

ORDINANCE NO. 17-26

AN ORDINANCE AMENDING THE ASTORIA DEVELOPMENT CODE SECTION  
PERTAINING TO ARTICLE 9 - ADMINISTRATIVE PROCEDURES

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria Development Code is amended by the addition of Section 9.010 pertaining to Application Information and General Review Procedures to read as follows:

"9.010. APPLICATION INFORMATION AND GENERAL REVIEW PROCEDURES.

A. Purpose

The purpose of this Article is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 9.010 provides a key for determining the review procedure and the decision-making body for particular approvals.

B. Applicability of Review Procedures. All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this article. The procedure "type" assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures as described in subsections 1-4 below. Table 9.010 lists the City's land use and development approvals and corresponding review procedure(s).

1. Type I Procedure (Staff Review – Zoning Checklist). Type I decisions are made by the Community Development Director , or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards).
2. Type II Procedure (Administrative/Staff Review with Notice). Type II decisions are made by the Community Development Director , with public notice and an opportunity for appeal to the Planning Commission. Alternatively, the Community Development Dreictor may refer a Type II application to the Planning Commission for its review and decision in a public meeting.
3. Type III Procedure (Quasi-Judicial Review – Public Hearing). Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal

to the City Council. In the case of a Quasi-Judicial zone change, a Type III decision is made by the City Council on recommendation of the Planning Commission. Quasi-Judicial decisions involve discretion but implement established policy.

4. Type IV Procedure (Legislative Review). The Type IV procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Type IV reviews are considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

| <b>Approvals**</b>              | <b>Review Procedures</b>                                    | <b>Applicable Regulations</b>  |
|---------------------------------|---|--|
| Zoning Checklist Review*        | Type I  | Applicants are required to complete a Zoning Checklist before applying for any permit or approval. See Section 9.010.A.4 |
| Access to a Street              | Type I  | Article 3.005 and the standards of the applicable roadway authority (City/County/ODOT)                                   |
| Accessory Dwelling Unit         | Type I, III   | Section 3.020  |
| Annexation                      | Type IV   | See Oregon Revised Statute 222   |
| Appeal                          | Type II-IV  | Article 9.040  |
| Code Text Amendment             | Type IV   | Article 10.070   |
| Comprehensive Plan Amendment    | Type IV   | Article 10.050   |
| Conditional Use Permit          | Type III  | Article 11   |
| Design Review (Gateway Overlay) | Type III  | Article 14   |
| Historic Properties             |   |  |
| Demolition                      | Type II, III  | Article 6.080  |
| Exterior Alteration             | Type II, III  | Article 6.050  |
| Landmark Designation            | Type III  | Article 6.040  |
| Historic District Establishment | Type IV   | Article 6.030  |
| Historic Designation Removal    | Type I  | ORS 197.772  |
| New Construction                | Type III  | Article 6.070  |
| Erosion Control & Grading       | Type I  | Article 3.305  |
| Extension Request               | Type I, II, III   | Article 9.100  |
| Home Occupation                 | Class A: No permit<br>Class B: Type II<br>See Article 3.095 |  |

| Table 9.010 – Summary of Approvals by Type of Review Procedure              |                           |   |
|---|---------------------------|---|
| Approvals**   | Review Procedures         | Applicable Regulations                    |
| Homestay Lodging  | Type I, Type III          |   |
| Legal Lot Determination   | Type I                    | Article 1.350                             |
| Master Planned Development<br>Preliminary Plan<br>Final Detailed Plan       | Type III<br>Type III      | Article .14.575<br>Article .14.580        |
| Miscellaneous Review  | Type III                  | Article 8.080                             |
| Modification to Approval or<br>Condition of Approval                        | Type I, II or<br>III      | Article 10                                |
| Non-Conforming Use or<br>Structure, Expansion of                            | Type I, II or<br>III      | Article 3.180-3.200                       |
| Parking Exception   | Type II                   | Article 7.062                             |
| Partition or Re-plat of 2-3 lots<br>Preliminary Plat<br>Final Plat          | Type III<br>Type I        | Article 13.200 & 13.300<br>Article 13.120 |
| Planned Development Overlay<br>Preliminary Plan<br>Final Plan (Zone Change) | Type III<br>Type III      | Article 14.560                            |
| Property Line Adjustments,<br>including Lot Consolidations*                 | Type I                    | Article 13.                               |
| Microwave Satellite Dish  | Type I, III               | Article 3.150                             |
| Sign  | Type I, II, III           | Article 8.060                             |
| Solar Array/Wind  | Type I, II, III           | Article 16                                |
| Subdivision or Replat of >3 lots<br>Preliminary Plat<br>Final Plat          | Type III<br>Type I        | Article 13.100<br>Article 13.130          |
| Wireless Communication Facility   | Type II, III              | Article 15.090                            |
| Variance<br>Zoning Map Change   | Type II<br>Type III or IV | Article 12.060<br>Article 10.050, 10.070  |

\*\*New Additions to Administrative Procedures

\*The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

A. Content.

An application for a land use action or permit shall consist of:

1. A complete application form and all supporting documents and evidence, including a site plan, elevations, and other pertinent information related to the subject property or structure.
2. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property. A notarized signature of the property owner may be required to verify consent.
3. Legal description of the property affected by the application.
4. City staff shall provide a zoning checklist to an applicant that identifies all required submittal information during a pre-application conference. The applicant is required to submit the completed zoning checklist with an application.

B. Submittal.

A complete application and all supporting documents and evidence must be submitted at least 28 days prior to the date of a hearing. Exceptions may be made to this requirement by the Community Development Director on a case-by-case basis.

C. Complete Application.

If the application is complete when first submitted, or the applicant submits the requested additional information within 180 days from the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time a complete application was first submitted.

D. Incomplete Application.

If an application for a permit or zone change is incomplete, the City shall notify the applicant of the additional information required within 30 days of the receipt of the application. The applicant shall be given the opportunity to submit the additional information required. The application shall be deemed complete upon receipt of the additional information required. If the applicant refuses to submit the required additional information, the application shall be deemed complete on the 31st day after the governing body first received the application.

E. Multiple Requests.

Where a proposed development requires more than one development permit or zone change request from the City, the applicant may request that the City consider all necessary permit and zone change requests in a consolidated manner referred to as a concomitant application. If the applicant requests that the City consolidate its review of

the development proposal, all necessary public hearings before the applicable Commission should be held on the same date if possible.

*(Section 9.010.E amended by Ordinance 14-03, 4-21-14)*

F. Staff Report.

Any staff report used at the hearing shall be available at least seven (7) days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the limitations of ORS 227.178.

*(Section 9.010.F amended by Ordinance 14-03, 4-21-14)*

G. Pre-Application Meeting.

Prior to submittal of a Type II-IV application, a pre-application meeting with the Community Development Director and/or the Planner is required. The Community Development Director shall determine the classification and appropriate process for any application.

*(Section 9.010.G added by Ordinance 13-10, 11-4-13; Amended by Ordinance 14-03, 4-21-14)*

H. Determination of Permit Process.

The Community Development Director may determine that a permit should be reviewed by a Commission/Committee in lieu of an Administrative Review to protect the best interests of the surrounding property or neighborhood or the City as a whole.

*(Section 9.010.H added by Ordinance 13-10, 11-4-13; amended by Ordinance 14-03, 4-21-14)*

I. Applications for Development Review.

1. Applications for development review may be initiated by one or more of the following:

- a. One or more owners of the property which is the subject of the application; or
- b. One or more purchasers or representatives of such property who submit a written approval of the property owner; or
- c. One or more lessees in possession of such property who submits written consent of one or more owner's to make such application; or
- d. Person or entity authorized by the Board or Commission; or

- e. A Department of the City of Astoria when dealing with land involving public works, parks, economic development, or other City projects; or
- f. A public utility or transportation agency, when dealing with land involving the location of facilities necessary for public service; or
- g. Any of the above may be represented by an agent who submits written authorization by his principal to make such application.

*(Section 9.010.1 added by Ordinance 14-03, 4-21-14)*

J. Coordinated Review.

- 1. In addition to the general notice provisions set forth in Section 9.020, the City shall invite the Oregon Department of Transportation (ODOT) and/or any other transportation facility and public and utility service providers potentially affected by the application to pre-application conferences, as applicable. The City shall provide notice of a public hearing or an administrative action to potentially affected transportation facility and service providers.
- 2. Coordinated review of applications with ODOT and/or any other applicable transportation facility and service providers may also occur through Traffic Impact Study provisions, pursuant to Subsection 3.015.A.5.”

Section 2. Astoria Development Code is amended by the addition of Section 9.015 to read as follows:

“9.015. Community Development Director Duties. The Community Development Director, or designee, shall perform all of the following duties with regard to administration of this Code:

- A. Prepare application forms based on the provisions of this Code and applicable state law;
- B. Prepare required notices and process applications for review and action;
- C. Assist the Historic Landmarks Commission, Design Review Commission, Planning Commission and City Council in administering the hearings process;
- D. Answer questions from the public regarding the City’s land use regulations;
- E. Prepare staff reports summarizing pending applications, including applicable decision criteria;
- F. Prepare findings consistent with City decisions on land use and development applications;

- G. Prepare notices of final decisions, file the notices in the City's records, and mail a copy of the notices to all parties entitled to notice under this Code; and
- H. Maintain and preserve the file and public record for each application."

Section 3. Astoria Development Code is amended by the addition of Section 9.020 to read as follows:

"9.020.        PUBLIC NOTICE.

A.        Mailed Notice - Content.

A notice of a public hearing or an administrative action shall contain the following information:

1.        The name of the applicant.
2.        The date, time, place of hearing and who is holding the public hearing, or conducting the administrative action.
3.        The street address or other easily understood geographical reference to the subject property.
4.        The nature of the application and the proposed use or uses which could be authorized.
5.        A list of the applicable criteria from the Development Code and Comprehensive Plan that apply to the application at issue.
6.        A statement that a failure to raise an issue in person or by letter precludes appeal and that failure to specify which criterion the comment is directed precludes an appeal based on that criterion.
7.        A statement describing where the complete application, criteria and other relevant information is available for review, how written comments may be submitted, applicable appeal procedures, and the name of a representative to contact and the telephone number where additional information may be obtained.
8.        A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
9.        A statement that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost.

10. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

B. Mailed Notice - Distribution, Time Requirements.

1. Mailed notice shall be sent to property owners within the following distances from the exterior boundary of the subject property:
  - a. Legislative amendment to the Development Code text or Land Use and Zoning Map - None.
  - b. Quasi-judicial amendment to the Development Code text or Land Use and Zoning Map - 200 feet.
  - c. Conditional Use - 200 feet.
  - d. Variance - 200 feet.
  - e. Miscellaneous Review - 200 feet.
  - f. Historic Property Exterior Alterations, New Construction, Demolition or Moving Permits - 200 feet.
  - g. Historic District Establishment - Owners of property abutting or within the boundaries of the proposed District.  
*(Section 9.020(B.1.g) amended by Ordinance 13-10, 11-4-13)*
  - h. Appeals - Parties to the record.
  - i. Design Review - 200 feet.  
*(Section 9.020(B.i) added by Ordinance 98-04, 5-4-98)*
  - j. Wireless Communication Facility – 500 feet.  
*(Section 9.020(B.1.j) added by Ordinance 13-10, 11-4-13)*
  - k. Solar Facility, Administrative Conditional Use – 100 feet.  
*(Section 9.020(B.1.k) added by Ordinance 13-10, 11-4-13)*
  - l. Solar Facility, Planning Commission Conditional Use – 250 feet.”  
*(Section 9.020(B.1.l) added by Ordinance 13-10, 11-4-13)*
2. Addresses for a mailed notice required by this Code shall be obtained from the County Assessor's real property tax records. Failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to



comply with the requirements of this Code for notice. In addition to persons to receive notice as required by the matter under consideration, the Community Development Director may provide notice to others he has reason to believe are affected or otherwise represent an interest that may be affected by the proposed action.

3. Notice shall be mailed not less than 20 days prior to the hearing requiring the notice; or if two or more evidentiary hearings are allowed, 10 days prior to the first evidentiary hearing.

(Section 9.020(B.2.3 & 4) amended and renumbered by Ordinance 13-10, 11-4-13)

C. Published Notice.

Notice shall be given for any proposed quasi-judicial (Type III) or legislative (Type IV) land use action by publication in a newspaper of general circulation in the City of Astoria.

- D. For Type III applications, at least 14 days before the first hearing, the Community Development Director or designee shall post notice of the hearing on the project site in clear view from a public right-of-way. Posting near the main entryway inside a storefront window of a commercial or industrial building visible to the public is allowable."

Section 4. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS 3 DAY OF April, 2017.

APPROVED BY THE MAYOR THIS 3 DAY OF April, 2017.

Arlene LaMear  
Mayor

ATTEST:

[Signature]  
Brett Estes, City Manager

ROLL CALL ON ADOPTION:

|                        | YEA | NAY | ABSENT |
|------------------------|-----|-----|--------|
| Commissioner Nemlowill | X   |     |        |
| Brownson               | X   |     |        |
| Price                  |     | X   |        |
| Jones                  | X   |     |        |
| Mayor LaMear           | X   |     |        |