

## EXHIBIT A

## Amendments to Section 17.06.050

**17.06.050 Appeals.**

- A.** ~~Except in cases excluded from appeal~~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 Administrative Appeal Panel (PWAAP) by serving written notice upon the Public Works Permit Engineering Manager. ~~At a minimum,~~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, or policy, ~~or that it has misapplied or misinterpreted City Code, rules, standards, or policy~~is a misapplication or misinterpretation, thereof.
- C.** ~~An appellant shall serve written notice of appeal on the Public Works Permit Engineering Manager challenging an appealable permit decision, requirement, or condition that is subject to appeal. The notice of appeal shall be in such form as specified by the Public Works Permit Engineering Manager, and shall be accompanied by a fee and shall be filed within fifteen (15) business days of the written decision, requirement, or condition appealed from. The fee, which shall be set on an annual basis by City Ordinance, and served within the time for appeal specified in Subsection H of this Section.~~
- D.** Content of the appeal. The appeal must be submitted on forms provided by the Public Works Permit Engineering Manager. All information requested on the form must be submitted ~~in order for the appeal form to be accepted.~~ 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

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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, ~~provided that a~~ Any such decision made 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. ~~If the appellant is not satisfied with the decision of the~~ may appeal the PWAAP decision to the Public Works Board of Appeals (PWBA) by serving, the appellant, within fifteen (15) business days of issuance of the decision, may serve written notice on the Public Works Permit Engineering Manager ~~requesting a hearing before the Public Works Board of Appeals (PWBA).~~ Failure to do ~~serve~~ serve written notice of appeal shall constitute waiver of any objections to the decision. ~~The notice of appeal shall be in such form as specified by the Public Works Permitting Manager, and shall be accompanied by a PWBA appeal fee.~~ The allowable grounds for appeal to the PWBA are as stated in Subsection B. ~~above 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 ~~above.~~
- G. The PWBA may approve, approve with conditions or deny the requested relief, ~~provided that a~~ Any such decision made must be consistent with applicable City Code, rules, standards, and ~~City~~ policies. If the PWBA determines that the requested relief requested by an appellant cannot be granted consistent without a change to City policies subject to alteration by one or more of the Directors of the Bureaus of Transportation, Water, Environmental Services, and Development Services, the PWBA may send a written recommendation for recommend such a change in writing to the Directors of the Bureaus of Transportation, Water, Environmental Services and Development Services ~~City policy to the Directors~~ and may, if appropriate, 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.
- H. 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

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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.

I. Decisions of the PWBA are final and are to be considered quasi-judicial in nature. They may be reviewed by the Circuit Court pursuant to ORS 34.010 to 34.102.