

CHAPTER 22.114 – APPEALS

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22.114.010 – Purpose of Chapter

This Chapter provides procedures by which an applicant or other concerned party may appeal a determination or action by the Agency staff, Director, Zoning Administrator, or Planning Commission.

22.114.020 – Appeal Subjects and Jurisdiction

Determinations and actions that may be appealed, and the authority to act upon an appeal shall be as follows:

- A. General procedure.** A discretionary determination or decision made by the Agency staff, Director, or Zoning Administrator may be appealed to the Planning Commission. A discretionary determination or decision taken by the Planning Commission may be appealed to the Board of Supervisors. However, the Director may refer an appeal directly to the Board of Supervisors if the application:
 - 1. Is consistent with the Countywide Plan, applicable Community Plan and Local Coastal Program, and the Single-family Residential Design Guidelines;
 - 2. Meets all legally-required findings in the Development Code;
 - 3. Would not raise substantial policy issues or result in community-wide impacts, including community character and traffic congestion; and
 - 4. Would not result in potentially-significant environmental impacts that would require preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act.
- B. Determinations and decisions that may be appealed.** The following types of actions may be appealed:
 - 1. Determinations issued by the Director pursuant to section 22.02.030 as to the meaning or applicability of the discretionary permit requirements of this Development Code that are believed to be in error;
 - 2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with State law (Government Code Section 65943). Please refer to Section 22.40.050.B. (Initial Application Review-Processing of an Application) for further information; and

3. Action to approve, approve with conditions, or deny any discretionary zoning or land use permit and/or determinations regarding compliance with the environmental review requirements, pursuant to the California Environmental Quality Act and the County Environmental Impact Review Guidelines, for such permits.

Code enforcement determinations are only appealable to the Code Enforcement Hearing Officer.

22.114.030 – Filing of Appeals

- A. **Eligibility.** An appeal may be filed by any person affected by a discretionary determination or action, as described in Section 22.114.020.B (Determinations and actions that may be appealed).
- B. **Timing and form of appeal, fees.** All appeals shall be filed with the Agency, in writing on a County appeal application form, prior to the close of the Planning Division's public information counter on the 10th business day after the decision that is the subject of the appeal, and shall specifically state the pertinent facts of the case and the basis for the appeal. Appeals shall be accompanied by the filing fee set by the County Fee Ordinance.

22.114.040 – Processing of Appeals

- A. Report and scheduling of hearing.** When an appeal has been filed, the Director shall prepare a staff report on the matter, and schedule the matter for a public hearing by the appropriate appeal authority identified in Section 22.40.020 (Review Authority for County Land Use and Zoning Decisions) and as modified by Section 22.114.020.A.
- B. Action and findings:**
- 1. General procedure.** The appeal authority shall conduct a public hearing in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). At the hearing, the appeal authority may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.
 - a. The appeal authority may affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this Development Code.
 - b. When reviewing a decision on a land use permit the appeal authority may adopt additional conditions of approval that may address other issues or concerns than the bases of the appeal.
 - c. A decision by an appeal authority may also be appealed in compliance with Section 22.114.040.B.3 (Appeals to Board), below, provided that the decision of the Board on an appeal shall be final.
 - 2. Appeals to Planning Commission.** The Planning Commission shall determine an appeal of the Director's or Zoning Administrator's action no later than its fourth regular meeting following the date on which the appeal was filed with the Agency. The action from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the full membership of the Commission (i.e., four affirmative votes).
 - 3. Appeals to Board.** The Board of Supervisors shall determine an appeal of a decision by the Planning Commission, Zoning Administrator, or Director no later than its eighth regular meeting following the date on which the appeal was filed with the Agency. The action or appellate determination from which an appeal is taken may be reversed or modified only by the affirmative vote of a majority of the membership of the Board.
 - 4. Failure to Act.** Failure of the appellate body to act within the time specified shall sustain the action being appealed.
 - 5. Tentative Map Appeals.** The timing for consideration of an appeal of a Tentative Map action shall be governed by the requirements of Section 22.84.040 – Tentative Map Public Hearings.

- C. **Appeal of completeness.** Any person affected by a determination by the Agency staff that a permit application together with the submitted materials is not complete, may appeal the determination in compliance with State law (Government Code Section 65943.c (30-day review period)).
- D. **Withdrawal of appeal.** After an appeal of a decision has been filed, the appeal shall not be withdrawn except with the consent of the Director.
- E. **Judicial challenge.** If the decision is challenged in court, the appellant may be limited to raising only those issues which were raised at the public hearing, or in written correspondence delivered to the Agency, at or prior to the public hearing, in compliance with State law (Government Code Section 65009.b.2).

