
Chapter 20.78 – Appeals

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20.78.010 – Purpose

The purpose of this Chapter is to provide procedures for the appeal of determinations and decisions of the Director, Zoning Administrator, Hearing Officer, and Planning Commission, and to establish provisions for appeals to the California Coastal Commission.

20.78.020 – Appeals

- A. **Director.** Determinations of the Director may be appealed to the Planning Commission.
- B. **Zoning Administrator.** Decisions of the Zoning Administrator may be appealed to the Planning Commission.
- C. **Hearing Officer.** Decisions of the Hearing Officer may be appealed to the Council.
- D. **Planning Commission.** Decisions of the Commission may be appealed to the Council.
- E. **Coastal Development Permits.** Coastal Development Permits approved by the City may be appealed to the Coastal Commission in compliance with Section 20.78.040 (Appeals to the Coastal Commission), below.

20.78.030 – Filing and Processing of Appeals

- A. **Eligibility.** Appeals may be initiated by any interested party.
- B. **Timing and form of appeal.** An appeal shall be submitted in writing and shall specifically state the pertinent facts and the basis for the appeal.
 - 1. **General appeals.**
 - a. An appeal shall be filed with the Director or City Clerk, as applicable, within 14 days following the date the action or decision was rendered.
 - (1) Appeals addressed to the Commission shall be filed with the Director on forms provided by Department; and
 - (2) Appeals addressed to the Council shall be filed with the City Clerk on forms provided by the Clerk.

- b. An appeal shall be accompanied by the filing fee identified in the City's Master Fee Schedule.

2. **Appeal by 2 Coastal Commissioners.** An appeal of a City decision on a Coastal Development Permit by 2 Coastal Commissioners shall be subject to Section 20.78.040, below.

C. Report, scheduling, noticing, and conduct of hearing.

1. When an appeal has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority identified in Section 20.78.020 (Appeals), above.
2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 20.76 (Public Hearings).
3. Conduct of hearing.
 - a. The public hearing on an appeal shall be conducted "de novo," except as may be otherwise specified in this Zoning Code, in that the decision that has been appealed has no force or effect as of the date on which the appeal was filed.
 - b. The review authority is not bound by the decision that has been appealed or limited to the issues raised on appeal.
 - c. The review authority shall hear testimony of the appellant, the applicant, and any other interested party.
 - d. The review authority shall consider the same application, plans, and project related materials that were the subject of the original decision, unless otherwise deemed relevant by the review authority.

D. Decision on appeal.

1. The review authority may, based upon findings of fact about the particular case:
 - a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal. Adopted findings shall identify the reasons for the action on the appeal;
 - b. Adopt additional conditions of approval that may address issues or concerns other than those that were the basis of the appeal; or
 - c. Deny the permit approved by the previous review authority, even where the appellant only requested a change or elimination of one or more conditions of approval.
2. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the previous review authority for further consideration.

3. In the event of a tie vote by the review authority on an appeal, the decision being appealed shall stand.

20.78.040 – Appeal to the Coastal Commission [New]

A final action taken by the City on a Coastal Development Permit application for appealable development as defined in Subsection A., below, may be appealed to the Coastal Commission in compliance with this Section.

- A. Appealable development - Public Resources Code Section 30603(a).** A decision by the City on a Coastal Development Permit application within the appeal areas depicted on the Permit and Appeal Jurisdiction Map or a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission.
- B. Status of appellant.**
 1. **Who may appeal.** An appeal may be filed by an applicant, an aggrieved person, or 2 members of the Coastal Commission in compliance with Public Resources Code Section 30625.
 2. **Aggrieved person defined.** As provided by Public Resources Code Section 30801, an aggrieved person is anyone who, in person or through an explicitly identified representative, appeared at a public hearing held before the Director, Zoning Administrator, Hearing Officer, Planning Commission, or Council in connection with the decision or appeal of any project, or who by other appropriate means before a hearing, informed the City of the nature of their concerns, unless for good cause was unable to do either.
- C. Exhaustion of City appeals required.** An applicant or other aggrieved person may appeal a City decision on a Coastal Development Permit application to the Coastal Commission only after exhausting all appeals to the Planning Commission and Council in compliance with this Chapter. This limitation shall not apply to any circumstance identified in Code of Regulations Section 13573, including:
 1. An appellant was denied the right of appeal under this Chapter because City notice and hearing procedures did not comply with Title 14, Division 5.5, Chapter 8, Subdivision 2 of the Code of Regulations; or
 2. An appeal of a City decision was filed by 2 members of the Coastal Commission in compliance with Public Resources Code Section 30625. (Notice of a Coastal Commissioners' appeal shall be transmitted to the City in compliance with Code of Regulations Section 13573(b). The appeal shall be suspended where the City decision has been appealed. If the final action by an appellate body modifies or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal of that decision if deemed appropriate and necessary.)
- D. Grounds for appeal to Coastal Commission - Public Resources Code Section 30603.** The grounds for an appeal to the Coastal Commission of a City decision on a Coastal Development Permit application are as follows:
 1. For approval of a Coastal Development Permit as described in Subsection A., above, an allegation that the project does not conform to the standards of the

City's certified Coastal Land Use Plan or the public access policies of the Coastal Act;

2. For elimination or modification of a condition(s) of approval for a Coastal Development Permit, an allegation that the condition(s) was not needed or should be adjusted; or
 3. For denial of a development described in Subsection A., above, an allegation that the project conforms to the standards of the City's certified Coastal Land Use Plan and the public access policies of the Coastal Act.
- E. Notice of final action on appeals within the Coastal Zone.** Where an appeal has been filed and decided on a project that is appealable to the Coastal Commission in compliance with this Section, the City shall provide notice of the final action.
- F. Time limit for filing an appeal to the Coastal Commission.** An appeal of a Council decision on an appealable development shall be filed with the Coastal Commission within 10 working days of the receipt by the Coastal Commission of adequate notice of final City action, in compliance with this Chapter and the Coastal Act.
- G. Notice to City of appeal to Coastal Commission.** An appellant shall notify the City when appealing to the Coastal Commission by providing the City a copy of the appeal within 5 days of filing the appeal.

20.78.050 – Judicial Review of City Decision

A person shall not seek judicial review of a City decision on a permit or other matter in compliance with this Zoning Code until all appeals to the Planning Commission and Council have been first exhausted in compliance with this Chapter and, where applicable, all appeals to the Coastal Commission allowed by the Coastal Act.