



### Proposed DRAFT Code Amendment to Chapter 17.62.035

*As recommended by the Oregon City Planning Commission on June 27, 2016 and with the revisions directed by the City Commission at the July 12, 2016 Work Session.*

*Note: Code additions have underlines, extractions have ~~strike through~~.*

#### **17.62.035 Minor Site Plan and Design Review.**

This section provides for a minor site plan and design review process. Minor Site Plan Review is a Type I or Type II decision, as described in OCMC Section 17.62.035.A, subject to administrative proceedings described in OCMC section 17.50 and may be utilized as the appropriate review process only when authorized by the Community Development Director. The purpose of this type of review is to expedite design review standards for uses and activities that require only a minimal amount of review, typical of minor modifications and/or changes to existing uses or buildings.

#### **A. Type I Minor Site Plan and Design Review.**

##### **1.Applicability. Type I applications involve no discretion.**

The Type I process is not applicable for:

- a. Any activity which is included with or initiates actions that require Type II-IV review.
- b. Any use which is not permitted outright, unless otherwise noted.
- c. Any proposal in which nonconforming upgrades are required under Chapter 17.58.
- d. Any proposal in which modifications are proposed under Chapter 17.62.015.
- e. Any proposal that is subject to regulations of Chapter 17.40, Historic Overlay District, and involves the activities listed in 2.a-e below.

##### **2. The following projects may be processed as a Type I application.**

- a. Addition or removal of up to 200 square feet to a commercial, institutional, or multifamily structure in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding new drive thru). Increases of more than 200 square feet in a 12-month period shall be processed as Type II.
- b. Addition or removal of up to 1,000 square feet to an industrial use in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding ancillary retail and office). Increases of more than 1000 square feet in a 12-month period shall be processed as Type II.
- c. Replacement of exterior building materials.
- d. Addition of windows and doors, relocation of windows and doors in which transparency levels remain unchanged, or removal of windows and doors provided minimum transparency requirements are still met.
- e. Addition or alteration of parapets or rooflines.
- f. Removal, replacement or addition of awnings, or architectural projections to existing structures.

- g. Modification of building entrances.
- h. Addition to or alteration of a legal nonconforming single or two-family dwelling.
- i. Repaving of previously approved parking lots with no change to striping.
- j. Change to parking lot circulation or layout, excluding driveway modifications.
- k. Removal or relocation of vehicle parking stalls provided total parking remains between approved minimum and maximum with no new reductions other than through the downtown parking district.
- l. Adoption of shared parking agreements.
- m. Changes to amount, location, or design of bicycle parking.
- n. Changes to landscaping that do not require stormwater quality and quantity treatment under OCMC Section 13.12.
- o. New or changes to existing pedestrian accessways, walkways or plazas.
- p. Installation of mechanical equipment.
- q. Installation of or alterations to ADA accessibility site elements.
- r. Modification of a fence, hedge, or wall, or addition of a fence, hedge or wall at least 20 feet away from a public right-of-way.
- s. Addition of or alterations to outdoor lighting.
- t. Addition, modification, or relocation of refuse enclosure.

3. Submittal requirements. A Type I application shall include:

- a. A narrative describing the project.
- b. Site plan drawings showing existing conditions/uses and proposed conditions/uses.
- c. Architectural drawings, including building elevations and envelopes, if architectural work is proposed.
- d. A completed application form.
- e. Any other information determined necessary by the Community Development Director.

BA. Generally. Type II Minor Site Plan and Design Review

1. Type II Minor site plan and design review applies to the following uses and activities unless those uses and activities qualify for Type I review per 17.62.035.A:

- a) Modification of an office, commercial, industrial, institutional, public or multi-family structure for the purpose of enhancing the aesthetics of the building and not increasing the interior usable space (for example covered walkways or entryways, addition of unoccupied features such as clock tower, etc.).
- b) Modification to parking lot layout and landscaping, or the addition of up to 5 parking spaces.
- c) A maximum addition of up to one thousand square feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage.
- d) Other land uses and activities may be added if the Community Development Director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.

2B. Application. The application for the Type II minor site plan and design review shall contain the following elements:

- a) The submittal requirements of Chapter 17.50.
- b) A narrative explaining all aspects of the proposal in detail and addressing each of the criteria listed in Section 17.62.035(C) below.
- c) Site plan drawings showing existing conditions/uses and proposed conditions/uses.

- d) Architectural drawings, including building elevations and envelopes, if architectural work is proposed.
- e) Additional submittal material may be required by the Community Development Director on a case-by-case basis.

3C. Development Standards for Type II Minor Site Plan and Design Review.

1. All development shall comply with Section 17.62.050(1-7 and 8-15 and 20-22) when deemed applicable by the Community Development Director. Other sections may apply, as directed by the Community Development Director when applicable, in order to show compliance with this chapter, such as the commercial and institutional standards of section 17.62.055.

Proposed DRAFT Code Amendment to Chapter 17.50.030:

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**17.50.030 Summary of the City's Decision-Making Processes.**

The following decision-making processes chart shall control the City's review of the indicated permits:

**Table 17.50.030**  
**PERMIT APPROVAL PROCESS**

PERMIT TYPE	I	II	III	IV	Expedited Land Division
Compatibility Review	X				
Code Interpretation			X		
General Development Plan			X		
Conditional Use			X		
Detailed Development Plan <sup>1</sup>	<u>X</u>	X	X		
Extension		X			
Final Plat	X				
Geologic Hazards		X			
Historic Review			X		
Lot Line Adjustment and Abandonment	X				
Major Modification to a Prior Approval <sup>2</sup>	X	X	X	X	X
Minor Modification to a prior Approval	X				
Minor Partition		X			
Nonconforming Use, Structure and Lots Review	X	X			
Reconsideration	X				

<sup>1</sup> If any provision or element of the master plan requires a deferred Type III procedure, the detailed development plan shall be processed through a Type III procedure.

<sup>2</sup> A major modification to a prior approval shall be considered using the same process as would be applicable to the initial approval.

Revocation				X	
Site Plan and Design Review	X	X			
Subdivision		X			X
Variance		X	X		
Zone Change & Plan Amendment				X	
Zone Change Upon Annexation with No Discretion	X			X	
Zone Change Upon Annexation with Discretion				X	
Natural Resource Exemption	X				
Natural Resource Review		X			

- A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. . Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. The Community Development Director's decision is final and not appealable by any party through the normal City land use process.
- B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The Community Development Director accepts comments for a minimum of fourteen days and renders a decision. The Community Development Director's decision is appealable to the City Commission with notice to the Planning Commission, by any party with standing (i.e., applicant and any party who submitted comments during the commentperiod). The City Commission decision is the City's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.
- C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the Planning Commission or the Historic Review Board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission or the Historic Review Board, all issues are addressed. The decision of the Planning Commission or Historic Review Board is appealable to the City Commission, on the record. The City Commission decision on appeal from the Historic Review Board or the Planning Commission is the City's final decision and is appealable to LUBA within twenty-one days of when it becomes final.
- D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the City Commission for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission, all issues are addressed. If the Planning Commission denies the application,

any party with standing (i.e., anyone who appeared before the Planning Commission either in person or in writing within the comment period) may appeal the Planning Commission denial to the City Commission. If the Planning Commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the Planning Commission becomes the final decision of the City. If the Planning Commission votes to approve the application, that decision is forwarded as a recommendation to the City Commission for final consideration. In either case, any review by the City Commission is on the record and only issues raised before the Planning Commission may be raised before the City Commission. The City Commission decision is the City's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

- E. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380. To qualify for this type of process, the development must meet the basic criteria in ORS 197.360(1)(a) or (b). While the decision-making process is controlled by state law, the approval criteria are found in this code. The Community Development Director has twenty-one days within which to determine whether an application is complete. Once deemed complete, the Community Development Director has sixty-three days within which to issue a decision. Notice of application and opportunity to comment is mailed to the applicant, recognized neighborhood association and property owners within one hundred feet of the subject site. The Community Development Director will accept written comments on the application for fourteen days and then issues a decision. State law prohibits a hearing. Any party who submitted comments may call for an appeal of the Community Development Director's decision before a hearings referee. The referee need not hold a hearing; the only requirement is that the determination be based on the evidentiary record established by the Community Development Director and that the process be "fair." The referee applies the city's approval standards, and has forty-two days within which to issue a decision on the appeal. The referee is charged with the general objective to identify means by which the application can satisfy the applicable requirements without reducing density. The referee's decision is appealable only to the court of appeals pursuant to ORS 197.375(8) and 36.355(1).