

## Chapter 20.24

## HEARING AND PRE-HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Sections:

- 20.24.010 Hearing Required on Appeals and Applications.
- 20.24.014 Combining Hearings With Those of Other Agencies.
- 20.24.020 Public Notice.
- 20.24.030 Evidence.
- 20.24.040 Modification of Application at Hearing.
- 20.24.050 Record.
- 20.24.060 Written Decision.

20.24.010 Hearing Required on Appeals and Applications.

- (a) Before making a decision on an appeal or an application for a variance or special use (when a hearing is requested per [§20.16.230 Notice of Application Filed](#)) or conditional use permit, or a petition from the planning staff to revoke any land use or subdivision permit, a hearing shall be held on the matter by the appropriate hearing body (see [§20.16.225 Special Use Permits and Conditional Use Permits](#), [§20.20.010, Appeals of Community and Economic Development Director or Design Review Board Decisions](#), and [§20.20.030, Variances](#)).
- (b) Subject to Subsection (c), the hearing shall be open to the public. The appellant and other parties of record shall have the right to call witnesses, subject to procedural requirements which may be imposed by the hearing examiner.
- (c) The hearing body may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- (d) The hearing body may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six months or more elapses between hearing dates.

20.24.014 Combining Hearings with Those of Other Agencies.

The City may combine any hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency provided that the hearing is held within the City limits. Hearings shall be combined if requested by an applicant as long as the joint hearing can be held within the time periods specified in [§20.16.270 \(Time Limits for Permit Processing\)](#) or the applicant agrees, in writing, to extend said time periods.

20.24.020 Public Notice.

The Community and Economic Development Director shall give public notice of any hearing required by [§20.24.010 Hearing Required on Appeals and Applications](#)) or [§20.16.230 Notice of Application Filed](#)) for special use permits, conditional use permits or variances, or any other required public notice, as follows:

- (1) Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not later than fifteen days before the hearing.
- (2) Notice shall be given to neighboring property owners and residents by mailing a written notice not later than fifteen days before the hearing. Neighboring property owners are considered to be those persons who have listed for taxation real property any portion of which is located within five hundred feet of the lot that is the subject of the application or appeal or, where the owner of the subject parcel owns other contiguous lots not under application, within five hundred feet of all contiguously owned lots. Neighboring residents are considered to be those people who reside within the same distance. Notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action. Such signs shall be posted not less than fifteen days prior to the hearing.
- (3) A copy will be posted on the official notification board(s) of the City.
- (4) A copy will be posted on the City's website on the public notice page.
- (5) A copy will be sent to appropriate city, tribal, state, federal, or county officials if the proposed subdivision adjoins their jurisdiction.
- (6) A copy will be sent to the State Department of Transportation if the proposed subdivision is adjacent to the right-of-way of a state highway.
- (7) Notice shall be given to other potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than seven nor more than thirty days prior to the hearing.
- (8) The applicant shall erect public notice signs, of a format approved by the Community and Economic Development Director, at least ten calendar days before the public hearing as follows:
  - (a) A copy of the notice described in Subsection (8) shall be attached to each sign.
  - (b) One sign shall be erected on the subject property facing and readable from each accessible public right-of-way adjacent to the subject property.
  - (c) The signs shall be removed within seven calendar days after the final public hearing.
  - (d) The applicant or his representative shall sign an Affidavit of Posting, indicating that the required notices have been posted on the property in conformance to this section.
- (9) The notice required by this section shall provide the following information:
  - (a) The date, time, and place of the hearing;
  - (b) Reasonable identification of the lot that is the subject of the application or appeal (give the street address of the property, or if this is not available, a locational description in non-legal language);
  - (c) A brief description of the action requested or proposed, including the number of lots proposed for a subdivision, and any proposed modifications or variances;
  - (d) The name of the applicant and the proposed project;
  - (e) The official file number and a statement of its availability;
  - (f) A statement of the right of any person to submit written testimony to the appropriate permit-issuing authority and to appear at the public hearing to give testimony orally;
  - (g) A statement that only persons who submit written or oral testimony to the permit-issuing authority may appeal the decision.
  - (h) A statement announcing the City's goal of complying with the intent of the American Disabilities Act, announcing accessibility, offer of assistance to persons with special needs, and availability of TDD services.

20.24.030 Evidence.

- (a) The provisions of this section apply to all hearings for which a notice is required by [§20.24.010 \(Hearing Required on Appeals and Applications\)](#).
- (b) All persons who intend to present evidence to the permit-issuing authority, rather than arguments only, shall be sworn.
- (c) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

20.24.040 Modification of Application at Hearing.

- (a) In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Community and Economic Development Director or permit-issuing authority, the applicant may agree to modify his application, including the plans and specifications submitted.
- (b) Unless such modifications are so substantial or extensive that the hearing officer cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the hearing officer may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.
- (c) If a project is modified in such a manner as to make the proposed use more intense, then the project shall be denied without prejudice and a new application shall be filed. The new application shall conform to the standards and procedures of this Title.

20.24.050 Record.

- (a) A tape recording shall be made of all hearings required by [§20.24.010 \(Hearing Required on Appeals and Applications\)](#), and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made.
- (b) Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the city for at least two years.

20.24.060 Written Decision.

- (a) Any decision made by the hearing body regarding an appeal or variance or issuance or revocation of a conditional use permit or special use permit shall be reduced to writing and, within five days of the issuance of the decision, served upon the applicant or appellant and all other persons who testified or made a written request for a copy, per §20.16.275 (Notice of Final Decisions).
- (b) In addition to a statement of the permitting authority's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the permitting authority's findings and conclusions, as well as supporting reasons or facts, whenever this article requires the same as a prerequisite to taking action.