

## **SECTION 34. HEARINGS AND APPEALS**

- A. **APPLICABILITY OF SECTION:** The provisions of this Section apply to and govern the procedural requirements for any hearing or appeal; provided, however, that if a provision of any other section expressly provides any such requirements shall be done in the manner different from the provisions of this section, such deviation shall control over any inconsistent provisions of this section.
- B. **INITIATION BY PROPERTY OWNER:** An applicant for a hearing on any matter affecting specific property may be one or more holders of an interest in such property, or his agent. An applicant may initiate the procedure for a hearing in the following manner:
1. **Application.** The applicant shall submit his or her application on a form provided by the Planning Director. The Planning Director shall accept the application as complete pursuant to procedures indicated in Section 30.5 of this Ordinance.
  2. **Fees.** Fees are required for any entitlement required by this Ordinance unless the Board of Supervisors, waives the fee prior to submittal of an application. The required fees for any such application not waived shall be governed by the provisions of Section 30.5 of this Ordinance.
- C. **INITIATION BY BOARD OF SUPERVISORS OR PLANNING COMMISSION:** By Resolution, the Board of Supervisors or Planning Commission may initiate the procedure for a hearing. Upon receipt of such a resolution the Planning Director shall file the necessary application.
- D. **NOTICE CONTENTS:** Notice of a hearing shall include the time and place of the hearing, a general description of the matter to be considered, a general description of the property involved in the proceedings, and shall state what environmental determination, if any, has been made on the application to be considered at the hearing.
- Failure of any person to receive notice as required by the provisions of this Ordinance shall not affect the validity of the hearing held pursuant to the provisions of this section, nor prevent the Architectural Review Board, Planning Commission, or Board of Supervisors from proceeding with any such hearing.
- E. **NOTICE OF HEARINGS:** Where a public hearing is required by this Ordinance, the notice of the hearing shall be as follows:
1. The Planning Director shall cause notice of the hearing to be posted in the nearest Post Office to the subject property, at least ten (10) days prior to the date of the hearing.

2. Written notice of the hearing shall be caused to be mailed by the Planning Director at least ten (10) days prior to the hearing to the following property owners, using for notification purposes names and mailing addresses as shown on the latest equalized assessment roll in existence of the date application is filed.
    - a. All owners of property located within a radius of three hundred (300) feet from the property involved in the proceedings.
    - b. The owners of all property, which adjoins the property in the same ownership as that involved in the proceedings or is separated only by a street, alley, right-of-way, or other easement.
    - c. Notwithstanding Subparagraphs a and b above, notice need not be given to property owners outside a radius of five hundred (500) feet from that portion of the property involved.
  3. The Planning Director shall cause notice of the hearing to be given in a newspaper of general circulation at least ten (10) days prior to the date of the hearing.
- F. HEARING - PLANNING STAFF REPORT: When a planning staff report exists, such report shall be made public prior to or at the beginning of the hearing and shall be a matter of public record.
- G. HEARING - REPORT: Minutes or a synopsis of any hearing held pursuant to the provisions of this section shall be made available to any person at cost.
- H. DECISION: The hearing body may grant, in whole or in part, or refuse to grant, modify, or condition the proposed action. On appeal, the hearing body may affirm, reverse, condition, or modify, in whole or in part, the decision on the proposed action. Provided, however, that no decision by the hearing body shall permit the applicant to do an act which was not described in the "general explanation of the matters to be considered" included in the notice of the hearing or the notice of appeal.
- I. DECISION OR RECOMMENDATION - TIME LIMIT: The hearing body shall render a decision or recommendation within one hundred twenty (120) days from the date of the hearing on the application. The hearing may be continued by mutual consent of the hearing body and the applicant. The time limit for this determination may be extended by mutual consent of the hearing body and the applicant. If, at the expiration of the time herein provided, the hearing body has not rendered a decision or made a recommendation, the applicant may, by letter to the hearing body, indicate this intent to treat his application as denied or disapproved. Applicant may then appeal or seek other appropriate remedies in accordance with the provision of this section.

- J. **DECISION - EFFECTIVE DATE:** The timely filing of appeal to either the Planning Commission or Board of Supervisors stays proceedings until the determination of the matter on appeal. A decision of the Planning Commission shall become final upon expiration of the time within which an appeal from that decision may be taken. A decision of the Board of Supervisors shall be effective forthwith unless otherwise provided by the Board of Supervisors at the time the decision is rendered. Nothing in this paragraph shall be construed to shorten the time within which a decision by ordinance adopted by the Board of Supervisors becomes effective. No appeal shall be accepted unless it is timely filed.
- K. **APPEALS:** Except as otherwise provided in this Ordinance, if any application for any permit of any County body or official having such authority is denied or approved by any County body or official and no other body is designated in this Ordinance to hear an appeal, the applicant, or any interested person adversely affected, upon payment of the appropriate appeal fee, may file with the Clerk of the Board of Supervisors, a written notice of appeal to the Board of Supervisors from such decision within ten (10) working days of said decision. The following subsections shall address Appeals of Decisions rendered by the Planning Director, Architectural Review Board and Planning Commission:
1. **Decision of the Planning Director.** Any person dissatisfied with any action of the Planning Director may appeal therefrom to the Planning Commission at any time within ten (10) working days after notice of the decision is given. Such an appeal is taken by filing a notice of appeal with the Planning Director and paying the required appeal fee. Upon filing of a notice of appeal, the Planning Director shall within ten (10) days transmit to the Secretary of the Planning Commission all papers and documents on file with the Planning Director relating to the appeal and schedule the appeal for Commission hearing.
  2. **Decision of the Architectural Review Board.** Any person dissatisfied with a determination by the Architectural Review Board may appeal to the Planning Commission at any time within ten (10) working days after the decision of the Architectural Review Board. Such appeal shall be filed with the required fees with the Planning Director on forms provided by the Planning Director. After the appeal is filed the matter shall be scheduled for Commission hearing.
  3. **Decision of the Planning Commission.** Any person dissatisfied with a determination by the Planning Commission may appeal the matter to the Board of Supervisors at any time within ten (10) working days after the decision of the Planning Commission. Appeal shall be filed on a form provided by the County Clerk and accompanied by the required filing fees. After the appeal is filed, the matter shall be scheduled by the County Clerk for the Board of Supervisors consideration.
  4. **Permits May Not be Issued.** No construction permits, license or other permit for a project or use requiring approval by the appropriate hearing body may be issued until the appeal period following such approval has expired.

No construction permits, license or other permit shall be issued while a hearing on appeal therefrom is pending.

L. APPEAL - NOTICE: Notice of any appeal shall be given by the Clerk or Secretary of the hearing body in the following manner:

1. By posting on a publicly accessible bulletin board at least seven (7) days prior to the date set for hearing; and,
2. By written notice to those persons who appear and identify themselves for the record before the Board before which the original hearing was held, those persons who request in writing to be notified on any further proceedings on the matter, the appellant, and the owner of the property affected where such owner is not the appellant. Such notice to be placed in the United States mail at least ten (10) days prior to the date set for the hearing.