



## Type III Application Procedures

**When Applicable:** Type III applications include, but may not be limited to, the following applications:

- Conditional Use
- Cultural Resource Alteration (Major)
- Cultural Resource Nomination or Removal
- Expansion of Nonconforming Use or Structure
- Floodplain Activity (Major)
- Planned Unit Development
- Significant Natural Resource Permit (Major)
- Subdivision Preliminary Plat (Major)
- Variance
- Zone Change

See Table 12.70.020-1 of the Community Development Code for a full list of applications and corresponding procedure type.

**General Description:** Type III procedures apply to “quasi-judicial” applications. Decisions on quasi-judicial applications are made by an elected or appointed Review Authority, and require substantial exercise of discretion and judgment in applying approval criteria. A decision to approve or deny a quasi-judicial application must be made unless the application is withdrawn. Type III procedures require public notice and a public hearing.

Pre-application conferences are not required for Type III applications, but are strongly encouraged. Neighborhood meetings are mandatory for most Type III applications, as specified in Table 12.70.020-1.

Notice of the public hearing is required for all Type III applications. This notice invites affected parties to participate by providing area property owners and other interested parties with an opportunity to submit written and oral comments on the application before and during the public hearing.

The public hearing is held before the appropriate review authority, which may be the Planning Commission, the Planning and Zoning Hearings Board, or the City Council, as specified in Table 12.70.020-1. The decision shall be based on the criteria and the facts contained within the record and the public hearing proceedings. A decision to approve the application may include conditions of approval necessary to ensure compliance with applicable criteria. The appeal period for Type III applications is 15 calendar days from the mailing date of the written Notice of Decision.

**Type III Application Processing Time:** Most Type III applications are processed in approximately 3 - 4 months from determination of application completeness to the issuance of a Notice of Decision.

The following are the Type III procedures as set forth in Section 12.70.050 of the Community Development Code:

**12.70.050 Type III Procedure.**

- A. General Description. Type III procedures apply to “quasi-judicial” applications. Decisions on quasi-judicial applications are made by an elected or appointed Review Authority, and require substantial exercise of discretion and judgment in applying approval criteria. A decision to approve or deny a quasi-judicial application must be made unless the application is withdrawn. Type III procedures require public notice and a public hearing.
- B. When Applicable. Table 12.70.020-1 identifies Type III applications. Applications not listed on Table 12.70.020-1 may be identified as Type III by the Planning Director based on the General Description in this Section.
- C. Pre-Application Conference. Pre-application conferences are not required for Type III applications, but are strongly encouraged. Guidelines for pre-application conferences are set forth in Section 12.70.090.
- D. Neighborhood Meeting. Neighborhood meetings are mandatory for most Type III applications, as specified in Table 12.70.020-1. When required, neighborhood meetings shall follow the requirements and procedures in Section 12.70.100.
- E. Application Requirements.
  1. Type III applications shall be submitted on forms provided by the Planning Director. The application forms shall list applicable submittal requirements as required by Subsection 12.70.110.C.
  2. Type III applications shall be accompanied by the required fee.
  3. Type III applications are subject to the completeness review procedures set forth in Subsections 12.70.110.D and E.
- F. Notice of Public Hearing. Public notice is required for all Type III applications. This notice invites affected parties to participate by providing area property owners and other interested parties with an opportunity to submit written and oral comments on the application before and during the public hearing.
  1. After the application has been deemed complete under Subsection 12.70.110.E, the Planning Department shall mail a written notice of the public hearing to the following parties:
    - a. The applicant(s) and/or authorized representative;
    - b. The owner(s) or contract purchaser(s) of record of the subject property or properties;
    - c. Owners of record of properties within 500 feet of the perimeter property line of the property or properties subject to the application, using the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation to determine the property owner(s) of record; and
    - d. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.

2. Notice of public hearings for certain applications shall also be mailed as shown in Table 12.70.050-1 to the following parties:

**Table 12.70.050-1: Additional Notice on Specific Type III Applications**

<b>Application Characteristics</b>	<b>Additional Parties for Notification</b>
The only access to a proposed development is a highway/railroad crossing	The applicable road authority; or the rail authority and the rail owner, in accordance with ORS 197.794.
A proposed zone change on property within 1020 feet of the AU Airport Use zone on the Portland-Hillsboro Airport	The Port of Portland, in accordance with ORS 227.175
A proposed zone change affecting a manufactured home or mobile home park	All mailing addresses within the park in accordance with ORS 227.175.
A proposed Zoning Map amendment (ZC) or Planned Unit Development (PUD)	DLCD, in compliance with applicable state law and administrative rules.

3. The written notice of the public hearing on the pending application shall include the following information:
- a. The review authority for the application and the date, time, and place of the hearing;
  - b. The case file number for the application, and the name and address of the applicant or the applicant's representative;
  - c. A concise description of the nature of the proposed use or development and the specific approvals requested;
  - d. A vicinity map and description of the subject site reasonably sufficient to inform the reader of its location, including Assessor's Tax Map, Tax Lot number, and site address if available;
  - e. A list of the applicable approval criteria by Code section number;
  - f. The location and hours where copies of the application and all evidence and documents submitted by or on behalf of the applicant are available for review, and a statement that copies thereof can be obtained at reasonable cost;
  - g. A statement that the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that copies will be provided at reasonable cost;
  - h. The name and telephone number of the city representative to contact about the application;
  - i. A brief summary of the decision-making process for the application;
  - j. A general explanation of the requirements to submit testimony and the procedure for conducting public hearings;
  - k. A statement that all interested persons may appear and provide testimony at the public hearing, and that only those participating at the hearing, or in writing, are entitled to appeal; and

- I. A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide sufficient specificity to enable the review authority to respond to the issue, precludes an appeal based on that issue.
  4. Public notices for Type III applications shall be mailed a minimum of 20 days prior to the hearing.
  5. An affidavit of mailing of the public notice, including the notice, the mailing date and a list of parties to whom the notice was mailed, shall be prepared and made a part of the case file.
- G. Published Notice of Public Hearing for Certain Applications. Notice of the public hearing for certain Type III applications shall be published one time in a newspaper of general circulation in the City, at least 14 days before the public hearing. The newspaper's affidavit of publication of the notice shall be included in the case file.
- H. Decision Authority. Table 12.70.020-1 identifies the decision authority for each Type III application.
- I. Public Hearing Procedure. The public hearing shall be conducted in accordance with the requirements and procedures in Section 12.70.160.
- J. Notice of Decision.
1. Following a decision on the application by the Review Authority, a written decision in the form of an Order or Minute Order shall be prepared by the Planning Department or the Review Authority. The Order or Minute Order shall include the following information:
    - a. The decision to deny or to approve the application and if approved, any conditions of approval necessary to ensure compliance with applicable criteria;
    - b. A list of the applicable approval criteria by Code section number;
    - c. A statement or summary of the facts upon which the Review Authority relied to determine whether the application satisfied or failed to satisfy the applicable approval criteria; and to justify any conditions of approval. The Review Authority may adopt or incorporate by reference a staff report or written findings prepared by any party to the proceeding into the Order to satisfy this requirement; and
    - d. A statement of conclusions based on the facts and findings.
  2. The Notice of Decision including the full Order shall be mailed to the applicant and to all parties of record within seven days of the date of the decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith effort was made to mail the notice.
  3. The Notice of Decision shall contain the following information:
    - a. A summary of the Decision and a list of any conditions of approval;
    - b. A description of the subject site reasonably sufficient to inform the reader of its location, including Assessor's Tax Map, Tax Lot number, and site address if available;
    - c. A statement that the decision of the review authority is final unless appealed as provided in Section 12.70.180;
    - d. The requirements for filing an appeal of the Decision, including a statement of the date and time by which an appeal must be filed; and

- e. A statement noting that only those persons who made an appearance of record are entitled to appeal the decision.
  - 4. Notices of Action on Zone Changes and PUDs. Notices of Action on zone changes and Planned Unit Developments shall state that the Planning and Zoning Hearings Board Order or the Planning Commission Order is a recommendation to the City Council and is not subject to appeal. Parties of record before the Hearings Board or Planning Commission may request that the City Council hold a public hearing on the zone change or Planned Unit Development. If the City Council chooses to hold a public hearing upon the request of a party of record, the City Council public hearing shall follow the requirements and procedures in Section 12.70.160.
- K. Appeal.
- 1. The decision of the Review Authority may be appealed to the City Council. Only the applicant or persons who made an appearance of record at the public hearing before the Review Authority have standing to appeal.
  - 2. The appeal shall follow the requirements and procedures in Section 12.70.180.
  - 3. The City Council decision shall be the final local decision on all appeals. Any further appeal shall be made to the Land Use Board of Appeals.