



Planning Services Division

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Decisions and Appeal

6-225

Time and manner of decision.

- (a) Form. After hearing the evidence and considering the application, the granting authority shall make its findings and have them entered in the minutes. If the granting authority is the zoning administrator, he shall make his findings in writing.
- (b) Time. The granting authority shall, unless the applicant agrees to a continuance beyond this limit, hear the matter and close the hearing within 120 days after the date of the application; and shall make its findings and render its decision within 30 days after the close of the public hearing.
- (c) Notice of Decision. The planning director shall have a notice of the decision mailed to the applicant at the address given in the application and to each other person who requests it in writing.
- (d) Acceptance Is Applicant's Agreement. The applicant's acceptance of the decision is his agreement to comply with the decision and its terms and conditions.

(Ord. 101 § 1 (part), 1973)

6-226

When decision is final.

- (a) A decision by the granting authority is not final until the time for appeal expires. The time for appeal is as follows:
 - (1) In the case of an appeal from the planning commission recommendation against changing property from one land use classification to another, within five calendar days after the planning commission files its recommendation with the city council (Government Code Section 65856);
 - (2) In the case of an appeal from any other action of the planning commission or the action of the zoning administrator, within 14 calendar days after the date of the decision.
- (b) The time for appeal may not be extended.

(Ord. 101 § 1 (part), 1973)

6-227

Denial without prejudice.

If the granting authority denies an application “without prejudice,” the applicant may reapply for substantially the same request without complying with the time limit prescribed in Section 6-238. (Ord. 101 § 1 (part), 1973)

6-228

Appeal by city councilman.

- (a) A city councilman may appeal a decision of the zoning administrator or the planning commission whenever he believes that a decision on an application is of such importance that it should be reviewed.
- (b) The appeal of a decision of the zoning administrator is to the planning commission and shall be processed in the same manner as appeals by other persons from a decision of the zoning administrator.
- (c) The appeal of a decision of the planning commission shall be presented to the city council before the appeal hearing is held. If three members of the city council object to considering the matter, the appeal of the councilman is considered as abandoned and the time for appeal by any other person begins to run from this abandonment. The councilman appealing the decision is not disqualified by that action from participating in the appeal hearing and the deliberations, nor from voting as a member of the city council.

(Ord. 101 § 1 (part), 1973)

6-229 Appeal by planning commissioner.

A planning commissioner may appeal a decision of the zoning administrator whenever he believes that a decision on an application is of such importance that it should be reviewed. The appeal shall be presented to the planning commission before the appeal hearing is held. If four members of the planning commission object to considering the matter, the appeal of the commissioner is automatically abandoned and the time for appeal by any other person begins to run from this abandonment. The commissioner appealing the decision is not disqualified by that action from participating in the appeal hearing and the deliberations, nor from voting as a member of the planning commission. (Ord. 101 § 1 (part), 1973)

6-230 Filing and form of notice of appeal.

The notice of appeal shall be filed with the designated city official. It shall contain the name and address of the person appealing the action, the decision appealed from and the grounds for the appeal. The planning director shall provide the form of notice of appeal. (Ord. 101 § 1 (part), 1973)

6-231 Reasons for appeal.

The applicant or any other person who is dissatisfied with a decision of the zoning administrator, of a member of the city staff pursuant to Section 6-234, or of the planning commission may file an appeal in accordance with the provisions of this article, accompanied by the required fee. In addition, an applicant may appeal the failure of the granting authority to act within the time limits prescribed in Section 6-225. (Ord. 101 § 1 (part), 1973)

6-232 Appeal from action of zoning administrator.

(a) Notice of Appeal. A person desiring to appeal the decision of the zoning administrator shall file a notice of appeal with the planning director within the time required by Section 6-226.

(b) Action on Appeal. The planning director shall set the matter for hearing before the planning commission and shall give notice of the hearing on the appeal in the time and manner set forth in Sections 6-210 and 6-211.

(c) De Novo Hearing. The planning commission shall hear the appeal as it would an original application in the first instance. The commission may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise details of the appeal. The applicant has the burden of proof.

(d) Decision on Appeal. The planning commission may reverse or affirm in whole or in part, or may modify the order, requirement, decision or determination appealed from. The decision of the planning commission on appeal may be appealed to the city council and the procedure is the same as in the case of an appeal from a decision of the planning commission (Section 6-233).

(Ord. 101 § 1 (part), 1973)

6-233 Appeal from decision of planning commission.

(a) Notice of Appeal. A person desiring to appeal a decision of the planning commission shall file a notice of appeal with the city manager within the time required by Section 6-226.

(b) Action on Appeal. The city manager shall set the appeal for public hearing at a regularly scheduled city council meeting not later than 60 days after the appeal is filed. He shall give notice of the hearing on appeal in the time and manner set forth in Sections 6-210 and 6-211.

(c) De Novo Hearing. The city council shall hear the appeal as a new matter. The original applicant has the burden of proof. The city council may act upon the application, either granting it, conditionally granting it or denying it, irrespective of the precise details of the appeal. In addition to considering the testimony and evidence presented at the

hearing on the appeal, the city council shall consider all pertinent information from the file as a result of the previous hearings from which the appeal is taken.

(d) Decision on Appeal. The city council may reverse or affirm in whole or in part, or may modify the order, requirement, decision or determination appealed from.

(Ord. 101 § 1 (part), 1973)

6-234 Appeal from decision of staff.

(a) An aggrieved person may appeal a decision, requirement or determination made by a member of the city staff in the administration of the land use regulations in Part 2 of this title not otherwise provided for in this Part 1. The city manager shall hear the appeal in the first instance. The appeal shall be in writing, filed with the planning director, and shall specifically set forth the decision appealed from and the grounds for the appeal. The notice of appeal shall be filed within 30 days of the action appealed from.

(b) Upon receiving the notice of appeal, the city manager shall set the matter for hearing and shall give the person appealing written notice of the time and place of hearing at least ten days before the hearing. The hearing shall be held within 30 days of the date the notice of appeal is filed. The parties may extend this time by agreement.

(c) The decision of the city manager is final ten days after notice is given the appellant of the ruling on the appeal, unless an appeal is taken from the decision of the city manager. Such an appeal is to the city council, shall be in writing, shall set forth the decision appealed from and the grounds for the appeal, and shall be filed with the city manager within ten days after the appellant received notice of the city manager's decision.

(d) Upon receiving the appeal from his decision the city manager shall schedule the appeal for consideration of the city council within 30 days and shall give the appellant ten days notice of the time and place of the council meeting. After the appellant has been heard by the city council, the council shall decide the matter. The decision of the city council is final.

(Ord. 101 § 1 (part), 1973)

6-235 City council decision on appeal.

If the city council decision on the appeal requires that it adopt an ordinance, the city council shall adopt the ordinance within 45 days after it closes the public hearing. In all other cases, the city council decision on appeal shall be by resolution. The city council shall adopt the resolution within 30 days after it closes the public hearing. Within five days after adoption, the city manager shall have a copy of the resolution or ordinance, as the case may be, furnished to the appellant, the planning director and any other parties to the proceedings. The decision of the city council is final. (Ord. 101 § 1 (part), 1973)

6-236 Limitations of actions attacking certain decisions.

An action or proceeding to attack, review, set aside or annul a decision of the city council under this title, or concerning a proceeding, act or determination taken or made before such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless the action or proceeding is brought within 180 days after the date of the decision. Thereafter every person is barred from an action or proceeding or any defense of invalidity or unreasonableness of the decision or the proceeding, act or determination. (Ord. 101 § 1 (part), 1973)

6-237

Reconsideration.

(a) The zoning administrator or the planning commission, as the case may be, may reconsider its decision upon request from an interested party to do so if it determines that there were important factual or legal matters which it failed to consider before making its decision.

(b) The request for reconsideration shall be filed in writing within the time allowed to appeal, setting forth the factual or legal matters which were not considered. The zoning administrator or the planning commission shall act upon the request at the next meeting. If the request is denied, the time to appeal is extended only the number of days required to hear and decide the request. If the request is granted, each person recording his appearance at the initial hearing is entitled to mailed notice of the time of the new hearing.

(Ord. 101 § 1 (part), 1973)

6-238

Time limit on reapplication for same matter.

When the city denies an application for rezoning, land use permit, variance, subdivision, minor subdivision or site plan and building elevations approval and the denial becomes final, no person may file a new application for substantially the same request for a period of one year from the date the action of the city is final, except as provided in Section 6-227 for denial “without prejudice.” (Ord. 101 § 1 (part), 1973)