

Article 46 Appeals and Calls for Review (City-wide)

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4601 Purpose and Authorization for Appeals and Calls for Review

- A. Appeals. To avoid results inconsistent with the purposes of this ordinance, decisions of the City Planner on projects other than those located within the Redevelopment Project Area may be appealed to the Planning Commission, and decisions of the Planning Commission may be appealed to the City Council. Decisions of the City Planner for proposals within the Redevelopment Project Area may be appealed to the Community Development Commission.
- B. Calls for Review. As an additional safeguard to avoid results inconsistent with the purposes of this ordinance, decisions of the Planning Commission may be called up for review by the City Council.

4602 Rights of Appeal

Rights of appeal are prescribed in the individual articles of this ordinance authorizing each decision that is subject to appeal.

4603 Time Limits for Appeals and Calls for Review

- A. Appeals by Applicant Only. Appeals of decisions appealable only by an applicant shall be initiated within 10 days of the date of the decision, except that in the instance where a time extension application for a Tentative Map is denied, the subdivider shall initiate an appeal within 15 days of the date of the denial decision, pursuant to the State Subdivision Map Act.
- B. Appeals by Interested Parties. Appeals of decisions appealable by any interested party shall be initiated within 10 days of the decision, except that in the instance where a time

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extension application for a Tentative Map is denied, an interested party shall initiate an appeal within 15 days of the date of the denial decision. No other persons other than an applicant or an interested party may appeal a decision.

- C. Time Limits. When the appeal period ends on a weekend or holiday, the time limits shall be extended to the next working day.
- D. Appeals of projects in the Coastal Zone. Projects located within the City's Coastal Zone, as delineated on the City's Post LCP Certification Permit and Appeal Jurisdiction map on file in the Planning Division, shall be subject to the appeal time limits described in the City of Oceanside Coastal Permit Handbook/Local Coastal Program.
- E. Calls for Review. Calls for review of decisions shall be initiated prior to the end of the appeal periods prescribed by Subsections (A), (B), (C), and (D), which is the effective date of the decision to be reviewed.

4604 Initiation of Appeals and Calls for Review

- A. Filing of Appeals. An appeal of a City Planner decision (not including City Planner decisions on time extensions requests, which may not be appealed) shall be filed in writing with the Planning Division, for projects located outside the Redevelopment Project Area, and with the City Clerk, for projects located within the Redevelopment Project Area. Appeals shall be accompanied by the required fees. In filing an appeal, the appellant shall specifically state the reasons or justification for an appeal. An appeal of a Planning Commission decision shall be filed in writing with the City Clerk and shall be accompanied by the required fees. In filing an appeal, the appellant shall specifically state the reasons or justification for an appeal. ~~In all cases, the reasons or justifications given by the appellant shall form the basis on which the appeal hearing before the appropriate appellate body shall focus. Issues not raised by the appellant in the written appeal cannot be considered in the appeal hearing.~~

The requirement of a fee for an appeal shall be waived for the following circumstances:

1. The appeal of a City Planner or a Planning Commission decision is filed within the specified time period and is accompanied by the signatures of 50% of the property owners within the noticed area or 25 signatures of the property owners or tenants within the noticed area, whichever is less.
2. The appeal is for a City Planner interpretation as per Section 240 of this Ordinance.
3. The appeal is for a City Planner decision on an application where the submitted application did not require a fee.

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- B. Calls for Review. A call for review shall be filed in writing by at least two members of the City Council with the City Clerk specifically stating the reasons for such review. No fee shall be required.
- C. Effect on Decisions. Decisions that are appealed or called up for review shall not become effective until the appeal is resolved, as provided in Section 4605.

4605 Procedures for Appeals and Calls for Review

- A. Appeal Hearing Date. An appeal filed by an applicant or interested party shall be scheduled for a hearing before the appellate body within 30 days of the Clerk's receipt of an appeal unless otherwise specified by State Law. A call for review filed by at least two members of the City Council shall be scheduled for a hearing before the appellate body within 30 days of the Clerk's receipt of a call for review unless otherwise specified by State Law.
- B. Notice and Public Hearing. An appeal or review hearing shall be a public hearing if the decision being appealed or reviewed required a public hearing. Notice of public hearings shall be given in the manner required for the decision being appealed.
- C. Plans and Materials. At an appeal or review hearing, the appellate body shall consider only the same application, plans, and related project materials that were the subject of the original decision, ~~and only the issue(s) raised by the appeal or the call for review.~~ Compliance with this provision shall be verified prior to or during the hearing by the City Planner. **No person shall raise a matter before the City Council which was not raised before the Planning Commission, unless the person can show that the matter is based on new information which was not available at the time of the Planning Commission hearing, or that the person for good cause was unable to raise the matter at the time of the Commission hearing.**
- D. Hearing. At the hearing, the appellate body shall review the record of the decision and hear testimony of the appellant, the applicant, and any other interested party.
 - 1. **Hearing on Appeal of Decision by the City Planner. Issues not raised by the appellant in the written appeal cannot be considered in the appeal hearing.**
 - 2. **Hearing on Appeal of Decision by Planning Commission. The hearing on an appeal shall be a de novo hearing.**
- E. ~~Decision and Notice. After the hearing, the appellate body shall affirm, modify, or reverse~~

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~~the original decision. When a decision is modified or reversed, the appellate body shall state the specific reasons for modification or reversal. Decisions on appeals or review shall be rendered by adoption of a resolution. The City Planner shall mail notice of a Planning Commission decision and the City Clerk shall mail notice of the appellate body's decision. Such notice shall be mailed within seven (7) working days after the date of the decision to the applicant, the appellant, and any other party requesting such notice.~~

E. Decision

1. **For appeals from a decision of the City Planner, after the hearing the Planning Commission shall consider the appeal and shall affirm, modify, or reverse the original decision. When a decision is modified or reversed, the Planning Commission shall state the specific reasons for modification or reversal. Decisions on appeals or review shall be rendered by adoption of a resolution.**

2. **For appeals from a decision of the Planning Commission, the City Council shall consider the appeal and shall either:**
 - a. **Affirm the decision of the Planning Commission; or**
 - b. **Render its decision de novo on the appeal.****When a decision is rendered de novo, the appellate body shall state the specific reasons for modification or reversal. Decisions on appeals or review shall be rendered by adoption of a resolution.**

3. **The decision of the City Council in the case of any such appeal shall be the final determination of the City.**

F. Notice. The City Planner shall mail notice of a Planning Commission decision and the City Clerk shall mail notice of the appellate body's decision. Such notice shall be mailed within seven (7) working days after the date of the decision to the applicant, the appellant, and any other party requesting such notice.

4606 Effective Date

A decision by the City Council regarding an appeal or call for review shall become final on the date of the decision. A decision by the Planning Commission regarding an appeal shall become final on the date of the decision, unless appealed to the City Council.

4607 New Application

Following a decision on an appeal at the City Council level or an action taken on a decision

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called for review, an application may not be filed with the Planning Division for any matter or project that is the same or substantially similar for a period of one year, unless the decision is made without prejudice.

4608 California Coastal Commission Appeals

Projects located within the appealable areas of the City's Coastal Zone, as delineated on the City's Post LCP Certification Permit and Appeal Jurisdiction map on file in the Planning Division, shall be subject to the appeal procedures described in the City of Oceanside Coastal Permit Handbook/Local Coastal Program.

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