

Appeal of Planning Director's Decision

9.7600 General Overview of Appeal Procedures. These appeal procedures apply to appeals of interpretations of this land use code made according to EC 9.0040(1) and to appeals to all Type II land use applications. The appeal of the planning director's decision provides for a review of an administrative decision by a higher review authority specified in this land use code. The planning director's decision may be affirmed, reversed, or modified.

(Section 9.7600, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7605 Filing of Appeal of Planning Director's Decision.

(1) Within 12 days of the date of the mailing of the planning director's decision, the decision may be appealed to the hearings official or historic review board according to the appeal review authority specified in Table 9.7055 Applications and Review Authorities by the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Neighborhood group officially recognized by the city that includes the area of the subject property.
- (d) Any person who submitted written comments in regards to the original application.
- (e) A person entitled to notice of the original application.
- (f) A person adversely affected or aggrieved by the initial decision.

(2) The appeal shall be submitted on a form approved by the city manager and accompanied by a fee established pursuant to EC Chapter 2. The appeal of a Type II decision shall be a de novo review at which new evidence may be presented.

(3) The appeal shall include a statement of issues on appeal and be limited to the issues raised in the appeal. The appeal statement shall explain specifically how the planning director's decision is inconsistent with applicable criteria.

(Section 9.7605, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7610 Public Hearing Schedule. Unless the applicant and appellant agree to a longer time period, the appeal review authority shall hold a public hearing on an appeal within 45 days of its receipt.

(Section 9.7610, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7615 Public Hearing Notice.

(1) At least 20 days prior to the hearing, the city shall mail written notice to all of the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Appellant.
- (d) Neighborhood group or community organization officially recognized by the city that includes the area of the subject property.
- (e) Any person who provided written comments prior to the close of the public comment period.
- (f) Owners of property within 100 feet of the perimeter of the subject property.

(2) The notice shall include all of the following:

- (a) The street address or other easily understood geographical reference to the subject property.

- (b) The applicable criteria for the decision, listed by commonly used citation.
- (c) The place, date, and time of the hearing.
- (d) The nature of the application and the proposed use or uses which could be authorized.
- (e) A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost.
- (f) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- (g) A statement that copies of the application and all evidence and documents submitted by or on behalf of the applicant are available for review, and that copies can be obtained at cost.
- (h) A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision maker to respond to the issue, precludes an appeal based on that issue.
- (i) The name and telephone number of a city contact person.
- (j) A brief summary of the local decision making process for the decision being made.
(Section 9.7615, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7620 Investigation and Report. At least 7 days prior to the public hearing, the staff report, if any, shall be submitted to the appeal review authority and made available to the public upon request. A copy of the report shall be mailed or delivered to the applicant at the time it is delivered to the appeal review authority.
(Section 9.7620, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7625 Public Hearing Conduct and Procedures. The appeal review authority shall conduct a public hearing according to the quasi-judicial hearing procedures in State law and EC 9.7065 through 9.7095, Quasi-Judicial Hearings.
(Section 9.7625, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7630 Decision.

- (1) Unless the applicant and appellant agree to a longer time period, the appeal review authority shall make a decision within 15 days of the close of the record.
- (2) The appeal review authority shall affirm, reverse, or modify the decision of the planning director. Before reversing or modifying the planning director's decision, the appeal review authority shall make findings and conclusions clearly stating how the planning director failed to properly evaluate the application or make a decision consistent with applicable criteria.
- (3) The action of the appeal review authority is final.
- (4) The decision of the historic review board or planning commission must be agreed upon by a majority of the board members present at a meeting. A tie vote results in affirming the decision of the planning director.
(Section 9.7630, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)

9.7635 Notice of Decision.

(1) Within 5 days after a decision by the appeal review authority is rendered, notice of the decision shall be mailed to all of the following:

- (a) Applicant.
- (b) Owner of the subject property.
- (c) Appellant.

- (d) Any person who provided oral or written testimony in a timely manner during the hearing procedures.
- (e) Any person who requested notice of the appeal decision.

(2) The notice shall:

- (a) Summarize the decision of the appeal review authority.
 - (b) Explain the appeal rights.
- (Section 9.7635, see chart at front of Chapter 9 for legislative history from 2/26/01 through 6/1/02.)