

PROPOSED NEW CHAPTER

Chapter 17.94 - APPEALS AND CITY COUNCIL REVIEW

Sections:

17.94.010 – Appealable or reviewable decisions and applicable appellate or reviewing body.

17.94.020 – Appeal or review timing and general procedures.

17.94.030 – Decision.

17.94.040 – Effective date.

17.94.010 – Appealable or reviewable decisions and applicable appellate or reviewing body.

- A. Community Development Director. Decisions of the director under this title may be appealed to the planning commission as provided in this chapter.
- B. Planning Commission. Decisions of the planning commission under this title may be appealed to the city council as provided in this chapter or may be subject to review by action of the city council if authorized under the applicable provisions of this title.
- C. City Council. Decisions of the city council on matters under this title appealed from the planning commission or called up for review by the city council are final and are subject to judicial review in accordance with applicable law.

17.94.020 – Appeal or review timing and general procedures.

- A. Time Limit.
 - 1. Any appeal of a decision of the director or planning commission must be submitted to the community development department within 20 days of the applicable decision. If the 20th day falls on a day when city hall is closed, the appeal period ends at the close of business on the next working day.
 - 2. Where city council review of a decision of the planning commission is authorized under this title, the city council, by majority vote of its total membership and at any time within 30 days of notice of the planning commission's decision may issue an order of review.
- B. Form. The appeal must be submitted to the city clerk's office on the form provided by the department and must be accompanied by the applicable appeal fee established by city council resolution.
- C. Scheduling. The appeal or review will be heard within 60 days of the department's receipt of the complete appeal or city council order, unless the appellant or applicant, as applicable, consents to a later date.
- D. Notice. Notice of the appeal or review hearing will be given in the same manner required for the decision being appealed.
- E. Stay of decision. The decision subject to appeal or review will be stayed pending a final decision on the appeal or review, or the withdrawal of the appeal.

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- F. De Novo Review. The appeal or review hearing will be conducted as a “de novo review” in terms of the appellate or reviewing body not relying on or giving deference to previous findings and decisions on the matter. The appellate or reviewing body will review the records and files of the department and the director relating to the decision. At the hearing, any interested person may present relevant evidence or testimony bearing on the issues involved in the matter. In conducting the hearing, the appellate or reviewing body is not bound by formal rules of evidence and may accept all reasonably credible or reliable evidentiary material.

17.94.030 - Decision.

- A. The appellate or reviewing body may uphold, overturn, or modify the decision of the director or planning commission, as applicable. The decision will be made by resolution and supported by findings based on the evidence presented.
- B. Alternatively, the appellate or reviewing body may remand the matter for further consideration by the director or planning commission, as applicable.
- C. In the event of a tie vote by the planning commission, the decision of the community development director will become effective unless appealed. In the event of a tie vote by the city council, the decision of the planning commission will be final.
- D. Notice of the decision will be provided to the appellant by certified mail at the address provided on the appeal form, and will include a copy of an affidavit or certificate of mailing in accordance with Code of Civil Procedure section 1094.6.

17.94.040 - Effective date.

- A. A decision by the planning commission regarding an appeal will become final 20 days later if the matter is not appealed to the city council.
- B. A decision by the city council regarding an appeal or council review will become final on the date of the mailing of the written decision to the appellant/applicant.