



City of Portland

Bureau of Development Services

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INTERIM RULE

RELATING TO
Title 33.750 Fees

Title 33.730 Quasi-Judicial Procedures

FOR INFORMATION CONTACT

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TOPIC: Administrative Intake and Fees for Land Use Processes and

Other Planning Services

AUTHORITY:

The Bureau of Development Services (BDS) has the authority for application, implementation and enforcement of the provisions of Planning and Zoning Regulations, Title 33. Under Section 3.30.040 A, the Director of BDS has the authority to adopt written policies and procedures for the enforcement of applicable Code provisions and laws. Sections 33.750.010 and 33.750.020 of the Planning and Zoning Regulations create the general framework for administrating fees and Section 33.730.010 and 33.730.060 create the framework for quasi-judicial procedures and requirements related to Title 33. The purpose of this Administrative Rule is to establish guidelines for fee charges, refunds and waivers for Land Use Services (LUS) in relation to land use processes and other planning services and establish the guidelines for intake of applications for land use processes and other planning services. This Administrative Rule does not establish guidelines for other BDS services or for services of other bureaus, including those related to a land use process.

CITATION:

3.30.010 Duties of the Bureau of Development Services.

The Bureau of Development Services shall be responsible for:

C. The application and enforcement of the provisions of Title 33, The Portland Zoning Code as delegated by the Director of the Bureau of Planning and Sustainability.

33.750.010 Purpose

Application fees aid in defraying the City's cost for processing applications. Fees charged are not intended to exceed the average cost for processing the type of review requested.

33.750.020 Fee Schedule and Procedures

Required fees for Title 33 land use reviews, appeals of land use decisions, and other planning services are stated in the bureau's Fee Schedule, available on [www.portland.gov](#).

<https://www.portland.gov/bds/current-fee-schedules> or by request at 503-823-7526. Rules and Procedures for the payment of fees, refunds, and waiver of fees are determined by the Director of BDS.

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.

33.730.060 Application Requirements for Quasi-Judicial Procedures.

Check for complete application and required information for land use reviews.

FINDINGS FOR AMENDMENTS AND ADOPTION

1. Portland City Code Section 3.30.045 delegates the authority to adopt and administer administrative rules appropriate to perform the duties of the Bureau of Development Services (BDS) set forth in Section 3.30.010 and prescribes procedures for administrative rulemaking.
2. The Bureau of Development Services identified amendments to the rule pertaining to the intake process for emailed applications and to fee refunds.
3. The Director of BDS may adopt an interim rule without prior notice upon finding that a failure to act promptly will result in prejudice to the public interest. It is in the public interest to have clarity on application filing requirements and fees.

CONCLUSION

As provided in Portland City Code Section 33.750.020 and 33.730.060 and following the procedures in Section 3.30.045, the Director of BDS hereby adopts the amendments to the Administrative Rule.

AMENDED:  1/24/23
Rebecca Esau, Director

Updates April 20, 2021 version

Administrative Rule

Administrative Intake and Fees for Land Use Processes and Other Planning Services

I. Intent and Purpose.

The purpose and intent of this rule is to establish criteria by which the Director of the Bureau of Development Services will charge, refund or waive fees associated with Land Use Services (LUS) applications and other Planning Services applications and establish the guidelines for intake of applications for land use processes and other planning services. This rule does not establish guidelines for other BDS services or for services of other bureaus, including those services related to a land use process.

II. General Fees

The Bureau of Development Services (BDS) has the authority to charge a fee for the services identified on the adopted fee schedule.

Current fees are available in the BDS fees schedule available on-line at <https://www.portland.gov/bds/current-fee-schedules>.

III. Intake of Land Use Applications, other Planning service applications, and fees

A. Land Use Review, Final Plat Review, Public Registry, and Early Assistance Applications

1. All applications can be filed via email, mail or by an alternative arrangement.
 - a. Emailed Applications
 - 1) Emailed applications must be unlocked, able to be edited, and emailed to Landuseintake@portlandoregon.gov before they will be considered “filed.”
 - 2) If an application is emailed to any other city or bureau email address, it is not considered “filed” until that application reaches the Landuseintake@portlandoregon.gov email inbox.
 - 3) Applications emailed to Landuseintake@portlandoregon.gov after 5 p.m. Monday through Friday, or on weekends or city holidays, will be identified as “filed” on the following business day.
 - 4) Following submission of the emailed application, Land Use Services staff will contact the applicant with instructions for providing payment.
 - 5) An exception to a.1-4 is that location approvals, which are applications for specific zoning verifications for State licenses for auto-related businesses from the Oregon Department of Motor Vehicles (DMV), verifications for liquor-related businesses from the Oregon Liquor Control Commission (OLCC) and requests for zoning verification maps for cannabis business licenses, are emailed to LocationApproval@portlandoregon.gov.
 - b. Mailed Applications

- 1) Mailed applications must be addressed to:
Bureau of Development Services
Attn: Land Use Services Technicians
1900 SW 4th Ave, Suite 5000
Portland, OR 97201
- 2) If correct payment does not accompany a mailed application, Land Use Services Technician staff will contact the applicant with instructions for providing payment.
- c. Alternative Submittal Arrangement
 - 1) If a customer cannot email or mail an application, they can call 503-865-6523 to make an alternative arrangement.
2. Some Land Use Services applications have specific filing requirements.
 - a. Applications will not be considered “filed” if they do not contain enough information to determine what type of review or procedure type is needed.
 - b. A land use review application will not be considered “filed” unless it contains the following:
 - Complete land use application form
 - Narrative addressing approval criteria
 - Site plan(s)
 - Fee
 - d. Applications for Land Divisions will not be considered “filed” until a completed Expedited Land Division Acknowledgement Form has been provided.
 - c. Applications for reviews that require Neighborhood Contact will not be considered “filed” until the submittal requirements identified in Zoning Code Chapter 33.705 have been met.
 - e. Applications for Early Assistance requests will not be considered “filed” until the applicant confirms they are ready to proceed with the application materials they submitted.
 - f. Applications for Land Use Compatibility Statements (LUCS) forms, which are portions of state license applications, will not be considered, “filed,” until the applicant provides the state agency license application with enough description of the proposal for BDS staff to understand the use or activity proposed, including site plans or other plans as needed, as well as a completed City of Portland Zoning Confirmation Request Application form.
3. Filed date.
 - a. Land Use Review applications will be considered “filed” on the date received provided the requirements outlined above in A.1 and A.2 are met and provided that all fees are paid and received by BDS within 1 business day after payment instructions were provided by the Land Use Services Technician. If requirements in A.1 and A.2 are not met and all fees are not paid and received by BDS within 1

business day, the Land Use Review application will not be considered “filed”. If not “filed”, the applicant will need to re-apply.

- b. Final Plat Review, Public Registry, and Early Assistance applications will be considered “filed” on the date payment is made, provided the requirements outlined in A.1 and A.2 are met, and provided that all fees are paid and received by BDS within 5 business days after payment instructions were provided by the Land Use Service Technician. If the requirements in A.1 and A.2 are not met and all fees are not paid and received by BDS within those 5 business days, the application will not be “filed”. If not “filed”, the applicant will need to re-apply.

IV. Intake of an Appeal Application

- A.** Applications filed for Land Use Review Appeals must be emailed to LandUseIntake@portlandoregon.gov or received through mail by the deadline provided in the Notice of Decision. If an application is emailed to any other city or bureau email address, it is not considered "filed".
- B.** Appeal applications that are emailed after 5 p.m. Monday through Friday or on weekends or holidays will be identified as "filed" on the following business day.
- C.** A Land Use Services technician will contact the appellant with instructions for providing payment for an appeal application. If payment is not made and received by BDS within 1 business day after instructions have been provided, the appeal application will not be considered "filed".

V. Additional reviews or changes to applications after filing.

If an additional land use review is added to an existing land use review application, the fee charged is based on the fee schedule at the time of the request. Additional reviews are not vested in the fee schedule in place at the time of the initial application filing.

VI. Change of a condition of approval

All requests to change any conditions of approval of a final land use review decision must include a review fee. The review fee is either the current fee for the applicable land use review or the unassigned review fee.

VII. Voiding of Public Registry Applications

- A.** Any application that remains inactive for a period longer than 180 days will be voided. In order to remain active, an applicant must respond to the checksheet within 180 days from the mail date. If an application has been voided, application fees will not be refunded and a new application would need to be filed.

VIII. Fee Waivers or Refunds

The Director of BDS will consider fee waivers or refunds on a case by case basis. The decision of the Director to waive or refund fees is final.

A. Fee Waivers

The Director may waive BDS land use review application or appeal fees as specified below for recognized organizations, low-income applicants, City government or nonprofit organizations. (A "recognized organization" is defined in PCC 33.910.) An application for a fee waiver may be filed concurrently with the land use review application or appeal form.

1. Recognized organization appeal fee waivers.

- a. Type II and IIX land use review appeals.** Per state law, no appeal fee is charged to recognized organizations for the appeal of a Type II or Type IIX land use review if the site is within that neighborhood or community organization's boundaries. To be deemed "recognized" by the Office of Community and Civic Life (Civic Life), the organization has to abide by the

Oregon Public Records and Public Meeting Laws, and Civic Life requires that any vote of the neighborhood association to appeal be in accordance with the organization's bylaws.

b. Type III land use review appeals. The Director may waive land use review appeal fees for recognized organizations for Type III land use reviews if all of the following conditions are met:

- 1) The recognized organization has standing to appeal. (See City Zoning Code Section 33.730.030.F, Ability to appeal);
- 2) The appeal is being made on behalf of the recognized organization; and
- 3) The appeal contains the signature of the chairperson of the organization, as recognized by Civic Life, or the signature of other persons authorized by the organization, confirming the vote to appeal was done in accordance with the organization's bylaws.

2. Low-income fee waivers for land use review applications.

The Director will determine eligibility only for BDS Land Use Services land use review application fee waivers; the Director cannot consider fee waivers for other bureaus' fees associated with land use review applications. Financial information provided by the applicant will remain confidential to the extent permitted under Oregon public records law.

a. Land use review application fees. A low-income applicant may request a land use review application fee waiver on the site of the applicant's primary residence, if the applicant owns the site in whole or in part.

- 1) An applicant receiving a fee waiver must be an individual or noncorporate entity.
- 2) An applicant for a fee waiver will be required to certify gross annual income and household size. The fee will be waived only for households with a gross annual income of less than 50 percent of the area median income as established by the Department of Housing and Urban Development (HUD), as adjusted for household size. The Director must make information relating to fee waivers available for review.

b. Appeal fees.

- 1) Appeal fees may be waived for applicants qualifying for a land use review application fee waiver who are appealing the decision on their application.
- 2) Appeal fees also may be waived for a low-income individual or noncorporate entity appealing a land use review decision in their neighborhood, provided the following are met:
 - a) The individual resides or the entity is located within the required notification area for the review; and
 - b) The individual has resided in a dwelling unit at that address for at least 60 days.

3. City government fee waiver for land use review applications.

The Director may waive the LUS land use review fees when a City Bureau is the applicant.

4. Nonprofit fee waiver for land use review applications.

The Director may waive the LUS land use review fees for nonprofit organizations that directly serve low-income individuals. To waive the fees, the Director must find that the activities, but not necessarily the specific request of the organization, are consistent with and further City goals and policies.

B. Fee Refunds.

The BDS Director will consider refunds for the BDS Land Use Services' portion of the required fees for appeals, land use reviews, final plats, pre-application conferences, early assistance appointments, or public registry applications as noted below.

1. **Appeals of land use reviews.** Appeal fees are refunded for the appeal of Type II, IIx and III land use review decisions meeting the following conditions:
 - a. **Type III land use reviews.** The appeal hearing was limited to evidence found in the case record and no new evidence was allowed to be presented; and
 - b. **Type II, IIx and III land use reviews.** The appellant must prevail if a refund is to be granted. An appellant has prevailed if the appellant succeeds in:
 - 1) Overturning the lower decision maker's decision; or
 - 2) Persuading the appellate decision maker to modify the lower decision maker's decision in the appellant's favor for one or more of the reasons identified in the appeal.

It is not necessary for the appellant to prevail on all of the issues raised--prevailing on just one issue is sufficient.

2. **Unnecessary fees.** When a fee is accepted for a Land Use Services application that is later found to not be required, a full refund of all Land Use Services application fees for the unnecessary review will be given.
3. **Errors.** When an error is made in calculating a fee, overpayment will be refunded.
4. **Withdrawn Land Use Services applications.** Refunds for withdrawn land use review applications, final plat applications, pre-application conferences, early assistance appointments, design advice requests, or public registry applications shall be granted as provided below:
 - a. **Withdrawn land use review applications.** Requests for withdrawal of a land use review application must be in writing. Fees will be refunded as follows:

When a written request for the withdrawal of a Type I, Ix, II or IIx Land Use Review application is received:	Amount of refund of BDS Land Use Services fee:
Before the Notice of Proposal is sent to Printing & Distribution.	75% However, in no case should the amount the City retains be less than \$600 or more than \$1,500.
After the Notice of Proposal is sent to Printing & Distribution but before staff sends the Notice of Decision to Printing & Distribution.	25% However, in no case should the amount the City retains be less than \$900 or more than \$4,000.

When a written request for the withdrawal of a Type III or IV Land Use Review application is received:	Amount of refund of BDS Land Use Services fee:
Before the Request For Response is sent to the responding bureaus.	75% However, in no case should the amount the City retains be less than \$900 or more than \$2,000
After the Request For Response is sent to the responding bureaus, but before the Notice of Public Hearing is sent to Printing & Distribution.	50% However, in no case should the amount the City retains be more than \$7,000
After the Notice of Public Hearing is sent to Printing & Distribution, but before the staff recommendation is published.	30% However, in no case should the amount the City retains be more than \$10,000

- b. **Withdrawn final plat applications.** Requests for withdrawal of a final plat application must be in writing. Fees will be refunded as follows:

When a written request for the withdrawal of a Final Plat application is received:	Amount of refund of BDS Land Use Services fee:
Before staff sends the first redlines or plat comments to the customer.	75%
After staff sends the first redlines or plat comments to the customer.	50%
After staff sends the second redlines or plat comments to the customer.	25%

- c. **Withdrawn pre-application conferences.** Fees for withdrawn pre-application conferences will be refunded as follows:

When a Pre-application Conference is withdrawn:	Amount of refund of BDS Land Use Services fee:
Before staff sends the conference information to the responding bureaus	75%
After staff sends the conference information to the responding bureaus, but at least 7 days prior to the conference	50%
Within 6 calendar days prior to the conference.	25%

- d. **Withdrawn early assistance applications or design advice request meetings.** Fees for withdrawn early assistance appointments or design advice request meetings will be refunded as follows:

When an Early Assistance Application or Design Advice Request is withdrawn	Amount of refund of BDS Land Use Services fee:
At least 7 calendar days prior to the Early Assistance appointment or when there is no appointment, at least 7 calendar days prior to the response due date. For Design Advice Requests, at least 14 days prior to the meeting.	50%

e. **Withdrawn public registry applications.** Fees for withdrawn public registry applications will be refunded as follows:

When a Public Registry application is withdrawn:	Amount of refund of BDS Land Use Services fee:
Before staff sends first checksheet to the customer.	75%
After staff sends first checksheet to the customer.	50%
After staff sends second checksheet to the customer.	25%