

CHAPTER 17.640
APPEALS

§ 17.640.005. Purpose.

This Chapter provides procedures for:

- A. The Council's review of a decision rendered by the Commission;
 - B. The Commission's review of a decision rendered by the Director;
 - C. The simultaneous request for an appeal by the Council and Commission;
 - D. The filing of an appeal, by other than the Council or Commission, of a decision rendered by the Director or Commission.
- (Ord. 2456 § 2, 2010)

§ 17.640.010. Commission Review.

A member of the Commission may request the opportunity to discuss any decision previously rendered by the Director; however, a majority vote of the Commission is required to initiate an appeal of the decision. Once the vote to initiate an appeal is passed by a majority, the matter shall be scheduled for hearing.

(Ord. 2456 § 2, 2010)

§ 17.640.015. Council Review.

A member of the Council may initiate an appeal of any decision previously rendered by the Director or Commission; once an appeal is initiated, the matter shall be scheduled for hearing. The decision of the Council on the appeal shall be final and shall become effective upon adoption of the resolution by the Council.

(Ord. 2456 § 2, 2010)

§ 17.640.020. Appeal by the Council and Commission.

If members of the Commission and Council file an appeal from the same decision, the matter shall be scheduled for Council determination. The Council shall determine whether the appeal shall be considered, and if so, by which review authority. Once the Council determines that the appeal should be heard, the appeal shall be scheduled for hearing by the review authority designated by the Council.

(Ord. 2456 § 2, 2010)

§ 17.640.025. Appeals of Decisions.

An appeal filed by other than the Council or Commission shall be heard by the following review authorities:

- A. Director Appeals. A decision rendered by the Director may be appealed to the Commission.

- B. Commission Appeals. A decision rendered by the Commission may be appealed to the Council.
(Ord. 2456 § 2, 2010)

§ 17.640.030. Filing and Processing of Appeals.

- A. Timing and Form of Appeal. Appeals shall be submitted in writing and filed with the Division or City Clerk, as applicable, within 15 days after the decision date identified in the notice of decision. Appeals addressed to the Commission shall be filed with the Division, while appeals addressed to the Council shall be filed with the City Clerk. The appeal shall specifically state the pertinent facts of the case and the basis for the appeal, as required by subsection D. Appeals shall be accompanied by the filing fee established by the most current City Council Fee Resolution.
- B. The Number of Days Shall be Construed as Calendar Days. Time limits will extend to the following City Hall working day where the last of the specified number of days falls on a weekend, holiday, or other day when City Hall is officially closed.
- C. Report and Scheduling of Hearing. When an appeal has been filed, the Director shall prepare a report on the matter and schedule the matter for consideration by the appropriate review authority.
- D. Required Statement and Evidence
1. Applications for appeals shall include a general statement specifying the basis for the appeal and the specific aspect of the decision being appealed.
 2. Appeals shall be based upon an error in fact, dispute of findings, or inadequacy of conditions to mitigate potential impacts.
 3. Appeals shall be accompanied by supporting evidence substantiating the basis for the appeal.
- E. Action. If the matter originally required a noticed public hearing, the Division or City Clerk, as applicable, shall notice the hearing in compliance with Section 17.640.035, *Notice for Appeal Hearings*. At the hearing, the review authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.
1. By resolution, the review authority may affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal.
 2. When reviewing an appeal, the review authority may amend or adopt additional conditions of approval that may address other issues or concerns than the subject of the appeal.
 3. When reviewing an appeal, the review authority may disapprove the land use entitlement approved by the previous review authority, even though the appellant only requested a modification or elimination of one or more conditions of approval.

4. If new or different evidence is presented on appeal, the Commission or Council may, but shall not be required to, refer the matter back to the Director or Commission for further consideration.

(Ord. 2456 § 2, 2010; amended during Supplement No. 20, 1/12)

§ 17.640.035. Notice for Appeal Hearings.

- A. Appeal of Commission's Decision. Where an appeal of a Commission decision made following a public hearing noticed in compliance with Section 17.630.010, *Notice of Public Hearings and Administrative Review*, is filed with the City Clerk and a hearing on the merits of the appeal is placed in the Council agenda, notice shall be given in compliance with Section 17.630.010, unless the Council determines otherwise. An appeal of a Commission action that was not subject to a public notice does not require notice when the matter is placed in the Council agenda unless the Director determines otherwise.
- B. Appeal of Director's Decision. Notice of the appeal shall be mailed to all persons who previously received notice of the Director's decision at least 10 days before the scheduled public hearing or review.

(Ord. 2456 § 2, 2010)

§ 17.640.040. Notice of Final Decision by Commission.

Within 10 working days after the final decision is rendered by the Commission, a notice of the decision and any applicable conditions of approval shall be mailed to the appellant at the address shown on the application. A copy of the notice shall also be sent in compliance with Section 17.630.040, *Mailing of the Notice of Decision*.

(Ord. 2456 § 2, 2010)

§ 17.640.045. Pending Appeal.

While an appeal is pending, the establishment of any affected use or structure shall be held in abeyance and all permits and licenses issued for the use or structure shall be stayed.

(Ord. 2456 § 2, 2010)