

## Chapter 20.74 - APPEALS

### Sections:

**20.74.010 Purpose**

**20.74.020 Appeal Subjects and Jurisdiction**

**20.74.030 Filing and Processing of Appeals**

**20.74.040 Judicial Review**

### **20.74.010 Purpose**

This chapter establishes procedures for the appeal of decisions made by the Planning Commission, the Site Plan Review Committee, and the Director of Development Services.

### **20.74.020 Appeal Subjects and Jurisdiction**

- A. Director of Development Services and Site Plan Review Committee Decisions.** Any decision by the Director of Development Services and Site Plan Review Committee on discretionary permits and approvals may be appealed to the Planning Commission.
- B. Planning Commission Decisions.** Any decision of the Planning Commission may be appealed to the City Council.

### **20.74.030 Filing and Processing of Appeals**

- A. Eligibility.** Any person or persons may submit an appeal of a decision by the Director of Development Services, Site Plan Review Committee, or Planning Commission.
- B. Timing of Appeal.** An appeal shall be filed within five business days (excluding official City holidays) following a Planning Commission decision, and five business days (excluding official City holidays) following a decision by the Director of Development Services or Site Plan Review Committee.
- C. Form of Appeal.**
  - 1. An appeal shall be submitted in writing in a form acceptable to the City together with all required application fees.
  - 2. The appeal application shall specifically state the pertinent facts and the basis for the appeal.
  - 3. The whole decision or part of the decision may be appealed. If an appellant chooses, an appeal may be taken solely from any finding, action, or condition.
- D. Effect of Appeal.** Once an appeal is filed, any action on the associated project is suspended until the appeal is processed and a final decision is rendered by the review authority.

**E. Report and Noticed Hearing**

1. When an appeal has been filed, the Development Services Department shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority. The public hearing should be heard within 90 calendar days of receiving the appeal, unless otherwise mutually agreed to by the applicant and appellant or continued by the appropriate review authority pursuant to 20.74.030(F)(3).
2. Notice of the hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 20.70 (Public Notice and Hearings).
3. Any interested person may appear and be heard regarding the appeal.
4. All appeals on a single project shall be considered together at the same hearing.

**F. Hearing and Decision.**

1. During the appeal hearing, the review authority may take action on the specific basis for the appeal, or may reconsider the project in its entirety (“de novo” review). The review authority shall make its own decision supported by findings. In doing so, it may:
  - a. Affirm, affirm in part, or reverse the action that is the subject of the appeal; or,
  - b. Adopt additional conditions of approval that address the matter appealed; or,
  - c. Remand the appeal for further review, recommendation, or action to the previous review authority.
2. The review authority’s action shall be based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal and verify the compliance of the subject of the appeal with the Zoning Ordinance.
3. A matter being heard on appeal may be continued for good cause (e.g., additional CEQA review is required).
4. If the hearing body is unable to reach a decision on the matter appealed, the decision of the previous review authority shall remain in effect.

**G. Effective Date of Appeal Decision.**

1. **City Council Decisions.** A decision of the City Council is final and shall be effective on the date the decision is rendered.
2. **Planning Commission Decisions.** A decision of the Planning Commission is final and effective after 5:00 p.m. five business days following the date the decision is rendered, when no appeal to the decision has been filed in compliance with this chapter. In the event the completion of the appeal period falls on a weekend or holiday, the decision shall become effective after 5:00 p.m. of the next business day.

**20.74.040 Judicial Review**

No person may seek judicial review of a City decision on a permit or other matter in compliance with the Zoning Ordinance until all appeals to the Planning Commission and City Council have been first exhausted in compliance with this article.