

DRAFT

Chapter 205 DECISION-MAKING PROCEDURES

205.01	Purpose
205.02	Definitions
205.03	Description of Decision-Making Procedures
205.04	Type I Procedure
205.05	Type II Procedure
205.06	Type III Procedure
205.07	Type IV Procedure
205.08	Special Procedures
205.09	General Provisions
205.10	Applications
<u>205.11</u>	<u>Permit Expiration Dates</u>
<u>205.12</u>	<u>Other Permit Expiration Dates and Extensions</u>
<u>205.13</u>	<u>Revocation of Permits</u>

205.01 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 Chapters 210 - 270 as well as other substantive chapters of this ordinance has been assigned a specific procedure type.

205.02 Definitions.

A. Special definitions. For purposes of this chapter, the following definitions apply:

1. "Argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. "Argument" does not include facts.
2. "Computation of time" for all other actions means the time within which an act is to be done is computed by

excluding the first day and including the last day, unless the last day falls upon any legal holiday, Saturday or Sunday, in which case the last day is also excluded, and the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.

3. "Decision Making Body" means the body that presides either over an initial Type III hearing or an appeal of a Type II or Type III decision. Depending on the type of hearing, the Decision Making Body may be the Planning Commission, Hearings Officer or Board of Commissioners.
4. "Effective date" means the date on which a particular action or decision may be undertaken or otherwise implemented. For decisions that are subject to review or appeal by any commission, board, or officer, the effective date will normally be the day after the appeal period expires. If an appeal is dismissed after the appeal period has expired, the decision that was the subject of the appeal becomes effective at the moment of dismissal. Final decisions of the County (those that are not subject to any further appeal or review within the County) are normally effective when they become final.
5. "Evidence" means facts, documents, data, or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision.
6. "Final for purposes of appeal" means the point at which an action or decision by any local decision-making body constitutes the final action or decision by that particular body. Because certain actions or decisions may be appealed or reviewed by other decision-making

DRAFT

bodies within the County, an action or decision may be “final for purposes of appeal,” without being the “final” action or decision of the County.

205.03 Description of Decision-Making Procedures.

A. General. All development permit applications shall be decided by using one of the following procedure types. 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 205.08.

B. Applications.

1. Before approving any development, the 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 Director may undertake a consolidated review of the simultaneous applications.
2. When an application is initiated and signed by less than all of the owners, purchasers and lessees of record as shown in the most recent Baker County Assessor’s information, the Director shall give all other owners, purchasers and lessees of record at least fifteen days written notice of the initiation of the application. Such notice shall be mailed to such owners, purchasers or lessees at their most recent address of record. Such

notice shall provide that all owners, purchasers and lessees of record shall be deemed to concur with the requests of the application, unless a timely written objection is received by the Director. Such notice shall also provide that if a timely objection is received by the Director, the application will be deemed by the Director to be withdrawn by the applicant, without any right to a refund of any application filing fee. This provision shall not apply to public entities, or a public utility or transportation agency when dealing with land involving the location of facilities necessary for public service.

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.

C. 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

DRAFT

predominantly contain discretionary approval criteria. Type III actions are decided either by the Planning Commission or by the Hearings Officer at the delegation of the Planning Commission, with appeals to 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.

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 he/she judges that the specific case has unusual circumstances and/or will generate substantial public interest. The Director shall notify the applicant in writing of his/her 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 205.10.

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 he/she judges that the specific case has unusual circumstances and/or will generate substantial public interest. The Hearings Officer shall notify the applicant in writing of his/her 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 205.10.

F. 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.

1. 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.

2. 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:

- a. All of the missing information;
- b. Some of the missing information and written notice from the applicant that no other information will be provided; or
- c. Written notice from the applicant that none of the missing information will be provided.

DRAFT

3. On the 181st 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 (F)(2) above, without any right to a refund of any application filing fee.
 4. 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.
 5. 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.
- G. Summary of permits by decision-making procedure type. Table 205-1 summarizes the various land use permits by the type of decision-making procedure.

|

DRAFT

**TABLE 205-1
SUMMARY OF PERMITS BY TYPE OF DECISION-MAKING PROCEDURE**

Permit	Cross-Reference
Type I: Ministerial (205.04)	
Existing Conditional Uses: Minor Modification	Chapter 210
Type I Minor Home Occupation Permit	Chapter 760
Lot Line Adjustment	Chapter 310
Minor/Major Partitions: Final Plat	Chapter 320
Type I Site Design Review	Chapter 335
Subdivision: Final Plat	Chapter 330
Type II: Administrative (205.05)	
Conditional Uses: Re-activated Use	Chapter 210
Type II Major Home Occupation Permit	Chapter 760
Minor/Major Partitions: Preliminary Plat	Chapter 320
Type II Site Design Review	Chapter 335
Temporary Permits	Chapter 250
Type III: Quasi-Judicial (205.06)	
Conditional Uses: New	Chapter 210
Conditional Uses: Major Modification	Chapter 210
Conditional Uses: In Flood Plain Overlay	Chapter 530
Type III Major Home Occupation Permit	Chapter 760
Planned Unit Development (requires Conditional Use Permit)	Chapter 230
Type III Site Design Review	Chapter 335
Subdivision: Preliminary Plat	Chapter 330
Variances	Chapter 240
Zoning Code Map Amendment: Single Property	Chapter 260
Type IV: Legislative (205.07)	
Comprehensive Plan Amendment: Text and/or Map	Chapter 260
Zoning Code Map Amendment: Multiple Property Owners	
Other	
Director's Decision	Chapter 230
Wetlands	Chapter 660

DRAFT

205.04 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 submitted by the applicant on the application form as provided by the Planning Director.

b. Contain all of the relevant information required in Section 205.10 and any additional information required for a specific permit as contained in Chapters 210-270 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, e.g., Chapters 210-270 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.

205.05 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 205.09 (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 submitted by the applicant on the application form as provided by the Planning Director.

b. Contain all of the relevant information required in Section 205.10 and any additional information required for a specific permit as contained in Chapters 210-270 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, e.g., Chapters 210-270 and other substantive chapters of this ordinance.

d. Be accompanied by the required fee.

e. Include impact studies as determined by the Planning Director.

(1) These studies shall quantify the effect of the development on public facilities and

DRAFT

services including, but not limited to, impacts on the transportation, stormwater drainage, water, sewer and parks systems.

- (2) 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.
- (3) 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):
 - (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 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.
 - 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.

DRAFT

- e. Identify the specific permits or approvals requested.
 - f. Describe the street address or other easily understandable geographic reference to the subject site.
 - 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: This 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:

DRAFT

- a. The nature of the application in sufficient detail to apprise 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 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. Any party who was mailed written notice of a pending Type II administrative decision; and
- c. 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 Subsection G(1) above, may appeal a Type II decision by filing a Notice of Appeal according to the following procedures.

(1) 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.

(2) Content of Notice of Appeal. The Notice of Appeal shall contain:

- (a) An identification of the decision being appealed, including the date of the decision;
- (b) A statement demonstrating the party filing the Notice of Appeal has standing to appeal;

DRAFT

- (c) A detailed statement of the specific issues raised on appeal;
 - (d) 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
 - (e) Filing fee.
- (3) 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 205.05 (C).
- (1) 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.
 - (2) 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 their 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 Sections 205.06 (C – 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.
- 205.06 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 205.09 (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 submitted by the applicant on the application form as provided by the Planning Director.
 - b. Contain all of the relevant information required in Section 205.10 and any additional information required for a specific permit as contained in Chapters 210-270 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, e.g., Chapters

DRAFT

210-270 and other substantive chapters of this ordinance.

- d. Be accompanied by the required fee.
- e. Include impact studies as determined by the Planning Director.

- (1) 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.
- (2) 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.
- (3) 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:
 - (1) The applicant and all owners or contract purchasers of record for the site that is the subject of the application;

- (2) 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):
 - (a) 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;
 - (b) 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
 - (c) Within 1500 feet of the property that is the subject of the notice when the subject property is within a resource zone.
- (3) 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;
- (4) Any neighborhood or community organization recognized by the County and whose boundaries include the site;
- (5) Any person who has submitted a written request, and who has paid a fee established by the Baker Board of Commissioners; and
- (6) In actions involving appeals, the appellant and all parties to the appeal.

DRAFT

- 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 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 Subsection 1 above 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 zoning ordinance 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 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.
 - f. Include the name of the County representative to contact and the telephone number where additional information may be obtained.
 - g. 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 shall be provided at a reasonable cost.
 - h. State that a copy of the staff report shall be available for inspection at no cost at least 7 days prior to the hearing, and that a copy shall be provided at a reasonable cost.
 - i. Include a general explanation of the requirements for submission of testimony and the procedure for conducting hearings.
 - j. 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. 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

DRAFT

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.
2. 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 Subsection 3 below or by leaving the record open for additional written evidence or testimony pursuant to Subsection 4.
3. If the Decision Making Body grants a continuance, the hearing shall be continued to a date, time, and place certain 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.
4. 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 Subsection 5 below.
 - a. A continuance or extension granted pursuant to this section shall be subject to the limitations of ORS 215.427, or other applicable statutes unless the continuance or extension is requested or agreed to by the applicant.
 - b. Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application period. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.
 5. When the Decision Making Body re-opens a record to admit new evidence or testimony, any person may raise new issues that relate to the new evidence, testimony, or criteria for decision-making, which apply to the matter at issue.
 6. The record requirements:
 - a. The record shall contain all testimony and evidence that is submitted and not rejected.
 - b. The Decision Making Body may take official notice of judicially recognized facts pursuant to applicable law. If the Decision Making Body takes official notice, it must announce its intention and allow the parties to the hearing to present evidence concerning the fact.
 - c. The Decision Making Body shall retain custody of the record as appropriate, until a final decision is rendered.

DRAFT

7. Parties to a Type II appeal hearing or Type III hearing are entitled to an impartial Decision Making Body as free from potential conflicts of interest and pre-hearing *ex parte* contacts (see Subsection 8 below) as reasonably possible. It is recognized, however, that the public has a countervailing right of free access to public officials. Therefore:

a. Decision Making Body members shall disclose the substance of any pre-hearing *ex-parte* contacts with regard to the matter at the commencement of the public hearing on the matter. The member shall state whether the contact has impaired the impartiality or ability of the member to vote on the matter and shall participate or abstain accordingly.

b. Any member of the Decision Making Body shall not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: The member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the Decision Making Body where the action is being taken.

c. Disqualification of a Decision Making Body member 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.

d. If all members abstain or are disqualified, the administrative rule of

necessity shall apply. All members present who declare their reasons for abstention or disqualification shall thereby be re-qualified to act.

8. *Ex parte* communications.

a. Members of the Decision Making Body shall not:

(1) 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.

(2) 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:

(1) Places on the record the substance of any written or oral *ex parte* communications concerning the decision or action; and

(2) 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

DRAFT

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.
- 9. 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.

E. 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, which shall be set forth in the 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-referred 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.
- F. 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.

DRAFT

G. Final decision.

1. Final decision, effective date and appeal. The decision of the Planning Commission on a Type III action is final for purposes of appeal on the date notice of the decision is mailed. Any party with standing may appeal a Type III decision to the Board of Commissioners by filing a Notice of Appeal with the Planning Director within 12 days of the date notice of the decision is mailed. The Notice of Appeal shall be in the form specified in Section 205.05 (G)(2)(a)(2). The procedures of Sections 205.06 (C-F) shall be followed in the appeal.
2. Final Decision on Appeal. The decision of the Board of Commissioners on any Type III appeal is the final decision of the County and is final and effective on the date notice of the decision is mailed.

205.07 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 205.09 (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 submitted by the applicant on the application form as provided by the Planning Director;
 - b. Contain all of the relevant information required in Section 205.10 and any additional information required for a

specific permit as contained in Chapters 210-270 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, e.g., Chapters 210-270 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 45 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:
 - (1) The applicant;
 - (2) Any affected governmental agency;
 - (3) Any neighborhood or community organization recognized by the County and whose boundaries include the site;
 - (4) Any person who requests notice in writing and pays a fee if established by Board of Commissioners resolution.

DRAFT

- 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:
 - (1) 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.
 - (2) 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 205.07 (E).
 - e. Each mailed notice required by this section of the ordinance shall contain the following statement: "Notice to mortgagee, lienholder, 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 Subsections (B-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:

DRAFT

- (1) Regulate the course, sequence, and decorum of the hearing;
 - (2) Dispose of procedural requirements or similar matters; and
 - (3) Impose reasonable time limits for oral presentations.
- b. No person shall address the Planning Commission or the Board of Commissioners without:
- (1) Receiving recognition from the presiding officer; and
 - (2) 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 Statutes 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

DRAFT

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 to 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,

DRAFT

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.

205.08 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. ELD's 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 his/her 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 97.375(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. LLD's are applicable

DRAFT

only to sites within an urban growth boundary.

1. Selection. An applicant for a permit who wishes to use an 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 his/her right to use it.
2. Decision-making procedure. An 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 205.05 except to the extent otherwise required by applicable state law.

205.09 General Provisions.

A. 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.

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 his/her 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 is responsible for ensuring that its application complies with all of the law applicable on the day the application is deemed complete.

DRAFT

E.C. 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. Prepare information sheets for each permit, detailing the specific information that must be contained in the application including format and number of copies. These information sheets may only be amended once a year.
3. Accept all land use applications.
4. Prepare a staff report or notice to the proposal:
 - 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, the Planning Director shall mail the staff report to the Planning Commission 7 days prior to the scheduled hearing date. The case-file materials and staff report shall also be made available to the public 7 days prior to the scheduled hearing date, as provided by Sections 205.05 (C), 205.06 (C) or 205.07 (D).
5. Administer the hearings process.
6. Maintain a register of all applications that have been filed for a decision. The register shall identify at what stage the applicant is in the process.
7. 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 pay the necessary fees.
8. Maintain and preserve the file for each application, according to 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.
9. Administer the appeals and review process.

D. 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 120-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 205.05 (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

DRAFT

make other minor changes, which do not materially alter the decision.

- E. 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 or for the same or substantially similar action for a period of 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.

205.10 Applications.

The following standards shall be used to process land use applications:

A. Initiation of applications:

1. Applications for approval under this chapter may be initiated by:
 - a. Order of the Board of Commissioners;
 - b. Resolution of the Planning Commission;
 - c. Planning Director; and

d. Application of a recorded owner of property or contract purchaser(s).

- (1) 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.

B. 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 approval authority having original jurisdiction over one of the applications under Section 205.03(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.
- C. 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

Formatted: Highlight

DRAFT

- 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. Site plans drawn to scale describing existing and proposed conditions. The site plans shall depict, if applicable, the following information:
 - (1) Date of preparation, true north, scale and gross area of the site
 - (2) Property lines of subject property(ies).
 - (3) Existing and proposed building locations, dimensions and height in respect to the subject property.
 - (4) Existing and proposed irrigation canals and ditches, pipelines and railroads, and any natural features, such as rock outcroppings, marshes, wooded areas and natural hazards.
 - (5) Location and direction of watercourses and location of areas subject to flooding and high water tables.
 - (6) Off-street parking spaces and loading areas.
 - (7) Existing and proposed points of ingress and egress - both vehicular and pedestrian ways.
 - (8) All existing and proposed screening and landscaping.
 - (9) Existing topographic and preliminary grading plan.
 - (10) Location, width and use or purpose of any existing easement or right-of-way within and adjacent to the site.
 - (11) Existing sewer lines, septic system drainage fields, water mains, wells, culverts and other underground and overhead utilities within and adjacent to the proposed partition.
 - (12) The existing topography of the site, percent of slope, and contour map drawn at intervals appropriate for the steepness of the terrain.
 - (13) Existing and proposed lighting including lights for signage.
 - d. Stormwater and erosion control plans.
 - he. Sign plan depicting location, size, and type of signs and other advertising features.
3. Completeness.
 - a. Review and notification. When the application is accepted, the Planning Director shall review the application for completeness. If the application for a Permit, Limited Land Use, or Zone Change is incomplete, the Planning Director shall notify the applicant of exactly what information is missing

DRAFT

within 30 days of receipt of the application.

- b. When application is deemed complete. The application shall be deemed complete upon the receipt, in writing, of one of the following: all of the missing information, or some of the written information and written notice from the applicant that no other information will be provided, or written notice from the applicant that none of the missing information will be provided. On the 181st day after the application was first received by the County, the incomplete application will become void if the applicant was notified of the missing information and failed to respond in writing as provided above, with no opportunity for a refund of the application fee.
- c. Standards and Criteria applicable to the Application. If the application was complete when first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was deemed complete.

D. 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 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 or Planning Commission, as the case may be, determines that the new documents or other evidence significantly changes the application, the Planning Director 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 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, but each will be deemed complete on

DRAFT

different dates and may, therefore, 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 120-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.

205.11 Farm and Forest Permit Expiration Dates and Extensions.

In accordance with OAR 660-033-0140, the following permit expiration dates shall apply in the Exclusive Farm Use and Timber Grazing zones:

- A. A discretionary decision, except for land divisions and those residential developments listed in 205.11 (5) approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.210 to 215.293 and 215.317 to

215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.

- 1. An extension of one year may be granted if:
 - a. the applicant makes a written request for extension of the development approval period;
 - b. the request is submitted to the county prior to the expiration of the approval period;
 - c. the applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and
 - d. the county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

- 2. Approval of an extension granted under this provision is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

- 3. Additional one year extensions may be authorized where applicable criteria for the decision have not changed.

- 4. Permits approved for a proposed residential development on resource land outside of an urban growth boundary shall be valid for four years. An extension of two years may be granted subject to the provisions of 205.11 (2)(a)-(d). For the purpose of 205.11 (5), "residential development" only includes:
 - a. Alteration, restoration or replacement of a dwelling,
 - b. Non-farm dwellings,
 - c. Lot-of-Record dwellings,
 - d. Forest management dwellings.

Formatted: Tab stops: 0", Left + Not at 0.25"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25", Tab stops: 0", Left + Not at 0.25"

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75", Tab stops: 0", Left + Not at 0.25"

Formatted: Tab stops: 0", Left + Not at 0.25"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25", Tab stops: 0", Left + Not at 0.25"

Formatted: Tab stops: 0", Left + Not at 0.25"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25", Tab stops: 0", Left + Not at 0.25"

Formatted: List Paragraph, Left, Indent: Left: 0", Hanging: 0.25", No bullets or numbering, Tab stops: 0", Left + Not at 0.25"

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Indent at: 0.25", Tab stops: 0", Left + Not at 0.25"

Formatted: Indent: Left: 0", First line: 0", Tab stops: 0", Left + Not at 0.25"

Formatted: Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.06" + Indent at: 0.31", Tab stops: 0", Left + Not at 0.25"

Formatted: Highlight

Formatted: Indent: Left: 0.25", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25", Tab stops: 0", Left + Not at 0.25"

Formatted: Highlight

DRAFT

- e. Alternative forest dwellings approved under the provisions of ORS 215.750, or
- f. Caretaker residences in the Timber Grazing zone.

205.12 Other Permit Expiration Dates and Extensions.

For all permits not in the Farm or Forest zones, the following permit expiration dates shall apply:

A. Permits which have special conditions relating to expiration and/or renewal attached to them shall expire 1 year after the date conditions of approval.

1. If the conditions of approval are not fulfilled within the life of the permit, the permit holder may request a one year extension of the permit from the Planning Director subject to the following requirements:

a. The request is made by filing a request for an extension on forms provided by the Baker County Department of Planning and Community Development, together with a pre-application fee;

b. The request is made before the original permit or any subsequent extension expires; and

c. There has been no change in the circumstances, criteria or standards used to support the original approval or subsequent extension.

d. Applications for an extension shall be processed as a Type II procedure as set forth in Chapter 205.05 of this ordinance.

205.13 Revocation of Permits

Unless otherwise specified within this ordinance, all land use permits may be subject to revocation by the 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 Director shall be subject to the following rules:

1. The 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 Director's statement in writing within 15 days from the date the notice is mailed by explaining or refuting the reason(s).

2. The 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 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 Director's review, the 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

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25", Tab stops: 0", Left

Formatted: Not Highlight

Formatted: Tab stops: 0", Left + Not at 0.25"

Formatted: Font: Bold

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5", Tab stops: 0", Left

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5", Tab stops: 0", Left

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75", Tab stops: 0", Left

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75", Tab stops: 0", Left

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75", Tab stops: 0", Left

Formatted: Indent: Left: 0", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75", Tab stops: 0", Left

Formatted: Tab stops: 0", Left + Not at 0.25"

Formatted: Font: Bold

DRAFT

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 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.

← Formatted: Tab stops: 0", Left + Not at 0.25"