-application conferences are available from the Director of BDS. A fee is required and must be paid at the time the request for a pre-application conference is submitted. The applicant must submit a written proposal or sketched site plan of the proposal. A pre-application conference must be held within 42 days of receipt of a completed request form.

C. Participants. The applicant meets with BDS staff at the pre-application conference. In addition, City urban service or technical representatives and representatives of affected recognized organizations are invited to attend.

D. Pre-application conference recommendations. The BDS staff will mail the applicant a written summary of the pre-application conference within 21 days of the conference. The written summary will include suggestions and information that were raised at the conference for inclusion in an application. If the approval criteria for the land use review involve a determination of adequacy of the transportation system, the Office of Transportation may require a Transportation Impact Study to be submitted with the land use application.

E. Concurrent pre-application and application requests. Application for a land use review other than a land division and a pre-application conference may be submitted at the same time. However, it is recommended that an application be filed after the pre-application conference so that the information obtained at the conference may be incorporated in the application submittal. Application for a land division may not be filed before the pre-application conference is held.

F. Other pre-application advice. An applicant may request advice from the Design Commission or Historical Landmarks Commission prior to submitting a land use request that would be heard by these commissions. These requests are known as "design advice requests". These requests do not substitute for a required pre-application conference with the BDS staff and other City urban service or technical representatives. A fee is charged for design advice requests as stated in the Fee Schedule.

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 I and 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 and Type Ix notice of request. The notice of request, when processed through a Type I or Type Ix 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 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, Type Ix 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.

33.730.80 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).

D. Expiration of adjustments approved prior to March 16, 2001. Adjustments to parking lot interior landscaping requirements approved prior to March 16, 2001 became void on March 16, 2001. Parking lot interior landscaping approved through an adjustment prior to March 16, 2001 is nonconforming development.

33.730.140 Requests for Changes to Conditions of Approval

A. Generally. Requests for changes to conditions of approval are processed using the current procedure assigned to the land use review and the current approval criteria for the original land use review, unless this Title specifies another procedure or set of approval criteria. See also Section 33.700.110, Prior Conditions of Land Use Approvals.

B. Zone changes before 1981. In the case of zone change requests filed before January 1, 1981, the Type II procedure applies.

C. Reviews no longer required. In the case of land use reviews that are no longer required by this Title, the most comparable review and procedure applies. For example, for variance requests, the procedures for adjustments apply. See also Section 33.700.110, Prior Conditions of Land Use Approvals.

D. Tree preservation. Where the only requested change is to tree preservation plans or conditions that have not expired, the change may be processed through Tree Review as described in Chapter 33.853.