

# SECTION 11.0400

## TYPE II ADMINISTRATIVE PROCEDURES

### 11.0400 Type II Administrative Procedures

11.0401 General Description

11.0402 Type II Procedures

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#### 11.0401 General Description

Type II applications involve uses or development for which review criteria are reasonably objective, requiring only limited discretion. Impacts on nearby properties may be associated with these uses which may necessitate imposition of specific conditions of approval to minimize those impacts or ensure compliance with this code. The Type II procedure provides for an administrative review of an application by the Manager or Design Commission and the process includes notice to nearby property owners to allow for public comments prior to the decision. The process does not include a public hearing unless the decision is appealed.

The following are Type II applications:

- Those identified in this code as Type II applications;
- Those identified in **Table 11.0204** as Type II applications; or
- Those identified by the Manager as Type II applications, based on the guidelines for classification of applications by procedure in **Section 11.0203**.

#### 11.0402 Type II Procedures

- A. Pre-Application Conference and Optional Design Commission Consult
  1. **Table 11.0204** identifies all Type II applications that require a pre-application conference.
  2. Pre-application conference procedures are included in **Section 11.0700**.
  3. The Optional Design Consult procedures for those projects within a Design District are described in **Section 11.0700**.
- B. Neighborhood Meeting
  1. A neighborhood meeting is required for those Type II applications which require a pre-application conference, as indicated in **Table 11.0204**, except as otherwise noted, including industrial uses identified in **Section 7.0003** and DR-C reviews as noted in **Section 7.0003**.
  2. Neighborhood meeting procedures are included in **Section 11.0800**.
- C. Type II Application Requirements
  1. Type II applications shall be made on forms provided by the Manager and shall include all of the information required by **Section 11.0900**.
  2. Type II applications shall:
    - a. Include the information requested on the application form;
    - b. Include the information requested in a submittal checklist, if any;
    - c. Address the relevant criteria in sufficient detail for review and action; and

- d. Be accompanied by the required fee.

**D. Type II Public Notice**

1. Except as provided for in **Subsection (2)** below, within approximately ten (10) calendar days after the application has been determined to be complete, written notice of the Type II application shall be mailed to:
  - a. The applicant and/or authorized representative; and
  - b. The owner(s) of record of the subject property; and
  - c. Any City-recognized neighborhood association whose boundaries include or are within 300 feet of the subject property; and the Presidents and Land Use Chairs of all City-recognized neighborhood associations when the development is proposed in the GBSV District; and
  - d. Owners of record within three hundred (300) feet of the perimeter of the subject property and owners of record within five hundred (500) feet of the perimeter of the subject property when the development is proposed in the GBSV District; and
  - e. Affected city departments and any governmental agency which is entitled to notice under an intergovernmental agreement with the City which includes provision for such notice or is otherwise entitled to such notice. Such departments and agencies may request up to a 15-day extension to their comment period if the application involves unusual circumstances. The department or agency is assumed to have no comments if no comments are received within the specified time period.
2. Notice of industrial uses that are reviewed under **Section 7.0003** shall be provided as follows:
  - a. Within two business days of receiving an application, the City will mail notice of an application submittal to the President and Land Use Chair of any city-recognized neighborhood associations whose boundaries include or are within 300 feet of a site with a proposed industrial review. This notice shall include a copy of the Development Permit Application cover sheet and plans.
  - b. Within two business days of an application being submitted, notice of application shall be posted on the site. The Manager shall determine the number and locations of signs and issue posting instructions. There shall be at least one sign per frontage posted in a conspicuous place visible from the street. The sign shall include the case file number, telephone number where city staff can be contacted for more information about the application, and a webpage (if available) to review a proposed project description and site plan. The sign shall be posted for 30 calendar days or until the 14-day public comment period poster is placed on the property as per **Section 11.0402(D)(5)**, whichever comes first.
  - c. Within three business days of determining the application to be complete, notice will be mailed to the parties described in **Subsection (1)** above.
3. The purpose of the public notice is to provide nearby property owners and other interested parties with an opportunity to submit written comments concerning the application prior to issuance of the Type II Administrative Decision. The goal of this notice is to invite relevant parties of interest to participate in the process.
4. The written notice of the pending Type II application shall:

- a. Provide fourteen (14) calendar days from the date of notice for submission of written comments prior to issuance of a decision on the Type II application;
  - b. State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the Manager to respond to the issue;
  - c. List, by commonly used code citation, the applicable criteria for the decision;
  - d. The case file number;
  - e. Set forth the street address or other easily understood geographical reference to the subject property;
  - f. State the place, date, and time that comments are due;
  - g. State that all evidence relied upon by the applicant is available for review, and that copies can be obtained at cost;
  - h. Include the name and phone number of the city representative to contact for additional information;
  - i. Briefly summarize the decision making process for the Type II application being considered; and
  - j. Include the following notice: “Notice to mortgagee, lienholder, vendor or seller: The Gresham Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”
5. Within 10 calendar days after the application has been determined to be complete, notice of the application shall be posted on the site by the applicant, except for industrial uses described in **Section 7.0003**, in which notice shall be posted within three business days. The Manager shall provide at least one (1) sign and the instructions for posting. The sign shall be posted in a conspicuous place visible from the street. For properties that abut more than one improved street, separate signs shall be posted facing each improved street. The sign shall include the case file number and the telephone number where city staff can be contacted for more information about the application. An affidavit of posting shall be submitted by the applicant and made part of the administrative record.
- E. Type II Decision Authority**
- 1. The decision authority for Type II applications shall be the Manager. In the case of Design Districts, the Design Commission may operate as the decision authority under the clear and objective standards once in place.
  - 2. The decision authority shall review all written comments received prior to or on the comment closing date and the applicant’s response to the comments, if any. The decision authority may also consider responses to questions by staff which clarify or amplify information but which do not change the original request. Written comments received after the comment period and prior to issuance of a decision shall not be considered by the decision authority.
  - 3. The decision authority shall approve, approve with conditions, or deny an application subject to a Type II procedure after the close of the public comment period and within 60 calendar days after the application was determined to be complete. For industrial reviews as described in **Section 7.0003**, this decision shall be made within 30 calendar days after the

application was determined to be complete.

**F. Type II Notice of Decision**

1. Upon signing the decision for a Type II application, a Notice of Decision shall be sent by mail to:
  - a. The applicant and/or authorized representative;
  - b. The owner(s) of record of the subject property;
  - c. Any group or individual who submitted written comments during the comment period;
  - d. Any governmental agency which is entitled to notice under an intergovernmental agreement with the City which includes provision for such notice or is otherwise entitled to such notice; and
  - e. Any group or individual who requested notice of the decision.
2. The written decision shall include:
  - a. The case file number;
  - b. The nature of the application in sufficient detail to apprise persons entitled to notice of the applicant's proposal and of the decision;
  - c. A description of the site reasonably sufficient to inform the reader of its location, including site address, if available, map and tax lot number, and site zoning;
  - d. A statement of the facts upon which the decision authority relied to determine whether the application satisfied or failed to satisfy each applicable approval criterion;
  - e. The decision to approve or deny the application, and, if approved, any conditions of approval necessary to ensure compliance with the applicable criteria;
  - f. The date the decision shall become final, unless appealed within twelve (12) calendar days of the notice of decision. The notice of decision shall state in boldface type the date and time by which an appeal must be filed. The statement shall describe the requirements for filing an appeal of the decision; and
  - g. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list when and where the case file is available and the name and telephone number of the City representative to contact about reviewing the case file.

**G. Appeal of a Type II Decision**

1. The Type II administrative decision may be appealed by the applicant and any person providing written comments during the 14-day comment period by filing a notice of appeal within 12 calendar days of the date the notice of decision was mailed. Appeal authorities are identified in **Table 11.0204**.
2. Appeal requirements and procedures are outlined in **Section 11.1100**.
3. The decision of the appeal authority with regard to any appeal of a Type II administrative decision is the final decision of the City. Any further appeal shall be to the Land Use Board of Appeals (LUBA).