

Sec. 17.12.40. - Type IV.

Type IV decisions are usually legislative but may be quasi-judicial.

Type IV (Quasi-Judicial) procedures apply to individual properties. This type of application is generally considered initially by the Planning Commission with final decisions made by the City Council.

Type IV (Legislative) procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts, not just one property). Type IV matters are typically considered first by the Planning Commission with final decisions made by the City Council. Occasionally, the Planning Commission will not consider a legislative matter prior to its consideration by the City Council.

Applications processed under a Type IV procedure involve a public hearing pursuant to the requirements of Chapter 17.20. Notification of this public hearing shall be noticed according to the requirements of Chapter 17.22 with appeal of a Type IV decision made to the state Land Use Board of Appeals according to the provisions of Chapter 17.28.

- A. The City Council shall consider the recommendation of the Planning Commission and shall conduct a public hearing pursuant to Chapter 17.20. The Director shall set a date for the hearing. The form of notice and persons to receive notice are as required by the relevant sections of this Code. At the public hearing, the staff shall review the report of the Planning Commission and provide other pertinent information, and interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission and make final arguments why the matter should or should not be approved and, if approved, the nature of the provisions to be contained in approving action.
- B. To the extent that a finding of fact is required, the City Council shall make a finding for each of the applicable criterion and in doing so may sustain or reverse a finding of the Planning Commission. The City Council may delete, add or modify any of the provisions pertaining to the proposal or attach certain development or use conditions beyond those warranted for compliance with standards in granting an approval if the City Council determines the conditions are appropriate to fulfill the criteria for approval.
- C. To the extent that a policy is to be established or revised, the City Council shall make its decision after information from the hearing has been received. The decision shall become effective by passage of an ordinance.
- D. Types of Applications:
 - 1. Appeal of Planning Commission decision.
 - 2. Comprehensive Plan text or map amendment.
 - 3. Zoning District Map changes.
 - 4. Village Specific Area Plan (master plan).
 - 5. Annexations.
 - 6. Extension of City Services Outside the City Limits.
 - 7. Vacating of Public Lands and Plats.
 - 8. Zoning Map Overlay Districts.
 - 9. Alternative Wastewater System Permits.

- E. *Timing of Requests.* The City accepts legislative requests twice yearly, in March and September. The City Council may initiate its own legislative proposals at any time.

Sec. 17.84.60. - Public facility extensions.

- A. All development sites shall be provided with public water, sanitary sewer, broadband (fiber), and storm drainage and shall meet the following requirements:
1. The required improvements shall be installed at the expense of the developer.
 2. Public water facilities shall meet the requirements of Title 13 of the Sandy Municipal Code and the 2022 City of Sandy Water System Master Plan and shall be designed in conformance with the City of Sandy Water Service Utility Standard Details.
 3. Sanitary sewer facilities shall meet the requirements of Title 13 of the Sandy Municipal Code and shall be designed in conformance with the City of Sandy Sewer Service Utility Standard Details.
 4. Storm drainage facilities meet the requirements of Title 13 of the Sandy Municipal Code and the City of Portland Stormwater Management Manual, as adopted by the City of Sandy, and shall be designed in conformance with the City of Sandy Stormwater Utility Standard Details.
- B. Where necessary to serve property as specified in A. above, required public facility installations shall be constructed concurrent with development, and shall be completed prior to issuance of a Certificate of Occupancy.
- C. Off-site public facility extensions necessary to fully serve a development site and abutting properties, as shown in the utility plan, shall be constructed concurrent with development.
1. If requested by the applicant, the City Engineer or designee may approve an alternative to the off-site public facility extensions required under Subsection C., based upon information submitted by the applicant showing that the extensions which would otherwise be required by this code would not be reasonably related or roughly proportional to the impact of the proposed development, as determined by the City.
- D. Public facilities installed concurrent with development of a site shall be extended through the site and extended or stubbed out to adjacent undeveloped land or to a point in the street that allows for connection with adjacent property(ies). If abutting land has an approved tentative plat, public facilities shall align with public facilities in the approved tentative plat.
- E. Private on-site sanitary sewer and storm drainage facilities shall only be considered either as described in Section 17.84.70, or if all the following conditions exist:
1. Extension of a public facility through the site is not necessary for the future development of adjacent properties;

2. The development site remains in one ownership and land division does not occur (with the exception of land divisions that may occur under the provisions of 17.84.50.E.7. or 17.84.50.F.5., above);
3. The facilities are designed and constructed in accordance with the Uniform Plumbing Code and other applicable codes, and permits and/or authorization to proceed with construction is issued prior to commencement of work.

Sec. 17.84.70. – Alternative wastewater systems.

A. Purpose. The purpose of Section 17.84.70 is to provide a means by which certain developments may obtain a permit to allow use of an alternative wastewater system in lieu of connecting to the City's sanitary sewer system as otherwise required by this code.

B. Definitions. As used in Section 17.84.70, the following terms are defined as follows:

1. "Alternative wastewater system" means a system which provides for the collection and treatment or reuse of wastewater by a means other than through connection to the City's sanitary sewer system.
2. "Associated use" means the use on the subject property which produces wastewater which will flow into an alternative wastewater system.
3. "Gray water" means water which has been used for shower, sink, washing machine, and similar purposes, but does not include sanitary waste.
4. "Sanitary waste" means waste from toilets, urinals, and similar devices.
5. "Wastewater" is a general category which includes either sanitary waste or gray water, or both.

C. Application requirements. An application shall be made on forms provided by the Director. The application shall be accompanied by the following:

1. A narrative description of the proposed alternative wastewater system accompanied by site plans, technical specifications, and a screening plan.
2. A description of the operation and maintenance requirements for the proposed alternative wastewater system.
3. Payment of the alternative wastewater system permit fee established by resolution.
4. Such other information and materials as may be necessary to demonstrate compliance with the approval criteria in Subsection E.

D. Review Process. Alternative wastewater system permit applications will be processed as a Type IV decision.

E. Criteria for Approval.

1. All applications for an alternative wastewater system permit must meet the following criteria:

- a. At the time of application for the alternative wastewater system permit, the applicant would be unable to obtain land use approval for the associated use without an alternative wastewater system permit, as a result of a development moratorium in effect in the City at that time relating to capacity in the City's sanitary sewer system. For purposes of this subsection, an applicant shall not be considered able to obtain land use approval for the associated use if the only means by which such approval could be obtained would be by transferring a right to connect to the City's sanitary sewer system from another property;
- b. The alternative wastewater system will be located on a lot or parcel with a commercial, industrial, or community service use and will be used only in connection with a commercial, industrial, or community service use;
- c. If the associated use is a commercial or industrial use, the associated use is identified as a target industry in the City's Economic Development Strategic Plan or otherwise advances the goals of the Economic Development Strategic Plan;
- d. The alternative wastewater system will have no impact on the City's sanitary sewer system and will adequately protect against environmental contamination;
- e. Disposal of wastewater will occur entirely outside the City's sanitary sewer system;
- f. The alternative wastewater system, including its operation and maintenance program, is adequate to meet the wastewater character and volumes of the associated use, and the maintenance program is appropriate for the type of system and anticipated usage characteristics;
- g. The alternative wastewater system will be fully screened from view from public right-of-way and adjacent properties;
- h. The proposed alternative wastewater system complies with all applicable federal, state, and local laws, including but not limited to the Americans with Disabilities Act; and
- i. The alternative wastewater system proposal, taken as a whole, is not materially detrimental or injurious to the public welfare or the surrounding area.

F. Conditions of Approval. Any approval of an alternative wastewater system permit will be subject to the following conditions of approval:

- 1. Prior to certificate of occupancy, the applicant shall install all interior plumbing and fixtures required by the building code (e.g. toilets, urinals, sinks, etc.), all sanitary sewer infrastructure otherwise required by this code, and all infrastructure necessary for the associated use to connect to the City's sanitary sewer system, up to the point of connection in the public right-of-way or a public utility easement, but no connection may be made until authorized by the City in writing. If the proposed alternative wastewater system requires that the interior fixtures not be used during the time period the alternative wastewater system is utilized, then those fixtures must be rendered inoperable or inaccessible during such period.

2. The applicant shall remove the alternative wastewater system and connect to the City's sanitary sewer system as follows:
 - i. For alternative wastewater systems the City Council determines are of a short-term, temporary nature, within ninety (90) calendar days after written notice from the City.
 - ii. For alternative wastewater systems the City Council determines are of a long-term, more permanent nature, upon such date as the City Council shall determine at the time of permit approval based upon the expected useful life of the system. Substantial replacement of any such alternative wastewater system will require a new alternative wastewater system permit.
3. Sanitary sewer system development charges are due and payable at the time of issuance of any permits required for connection to the City's sanitary sewer system, or upon such connection, whichever occurs sooner.
4. The property owner shall record a deed restriction, in a form approved by the City Attorney, obligating the property owner and all successors to comply with Subsections (F)(2) and (3) and setting forth the penalties described in Subsection (G).
5. The alternative wastewater system shall be operated and maintained in accordance with the approved proposal.
6. Such other conditions of approval as the City Council may determine necessary to ensure compliance with the approval criteria and the purposes of Section 17.84.70.
- G. Enforcement. In addition to and not in lieu of enforcement under Chapter 17.06 for any violation of Section 17.84.70, if a property owner fails to connect to the City's sanitary sewer system as described in Subsection (F)(2), the City may at its option perform or cause to be performed the work required to effectuate the connection at the property owner's sole cost and expense. The City shall notify the property owner in writing of the final cost within thirty (30) calendar days after completing the work, and the property owner shall submit payment in full within thirty (30) calendar days after the date the City sends such notice by U.S. mail to the owner's address reflected in the property records of Clackamas County. Any amounts unpaid after such date shall become a lien upon the real property and shall be recorded in the City lien docket. That lien shall have priority over all other liens and encumbrances of any character. The lien shall accrue interest at the rate applicable for municipal assessment liens from the date of docketing until clearance. The lien may be foreclosed on and the property sold as may be necessary to discharge the lien in the manner specified in ORS 223.505 through 223.595.