

## Chapter 115 DECISION-MAKING PROCEDURES

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**115.01 Purpose.** The purpose of this Chapter is to establish a series of standard decision-making procedures that will enable the County, the applicant, and all interested parties to reasonably review applications and participate in the local decision-making process in a timely and effective way. Each permit or action set forth in Article 2, as well as other substantive chapters of this Ordinance has been assigned a specific procedure type.

### **115.02 Description of Decision-Making Procedures**

- A. General. All development permit applications shall be decided by using one of four procedure types, as described in subsection 115.02(B). The procedure type assigned to each action governs the decision-making process for that permit, except to the extent otherwise required by applicable state or federal law. The Planning Director shall be responsible for assigning specific procedure types to individual permit or action requests, as requested. Special alternative decision-making procedures have been developed by the County in accordance with existing state law, and are codified in Section 115.08.
- B. Types defined. There are four types of decision-making procedures, as follows:
1. Type I procedures apply to ministerial permits and actions containing clear and objective approval criteria. Type I actions are decided by the Planning Director without public notice and without a public hearing.
  2. Type II procedures apply to administrative permits and actions that contain limited discretionary criteria. Type II actions are decided by the Planning Director with public notice and an opportunity for a hearing. If any party with standing appeals the Planning Director's Type II decision, the Planning Commission will hear the appeal of such decision.
  3. Type III procedures apply to quasi-judicial permits and actions that predominantly contain discretionary approval criteria. Type III actions are decided either by the Planning Commission or by a Hearings Officer, with appeals heard by the Board of Commissioners. Type III actions are either designated as Type III-PC (Planning Commission) or Type III-HO (Hearings Officer).
  4. Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision or large-scale implementation of public policy. Type IV matters are considered initially by the Planning Commission with final decisions made by the Board of Commissioners.

- C. Determination of decision-making type. The Planning Director shall have the initial authority to determine the proper decision-making type relevant to the permit or actions requested. The decision of the Planning Director may be appealed only as a relevant issue through the process assigned by the Planning Director to the underlying permits. If the Planning Director's determination regarding the proper decision-making type is not raised as an issue within the process assigned by the Planning Director to the permit or action requested, the Planning Director's decision shall be final concerning the applicable decision-making type.
- D. Planning Director Discretion. The Planning Director has the discretion to re-designate an application for a Type II review as a Type III review, if they judge that the specific case has unusual circumstances and/or will generate substantial public interest. The Planning Director shall notify the applicant in writing of their intent to review the application by means of a Type III procedure within 30 days of the submission of a complete application, per the requirements of Section 115.03. The Planning Director also has the discretion to determine that applications for properties with unresolved violations are not eligible for additional permits, with the exception of septic repair, until said violations are resolved.
- E. Hearings Officer Discretion. The Hearings Officer has the discretion to re-designate an application for a Type III Hearings Officer review as a Type III Planning Commission review, if they judge that the specific case has unusual circumstances and/or will generate substantial public interest. The Hearings Officer shall notify the applicant in writing of their intent to review the application by means of a Type III Planning Commission procedure within 30 days of the submission of a complete application, per the requirements of Section 115.03.

**115.03 Applications.** The following standards shall be used to process land use applications:

- A. Initiation of applications. Any persons authorized by this Ordinance to submit an application for approval may be represented by an agent authorized in writing to make the application. Applications for approval under this Chapter may be initiated by:
  - 1. Order of the Board of Commissioners;
  - 2. Resolution of the Planning Commission;
  - 3. Planning Director; and
  - 4. Application of a recorded owner of property or contract purchaser(s).
- B. Pre-application conferences:
  - 1. Participants. When a pre-application conference is required or requested by the applicant, the applicant shall meet with the Planning Director or their designee(s).
  - 2. Information provided. At such conference, the Planning Director or designee shall:
    - a. Cite the applicable zoning map designations;
    - b. Cite the applicable substantive and procedural ordinance provisions that apply to the request;
    - c. Provide technical data and assistance that will aid the applicant;

- d. Identify other policies and regulations that relate to the application;
  - e. Provide a copy of the applicable application form, and identify the submission requirements and filing fee; and
  - f. Identify other opportunities or constraints that relate to the application.
3. Disclaimer. Failure of the Planning Director to provide any of the information required by this Chapter shall not constitute a waiver of the standards, criteria or requirements of the applications.
  4. Changes in Law. Due to possible changes in federal, state and local law, information given by staff of the Planning Department to the applicant during the pre-application conference concerning these laws must be verified by the applicant to ensure that such laws are current on the date the application is submitted. The applicant, with the help of the Planning Department staff, is responsible for ensuring that its application complies with all of the law applicable on the day the application is deemed complete.

C. Applications:

1. Before approving any development, the Planning Director shall be provided with information by the applicant sufficient to establish full compliance with the requirements of this Ordinance. Where multiple applications are necessary to permit a proposed development, the Planning Director may undertake a consolidated review of the simultaneous applications.
2. Applications shall be signed by all owners of record or their authorized agent(s).
3. If an applicant submits a letter of withdrawal of an application, the application shall be terminated, the application withdrawn and the file closed without a decision and without any right to a refund of any application filing fee.

D. Consolidation of proceedings. Whenever an applicant requests more than one approval and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding.

1. When a request which contains more than one approval is consolidated, the hearings shall be held by the highest approval authority having original jurisdiction over one of the applications under Section 115.03(B) in the following order of preference: the Board of Commissioners, Planning Commission, Hearings Officer, or the Planning Director.
2. Where there is a consolidation of proceedings.
  - a. The notice shall identify each action to be taken;
  - b. The decision on a plan, map or text amendment shall precede the decision on the proposed zone change and other actions; and,
  - c. Separate actions shall be taken on each application.

E. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

1. Acceptance. When the County receives an application, the Planning Director shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant. The required items include:
  - a. The required form;
  - b. The required fee; and
  - c. The signature of the applicant on the required form.
  
2. Required information. The following information will be required of all land use permits, if applicable to the specific request. Documentation in addition to or in lieu of the following list may be required for a specific permit or action, as required by other chapters of this Ordinance. The Planning Director will have the ultimate authority to determine what information is required, including the request of additional or a waiver of required information. The following information is required, if applicable to the request:
  - a. Appropriate application form.
  - b. Narrative that describes the proposed project and addresses the applicable approval criteria.
  - c. A site plan satisfying the criteria in Section 310.04(A).
  - d. All owners of record or their authorized agent(s) signatures.
  
3. Completeness Review. When an application is submitted and received by the Planning Department, staff shall review the application for completeness. The completeness review shall be concluded in a reasonable period of time, not to exceed 30 days from the date the application was received.
  - a. Complete application. If the application is deemed complete, the Department shall sign and date the application, specifying the date it was determined to be complete. The land use action process shall begin, and be subject to statutory time limits, on the date the application was determined to be complete.
  - b. Incomplete application. If an application is determined to be incomplete, the County shall notify the applicant in writing, within 30 days of the date the application was received, to specify exactly what information is missing, and to allow the applicant up to 180 days from the date the application was initially received to submit a written response. The application shall be deemed complete for the purpose of initiating the land use action process when the County receives, in writing, one of the following:
    - i. All of the missing information;
    - ii. Some of the missing information and written notice from the applicant that no other information will be provided; or
    - iii. Written notice from the applicant that none of the missing information will be provided.

- c. On the 181<sup>st</sup> day after first being received by the County, an incomplete application shall be void if the applicant was notified of the missing information and failed to respond in writing as provided in Section 115.03(F)(2), without any right to a refund of any application filing fee.
- d. Once the land use action process is initiated, the County shall make its final local decision within the time frame specified in ORS 215.427.
- e. The statutory time limit for making a final local decision (150/120 days) may be extended, upon written request from the applicant, as long as the total of all such extensions does not exceed 215 days.

F. Changes or additions to the application during the review period. Once an application is deemed complete:

- 1. All documents and other evidence relied upon by the applicant, but submitted after the application has been deemed complete, shall be submitted to the Planning Director at least seven days before the notice of action or hearing is mailed. Documents or other evidence submitted after that date shall be received by the Planning Director, but may be too late to be considered by the Planning Director in the staff report or Planning Director's decision, as the case may be.
- 2. When the applicant submits documents or other evidence during the review period, but after the application is deemed complete, the Planning Director, Hearings Officer or Planning Commission, as the case may be, may determine whether or not the new documents or other evidence submitted by the applicant, significantly changes the application.
- 3. If the Planning Director, Hearings Officer or Planning Commission, as the case may be, determines that the new documents or other evidence significantly changes the application, the Planning Director, Hearings Officer or Planning Commission shall make a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the Planning Director, Hearings Officer or Planning Commission, as the case may be, may inform the applicant either in writing, or orally at a public hearing, that such changes will likely constitute a significant change, and provide the applicant with the opportunity to withdraw the new materials submitted, to avoid a determination of significant change.
- 4. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the County shall take one of the following actions:
  - a. Continue to process the existing application and allow the applicant to resubmit a new application with the proposed significant changes. In this situation, both the old and the new applications will be allowed to proceed; however, each will be deemed complete on different dates and may be subject to different laws.
  - b. Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. In this situation, before the existing application can be suspended, the applicant must consent to a waiver of the 150-day rule on the suspended application. If the applicant does not consent, the County shall not select this option.
  - c. Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. In this situation, the County will complete its initial decision-making process without considering the new evidence.

5. If a new application is resubmitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and may be subject to new standards and criteria, pursuant to the law in effect at the time the new application is deemed complete.

#### **115.04 General Provisions.**

- A. Planning Director's Duties. With regard to processing applications submitted under this Chapter, the Planning Director shall:
  1. Prepare application forms made pursuant to the standards contained in the applicable state law, comprehensive plan and implementing ordinance provisions.
  2. Accept all land use applications.
  3. Prepare a staff report or notice to the proposal when required:
    - a. In the case of an application subject to a Planning Director's decision, make the staff report and all case-file materials available at the time the notice of the decision is given; and
    - b. In the case of an application subject to a hearing before the Planning Commission or Hearings Officer, the Planning Director shall mail the staff report to the Planning Commission or Hearings Officer seven days prior to the scheduled hearing date. The case-file materials and staff report shall also be made available to the public seven days prior to the scheduled hearing date, as provided by Section 115.07(C)(1)(d) and Section 115.08(C)(2)(d).
  4. Administer the hearings process.
  5. Maintain a register of all applications that have been filed for a decision.
  6. File notice of the final decision in the records of the Planning Department and mail a copy of the notice of the final decision to the applicant and all parties and to those persons requesting copies of such notices who paid the necessary fees.
  7. Maintain and preserve the file for each application, according to the OAR timeline for records retention. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given, and the accompanying affidavits, the application and all supporting information, the staff report, the final decision, including the findings, conclusions and conditions (if any), all correspondence, and minutes of any meeting at which the application was considered and any other exhibit, information or documentation which was considered by the decision-making body with respect to the application.
  8. Administer the appeals and review process.
- B. Amended Decision Process.
  1. The Planning Director may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 days after the original decision would have become final, but in no event beyond the 150-day period required by state law.

2. The notice for an amended decision shall be the same as that which applies to a Type II procedure as governed by Section 115.06(E).
  3. The purpose of an amended decision is to provide the Planning Director the ability to correct typographical errors, rectify inadvertent omissions and/or make other minor changes, which do not materially alter the decision.
- C. Re-Submittal of Application Following Denial. An application which has been denied or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted for the same or a substantially similar proposal and/or action for at least 12 months from the date the final County action is made denying the application unless there is substantial change in the facts or a change in County policy or regulations that would change the outcome.

### **115.05 Type I Procedure**

- A. Pre-application conference. A pre-application conference is not required for a Type I procedure.
- B. Application requirements:
1. Application forms. Type I applications shall be made on forms provided by the Planning Director.
  2. Submittal Information. Type I applications shall:
    - a. Include all of the information requested on the application form as provided by the Planning Director.
    - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Article 2 or in other substantive chapters of this Ordinance.
    - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits, as contained in Article 2 and other substantive chapters of this Ordinance.
    - d. Be accompanied by the required fee.
- C. Administrative decision. The Planning Director's decision shall address all of the relevant approval criteria related to the specific request. Based on the criteria and the facts contained within the record, the Planning Director shall approve, approve with conditions or deny the requested permit or action.
- D. Final decision. The Planning Director's decision is final for purposes of appeal on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The Planning Director's decision cannot be appealed at the local level, and is the final decision of the County.

### **115.06 Type II Procedure**

A. Pre-Application conference. A pre-application conference is optional at the discretion of the applicant for Type II actions. Pre-application conference requirements and procedures are set forth in Section 115.03(B).

B. Submission requirements:

1. Application Forms. Type II applications shall be made on forms provided by the Planning Director.
2. Submittal Information. Type II applications shall:
  - a. Include all of the information requested on the application form as provided by the Planning Director.
  - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Article 2 or in other substantive chapters of this Ordinance.
  - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits as contained in Article 2 and other substantive chapters of this Ordinance.
  - d. Be accompanied by the required fee.
  - e. Include any required impact studies necessary for determining the effect and/or impact of a proposed development on public facilities or services, properties in the area, or the public at large, as determined by the Planning Director:
    - i. These studies shall quantify the effect of the development on public facilities and services including, but not limited to, impacts on the transportation, stormwater drainage, water, sewer and parks systems.
    - ii. When one or more of these impact studies is required, the applicant shall propose improvements necessary to meet County standards and to minimize the impact of the proposed development on the public at large, public facilities systems, and affected private property users.
    - iii. In situations where the Planning Director requires the dedication of real property interests, the applicant shall either specifically concur with the dedication requirements, or provide evidence that supports the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of pending Type II decision.

1. Prior to making a Type II decision, the Planning Director shall provide written notice to:
  - a. All owners of record within a specified distance of the subject site. The distance from the site subject to this notification requirement depends on the zoning designation of the subject site and is governed by the notification distances contained in ORS 215.416(11)(c)(A):



- i. Within 100 feet of the property that is the subject of the notice or to the affected city's notification requirements (whichever is most restrictive) when the subject property is wholly or in part within an urban growth boundary;
    - ii. Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a resource zone; or
    - iii. Within 1500 feet of the property that is the subject of the notice when the subject property is within a resource zone.
  - b. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County that includes provision for such notice or who is otherwise entitled to such notice.
  - c. Any neighborhood or community organization recognized by the County and whose boundaries include the site.
2. The purpose of such notice is to provide nearby property owners and other interested parties with an opportunity to submit written comments concerning the application, prior to issuance of the Type II decision. The goal of this notice is to invite relevant parties of interest to participate early in the decision-making process.
3. Notice of a pending Type II decision shall:
- a. Provide a 14-day period for the submission of written comments prior to issuance of a decision on the permit.
  - b. List the applicable approval criteria relevant to the decision.
  - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed.
  - d. Include the name of the County representative to contact and the telephone number where additional information may be obtained.
  - e. Identify the specific permits or approvals requested.
  - f. Describe the street address or other easily understandable geographic reference to the subject property.
  - g. Indicate that failure of any party to address the relevant approval criteria with sufficient specificity may preclude subsequent appeals to the Land Use Board of Appeals or Oregon Court of Appeals on that issue. Comments directed at the relevant approval criteria are what constitute relevant evidence.
  - h. Indicate that all evidence relied upon by the Planning Director to make this decision shall be contained within the record, and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the Planning Director.
  - i. Indicate that after the comment period closes, the Planning Director shall issue a Type II decision. The Planning Director's decision shall be mailed to the applicant and to owners of

record of property located within the notification distance of the applicable zoning designation and to anyone else who submitted written comments or who is otherwise entitled to notice.

- j. Contain the following notice: *“Notice to mortgagee, lienholder, vendor, or seller: The Baker County Zoning Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.”*

4. Notice List. The records of Baker County Assessor’s Office are the official records for determining ownership. The most current assessment records must be used to produce the notice list.

D. Administrative decision requirements. The Planning Director’s decision shall address all of the relevant approval criteria. Based upon the criteria and the facts, the Planning Director shall approve, approve with conditions or deny the requested permit or action.

E. Notice of decision.

1. Within 5 days after signing the decision, a Notice of Decision shall be sent by mail to:

- a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
- b. All owners of record of property as shown on the most recent property tax assessment roll within the notification distance of the applicable zoning designation and to anyone else who submitted written comments or who is otherwise entitled to notice.
- c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the County that includes provision for such notice or who is otherwise entitled to such notice.
- d. Any neighborhood or community organization recognized by the County and whose boundaries include the site.

2. The Planning Director shall cause a notarized affidavit of mailing of such notice to be prepared and made a part of the file, which indicates the date the notice was mailed and demonstrates that the required notice was mailed to the necessary parties in a timely manner.

3. The Type II Notice of Decision shall contain information as follows:

- a. The nature of the application in sufficient detail to inform persons entitled to notice of the applicant’s proposal and of the decision;
- b. The address or other geographic description of the subject property, including a map of the site in relation to the surrounding area, where applicable;
- c. A statement of where the Planning Director’s decision can be obtained;
- d. The date the Planning Director’s decision shall become final, unless appealed;
- e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;

- f. A statement briefly explaining how an appeal can be taken, the deadline for filing such an appeal, and where further information can be obtained concerning the appeal; and
  - g. A statement that unless the applicant is the appellant, the hearing on an appeal from the Planning Director's decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the Decision Making Body.
- F. Final decision and effective date. A Type II decision is final for purposes of appeal when notice of the decision is mailed. A Type II decision becomes effective on the day after the appeal period expires, unless an appeal is filed. If an appeal is filed and dismissed after the appeal period has expired, the Type II decision becomes effective on dismissal of the appeal.
- G. Appeal. A Type II administrative decision may be appealed as follows:
- 1. *Standing to appeal.* The following parties have standing to appeal a Type II decision:
    - a. The applicant;
    - b. The property owner(s);
    - c. Any party who was mailed written notice of a pending Type II administrative decision; and
    - d. Any other party who demonstrates by clear and convincing evidence that they participated in the proceeding through the submission of written or verbal testimony.
  - 2. Appeal procedure:
    - a. *Notice of appeal.* Any party with standing, as provided in Section 115.06(G)(1), may appeal a Type II decision by filing a Notice of Appeal according to the following procedures.
      - i. *Time for filing.* A Notice of Appeal shall be filed with the Planning Director within 12 days of the date the Notice of Decision was mailed.
      - ii. *Content of Notice of Appeal.* The Notice of Appeal shall contain:
        - 1) An identification of the decision being appealed, including the date of the decision;
        - 2) A statement demonstrating the party filing the Notice of Appeal has standing to appeal;
        - 3) A detailed statement of the specific issues raised on appeal;
        - 4) A statement demonstrating that the specific issues raised on appeal were raised during the comment period, except when the appeal is filed by the applicant; and
        - 5) Filing fee.
      - iii. All Notices of Appeal for Type II appeals shall be filed with the Planning Director, together with the required filing fee. The maximum fee for an initial hearing shall be the cost to the

local government for preparing and for conducting the hearing, or the statutory maximum, whichever is less.

- b. *Scope of appeal.* The appeal of a Type II decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section 115.06(C).
  - i. In extraordinary circumstances only, the Planning Commission, at its discretion, should consider new issues and allow additional evidence or testimony, concerning any other relevant issue, on appeal of a Type II decision.
  - ii. The Planning Commission may allow such additional evidence if it determines that such evidence is necessary to resolve the case. The intent of this requirement is to limit the scope of Type II appeals by encouraging persons with standing to submit specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal.
- c. *Appeal procedures.* Type III notice and hearing procedures shall be used for all Type II appeals, as provided in Section 115.07(C) to Section 115.07(F).

H. Final decision and effective date. The decision of the Planning Commission with regard to any appeal of a Type II decision is the final decision of the County. The decision of the Planning Commission is final for purposes of appeal on the day the decision is mailed. The decision is effective on the day after the appeal period expires, unless an appeal is filed. If an appeal is filed, the decision is effective on the day after the appeal is resolved.

### **115.07 Type III Procedure**

- A. Pre-application conference. A pre-application conference is required for all Type III actions. The requirements and procedures for a pre-application conference are described in Section 115.03(B).
- B. Submission requirements:
  - 1. *Application Forms.* Type III applications shall be made on forms provided by the Planning Director.
  - 2. *Submittal Information.* Type III applications shall:
    - a. Include all of the information requested on the application form as provided by the Planning Director.
    - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Chapter 210 to Chapter 290 or elsewhere in this Ordinance.
    - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits as contained in Chapter 210 to Chapter 290 and other substantive chapters of this Ordinance.
    - d. Be accompanied by the required fee.

- e. Include impact studies as determined by the Planning Director:
  - i. These studies shall quantify the effect of the development on public facilities and services including impacts on the transportation, stormwater drainage, water, sewer and parks systems.
  - ii. When one or more of these impact studies is required, the applicant shall propose improvements necessary to meet County standards and to minimize the impact of the proposed development on the public at large, public facilities systems, and affected private property users.
  - iii. In situations where the Planning Director requires the dedication of real property interests, the applicant shall either specifically concur with the dedication requirements, or provide evidence that supports the conclusion that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of hearing:

- 1. *Mailed notice.* Notice of a Type II appeal hearing or Type III hearing shall be given by the Planning Director in the following manner:
  - a. At least 20 days prior to the hearing date, notice shall be sent by mail to:
    - i. The applicant and all owners or contract purchasers of record for the site that is the subject of the application;
    - ii. All owners of record within a specified distance of the subject site shall be notified of the pending decision. The distance from the site subject to this notification requirement depends on the zoning designation of the subject site and is governed by the notification distances contained in ORS 215.416(11)(c)(A):
      - 1) Within 100 feet of the property that is the subject of the notice or to Baker City notification requirements (whichever is most restrictive) when the subject property is wholly or in part within an urban growth boundary;
      - 2) Within 250 feet of the property that is the subject of the notice when the subject property is outside an urban growth boundary and not within a resource zone; or
      - 3) Within 1500 feet of the property that is the subject of the notice when the subject property is within a resource zone.
    - iii. Any affected governmental agency which has entered into an intergovernmental agreement with the County which includes provision for such notice, or who is otherwise entitled to such notice;
    - iv. Any neighborhood or community organization recognized by the County and whose boundaries include the site;
    - v. Any person who has submitted a written request, and who has paid a fee established by the Baker County Board of Commissioners; and

- vi. In actions involving appeals, the appellant and all parties to the appeal.
  - b. The Planning Director shall cause a notarized affidavit of mailing of notice to be prepared and made a part of the file, which demonstrates the date that the required notice was mailed to the necessary parties.
  - c. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in the County. An affidavit of publication concerning such notice shall be made part of the administrative record.
  - d. At least 7 days prior to the hearing, the Planning Director shall mail the staff report to the Planning Commission or Hearings Officer and make the case-file materials and staff report available to the public.
2. *Content of notice.* The Notice of a Type II appeal hearing or Type III hearing to be mailed and published as provided in Section 115.07(C)(1) shall contain the following information:
- a. Explain the nature of the application and the proposed use or uses that could be authorized.
  - b. List the applicable criteria from the Baker County Zoning Ordinance, the Baker County Comprehensive Plan, Oregon Revised Statutes (ORS) or Oregon Administrative Rules (OARs) that apply to the application at issue.
  - c. Set forth the street address or other easily understood geographical reference to the subject property.
  - d. State the date, time and location of the hearing.
  - e. State that any person may comment in writing and include a general explanation of the requirements for submission of testimony and the procedures for conduct of testimony, including, but not limited to, a party's right to request a continuance or to have the record held open.
  - f. State that failure to raise an issue at the hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeal based on that issue.
  - g. Include the name of the County representative to contact and the telephone number where additional information may be obtained.
  - h. State that a copy of the application and all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and that copies can be provided at a reasonable cost.
  - i. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that a copy can be provided at a reasonable cost.
  - j. Include a general explanation of the procedure for conducting hearings.
  - k. Contain the following notice: "*Notice to mortgagee, lien-holder, vendor, or seller: This Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.*"

3. *Notice List.* The records of the Baker County Assessor's Office are the official records for determining ownership. The most current assessment records must be used to produce the notice list.

D. Submission of Testimony

1. Testimony can be submitted prior to the hearing in writing or verbally at the hearing.
  - a. Testimony submitted in writing shall include eight copies, for Planning Commission members and staff.
  - b. Testimony submitted digitally or without the requisite eight copies shall be assessed reasonable fees associated with copying. Fees are determined according to the Baker County fee schedule which is approved by the Board of Commissioners.
  - c. Written testimony must be fully contained in the text of the letter, email, memo or report. Submissions that cite URLs or other external sources will be considered incomplete.
  - d. The person providing testimony is responsible for providing a specific nexus between the documents submitted and the criteria the decision-making body must consider. Testimony which fails to do so may not be considered in the decision-making process.
  - e. The person providing testimony is responsible for confirming receipt of said testimony by Planning Department staff prior to the hearing.

E. Conduct of the hearing.

1. At the commencement of the hearing, a statement shall be made to those in attendance that:
  - a. Lists the applicable substantive criteria.
  - b. States that testimony and evidence shall be directed toward the relevant approval criteria described in the staff report or other criteria in the plan or land use regulation that the person testifying believes to apply to the decision.
  - c. States that failure to raise an issue with sufficient specificity to afford the decision-maker and the parties an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals or Oregon Court of Appeals on that issue.
  - d. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional relevant evidence or testimony regarding the application so long as that evidence and testimony is within the scope of the hearing. The local Decision Making Body shall grant such request by continuing the public hearing, pursuant to Section 115.07(E)(2) or by leaving the record open for additional written evidence or testimony, pursuant to Section 115.07(E)(3).
2. If the Decision Making Body grants a continuance, the hearing shall be continued to a specified date, time, and place at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person

may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days, to submit additional written evidence or testimony for the purpose of responding to the new written evidence.

3. If the Decision Making Body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the County for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Decision Making Body shall reopen the record, pursuant to Section 115.06(E)(5).
  - a. When the Decision Making Body reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
  - b. An extension of the hearing or record granted pursuant to Section 115.07(E) is subject to the limitations of ORS 215.427 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant;
  - c. If requested by the applicant, the County shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence;
  - d. The record shall contain all testimony and evidence that is submitted to the County and that the hearings body has not rejected;
  - e. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous county decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
  - f. The review authority shall retain custody of the record until the County issues a final decision.
4. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing *ex parte* contacts (see subsection (5) below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
  - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing *ex parte* contacts (as defined in subsection (5) below) concerning the application or appeal. The hearings body member shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;



- c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
- d. If a member of the hearings body abstains or is disqualified, the County may provide a substitute in a timely manner subject to administrative impartiality rules.
- e. If all members of the Planning Commission abstain or are disqualified, the Board of Commissioners shall be the hearing body. If all members of the Board of Commissioners abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
- f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this Section.

5. *Ex parte* communications.

- a. Members of the Decision Making Body shall not:
  - i. Communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved in a hearing, except upon giving notice, and an opportunity for all parties to participate.
  - ii. Take notice of any communication, report or other materials outside the record prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the materials so noticed.
- b. No decision or action of the Decision Making Body shall be invalid due to *ex parte* contacts or bias resulting from *ex parte* contacts with a member of the Decision Making Body if the member of the Decision Making Body receiving contact:
  - i. Places on the record the substance of any written or oral *ex parte* communications concerning the decision or action; and
  - ii. Makes a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action shall be considered or taken on the subject to which the communication is related.
- c. Members of the Decision Making Body shall be governed by the provisions of ORS 244.135 and the provisions of this Section.
- d. A communication between County staff and the Decision Making Body shall not be considered an *ex parte* contact.

6. Presenting and receiving evidence:

- a. The Decision Making Body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony.

- b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing but only pursuant to the schedule and procedure announced by the Decision Making Body prior to the close of the public hearing, or as otherwise provided by this Section.
- c. The Decision Making Body may visit the site and the surrounding area, and may use information obtained during the site visit to support their decision, provided the information relied upon is disclosed at the hearing and that an opportunity is provided to rebut such evidence. In the alternative, a site visit may be conducted by the Decision Making Body for the purpose of familiarizing the Decision Making Body with the site and the surrounding area, but not for the purpose of independently gathering evidence. In such a case, at the commencement of the hearing, members of the Decision Making Body shall disclose the circumstances of their site visit and shall provide the parties with an opportunity to question each member of the Decision Making Body concerning their site visit.

F. The decision process:

1. Basis for Decision. Approval or denial of a Type II appeal or Type III action shall be based on standards and criteria set forth in the Baker County Zoning Ordinance, and which shall relate approval or denial of a discretionary permit application to the Ordinance.
  2. Findings and Conclusions. Approval or denial of a Type II appeal or Type III action shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards, and facts set forth.
  3. Form of Decision. The Decision Making Body shall issue a Final Order containing the above-referenced findings and conclusions, that either approves, denies or approves the permit or action with conditions. The Decision Making Body may also issue any intermediate rulings as it sees fit.
  4. Decision-making time limits. A Final Order for any Type II appeal or Type III action shall be filed with the Planning Director within 10 days after the close of the deliberation.
- G. Notice of Decision. Notice of Decision for a Type II appeal decision or a Type III decision shall be mailed to the applicant and to all parties of record within 5 days after the decision is filed by the Decision Making Body with the Planning Director. Failure to receive mailed notice shall not invalidate the action, provided that a good faith attempt was made to mail such notice.
- H. Final decision and effective date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the County. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the Baker County Board of Commissioners. The notification and hearings procedures for Type III applications on appeal to the Board of Commissioners shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the Baker County Board of Commissioners' written decision or, in the case of Type I decision, within 21 days of the administrative decision date.
- I. Appeal Procedure: The procedure for appeal shall be as follows:

1. A notice of intent to appeal must be submitted, in writing, to the Baker County Planning Department.
  - a. The appeal shall include sufficient specificity so as to aid the Board of Commissioners in addressing the criteria for appeal.
  - b. At least one copy of all appeal materials shall be made for all Planning Commission members and Planning Department staff.
  - c. Appeal materials submitted digitally or without the requisite number of copies shall be assessed reasonable fees associated with copying. Fees are determined according to the Baker County fee schedule which is approved by the Board of Commissioners.
  - d. Written testimony must be fully contained in the text of the letter, email, memo or report. Submissions which cite URLs or other external sources will be considered incomplete.
2. An appeal to the Board of Commissioners shall be scheduled within 30 days from the date the appeal is filed.
3. The Board of Commissioners may review a lower decision upon its own motion after giving 10 days notice to the parties involved in the decision and if such review is initiated within 10 days of the receipt of notice of the lower decision.
4. Notice of the appeal will be mailed to all parties of record at least 10 days prior to the scheduled hearing. The appeal date and time will appear on the Board agenda.
5. An appeal to the Board of Commissioners is a record review. No new testimony will be received by the Board of Commissioners. Because it is a record review, only one representative each from appellant, applicant and County may make an argument. The argument shall refer to the record, the criteria and the decision documents.
6. The Board of Commissioners may continue the hearing. Unless otherwise required by statute or administrative rule, no additional notice need be given of a continued hearing if the matter is continued to a specific date established at the hearing.
7. The Board of Commissioners shall remand back to the Planning Commission for rehearing any appeal in which new information is revealed which was not part of the record and which might have influenced the original decision.
8. A decision of the Board of Commissioners will be made by order signed by a majority of the Board.
9. A land use decision by the Board of Commissioners may be appealed to the Land Use Board of Appeals in accordance with the Board's rules and procedures.

#### **115.08 Type IV Procedure**

- A. Pre-application conference. A pre-application conference is required for all Type IV actions. The requirements and procedures for a pre-application conference are described in Section 115.03(B).
- B. Submission requirements:

1. *Application forms.* Type IV applications shall be made on forms provided by the Planning Director.
2. *Submittal information.* Type IV applications shall:
  - a. Include all of the information requested on the application form as provided by the Planning Director;
  - b. Contain all of the relevant information required in Section 115.03 and any additional information required for a specific permit as contained in Chapter 210 to Chapter 290 or elsewhere in this Ordinance.
  - c. Address the relevant approval criteria in sufficient detail for review and action. The criteria are found in the chapters related to specific permits as contained in Chapter 210 to Chapter 290 and other substantive chapters of this Ordinance.
  - d. Be accompanied by the required fee.
  - e. Be accompanied by six copies of the narrative.

C. Notice of hearing:

1. *Required hearings.* Three hearings, one before the Planning Commission and two before the Board of Commissioners, are required for all Type IV actions.
2. *Notification requirements.* The Planning Director shall give notice of the public hearings for the request in the following manner:
  - a. At least 35 days prior to the first scheduled evidentiary hearing date, notice shall be sent to the Department of Land Conservation and Development.
  - b. At least 20 days prior to the scheduled hearing date, notice shall be sent to:
    - i. The applicant;
    - ii. Any affected governmental agency;
    - iii. Any neighborhood or community organization recognized by the County and whose boundaries include the site;
    - iv. Any person who requests notice in writing and pays a fee if established by Board of Commissioners resolution.
  - c. At least 14 days prior to the scheduled public hearing date, notice shall be published in a newspaper of general circulation in the County.
  - d. At least 7 days prior to the hearing, the Planning Director shall mail the staff report to the Board of Commissioners or Planning Commission, and make the case-file materials and staff report available to the public.
  - e. The Planning Director shall:

- i. For each mailing of notice, cause a notarized affidavit of mailing to be filed and made a part of the record which demonstrates the date that the required notice was mailed to the necessary parties.
  - ii. For each published notice, cause an affidavit of publication to be filed and made part of the record.
3. *Content of notice.* The notice given to persons entitled to mailed or published notice, pursuant to this Section, shall include the following information:
  - a. The name of the County representative to contact and the telephone number where additional information may be obtained.
  - b. A description of the location or locations of the subject of the proposal reasonably calculated to give notice as to the location or locations of the affected geographic area, if applicable.
  - c. A description of the substance of the proposal in sufficient detail for people to determine that a change is contemplated and the place where all relevant materials and information may be obtained or reviewed.
  - d. The times, places and dates of the public hearings; a statement that public (oral or written) testimony is invited; and a statement that the hearing will be held under this Ordinance and rules of procedure adopted by the Board of Commissioners and available at the Planning Department office or the rules of procedure set forth in Section 115.08(D).
  - e. Each mailed notice required by this Section shall contain the following statement: "*Notice to mortgagee, lien holder, vendor, or seller: This Ordinance requires that if you receive this notice it shall be promptly forwarded to the purchaser.*"
4. *Failure to receive notice.* The failure of any person to receive notice as required under Section 115.08(C) shall not invalidate the action, providing:
  - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service; and
  - b. Published notice is deemed given on the date it is published.
5. *Notice List.* The records of the Baker County Assessor's Office are the official records for determining ownership. The most current assessment records must be used to produce the notice list.

D. Hearing process and procedure.

1. Unless otherwise provided in the rules of procedure adopted by the Board of Commissioners:
  - a. The presiding officer of the Planning Commission or of the Board of Commissioners, as applicable, shall have the authority to:
    - i. Regulate the course, sequence, and decorum of the hearing;

- ii. Dispose of procedural requirements or similar matters; and
    - iii. Impose reasonable time limits for oral presentations.
  - b. No person shall address the Planning Commission or the Board of Commissioners without:
    - i. Receiving recognition from the presiding officer; and
    - ii. Stating their full name and residence address.
  - c. Disruptive conduct such as audience demonstrations in the form of applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- 2. The Planning Commission and the Board of Commissioners shall conduct the hearing as follows:
  - a. The hearing shall be opened by a statement from the presiding officer setting forth the nature of the matter before the body, a general summary of the procedures set forth in this Section, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the Board of Commissioners (at the hearing of the Planning Commission) or whether it will be the final decision of the Board of Commissioners.
  - b. A presentation of the Planning Director's report and other applicable staff reports shall be given.
  - c. The public shall be invited to testify.
  - d. The public hearing may be continued to allow additional testimony or it may be closed.
  - e. The body's deliberation may include questions to the staff, comments from the staff, or inquiries directed to any person present.
- E. Continuation of the public hearing. The Planning Commission or Board of Commissioners may continue any hearing and no additional notice shall be required if the matter is continued to a specific place, date, and time.
- F. Decision-making considerations. The recommendation by the Planning Commission and the decision by the Board of Commissioners shall be based on consideration of the following factors:
  - 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statute Chapter 197;
  - 2. Any federal or state statutes or regulations found applicable;
  - 3. Any applicable Comprehensive Plan policies; and
  - 4. Any applicable provisions of the County's implementing Ordinances.
- G. Approval process and authority.

1. The Planning Commission shall:
  - a. After notice and a public hearing, formulate a recommendation to the Board of Commissioners to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
  - b. Within 10 days of determining a recommendation, cause the written recommendation to be signed by the presiding officer of the Commission and be filed with the Planning Director.
2. Any member of the Planning Commission who voted in opposition to the recommendation by the Planning Commission on a proposed change may file a written statement of opposition with the Planning Director prior to any Board of Commissioners public hearing on the proposed change. The Planning Director shall transmit a copy to each member of the Board of Commissioners and place a copy in the record.
3. If the Planning Commission fails to formulate a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative to a proposed legislative change within 60 days of its first public hearing on the proposed change, the Planning Director shall:
  - a. Report the failure together with the proposed change to the Board of Commissioners; and
  - b. Cause notice to be given, the matter to be placed on the Board of Commissioner's agenda, a public hearing to be held, and a decision to be made by the Board of Commissioners. No further action shall be taken by the Planning Commission.
4. The Board of Commissioners shall:
  - a. Have the responsibility to approve, approve with modifications, approve with conditions, deny or adopt an alternative to an application for the proposed change or to remand to the Planning Commission for rehearing and reconsideration on all or part of an application transmitted to it under this Ordinance;
  - b. Consider the recommendation of the Planning Commission, however, the Board of Commissioners is not bound by the Planning Commission's recommendation;
  - c. Act by Ordinance, which shall be signed by at least two of the Board of Commissioners after the Board of Commissioner's adoption of the Ordinance.

H. Vote required:

1. A vote by a majority of the qualified voting members of the Planning Commission present shall be required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
  2. A vote by a majority of the qualified members of the Board of Commissioners present shall be required to decide any motion made with respect to the proposed change.
- I. Notice of decision. Notice of a Type IV Decision shall be mailed to the applicant and to all parties of record within 5 days after the decision is filed by the Board of Commissioners with the Planning Director. The County shall also provide notice to all persons according to other applicable laws.

- J. Final decision and effective date. A Type IV decision shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.
- K. Record of the public hearing:
1. A verbatim record of the proceeding shall be made by stenographic or mechanical means. It shall not be necessary to transcribe testimony. The minutes and other evidence presented as a part of the hearing shall be a part of the record.
  2. All exhibits received and displayed shall be marked so as to provide identification and shall be part of the record.
  3. The official record shall include:
    - a. All materials considered by the Decision Making Body;
    - b. All materials submitted by the Planning Director to the Decision Making Body with respect to the application;
    - c. The verbatim record made by the stenographic or mechanical means, the minutes of the hearing, and other documents considered;
    - d. The Final Ordinance;
    - e. All correspondence; and
    - f. A copy of the notice that was given, accompanying affidavits and list of persons who were sent mailed notice.
- L. Appeal. There is no local appeal for a Type IV decision at the local level. A Type IV decision can be appealed to the Land Use Board of Appeals (LUBA) or the Land Conservation and Development Commission (LCDC) depending on the nature of the appeal.

### **115.09 Special Procedures**

- A. Expedited Land Divisions. An Expedited Land Division (ELD) shall be defined and may be used in the manner set forth in ORS 197.360, as may be amended from time to time, which is expressly adopted and incorporated by reference here. ELDs are only applicable to land that is zoned for residential uses and is within an urban growth boundary.
1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD at the time the application is filed, or forfeit their right to use it.
  2. Review procedure. An ELD shall be reviewed in accordance with the procedures set forth in ORS 197.365, as may be amended from time to time, which are expressly adopted and incorporated by reference here.



3. Appeal procedure. An appeal of an ELD shall be in accordance with the procedures set forth in ORS 197.375, as may be amended from time to time, which are expressly adopted and incorporated by reference here. Pursuant to ORS 197.375(3), the referee appointed by the County to conduct the appeal may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument.
- B. Limited Land Use Decisions. A Limited Land Use Decision (LLD) shall be defined and may be used in the manner set forth in ORS 197.015(12), as may be amended from time to time, which is expressly adopted and incorporated by reference here. LLDs are applicable only to sites within an urban growth boundary.
1. Selection. An applicant for a permit who wishes to use a LLD procedure instead of the regular procedure type assigned to it, must request the use of the LLD at the time the application is filed, or forfeit their right to use it.
  2. Decision-making procedure. A LLD shall be reviewed in accordance with the procedures set forth in ORS 197.195, as may be amended from time to time, which are expressly adopted and incorporated by reference here. The County shall follow the review procedures applicable to the County's Type II procedures, as set forth in Section 115.06 except to the extent otherwise required by applicable state law.

**115.10 Revocation of Permits.** Unless otherwise specified within this Ordinance, all land use permits may be subject to revocation by the Planning Director if it is determined the application includes false or misleading information, or if the standards or conditions governing the permit have not been met or maintained.

- A. The revocation of any permit by the Planning Director shall be subject to the following rules:
1. The Planning Director shall mail the permit-holder a written statement of the proposed revocation at least 30 days prior to the date of revocation. The notice shall contain a detailed statement identifying the specific reason(s) for revocation. The notice shall advise the permit holder of the opportunity to respond to the Planning Director's statement in writing within 15 days from the date the notice is mailed by explaining or refuting the reason(s).
  2. The Planning Director's action to revoke a permit shall be considered a land use decision subject to the applicable process requirements of Article 2 of this Ordinance.
  3. In the event the permit-holder submits a written explanation to the notice, the Planning Director shall thereupon give careful consideration to the response in conjunction with other relevant evidence, including other written comments received in response to landowner or agency notice to determine whether revocation of the permit should occur.
  4. At the conclusion of the Planning Director's review, the Planning Director shall enter findings of the decision and mail notice of the decision to revoke or not revoke to the permit-holder and other parties to the action. The notice shall explain basic appeal rights.
  5. No permit shall be revoked until the appeal period for the decision to revoke has expired without an appeal.

- B. The Planning Director's decision to revoke a permit may be appealed, pursuant to the rules and procedures contained in Article 2 of this ordinance governing the appeal of land use decisions. In the event of an appeal, the revocation of the permit shall be stayed pending review by the Board of Commissioners.