

## Chapter 17.06

### ADMINISTRATION OF PUBLIC WORKS PERMITTING

#### Sections:

- 17.06.010 Purpose and Scope.
- 17.06.020 Definitions.
- 17.06.030 Organization and Rules.
- 17.06.040 Appeals Panel and Appeals Board.
- 17.06.050 Appeals.

#### **17.06.010 Purpose and Scope.**

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

#### **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.**

- 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 Engineering 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 Engineering 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 Engineering 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.**

- 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 for the DRAC 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 Engineering Manager's request.
- B. 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 Engineering Manager's request.
- C. Representation from the Bureaus of Fire, Parks and Recreation Forestry Division or Development Services may be called upon by the Public Works Permit Engineering Manager at any time to provide staff support related to appeals to be acted upon by the PWAAP or PWBA.

**17.06.050 Appeals.**

- A. Except in cases excluded from appeal 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.
- C.** Appellant shall serve written notice of appeal on the Public Works Permit Engineering Manager challenging a 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 shall be set on an annual basis by City Ordinance.
- 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 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 any 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 PWAAP, 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 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 grounds for appeal to the PWBA are as stated in subsection B. above. The request for appeal to the PWBA must include all items as stated in subsection D above.

- G.** The PWBA may approve, approve with conditions or deny the requested relief, provided that any decision made must be consistent with applicable City Code, rules, standards, and City policies. If the PWBA determines that relief requested by an appellant cannot be granted consistent with 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 a change in 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.** 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.

**TRN-1.09 - Design Standards for Public Streets** - Printable Version**DESIGN STANDARDS FOR PUBLIC STREETS**

*Administrative Rule Adopted by Bureau of Transportation Engineering and Development*

*Pursuant to Rule-Making Authority*

ARB-TRN-1.09

**I. Discussion**

Public street design is based on a number of national and local engineering standards. Local standards used for street elements and right-of-way widths continue to be based on the following Council adopted items:

- Skinny Street Standards (adopted 1991)
- Pedestrian Design Guidelines of the Pedestrian Master Plan (adopted 1998)
- Bicycle Master Plan (adopted 1996)

The Office of Transportation has developed a booklet, *Creating Public Streets and Pedestrian Connections through the Land Use and Building Permit Process*, which incorporates existing street design standards and identifies other relevant design manuals. Where possible, information has been simplified for easier understanding, and it is presented based on zoning designations.

**II. Administrative Rule for Design Standards for Public Streets**

Public streets shall be designed using the standards provided in the booklet, *Creating Public Streets and Pedestrian Connections through the Land Use and Building Permit Process*.

Section IV, *Administrative Review Process for Technical Decisions for Street Design* found on Page 23 of the "Creating Public Streets and Pedestrian Connections through the Land Use and Building Permit Process" is removed in its entirety. Any appeals of Public Works Permits shall follow Code Chapter 17.06.

**III. Reference**

Pursuant to Rulemaking Authority under Chapter 3.12

**HISTORY**

Document dated February 2004.

Filed for inclusion in PPD February 26, 2004.

Revision approved by Council on January XX, 2009.

TRN-9.01 - Administrative Appeals Process

ADMINISTRATIVE APPEALS PROCESS  
Administrative Rule Adopted by Bureau of Transportation Engineering & Development  
Pursuant to Rule-Making Authority  
ARB-TRN-9.01

-----

June 21, 1995

MEMORANDUM

TO: Commissioner Charlie Hales

FROM: Vic Rhodes, City Engineer

RE: Appeals Process

In response to your memo regarding formalization of Transportation's administrative appeals process, I have drafted the attached language and provided it to Ann Kohler.

Transportation operates under City Code and Standards which are distinctively different from the Uniform Building Code administered by the Bureau of Buildings. The UBC is basically a consumer protection document in prescribing design and construction methodologies. While the City Code also contains detailed standard specifications and policy statements, there is flexibility for staff to respond to and resolve unique circumstances. The City is the ultimate owner of the infrastructure constructed in the public-right-of-way. Trained and experienced staff represent the City as the owner and are able to maintain a reasonable degree of flexibility in our technical requirements. In contrast to the majority of building purchasers, our staff is able to make informed judgments about our ability to maintain and operate proposed improvements. Technical disputes arise infrequently and are normally resolved by the manager of the Development Services Division and on occasion by me. Issues related to the application of City policy arise from time to time during the building permit process. These typically are related to requirements for construction of sidewalks, driveway placement and street LID waivers. In the past, these have been resolved satisfactorily through an "informal" process of management review.

The attached procedure defines a formal administrative appeals process, which we will implement coincident with the publication of the Rowhouse Customer Group Report. We are not proposing a fee at this time due to the infrequency of appeals. If the formal

process results in an additional volume of appeals or a shift from informal resolution, we may recommend to Council that a fee be implemented to cover our costs.

Issues related to the requirements placed by Transportation on land use applications are resolved through the land use process under Title 34 (Hearings Officer, Council, LUBA). These types of issues represent the bulk of appeals related to our participation in the development process

---

#### Development Appeals Process Transportation Engineering & Development

The Bureau of Transportation Engineering and Development reviews applications for building permits to be issued by the Bureau of Buildings where construction or encroachments in the public right-of-way are proposed or required. Applicants may be required to construct street improvements, sidewalks, and driveways as a condition of approval under authority of Title 17 of the City Code. The Bureau also issues permits for construction/reconstruction of streets in conjunction with land development which has been approved through the Bureau of Planning land use process. Bureau staff apply established code, City and PDOT policy and judgment in establishing requirements and technical specifications for this work. On occasion, applicants desire to have these decisions reviewed for appropriateness.

Customers may request informal review of staff decisions by management regarding the technical design of or requirements for transportation facilities as a part of the building permit process or street improvement permit process.

Applicants desiring to file a formal administrative appeal directly to the City Engineer should submit a letter requesting review. The applicant should identify the proposed project and clearly state what issues or requirements are being appealed and the rationale for the change requested. The City Engineer will convene the appropriate technical and management staff to review the applicants proposal and issue a written determination within ten business days of initial receipt from the applicant. The decision of the City Engineer regarding technical matters is final and conclusive. Policy determinations may be appealed to the City Council.

---

#### HISTORY

Filed for inclusion in PPD December 3, 2003.