

Chapter 17.06 Administration of Public Works Permitting

(Chapter added by Ordinance 183483, effective February 19, 2010.)

17.06.010 Purpose and Scope.

This Title establishes regulations affecting or relating to Public Works Permit Improvements.

17.06.015 Protection of the Public Interest.

(Added by Ordinance 185397, effective July 6, 2012.)

No provision of this Title shall be construed to create a right in any individual to a permit which in the opinion of the City would be inconsistent with the public interest.

17.06.020 Definitions.

For the purposes of this Chapter, the following definition shall apply:

A. "Public Works Permit" is a permit issued ~~by the Bureau of Transportation~~ in accordance with Section 17.24.030, Application for Permit, or issued ~~by the Bureau of Environmental Services~~ in accordance with Chapter 17.32, Sewer Regulations.

17.06.030 Organization and Rules.

(Amended by Ordinance 189651, effective September 6, 2019.)

~~A. The Public Works Permitting Section shall administer the provisions of this Chapter.~~

~~B. The personnel of the Public Works Permitting Section shall consist of a Public Works Permit Manager and other employees as may be allowed and provided by City Council. Such personnel may act to enforce provisions of this Title. The Public Works Permit Manager shall report to the Development Division Managers of the Bureaus of Transportation, Environmental Services, and Water.~~

~~C. The Public Works Permitting Section shall reside in the Bureau of Transportation Budget. Each year the Bureaus of Transportation, Environmental Services, and Water shall negotiate and implement an Interagency Agreement to manage administration and operations of the Section.~~

~~1. The Public Works Permit Manager, under the direction of the three Development Division Managers for the Bureaus of Transportation, Environmental Services and Water, and in consultation with the City Engineer and Chief Engineers of the Bureaus of Environmental Services and Water, shall establish rules and procedures for appeals. The rules may include, consistent with this Code, a description of agency decisions that are and are not subject to appeal under this Code section.~~

17.06.040 Appeals Panel and Appeals Board.

(Amended by Ordinances 185397 and 189651, effective September 6, 2019.)

~~A. Public Works Administrative Appeals Panel (PWAAP).~~

~~1. The PWAAP shall consist of five members. No quorum is required for deliberation or decision.~~

~~a. The Panel shall include the three Development Division Managers or equivalent on the Bureaus of Transportation, Environmental Services, and Water or their designees.~~

~~b. Mayor Appointed Members.~~

~~(1) The Panel shall include one representative from the Development Review Advisory Committee (DRAC) and one from the City who has a strong interest or background in neighborhood land use and development activities. The Mayor may solicit nominations from the Chairs of the City's Neighborhood Association~~

~~Land Use Committees or, if an association has no land use chair, the Neighborhood Chair.~~

~~(2) The Mayor shall appoint a qualified member and an alternate for each member. The alternate shall attend meetings and vote when the member is unavailable. Appointed Panel members and alternates shall serve a term of two years. However at the creation of the PWAAP, the initial term one DRAC and a City at large member shall be for three years to stagger membership for continuity with appointed members. The Mayor shall appoint and may remove any member or alternate from the Panel at any time.~~

~~(3) Members of the Panel shall be public officials within the meaning of state and local laws pertaining to ethics.~~

~~(4) Appointed members of the PWAAP shall serve without compensation.~~

~~2. The PWAAP shall annually elect a Chairperson from among the three development division manager members of the Panel. Meetings of the PWAAP shall be held at the call of the Chairperson, who shall call meetings at the Public Works Permit Manager's request.~~

BA. Public Works Board of Appeals (PWBA).

1. The Board shall consist of three members: Chief Engineers from the Bureaus of Environmental Services and Water, and the City Engineer or their designees. Two members shall constitute a quorum.
2. The Board annually shall elect a Chairperson from among the three members of the Board. Meetings of the Board shall be held at the call of the Chairperson, who shall call meetings at the Public Works Permit Manager's request.

CB. Representation from the Bureaus of Fire, Parks and Recreation Forestry Division or ~~Development Services~~[Portland Permitting & Development](#) may be called upon by the Public Works Permit Manager at any time to provide staff support related to appeals to be acted upon by the ~~PWAAP or~~ PWBA.

17.06.050 Appeals.

(Amended by Ordinances 184707 and 189651, effective September 6, 2019.)

A. Unless prohibited by this Code and rules adopted by the Public Works Permit Manager, any person whose application for a Public Works Permit is denied or any person who is required pursuant to, or as a written condition of, the grant of a Public Works Permit to incur an expense for the alteration, repair, or construction of a facility in the public right of way, including but not limited to pavement, sidewalk areas, stormwater facilities or utilities may appeal to the [Public Works Board of Appeals \(PWBA\)](#) ~~Public Works Administrative Appeal Panel (PWAAP)~~ by serving written notice upon the Public Works Permit Manager. The following actions are not subject to appeal:

1. Approval or denial of requests for design exceptions;
2. Previously established City standards and specifications;
3. Decisions related to the assessment of system development charges;
4. Matters subject to the authority of any other City appeal body;
5. Matters which may be appealed through City or state land use processes.

B. A permit decision, requirement or condition may only be appealed if it is in writing and only on the grounds that it is inconsistent with or contrary to City Code, rules, standards, policy, or is a misapplication or misinterpretation, thereof.

C. An appellant shall serve written notice of appeal on the Public Works Permit Manager challenging an appealable permit decision, requirement, or condition. The notice of appeal shall be in such form as specified by the Public Works Permit Manager, and shall be accompanied by a fee, which shall be set on an annual basis by City Ordinance, and served within the time for appeal specified in Subsection ~~H~~E. of this Section.

D. Content of the appeal. The appeal must be submitted on forms provided by the Public Works Permit Manager. All information requested on the form must be submitted. The appeal request must include:

1. The public works permit number appealed;
2. The appellant's name, address, signature, phone number;

3. The grounds for the appeal including, at a minimum, the specific City Code provision, rule, standard, or policy with which the decision, requirement, or condition is claimed to be in conflict and a detailed explanation of the alleged conflict;
4. The relief requested; and
5. The required fee.

~~E. The PWAAP may approve, approve with conditions or deny the requested relief. Any such decision must be consistent with applicable City Code, rules, standards and policies. The decision of the PWAAP, including a statement of its basis, shall be transmitted to the appellant and the relevant Bureaus in writing.~~

~~F. The appellant may appeal the PWAAP decision to the Public Works Board of Appeals (PWBA) by serving written notice on the Public Works Permit Manager. Failure to do so shall constitute waiver of any objections to the decision. The allowable grounds for appeal to the PWBA are as stated in Subsection B. of this Section. The request for appeal to the PWBA must include all items as stated in Subsection D. of this Section, and must be made within the time for appeal specified in Subsection H. of this Section.~~

GE. The PWBA may approve, approve with conditions or deny the requested relief. Any such decision made must be consistent with applicable City Code, rules, standards and policies. If the PWBA determines that the requested relief cannot be granted without a change to City policy the PWBA may recommend such a change in writing to the Directors of the Bureaus of Transportation, Water, Environmental Services and ~~Development Services~~ [Portland Permitting & Development](#) and may incorporate the Directors' response into its final decision. The PWBA shall transmit to the appellant and the relevant Bureaus a written decision on the appeal, including a statement of its basis.

HE. Sequence of Appeals. The purpose of the appeals procedures is to identify and resolve appealable issues as early as possible, and to ensure an appeal is fully resolved before an applicant moves to subsequent steps in the permit review process. The following sequencing requirements apply to appeals:

1. Appellant may file an appeal during any phase of the permit application and review process. However, an appeal must be submitted during the phase in which the decision is made. For example, a decision

made during the 30 percent phase of plan review must be appealed prior to the start of the 60 percent phase.

2. The time required to file and process an appeal shall not increase the amount of time allowed by the City for an applicant to file and process a public works permit application. The right to appeal shall expire when the permit expires.

IG. Decisions of the PWBA are final. They may be reviewed by the Circuit Court pursuant to ORS 34.010 to 34.102.