

## Chapter 17.XXX

### APPEALS

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- 17.XXX.010 Applicability.

Prior to its effective date, any land use decision made in accordance with the provisions of this Code by a reviewing authority other than the City Council may be appealed in accordance with the procedures in this section. The Planning Commission shall consider appeals regarding land use decisions made by the Zoning Administrator, Community Development Director, or designee. The City Council shall consider actions by any City commission, board, or committee regarding land use decisions.

- 17.XXX.020 Time period for submission of appeal.

An appeal shall be filed in writing on a form provided by the City Clerk. The appeal shall state the specific reasons for making the appeal. Said appeal form shall be filed with the City Clerk within fifteen (15) days following an action or decision by a City commission, board, committees, staff or other City body.

- 17.XXX.030 Who may initiate appeals.

An applicant, any resident of the City, any owner of real property in the City, or a tenant or leaseholder of property which is located adjacent to/or within 300 feet of the property boundaries of the application being appealed, or an individual or firm that may be affected by the decision on the application may file an appeal within the fifteen (15) calendar day appeal period upon submittal of the required application and filing fee. The filing of a valid appeal shall stay all further actions/decisions on the matter being appealed.

- 17.XXX.040 Appeal review procedures.

Each petitioner for an appeal shall submit information deemed necessary to complete the review and consideration of the appeal. The City Clerk shall prescribe the type and form of information required and shall ensure that it is of sufficient detail to allow adequate analysis of each appeal. Once an appeal is received by the City Clerk, the appeal application will be reviewed for completeness. If the City Clerk finds the application to be complete, then the application will be processed according to the procedure described herein. If the application is found to be incomplete, the City Clerk will notify the applicant in writing within thirty (30) days what additional information is required and the appeal will not be processed until that information is received by the City Clerk.

#### 17.XXX.050 Findings for determining completeness.

In reviewing the application for completeness, the City Clerk shall make a determination that the appeal is or is not valid. If the appeal is not valid, the City Clerk will return the application and filing fee to the appellant. In making this determination, the City Clerk shall make the following findings:

- A. The specific reason for filing the appeal as stated on the appeal form, relates to a discretionary action that was under consideration by the decision-making body.
- B. The individual is qualified to file an appeal as meeting the definition listed under subsection (c) of this section.

#### 17.XXX.060 Scheduling of an Appeal.

Within thirty (30) days of the acceptance of an application for an appeal of a land use decision (except where otherwise provided in the Subdivision Map Act), the Community Development Director or City Clerk shall establish a hearing date and shall give notice of the date, time, and place of the hearing to the appellant, the applicant, and to any other party who has requested in writing to be so notified. In addition, notice shall also be given in the same manner as notice was given for the land use decision being appealed.

#### 17.XXX.070 Hearing Date.

Within forty-five (45) days of acceptance of a complete and valid appeal application, the appeal shall be heard by the appropriate hearing body; said hearing body may continue consideration of the item from time to time.

#### 17.XXX.080 Appeal by a Planning Commissioner or City Council Member.

Any member of the Planning Commission or City Council who appeals a land use decision as an individual pursuant to this section shall abstain from participating as a member of the hearing body, but may provide written or oral testimony on the matter to the hearing body in the same manner as, and in the time provided for, other members of the general public. Any member of the City Council may be considered an affected individual for purposes of subsection (17.XXX.030) above. In addition, the City Council may, on its own motion within fifteen (15) calendar days following the final action or decision by a City commission, board, committee, staff, or other City body, elect to review and consider such decision pursuant to, and in compliance with this section; provided that an application for appeal need not be filed by the City Council, or any member thereof, when the City Council elects, by majority vote on its own motion, to review and consider such decision. The City Council, upon its motion to review and consider the decision below, shall state the reasons for its decision to review the decision below.

#### 17.XXX.090 Action by the Appeal Body.

Upon hearing the appeal, the appeal body shall consider the record and such additional evidence as may be offered, and may affirm, reverse, or modify, in whole or in part, the order, requirements, decision, determination, interpretation, or ruling being appealed, or may make or substitute such other or additional decision or determination as it may find warranted under the provisions of this Code, the General Plan, or other City requirements or standards. The appeal body is subject to all of the criteria and requirements for making findings imposed upon the original reviewing authority, including the requirements to complete environmental review. The appropriate authority shall forthwith transmit a copy of the decision to the applicant, appellant, and in the case of a City Council decision, to the Planning Commission.