

10-5-24 Appeal Of Administrative Decisions

- A. *Purpose.* This section sets forth procedures for appealing an administrative decision applying provisions of this title.
- B. *Authority.* The appeal authority shall hear and decide appeals from administrative decisions applying the provisions of this title as provided in this section.
- C. *Exhaustion of administrative remedies.*
1. As a condition precedent to judicial review, each adversely affected person shall timely and specifically challenge an administrative decision in accordance with the provisions of this section.
 2. An adversely affected party shall not be required to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of the adversely affected party's duty to exhaust administrative remedies.
- D. *Initiation.* An applicant, a board or officer of the city, or any person adversely affected by a decision made by a decision-making body or official administering or interpreting this title may, within ten calendar days after the decision, appeal the decision to the appeal authority by alleging there is error in any order, requirement, decision, or determination made by the decision-making body or official in the administration or interpretation of this title.
1. Only a decision in which a decision-making body or official has applied a land use regulation to a particular land use application, person, or lot may be appealed to the appeal authority.
 2. An adversely affected party shall present to the appeal authority every theory of relief that it can raise in district court.
 3. A person may not appeal, and the appeal authority may not consider, any appeal regarding legislative action, including, but not limited to, any decision regarding a general plan application or a regulatory application. Administrative appeals may not be used to waive or modify the requirements of this title.
 4. An applicant who appeals a decision of a decision-making body or official administering or interpreting any provision regarding a geologic hazard may request the community development director to assemble a panel of qualified experts to serve as the appeal authority for purposes of determining the technical aspects of the appeal as provided in U.C.A. 1953, § 10-9a-703(2).
- E. *Procedure.* An appeal of an administrative decision shall be considered and processed as provided in this section and as required by applicable provisions of HCC 10-5-4 and 10-5-5.
1. An application for an appeal shall be submitted to the community development director along with any applicable fee established by the city's schedule of fees.
 2. The application shall include at least the following information:
 - a. The name, address, and telephone number of the applicant and the applicant's agent, if any;
 - b. The decision being appealed;
 - c. A description of the action claimed by the applicant to be incorrect; and
 - d. Grounds for the appeal.

3. After an application is determined to be complete, the community development director shall schedule a public meeting before the appeal authority as provided in HCC 10-5-5. Prior to the meeting the community development director shall transmit to the appeal authority all material constituting the record of the action which is appealed.
4. An appeal to the appeal authority shall not stay the action appealed from unless the appeal authority issues a stay after first:
 - a. Receiving a request for a stay from the appellant or an aggrieved party; and
 - b. Finding a stay is in the best interest of the city.
5. The appeal authority shall review the record of decision and after due consideration may affirm, reverse, alter, or remand for further review and consideration the action which was appealed. The appeal authority may impose conditions of approval, but shall be limited to conditions needed to conform the matter appealed to applicable approval standards.

F. *Standards for decision.*

1. The appellant shall have the burden of proving that the land use authority erred.
2. The appeal authority shall:
 - a. Determine the correctness of the decision-making body or official's interpretation and application of the plain meaning of land use regulations; and
 - b. Interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
3. The appeal authority shall determine the correctness of a decision of the decision-making body or official in its interpretation and applications of land use ordinances based solely on the record.
 - a. Factual matters shall not be reviewed de novo.
 - b. The appeal authority shall determine whether the record on appeal includes substantial evidence for each essential finding of fact.

(Code 2023, § 10-5-24; Ord. No. 2017-54, 12-13-2017)

HISTORY

Adopted by Ord. [2025-13](#) on 5/14/2025