

CHAPTER 1.12APPEALS

(Ord. 98-03)

1.12.010 Scope.

A. As used in this Chapter, “determination” refers to a final, non-recommending determination by a Board, Committee, Commission, or Department subordinate to the City Council. Unless otherwise provided by law, or this Code, or an action of the City Council, an appeal of a determination shall be made and processed in accordance with the provisions of this Chapter.

B. The procedures in this Chapter shall also apply when this Code authorizes an appeal to a superior authority (other than the City Council) of a final determination by a subordinate authority. In such case, "City Council", as used in this Chapter, shall be deemed to refer to the superior authority.

C. The decision by the City Council is the final action of the City.

D. Whenever a time limit provided for in this Chapter falls upon a City holiday, the limit shall be extended to 5:00 P.M. of the next business day of the City.

1.12.020 Filing an Appeal.

A. Appellant. One or more persons may file an appeal objecting to a determination.

B. Sufficiency of Appeal. To be sufficient for filing, an appeal must be:

1. Delivered to the City Clerk, by 5:00 P.M. of the fifteenth calendar day following the determination which is challenged. Except, an appeal of the approval or denial of a subdivision map, a lot line adjustment, or certificate of compliance reviewed pursuant to Title 24 of the Municipal Code must be delivered by 5:00 P.M. of the tenth calendar day following the date of the determination;

2. Accompanied by a proper filing fee as established by City Council resolution; and

3. In writing and legibly set forth:
 - a. The appellant's full name, address and phone number;
 - b. The Board, Commission, Committee or Department which rendered the determination;
 - c. The date of the determination;
 - d. The determination to which the appeal is made;
 - e. The appellant's interest in the challenged determination; and
 - f. Each issue which the appellant alleges was wrongly determined together with every argument and a copy of every item of evidence submitted to the subordinate entity that supports the appellant's allegations.

C. An insufficient appeal shall be returned to the person without filing.

D. When the time for filing an appeal has expired and a person has filed a timely appeal, the City Clerk shall notify the appropriate Department Director who shall: (Ord. 2003-08).

1. Notify the real party in interest (unless the real party in interest filed the appeal) that an appeal has been filed and that the determination has been suspended;
2. Set the matter on an agenda for public hearing by the City Council; and (Ord. 2001-09).
3. Notify the parties involved of the date and time of the public hearing. (Ord. 2001-09)
4. Exception: If the appeal concerns a determination involving a subdivision map, a lot line adjustment or certificate of compliance determination reviewed pursuant to Title 24 of the Municipal Code, the Department Director shall set the appeal for a public hearing. The public hearing shall be set within thirty days of the appeal being filed and shall be conducted in accordance with City Council procedures for public hearings. (Ord. 2003-08).

1.12.030 Material For Public Hearing

A. Material From Other Persons. On or before 5:00 P.M., seven calendar days prior to the Public Hearing, any person may submit to the City Clerk for filing a written position with arguments, documents, and information, and also may file exhibits, letters, photos, charts, diagrams, videos, etc., addressing the challenged determination. Written positions with arguments, documents, information, exhibits, letters, photos, charts, diagrams, or videos, etc., will not be filed, submitted to or considered by the City Council for Public Hearing, unless they are timely filed with the City Clerk. Upon filing with the City Clerk, those items will be available to the public.

B. Appeal Documents. The appellant's appeal documents shall be available to the public, and will be submitted at the Public Hearing.

C. Staff Report. The City department may prepare and submit to the City Council a Public Hearing Staff Report which may include a proposed resolution setting forth proposed findings, conclusions and determinative actions. It shall incorporate materials submitted to the subordinate entity. The Public Hearing Staff Report will be made available to the public no less than three calendar days prior to the Public Hearing.

D. Staff Review of Material Submitted From Other Persons. The City department may review and respond in writing to the material submitted pursuant to Section 1.12.030A. The City department response may be provided to the City Council up to the time of the Public Hearing. (Ord. 2005-07).

1.12.040 Public Hearing To Consider Appeal. The Public Hearing to consider the appeal shall be conducted in accordance with the following: (Ord. 2001-09)

A. Materials. At the Public Hearing, the City Council shall only receive and consider the following materials:

1. Public Hearing Staff Report which will include the materials submitted to the subordinate entity. The report may include a proposed resolution setting forth proposed findings, conclusions and determinative actions.
2. Each timely filed written position with arguments, documents, information, exhibits, letters, photos, charts, letters, diagrams, or videos, etc. (required to be submitted seven calendar days prior to the Hearing pursuant to Section 1.12.030A. (Ord. 2005-07).
3. Any written response provided by a City department pursuant to Section 1.12.030D (Ord. 2005-07).

4. No other materials shall be received or considered at the Public Hearing. (Ord. 2005-07).

B. Oral Presentations. At the Public Hearing, the City Council shall only receive and consider the following oral presentations:

1. The oral Staff Report, if any. The City Council may ask questions of City Staff in order to clarify information;
2. An oral presentation from the appellant and the appellant's representative, if any. The City Council may ask questions of the speaker in order to clarify information;
3. An oral presentation from any member of the public who submits a "Request To Speak" slip to the City Clerk, prior to the Mayor calling the Public Hearing item at the meeting. The City Council may ask questions of the speaker in order to clarify information; and.
4. An oral rebuttal/summation from the appellant and the appellant's representative, if any. The City Council may ask questions of the speaker in order to clarify information;

C. Determination. Applying City standards to the information presented at the public hearing, the City Council shall make a final determination affirming, overruling, or modifying the subordinate entity's determination; and may direct that such action be taken as the City Council deems necessary.