

## CHAPTER 2.36 APPEALS

### § 2.36.010. Appeals to council.

- A. Except when an appeals procedure is otherwise specifically set forth in this code, any person objecting to the denial, conditional approval, suspension or revocation of a permit, license or other approval applied for or held by him pursuant to any provision of this code, or to any administrative decision made by any official of the city, if the denial, conditional approval, suspension or revocation of such permit, license or approval, or the determination of such administrative decision involves the exercise of administrative discretion or personal judgment exercised pursuant to any provision of this code, may appeal in writing to the council by filing with the city clerk a written notice of such appeal.
- B. No appeal may be taken to any such administrative decision made by an official of the city pursuant to any provision of this code unless such decision has first been taken up with the department head concerned and with the city manager, and each such official has not adjusted the matter to the appellant's satisfaction.
- C. No right of appeal to the council from any administrative decision made by an official of the city pursuant to any provision of this code shall exist when such decision is ministerial and thus does not involve the exercise of administrative discretion or personal judgment, whether the administrative decision involves the denial, conditional approval, suspension or revocation of a permit, license, approval or any other administrative decision. There shall be no such right of appeal with regard to law enforcement activities involving state law.  
(Ord. 90-02 §1 (2.04.100))

### § 2.36.020. Notice of appeal—Time limit—Contents.

- A. No notice of appeal shall be acted upon unless filed within ten days after service of written notice of the determination appealed from, provided that if such notice of determination has not been served in writing the appellant may, within ten days after being apprised of such determination, demand service of written notice thereof, and shall have ten days following such service in which to file the notice of appeal.
- B. The notice of appeal shall set forth (1) the specific action appealed from, (2) the specific grounds of the appeal and (3) the relief or action sought from the city council. In the event any notice of appeal fails to set forth any information required by this section, the city clerk shall return the same to the appellant with a statement of the respects in which it is deficient, and the appellant shall thereafter be allowed five days in which to perfect and refile the notice of appeal.
- C. Except in those instances where an appeal is filed by the city manager or other public official pursuant to official duties, the written notice of appeal from the determination of an administrative official or from an administrative body of the city, as the case may be, shall be accompanied by such fee as may be established by resolution of the city council  
(Ord. 90-02 §1 (2.04.110))

**§ 2.36.030. Notice of hearing.**

Upon the timely filing of an notice of appeal in proper form, the city clerk shall schedule the matter promptly upon the city council agenda at a subsequent regular meeting and shall cause notice thereof to be given to the appellant not less than five days prior to such hearing, unless such notice is waived in writing by the appellant. The city clerk shall also cause a copy of the notice of appeal to be transmitted to the official or body whose decision has been appealed from.

(Ord. 90-02 §1 (2.04.120))

**§ 2.36.040. Hearings—Participation—Decision by council.**

- A. The city council may limit participation at the hearing to those parties directly interested, or may allow participation by the public. Such public participation, however, shall only occur when the council deems the same necessary to further the public interest. If a hearing is ordered open to public participation, notice thereof shall be given by publishing notice of the same in a newspaper of general circulation in the city not less than five days prior to the date of such hearing, and by such other means as the city council deems necessary.
- B. At the same time of consideration of the appeal by the city council the appellant shall be limited to a presentation on the specific grounds of appeal and matters set forth in his or her notice of appeal and shall have the burden of establishing cause why the decision appealed from should be altered, reversed or modified. The council may continue the matter from time to time; and at the conclusion of its consideration may affirm, reverse or modify the decision appealed from and may take any action which might have been legally taken in the first instance by the official or body from whose action the appeal has been taken. In ruling on the appeal the finding and action of the council shall be final and conclusive in the matter.

(Ord. 90-02 § 1 (2.04.130))

**§ 2.36.050. Administrative decisions—Judicial review—Time limits.**

The provisions of Section 1094.6 of the California Code of Civil Procedure are adopted by the city council, and said provisions are made applicable in the city as further specified in Section 2.36.060.

(Ord. 90-02 § 1 (2.50.010))

**§ 2.36.060. Administrative decisions affected.**

The provisions of this section and Section 2.36.050 shall be applicable to "decisions," as defined by Section 1094.6 of the California Code of Civil Procedure, that are final on and after January 1, 1990.

(Ord. 90-02 § 1 (2.50.020))