

## Chapter 18.77

### PROCESSING OF PERMITS AND APPROVALS

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#### **18.77.010 Purpose and Scope**

- (a) The purpose of this chapter is to establish common procedures for the filing, review, and action on applications, notice of public hearings, appeals of decisions, and enforcement of permits and approvals governed by Chapter 18.76 (Permits and Approvals)
- (b) The procedures of this chapter apply to all permits and approvals governed by Chapter 18.76 (Permits and Approvals), unless specifically modified by another section of this title (Zoning).

(Ord. 4826 § 118 (Exh. 3 (part)), 2004)

#### **18.77.020 Applications**

##### **(a) Filing of Application and Application Contents**

All applications pursuant to this chapter shall be filed with the director in a form prescribed by the director. The application form shall contain a list of information that must be submitted in order for the application to be deemed complete. This may include, but is not limited to, information determined necessary by the director to conduct a review of the application pursuant to:

- (1) State law (including the California Environmental Quality Act (CEQA) (Section 21000 *et seq.* of the California Public Resources Code) and the Digital Infrastructure and Video Competition Act of 2006, Assembly bill 2987 (Ch. 700, Stats. 2006) (DIVCA), and city compliance with the Political Reform Act (Title 9 of the Government Code, Section 81000 *et seq.*);
- (2) The Palo Alto Comprehensive Plan;
- (3) The Palo Alto Municipal Code;

- (4) This title (Zoning); and
- (5) Council adopted sustainability polices.

**(b) Signature of Applications**

A separate application shall be filed for each site, and each application shall be signed by:

- (1) All owners of the real property included in the site or sites; or
- (2) A purchaser of the real property included in the site or sites, when acting pursuant to a contract in writing duly executed and acknowledged by both the buyer and the owner of record; or
- (3) A lessee in possession of the real property included in the site or sites, when acting with the written consent of the owner of record; or
- (4) An agent of the owner of record of the real property included in the site or sites, when duly authorized by the owner in writing.

**(c) Receipt of Application**

No application shall be deemed received until the following have been provided:

- (1) All fees for the application as set forth in the schedule of fees established by resolution of the city council have been paid; and
- (2) All documents specified as part of the application in this chapter or on the application form have been filed.

**(d) Resubmittal of Applications**

If an application is denied, the director or city council may specify that a substantially similar application may not be accepted within 12 months prior to the date of such denial, unless it is shown that the circumstances surrounding the application have changed substantially.

(Ord. 4966 § 2, 2007; Ord. 4959 § 2, 2007; Ord. 4826 § 118 (Exh. 3 (part)), 2004)

## **18.77.030 Determination of Completeness**

**(a) Notification of Completeness**

Not later than thirty days after an application has been received, the director shall notify the applicant in writing whether the application is complete. If the application is determined not to be complete, the director shall specify those parts of the application that are incomplete and shall indicate the manner in which it can be made complete, including a list and thorough description of specific information needed to complete the application. Upon receipt of any resubmittal of the application, a new thirty-day period shall begin, during which the director shall determine the completeness of the application.

**(b) Submittal of Additional Information**

Not later than thirty days after receipt of the submitted materials, the director shall notify the applicant in writing whether the application is complete. The director shall specify those parts

of the application that are incomplete and shall indicate the manner in which it can be made complete, including a list and thorough description of specific information.

**(c) Failure to Make a Determination**

If the director fails to make a written determination within thirty days, the application, together with the submitted materials, will be deemed complete and the application shall be eligible to be acted upon on its merits.

**(d) Appeal of the Director's Decision – Filing**

Any applicant aggrieved by the director's determination regarding the completeness of an application may file an appeal with the planning division, as set forth in Chapter 18.78.

**(e) Inadequate Information**

Nothing in this section shall preclude the director or city council from denying the application on the grounds that the information provided is inadequate to demonstrate that the application should be approved in accordance with this title (Zoning).

**(f) Waiver of Time Limits**

Nothing in this section precludes an applicant from waiving the right to a determination of incompleteness or from extending the period of time for a determination of completeness.

(Ord. 4826 § 118 (Exh. 3 (part)), 2004)

**18.77.040 Time Limits for Review**

All applications governed by the procedures of this chapter shall be acted upon in accordance with state law (including the provisions of the Permit Streamlining Act (Chapter 4.5 of Title 7 of the Government Code, commencing with Section 65920) and the California Environmental Quality Act (CEQA) (Division 13 of the Public Resources Code, commencing with Section 21000)).

(Ord. 4826 § 118 (Exh. 3 (part)), 2004)

**18.77.050 Review Procedures – Summary**

Table 1 describes the action to be taken by each review or decision-making body involved in granting a land use permit. The actions are described in further detail in Sections 18.77.060 and 18.77.070.

**Editor's Note**

Table 1 is shown on the next page

**TABLE 1  
SUMMARY OF REVIEW PROCEDURES**

	Staff	Architectural Review Board	Director	Planning Commission	City Council
<b>Standard Staff Review Process</b>					
? Variance ? Conditional Use Permit ? Neighborhood Preservation Exception	Review application		Tentative Decision	Hearing and Recommendation (upon request)	Final Decision (upon request)
<b>Architectural Review</b>					
? Architectural Review (Minor)	Tentative Decision	Hearing and Recommendation (upon request)	Decision (if ARB hearing is requested)		Final Decision on Appeal
? Architectural Review (Major)		Hearing and Recommendation	Decision		Final Decision on Appeal

(Ord. 4826 § 118 (Exh. 3 (part)), 2004)

**18.77.060 Standard Staff Review Process**

**(a) Applications Subject to Standard Staff Review Process**

The following applications are subject to the review process set forth in this section:

- (1) Variances, conditional use permits, neighborhood preservation exceptions; and
- (2) Other permits and approvals for which such review process is required by the provisions of Title 2, Title 12 or Title 18.

**(b) Notice of Application Completeness**

Once an application is deemed complete, notice that the application has been filed and deemed complete shall be given by mail to owners and residents of property within 600 feet of the property, by publication, by e-mail, and by posting in a public place. The notice shall include the address of the property and a brief description of the proposed project.

**(c) Decision by the Director**

Not less than twenty-one days following the date an application is deemed complete:

- (1) The director shall prepare a proposed written decision to approve, approve with conditions, or deny the application.
- (2) Notice of the proposed director’s decision shall be given by mail to owners and residents of property within 600 feet of the property, by publication, by e-mail, and by posting in a public place. The notice shall include the address of the property, a brief description of the proposed project, a brief description of the proposed director’s

decision, the date the decision will be final if no hearing is requested, and a description of how to request a hearing.

- (3) The proposed director's decision shall become final fourteen days after the date notice is mailed or published, whichever is later, unless a request for a hearing is filed. The director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issued the proposed decisions.
- (4) Any party, including the applicant, may request a hearing of the planning and transportation commission on the proposed director's decision by filing a written request with the planning division. There shall be no fee required for requesting such a hearing.

**(d) Withdrawal of Hearing Request**

- (1) At any time prior to the hearing, the applicant and the person or persons requesting a hearing may meet to discuss ways to address the concerns with the application. The applicant may then modify the application to address such concerns. With the consent of the applicant and the person or persons requesting a hearing, the director may issue a revised proposed decision. The revised proposed decision shall identify the modifications made to the previously issued decision. Upon the issuance of a revised proposed decision by the director, the person or persons requesting a hearing shall withdraw such request.
- (2) Notice of the proposed director's decision shall be given by mail to owners and residents of property within 600 feet of the property, by publication, by e-mail, and by posting in a public place. Notice shall include the address of the property, a brief description of the proposed project, the specific modifications made to the application, the date the decision will be final, a description of how to request a hearing, and a statement that any request for a hearing on the revised decision is limited to those modifications.
- (3) The revised proposed director's decision shall become final fourteen days after the date notice is mailed or published, whichever is later, unless a request for a hearing is filed. The director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issues the proposed decision.

**(e) Hearing and Recommendation (Upon Request) by the Planning and Transportation Commission**

- (1) Within 45 days following the filing of a timely hearing request of a proposed director's decision or revised proposed director's decision the planning and transportation commission shall hold a hearing on the application, unless the request is withdrawn as described above.
- (2) Notice of the revised director's decision shall be given by mail to owners and residents of property within 600 feet of the property, by publication, by e-mail, and by posting in a public place. Notice shall include the address of the property, a brief description of the proposed project, and the date, time and location of the hearing.
- (3) Following the hearing, the planning and transportation commission shall make a recommendation on the application, which shall be forwarded to the city council.

**(f) Decision by the Council**

The recommendation of the planning and transportation commission on the application shall be placed on the consent calendar of the Council within 30 days. The Council may:

- (1) Adopt the findings and recommendation of the planning and transportation commission; or
- (2) Remove the recommendation from the consent calendar, which shall require three votes, and:
  - (A) Discuss the application and adopt findings and take action on the application based upon the evidence presented at the hearing of the planning and transportation commission; or
  - (B) Direct that the application be set for a new hearing before the city council, following which the city council shall adopt findings and take action on the application.

**(g) Decision by the Council Final**

The decision of the council is final.

(Ord. 4966 § 3, 2007; Ord. 4959 § 3, 2007; Ord. 4826 § 118 (Exh. 3 (part)), 2004)

**18.77.070 Architectural Review Process****(a) Applications Subject to Architectural Review Process**

The following applications are subject to the review processes set forth in this section:

- (1) Any major or minor project requiring architectural review approval, as set forth in Section 18.76.020 (Architectural Review);
- (2) Any project requiring a design enhancement exception; and
- (3) Other permits and approvals for which such review process is required by the provisions of Title 2, Title 12 or Title 18.

**(b) Tentative Director's Decision and Hearing Upon Request for Minor Projects**

For a minor project, as defined in Section 18.76.020(b)(3), once the application is deemed complete:

- (1) The director shall prepare a proposed written decision to approve, approve with conditions, or deny the application.
- (2) Notice of the proposed director's decision shall be given by publication. The notice shall include the address of the property, a brief description of the proposed project, a brief description of the proposed director's decision, the date the decision will be final if no hearing is requested, and a description of how to request a hearing.
- (3) The proposed director's decision shall become final 14 days after the date notice is mailed or published, whichever is later, unless a request for a hearing is filed. The

director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issues the proposed decision.

- (4) Any party, including the applicant, may request a hearing by the architectural review board on the proposed director's decision by filing a written request with the planning division. There shall be no fee required for requesting such a hearing.

**(c) Hearing and Recommendation for Major Projects, and for Minor Projects Upon Request**

- (1) Upon receipt of a completed application for a major project (as defined in Section 18.76.020(b)(2)), or upon receipt of a timely request for a hearing for a minor project (as defined in Section 18.76.020(b)(3)), the architectural review board shall set a hearing date to review the application.
- (2) Notice of the hearing shall be given at least 10 days prior to the hearing by publication in a local newspaper, by posting in a public place, and by mailing to the applicant, the hearing requestor, if applicable, and all residents and owners of property within 600 feet of the project. Notice shall include the address of the property, a brief description of the proposed project, and the date and time of the hearing.
- (3) Following the hearing, the architectural review board shall make a recommendation on the application, which shall be forwarded to the director.

**(d) Decision by the Director**

Upon receipt of a recommendation of the architectural review board:

- (1) Within 3 days, the director shall prepare a written decision to approve the application, approve it with conditions, or deny it.
- (2) Notice of the director's decision shall be given by mailing to owners and residents of property within 600 feet of the property, by publication once in a local newspaper, and by posting in a public place. Notice shall include the address of the property, a brief description of the proposed project, a brief description of the action to be taken, the date the decision will be final, and a description of how to request a hearing.
- (3) The director's decision shall become final 14 days after the date notice is mailed or published, whichever is later, unless an appeal is filed. The director may, for good cause, specify in writing a longer period for requesting a hearing at the time he or she issues the proposed decision.
- (4) If the architectural review board continues a minor project more than once, or a major project more than twice, the director may make a decision on the application prior to receiving the final recommendation of the board.

**(e) Appeal of the Director's Decision – Filing**

Any party, including the applicant, may file an appeal of the director's decision with the planning division. The appeal shall be filed in written form in a manner prescribed by the director.

**(f) Decision by the Council**

The appeal of the director's decision shall be placed on the consent calendar of the city council within 30 days. The city council may:

- (1) Adopt the findings and decision of the director; or
- (2) Remove the appeal from the consent calendar, which shall require three votes, and:
  - (A) Discuss the appeal and adopt findings and take action on the appeal based upon the evidence presented at the hearing of the architectural review board; or
  - (B) Direct that the appeal be set for a new hearing before the city council, following which the city council shall adopt findings and take action on the application.

**(g) Decision by the Council Final**

The decision of the council on the appeal is final.

(Ord. 4966 § 4, 2007: Ord. 4959 § 4, 2007: Ord. 4826 § 118 (Exh. 3 (part)), 2004)

**18.77.075 Low-density Residential Review Process****(a) Applications Subject to Low-density Residential Review Process**

The following applications are subject to the review process set forth in this section:

- (1) Individual review applications, home improvement exception applications; and
- (2) Other permits and approvals for which such review process is required by the provisions of this title (Zoning).

**(b) Notice of Application Submittal**

Within three days of submittal of an application, notice that the application has been submitted shall be given by mail to owners and residents of property adjacent to the subject property, and shall be posted at the subject property until approval, denial or withdrawal of the application. The notice shall include the name of the applicant; the address of the proposed project; and information on when and how comments will be accepted by the city. The mailed notice shall also include a description of the project.

**(c) Comment Period**

The comment period shall be twenty-one days beginning on the third business day after an application is submitted. If notice is mailed or posted on a later date, the comment period shall begin on the later date. Written comments received by the city during this period shall be considered as part of the staff review. Only one comment period is required. If plans are revised during or following the comment period, a statement that the plans have been revised shall be included in the notice of the proposed director's decision set forth in subsection (e).

**(d) Decision by the Director**

Following completion of the comment period and any staff review:

- (1) The director shall prepare a proposed written decision to approve, approve with conditions, or deny the application.
  - (2) Notice of the proposed director's decision shall be mailed to owners and residents of property adjacent to the subject property, and any person who has made a written request for notice of the decision. The notice shall include the address of the property, a brief description of the proposed project, a brief description of the proposed director's decision, the date the decision will be final if no hearing is requested, and a description of how to request a hearing.
  - (3) The proposed director's decision shall become final fourteen days after the date notice is mailed unless a request for a hearing is filed.
  - (4) The applicant or the owner or occupier of an adjacent property may request a director's hearing on the proposed director's decision by filing a written request with the planning division before the date the proposed director's decision becomes final. There shall be no fee required for requesting such a hearing.
  - (5) The time limits set forth in this subsection (d) may be extended upon the written request of the applicant.
- (e) Director's Hearing (Upon Request)**
- (1) Following the filing of a timely hearing request of a proposed director's decision the director shall hold a hearing on the application. A hearing request received after the expiration of the time limits set forth in subsection (d)(3) shall not be considered.
  - (2) Notice of the director's hearing shall be mailed ten days prior to the hearing to the project applicant, to owners and residents of property adjacent to the subject property, and to any person who has made a written request for such notice. Notice shall include the address of the property, a brief description of the proposed project, and the date, time and location of the hearing.
  - (3) At the time and place set for hearing the director shall hear evidence for and against the application or its modification. The hearing shall be open to the public.
- (f) Final Director's Decision**
- (1) The director shall issue a written decision approving, approving with conditions, or denying the project application within fourteen days of the hearing.
  - (2) Notice of the director's decision shall be mailed to the project applicant, the owners and occupants of all adjacent properties, and any person requesting notice of the decision. The notice shall include the address of the property, a brief description of the proposed project, a brief description of the proposed director's decision, the date the decision will be final if no appeal is filed, and a description of how to file an appeal.
  - (3) The director's decision shall become final fourteen days after the date notice is mailed unless an appeal is filed. The director may, for good cause, specify in writing a longer period for filing an appeal at the time he or she issues the proposed decision.
  - (4) The applicant or the owner or occupier of an adjacent property may file an appeal of the director's decision by filing a written request with the City Clerk before the date the

director's decision becomes final. The written request shall be accompanied by a fee, as set forth in the municipal fee schedule.

**(g) Decision by the City Council**

If a timely appeal is received by the City, the director's decision on the application shall be placed on the consent calendar of the city council within 30 days. The city council may:

- (1) Adopt the findings and recommendation of the director; or
- (2) Remove the recommendation from the consent calendar, which shall require four votes, and set the application for a new hearing before the city council, following which the city council shall adopt findings and take action on the application.

**(h) Decision by the City Council Final**

The decision of the city council is final.

(Ord. 4869 § 39, 2005)

**18.77.080 Notice**

**(a) General Provisions**

When notice is required by provisions of this chapter, it shall be given in accordance with this section. Compliance with the procedures set forth in this chapter shall constitute a good faith effort to provide notice, and the failure of any owner or occupant to receive notice shall not prevent the city from proceeding with the hearing or from taking any action or affect the validity of any action. Typographical and/or publishing errors shall not invalidate the notice or any city action if the error is not prejudicial.

**(b) Content of Notice**

As used in this chapter, "notice" means a notice that includes, but is not limited to: a general description, in text or by diagram, of the location of the real property that is the subject of an application; a general explanation of the nature of the application; a brief description of the tentative decision by the director and how to request a hearing, if applicable; and the date, time, and place of a public hearing, if applicable.

**(c) Notice by Publication**

When notice by publication is required, the publication shall be in a local newspaper of general circulation.

**(d) Notice by Mail**

When notice by mail is required, the notice shall be mailed to owners of real property as shown on the latest equalized assessment rolls or such other interim record as may be provided by the county assessor. When mailing notice to occupants, using the addresses listed in the city's Geographic Information System (GIS) constitutes a good faith effort to provide such notice. When notice by mail to adjacent property owners and residents is required, "adjacent properties" means those properties sharing a common boundary with the

subject property, the property or properties located directly across the street, and the next properties located diagonally across the street from the subject property.

**(e) Notice by Electronic Mail (E-mail)**

When notice by e-mail is required, notice shall be sent to the e-mail addresses of those persons requesting such notice. The director shall establish, by administrative policy, when and how such notice will be given. Multiple e-mail notices may be consolidated and sent in the form of an e-mail newsletter, if the director chooses.

**(f) Notice by Posting in a Public Place**

When notice by posting in a public place is required, notice shall be posted in one or more locations accessible to the public. The director shall determine the location or locations for posting.

**(g) Notice by Posting at the Site**

When notice by site posting is required, notice shall be posted in one or more prominent places at the subject site.

**(h) Additional Notice**

The director may provide, but is not required to provide, additional notice of hearings and other actions on applications by posting in a public place, by site posting, or through any other means the director chooses. Notice given under this subsection is in addition to, and may not be substituted for, notice required under other provisions of this chapter.

(Ord. 4869 § 40, 2005; Ord. 4826 § 118 (Exh. 3 (part)), 2004)

## **18.77.090 Expiration of Approvals**

**(a) Expiration – General**

Permits and approvals shall automatically expire after twelve months, unless otherwise provided in the permit or approval, from and after the date of issuance of the permit or approval if within such twelve month period, the proposed use of the site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of the permit or approval. The director may, without a hearing, extend such time for a maximum period of twelve additional months only, upon application filed with him or her before the expiration of the twelve-month limit, or the expiration of such limit as may be specified by the conditions of the approval.

**(b) Effect of Amendments to Approvals**

Amendments to approvals shall not extend the time limits in subsection (a) unless so stated in the amendment.

**(c) Expiration – Approvals in Conjunction with a Vesting Tentative Map**

Whenever a vesting tentative map is approved or conditionally approved pursuant to Chapter 21.13 and the Subdivision Map Act, the approval pursuant to this chapter shall be valid until

the expiration of the vesting tentative map or expiration of development rights under the final map. Applications may be made for extensions, but only in conjunction with applications for extensions of the vesting tentative map or the final vesting map pursuant to Chapter 21.13 and the Subdivision Map Act.

(Ord. 4826 § 118 (Exh. 3 (part)), 2004)

### **18.77.100 Duration of Permits**

If a use authorized by a permit or approval is discontinued for a period of twelve months, the permit or approval will no longer be in effect. If a building or structure that is subject to a permit or approval is destroyed or demolished, the permit or approval will no longer be in effect.

(Ord. 4826 § 118 (Exh. 3 (part)), 2004)

### **18.77.110 Revocation or Modification of Approvals**

#### **(a) Notice of Noncompliance or Public Nuisance**

The director may issue a notice of noncompliance for any failure to comply with any condition of any permit or approval, or when a use conducted pursuant to a conditional use permit is being conducted in a manner detrimental to the public health, safety and welfare. The notice of noncompliance shall be sent by certified mail to the address of the subject property and to the owner of the property as shown on the latest equalized assessment roll or such other interim record as may be provided by the county assessor. Such notice shall set forth the action necessary to come into compliance and a timeframe for compliance.

#### **(b) Public Hearing by the Director**

- (1) If the noncompliance is not abated, corrected or rectified within the time specified by the director in the notice of noncompliance, the director may issue an order to show cause why such a permit or approval shall not be revoked, suspended or modified. An order to show cause shall be set for a public hearing before the director.
- (2) Notice of the hearing shall be given at least ten days prior to the hearing by publication in a local newspaper and by mailing to the applicant and all residents and owners of property within 600 feet of the project. Notice shall include the address of the property, a brief description of the noncompliance, and the date and time of the hearing.

#### **(c) Decision by the Director**

Within ten days following the hearing:

- (1) The director shall prepare a written decision to revoke, suspend, modify, or leave unchanged, any permit or approval upon finding that:
  - (A) A violation of any condition of the permit or approval was not abated, corrected or rectified within the time specified on the notice of noncompliance; or
  - (B) A violation of any city ordinance or state law was not abated, corrected or rectified within the time specified on the notice of noncompliance; or

(C) A use as presently conducted is detrimental to the public health, safety and welfare.

- (2) Notice of the director's decision shall be given by mailing to owners and residents of property within 600 feet of the property, and by publication once in a local newspaper. Notice shall include the address of the property, a brief description of the noncompliance, a brief description of the action to be taken, the date the decision will be final, and a description of how to appeal the decision.
- (3) The director's decision shall become final fourteen days after notice is mailed unless a timely appeal is filed.

**(d) Appeal of the Director's Decision – Filing**

Any party, including the applicant, may file an appeal of the director's decision with the planning division. The appeal shall be filed in written form in a manner prescribed by the director.

**(e) Hearing and Recommendation by the Planning and Transportation Commission**

- (1) Following the filing of a timely appeal of a director's decision, the planning and transportation commission shall hold a hearing on the appeal.
- (2) Notice of the hearing shall be given at least ten days prior to the hearing by publication in a local newspaper and by mailing to the applicant, the hearing requestor, and all residents and owners of property within 600 feet of the project. Notice shall include the address of the property, a brief description of the decision of the director, and the date, time and place of the hearing.
- (3) Following the hearing, the planning and transportation commission shall make a recommendation on the appeal, which shall be forwarded to the city council.

**(f) Decision by the City Council**

The recommendation of the planning and transportation commission on the appeal shall be placed on the consent calendar of the city council within thirty days. The city council may:

- (1) Adopt the findings and recommendation of the planning and transportation commission; or
- (2) Remove the appeal from the consent calendar, which shall require three votes, and:
  - (A) Discuss the appeal and adopt findings and take action on the appeal based upon the evidence presented at the hearing of the planning and transportation commission; or
  - (B) Direct that the appeal be set for a new hearing before the city council, following which the city council shall adopt findings and take action on the application.

**(g) Decision by the City Council Final**

The decision of the city council is final.

(Ord. 4826 § 118 (Exh. 3 (part)), 2004)

**18.77.120      Reserved**

**Editor's Note:** Former Section 18.77.120, *Home improvement exception process*, derived from Ord. 4826 § 118 (Exh. 3), was repealed by § 41 of Ord. 4869.