

Chapter 19.92

APPEALS*

Sections:

- 19.92.010** Appeals from decisions of building official or planning commission.
- 19.92.020** Hearing procedure.
- 19.92.025** Stay pending appeal.
- 19.92.030** Appeals from decisions of the board of adjustment.

* Prior ordinance history: Ords. 557, 600 and 863.

19.92.010 Appeals from decisions of building official or planning commission.

A. Appeals may be made by: the applicant; a property owner within six hundred feet of the subject property; or any governmental agency, that may be adversely affected by the decision.

B. The planning commission shall hear and decide appeals taken from the building official when it is alleged there is an error in any order, requirement, decision or determination made by the building official concerning established regulations.

C. The city council, acting as the board of adjustment, shall hear and decide appeals taken from the planning commission when it is alleged there is an error in any order, requirement, decision or determination made by the planning commission concerning established regulations.

D. All appeals must be filed with the city clerk within ten consecutive calendar days of the date the decision is made. Appeals must be submitted on a notice of appeal obtained from the city clerk's office. The appellant must specify concisely the errors made in the decision of the planning commission or building official and express the relief the appellant wishes to receive.

E. No person shall be entitled to an appellate review who fails to file a proper notice of appeal with the city clerk within ten consecutive calendar days of the date the decision is made.

F. The burden of proof that a decision was made in error is on the appellant.

(Ord. 907 § 3 (part), 2007)

19.92.020 Hearing procedure.

A. Before taking action on the appeal, but within thirty consecutive calendar days of the filing of the appeal, the planning commission or board of adjustment shall hold a hearing on the appeal. At least ten consecutive calendar days before the hearing notice of the time and place of the hearing shall be mailed to all parties in interest and to each person who would have been entitled to notice of the original proceeding. General public notice of the hearing shall be given at least five consecutive calendar days prior to the hearing by posting in three public places.

-B. The planning commission or board of adjustment may grant an appeal only if:

1. The appellant establishes there was an error in the application of pertinent law;
2. The appellant establishes the decision is not supported by adequate written findings or the findings fail to inform of the basis upon which the decision appealed from was made;

3. The appellant establishes the building official or planning commission failed to follow procedures;

4. The appellant establishes there was misrepresentation of a fact.

C. Within ten consecutive calendar days after the hearing, the planning commission or board of adjustment shall render a decision on the appeal.

D. In exercising the above-mentioned powers, the planning commission or board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed and may make such order, requirement, decision or determination as ought to be made based on pertinent law and to that end shall have all the powers of the body from whom the appeal is taken.

E. All meetings shall be open to the public and minutes of proceedings showing decisions, the reasons for decisions and the vote of each member upon each question shall be kept. (Ord. 907 § 3 (part), 2007)

19.92.025 Stay pending appeal.

The decision being appealed shall not be stayed pending appeal, but action by any person in reliance on the decision shall be at the risk that the decision may be set aside on appeal. (Ord. 907 § 3 (part), 2007)

19.92.030 Appeals from decisions of the board of adjustment.

Judicial review by the superior court of a final decision of the board of adjustment may be had by filing a notice of appeal in accordance with the applicable rules of court. (Ord. 907 § 3 (part), 2007)