



ANALYSIS OF THE PROPOSED
AMENDMENTS TO THE BEAVERTON DEVELOPMENT CODE
CHARTER IMPLEMENTATION TEXT AMENDMENT

07.12.21 **supplementary update** for land use ordinances not subject to type 4 procedure. The revised sections below are proposed to supersede the proposed amendments in the June 2, 2021 exhibit to these sections only.

UPDATED Proposed Text Amendment	Staff Comments
Chapter 40 – Applications	
<p>40.97.15. Zoning Map Amendment</p> <p>Application.</p> <p>There are four (4) Zoning Map Amendment applications which are as follows: Quasi-Judicial Zoning Map Amendment, Legislative Zoning Map Amendment, Non-Discretionary Annexation Related Zoning Map Amendment and Discretionary Annexation Related Zoning Map Amendment. The Director shall determine if a zone change is quasi-judicial or legislative. For annexation related zone change applications, the Director shall determine if the applications are discretionary or non-discretionary. <u>The City Council is the decision-making authority for all Zoning Map Amendments, which shall be adopted by ordinance according to the requirements of the City Charter.</u></p> <p>1. Quasi-Judicial Zoning Map Amendment. A. Threshold. An application for Quasi-Judicial Zoning Map Amendment shall be required when the following threshold applies:</p> <p>1. The change of zoning designation for a specific property or limited number of specific properties.</p> <p>B. Procedure Type. The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to an application for Quasi-Judicial Zoning Map Amendment. The decision-making authority is <u>initial review of a Quasi-Judicial Zoning Map Amendment is conducted by the Planning Commission, which shall make a recommendation to the City Council.</u></p> <p><u>***</u></p> <p>D. Submission Requirements. An application for Quasi-Judicial Zoning Map Amendment to the City’s zoning map shall be made by the owner of the subject property, or the owner’s authorized agent, the City Council, Mayor City <u>Manager</u>, or their designee on a form provided by the Director. All Quasi-Judicial Zoning Map Amendment</p>	<p>Clarifies decision-maker and process for ordinances not subject to Type 4 procedure. Clarifies role of mayor and city manager.</p>

<p>applications shall be filed with the Director and shall be accompanied by the information required by the application form, and by Section 50.25. (Application Completeness), and any other information identified through a Pre-Application Conference.</p>	
<p>40.97.15 4. Discretionary Annexation Related Zoning Map Amendment</p> <p>* * *</p> <p><u>B.</u> Procedure Type. The Type 3 procedure, as described in Section 50.45. of this Code, shall apply to an application for Discretionary Annexation Related Zoning Map Amendment to the City’s zoning map. The decision making authority is the Planning Commission. The initial review of a Discretionary Annexation Related Zoning Map Amendment is conducted by the Planning Commission, which shall make a recommendation to the City Council.</p>	<p>Clarifies decision-maker and process for ordinances not subject to Type 4 procedure.</p>
<p>Chapter 50 - Procedures</p>	
<p>50.75 City Council Consideration of a Type 4, Street Vacation, Non-Discretionary Annexation Related Zoning Map Amendment, Quasi-Judicial Zoning Map Amendment, and Discretionary Annexation Related Zoning Map Amendment application.</p> <ol style="list-style-type: none"> 1. At least ten (10) days before the City Council considers the Planning Commission’s recommendation on a Type 4, Street Vacation, Non-Discretionary Annexation Related Zoning Map Amendment, Quasi-Judicial Zoning Map Amendment, and Discretionary Annexation Related Zoning Map Amendment proposal, the Director shall publish in a newspaper of general circulation in the City of Beaverton a summary of the hearing notice, including the date, time, and location of the hearing and the number and nature of the ordinance to be considered. 2. At the conclusion of the City Council’s consideration of the Type 4 proposal and the close of the public record, the Council shall take one of the following actions: <ol style="list-style-type: none"> A. Continue the matter to a date, time, and location certain. Notice of the date, time, 	<p>For ease of review Section 50.75 has been edited in its entirety. The revised and struck language is located after the edited version.</p> <p>Clarifies decision-maker and process for ordinances not subject to Type 4 procedure. Clarifies role of mayor and city manager.</p>

<p>and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing;</p> <p>B. Other than for a Street Vacation or Non-Discretionary Annexation Related Zoning Map Amendment, remand the matter back to the Planning Commission for additional deliberation. If the decision is to refer, the purpose of the referral, including any specific procedures or subjects to be addressed shall be directed to the Planning Commission; or</p> <p>C. Reject the proposed ordinance.</p> <p>D. Approve the proposed ordinance.</p> <p>3. If Council indicates an intention to adopt one or more ordinances to amend the zone map, text, or both pursuant to Section 50.75.7.C., then the City Attorney shall prepare the ordinance. Ordinances shall thereafter be adopted pursuant to the City Charter. The City Council shall adopt or approve written findings that demonstrate either that approval will comply with applicable approval criteria or that, in the case of denial, the approval criteria gave not been satisfied. If an ordinance has been prepared and properly noticed pursuant to the City Charter prior to the hearing, the City Council may act to adopt the ordinance on the same date as the hearing.</p> <p>4. Within approximately seven (7) calendar days from the date that the City Council adopts a final decision, the Director shall cause notice in the form of a land use order to be signed, dated, and mailed to the persons who appeared orally or in writing before the Planning Commission, City Council, or all while the public record on the appeal was open. [ORD 4532; April 2010]</p> <p>5. A decision is final on the date the signed land use order is dated and mailed. A land use order may include an ordinance.</p> <p>6. The notice of the City Council's decision shall</p>	
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include a summary of the requirements for appealing the City Council decision to the Land Use Board of Appeals as provided in ORS 197.805 through ORS 197.860.

50.75 Appeal of a City Council Consideration of a Type 4 Decision, Street Vacation, Non-Discretionary Annexation Related Zoning Map Amendment, Quasi-Judicial Zoning Map Amendment, and Discretionary Annexation Related Zoning Map Amendment application.

1. ~~The decision-making authority's~~ At least ten (10) days before the City Council considers the Planning Commission's recommendation on a Type 4 ~~application may be appealed only by the applicant or any other person who participated by providing either oral or written evidence leading to the decision of proposal,~~ the decision-making authority. The appeal must be received within ten (10) ~~calendar days after the signed written land-use order of the decision-making authority was dated and mailed.~~

~~2. The Director shall determine whether an appeal contains at least the following information:~~

- ~~A. The case file number designated by the City.~~
- ~~B. The name and signature of each appellant.~~
- ~~C. Reference to the oral or written evidence provided to the decision-making authority by the appellant that is contrary to the decision.~~
- ~~D. If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision-making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.~~
- ~~E. The specific approval criteria, condition, or both being appealed, the reasons why the finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.~~
- ~~F. The appeal fee, as established by resolution of the City Council.~~

~~3. Failure to comply with the requirements of Sections 50.75.1 and 50.75.2 is jurisdictional and deprives the appellant of an opportunity for the appellate decision making authority to hear an appeal.~~

~~4. The appellate decision making authority on appeal of Type 4 decision shall be the City Council. The appeal hearing shall be de novo, which means new evidence and argument can be introduced in writing, orally, or both. The hearing of the appeal shall be conducted in the manner specified in Sections 50.85. through 50.88. except as otherwise required by statute.~~

~~5. For appeals filed under Section 50.75., the City shall mail written notice of an appeal hearing to parties described in Section 50.75.1. not less than twenty (20) calendar days prior to the appeal hearing, but need not post or publish the notice in a newspaper.~~

~~6. Not less than seven (7) calendar days before the of general circulation in the City of Beaverton a summary of the hearing notice including the date of the appeal hearing, the Director shall prepare and make available to the public, for review and inspection, a copy of the staff report and shall provide a copy of the staff report to the appellate decision making authority and to the appellant. The Director shall provide a copy of the staff report to the public at reasonable cost upon request. time, and location of the hearing and the number and nature of the ordinance to be considered.~~

~~7. 2. At the conclusion of the City Council's hearing in the appeal of a Type 4 decision, consideration of the Type 4 proposal and the close of the public record, the Council shall take one of the following actions:~~

~~A. Continue the hearing matter to a date, time, and location certain, ~~which shall be announced by the Mayor~~. Notice of the date, time, and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of~~

the continued hearing shall be given as though it was the initial hearing.

B. ~~Other than for a Street Vacation or Non-Discretionary Annexation Related Zoning Map Amendment,~~ remand the ~~decision matter back~~ to the ~~decision-making authority~~ Planning Commission for ~~further proceedings consistent with the Council's decision unless the remand would conflict with the City's obligation under ORS-227.178 to issue a timely final decision~~ additional deliberation. If the decision is to ~~remand refer,~~ the purpose of the ~~remand referral,~~ including any specific procedures or subjects to be addressed shall be directed to the ~~decision-making authority~~ Planning Commission; or

C. ~~Reverse or affirm the decision being appealed, with or without changes. Reject the proposed ordinance.~~

D. Approve the proposed ordinance

~~1-3.~~ If Council indicates an intention to adopt one or more ordinances to amend the zone map, text, or both pursuant to Section 50.75.7.C., then the City Attorney shall prepare the ordinance. Ordinances shall thereafter be adopted pursuant to the City Charter. The City Council shall adopt or approve written findings ~~which that~~ demonstrate either that approval will comply with applicable approval criteria or that, in the case of denial, the approval criteria gave not been satisfied. If an ordinance has been prepared and properly noticed pursuant to the City Charter prior to the hearing, the City Council may act to adopt the ordinance on the same date as the hearing.

~~2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.~~

~~8. After the public record on the appeal closes, a written decision in the form of a land use order.~~

~~9. 4.~~ Within approximately seven (7) calendar days from the date that the ~~appellate decision-making authority~~ City Council adopts a final decision ~~under appeal,~~ the Director shall cause notice in the

form of a land use order to be signed, dated, and mailed to the ~~appellant and other~~ persons who appeared orally or in writing before the Planning Commission, City Council, or all while the public record on the appeal was open. [ORD 4532; April 2010]

~~10. 5.~~ A decision ~~on an appeal~~ is final on the date the signed land use order is dated and mailed. A land use order may include an ordinance.

~~11. 6.~~ ~~Only one appeal~~ The notice of a the City Council's decision is permitted before the City. Therefore shall include a summary of the notice of a requirements for appealing the City Council decision ~~on appeal shall indicate the decision may be appealed~~ to the Land Use Board of Appeals as provided in ORS 197.805 through ORS 197.860.