

- **Editors Note:** Prior to Ord. No. 269.40 Article 18 was titled Administrative Approvals. Ord. 269.40 eliminated the Administrative Approvals and replaced it with Public Hearing procedures. The following amendments apply to the Administrative Approvals. Those amendments shown in the text were made since Ord. No. 269.40.

(Ord. No. 269.4, §§37, 38, 39 and 40, 6-3-70; Ord. No. 269.18, §23 and 24, 9-5-78; Ord. No. 269.33, §37, 38 and 39, 9-21-82; Ord. No. 269.40, §1, 10-4-94)

## **ARTICLE 18. PUBLIC HEARING NOTICE, CONDUCT OF HEARINGS, FEES AND APPLICATION FORMS AND REFERENCING**

(Ord. No. 269.65, § 129, 10-28-08)

### **Sec. 1801. Purposes.**

There are three principal purposes for this article. The first purpose of the article is to establish uniform procedures for public hearings notices required by this Ordinance. The second purpose of the article is to establish uniform rules for conducting public hearings required by this Ordinance. The third purpose of the article is to establish standard fees and application forms for the various types of applications required to initiate proceedings for the various actions identified by this Ordinance. These forms provide the Zoning Administrator and the Planning Commission with the necessary information to determine whether the application is consistent with the intentions and purposes of the Ordinance.

All proceedings carried out under this article or information required by this article, to evaluate an application are secondary to any requirement of State Law. Therefore, if there is a difference between this article and State Law, the proceedings or information required by State Law shall prevail.

(Ord. No. 269.65, § 130, 10-28-08)

### **Sec. 1802. Public hearing; notice.**

- A. Before a decision on any conditional use permit; variance; appeal of a decision on a conditional use permit, site plan review, or variance; or amendment is made pursuant to this ordinance, a notice of the public hearing shall be given by the decision maker or body as prescribed by Section 1803 of the Article.
- B. In the case of a site plan review, conditional use permit or variance revocation hearing, notice of said hearing shall be given not less than ten (10) days prior to the date of the hearing by either personal service of a copy of said notice to the permit holder or by sending a copy of the notice by certified mail, return receipt requested, to said permit holder. The notice shall also state the reason or reasons why action is being taken for the revocation of the conditional use permit or variance.

(Ord. No. 269.65, § 131, 10-28-08)

### **Sec. 1803. Method of giving notice.**

The notice of public hearing shall be given as required by Chapter 2.7 of Division 1 of Title 7 of the *California Government Code*, beginning at Section 65090. For site specific projects, notice shall also be given in the following manner: If the property immediately adjacent to the subject property is more than 300 feet in width, then notice shall be given to the next adjacent parcel as well. However, if the immediately adjacent property is less than 300 feet in width, no additional notice is required beyond the 300 feet. Parcels separated by a street or road shall be considered adjacent for determining which parcels are given notice. In addition to the above requirements, if a parcel is within the area that receives notice, both the property owner, and the situs address if different from the owner's address as shown on the latest equalized assessment roll, shall be given notice. Any additional notification or method of notification deemed necessary or appropriate in the opinion of the zoning administrator or decision maker or as may be required by law, may also be used to give notice.

**Sec. 1804. Contents of the Public Hearing Notice.**

The notice of public hearing shall contain the information required by Government Code Section 65094. Any additional information the zoning administrator or decision maker deems important or necessary may be added to the notice.

**Sec. 1805. Timing of the hearing.**

The hearing body or officer shall hold a public hearing on each application as prescribed in this Ordinance. Such hearings shall be held within following time frames:

Conditional Use Permit	Forty-five (45) days
Site Plan Review (if required by the zoning administrator)	Fifteen (15) days
Amendment	Forty-five (45) days
Variance	Forty-five (45) days

This time frame shall begin on the date the application is determined to be complete by the zoning administrator. In addition, an application shall not be deemed complete until the public review requirements pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, et seq, have been completed.

**Sec. 1806. Rules for conducting public hearings.**

The following procedures shall be the basis for conducting public hearings required by this Ordinance, and the hearing officer or body may modify these rules to accommodate specific requirements unique to an individual application.

**A. Order of Procedure:**

1. Oral and documentary evidence will be presented in the following order:
  - a. Staff Report -- Staff will give a detailed verbal report to the hearing body on the application, including environmental review documents, that are before the decision maker.
  - b. Questions from the decision maker and the public -- Upon completion of the staff report the decision maker may reserves time to ask questions of Staff to clarify the staff report and recommendation. Following the decision maker's questions members of the public may be allowed at the discretion of the decision maker to ask questions to clarify the staff report and recommendation.
  - c. Public Testimony:
    - 1) Everyone who wants to present testimony in favor of the proposal will be heard.
    - 2) Everyone who wants to present testimony opposed to the proposal will be heard.
    - 3) The applicant or the applicants authorized agent may rebut any testimony.

**B. Rules Applicable to Public Testimony:**

1. Testimony shall be received on a first come-first serve basis. If the Decision maker determines that the hearing may be lengthy special rules may be invoked to require those who wish to testify to fill out a speaker's reservation card and, testimony will be by order of the number on the card. Failure of a person to promptly respond when their name is called shall result in the person forfeiting their right to address the decision making body or officer, unless the chairman or officer expressly rules otherwise. This rule may be modified to fit specific case as needed.
2. The person testifying will audibly state into the microphone, if one is present, his or her name and address before beginning testimony. If that person is representing a group or organization the speaker shall identify that group or organization, including that group or organizations address.
3. All speakers shall address the hearing officer or chairman of the decision making body, and comply with the following rules:
  - a. At the discretion of the hearing officer or chairman any obscene language or defamatory statements shall be ruled out of order and may forfeit the speaker's right to make or continue to make his or her presentation.
  - b. Anyone making personal, impertinent, or slanderous remarks, or who shall become boisterous or disruptive while addressing the hearing officer or decision maker so as to impair the conduct of the hearing, or who addresses anyone but the chairman without first securing permission of the chairman shall forthwith, by order of the chairman, be barred from further attendance at such hearing or meeting, unless permission to remain shall be granted by majority vote of the full decision making body.

- c. The chairman may also order the room cleared and continue in session in accordance with Government Code Section 54957.9.
4. Any questions directed to the staff by a member of the public shall be ruled out of order. Questions to such person shall be asked of the chairman. Any member of the decision making body may then, upon being recognized by the chairman, in the sole discretion of such member of the decision making body, ask the staff to respond to the question. This does not apply to the portion of the hearing devoted to answering questions from the public, when the chairman recognizes a speaker to ask such a question.
5. Anyone addressing the hearing officer or decision making body shall limit their address to a reasonable period of time as may be directed by the hearing officer or chairman, not to exceed five (5) minutes, unless the Chairman expressly rules to extend such time by an additional five (5) minutes.
6. Whenever any group of people wish to address the decision maker, the hearing officer or chairman may limit the number of people from that group to avoid unnecessary repetition of testimony. A spokesperson of a group may testify on behalf of the group for fifteen (15) minutes, unless the chairman expressly rules to extend such time to twenty minutes (20). Anyone identifying himself or herself as a member of a group may be asked to limit his or her comments to a simple affirmation of the group spokesperson's comments.
7. Speakers should avoid repetition of statements by previous speakers. The hearing officer or chairman may cut-off any speaker if the material presented is merely repetitious.
8. Notwithstanding the foregoing time limitations, any person or group may submit written documents to the decision maker. These documents must be submitted to the hearing officer or secretary/clerk of the decision making body prior to the close of the public hearing, unless the hearing officer or chairman approves a specific extension upon a request from a person giving testimony. The hearing officer or chairman shall give a specific time the written testimony must be received, or it will not be considered.
9. No one, other than the hearing officer or chairman, shall be permitted to enter into any discussion with a speaker without permission or direction from the hearing officer or chairman.
10. Except as provided in sub-paragraphs A.1. above, and C.9. below, no one offering testimony may address the decision maker on more than one occasion, unless the hearing officer or chairman otherwise allows.

#### C. Miscellaneous Rules

1. No person except a member of the decision making body or the hearing officer may address any speaker except during rebuttal allowed under A.1.c.3) above.
2. The testimony (oral or written) not received during the public hearing shall be disregarded, except as provided in sub-paragraph C.8., or if specifically allowed to be submitted at a later time by the hearing officer or chairman of the decision making body, pursuant to section B.8. above
3. All Statements of alleged fact and arguments in any petition or letter to the decision maker on file shall not be considered as evidence except insofar as they set forth the petitioners' or letter writers' opinion.
4. Public hearings will not be conducted according to technical rules relating to evidence and witnesses, unless specifically approved by the decision maker prior to the hearing and so noted in the notice of the public hearing. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over the objection in civil actions.
5. All exhibits and documents used by witnesses during their testimony shall be marked as exhibits by the hearing officer or the decision making body's staff and introduced into the record.
6. All hearings shall be recorded by an audio recording device unless otherwise noted in the notice of the hearing. Video recordings may be substituted for audio recording. The official record of the proceedings will be the summary minutes of the hearing prepared by the hearing officer, or decision makers' staff, and approved by the decision maker, unless the decision maker orders that a written transcript of the audio, or video, tape of the hearing be made, in which case the transcript will become the official record of the hearing.
7. Although technical rules of evidence need not be applied in the hearings, the substantial hearing rights of all parties shall be preserved.
8. The hearing officer or chairman shall rule on the admissibility into the record upon objection being made to the filing thereof. Such rulings may be referred to the full decision making body for review and final determination.
9. The hearing officer or decision making body may request of all public officials, staff, and any member of the public such available information, advice, or opinions as may be required to carry out its function.
10. In the event that there is anyone who wishes to speak, the time allowed by these rules may be proportionately allocated and the time limits changed at the discretion of the hearing officer or chairman.
11. After closing the hearing, proceedings may stand under advisement until a decision is rendered.

12. Banners and posters will be allowed to be placed along the side or rear of the hearing room. Assistance from the staff must be asked in their placement:
  - a. Banners or posters that are fixed to a stick or similar object will not be allowed in the hearing room.
  - b. Anyone who wishes to carry a hand-held banner or poster in their seat, will be asked to sit in the rear of the room so that the display of the banner or poster does not obstruct the view or hearing of individuals seated behind them.
  - c. Any sign or banner may be excluded from the hearing room if it is determined by the hearing officer or chairman to be disruptive to the conduct of the hearing.

### **Sec. 1807. Fees.**

Any application for a use permit, variance or amendment authorized by this Ordinance shall be accompanied by a fee set by the board of supervisors sufficient to cover the cost of processing the application as described in this Article. In the case of an appeal the board of supervisors may, but is not required to, refund the appeal filing fee if the board of supervisors determines that the appeal has merit due to their finding that an error was made in the record that was not the fault of the appellant.

### **Sec. 1808. Application types and forms.**

The following types of zoning permit or amendment applications must be submitted to the zoning administrator or the planning commission on the form required by the appropriate Article of this Ordinance as shown below:

- A. Conditional Use Permit (CUP), see Article 19, Section 1903 of this ordinance.
- B. Planned Unit Developments (PUD), see Article 20, Section 2007 of this ordinance.
- C. Site Plan Review (SPR), see Article 21, Section 2102 of this ordinance.
- D. Variances, see Article 22, Section 2203 of this ordinance.
- E. Amendments, see Article 23, Section 2303 of this ordinance.

(Ord. No. 269.65, § 134, 10-28-08)

### **Sec. 1809. Referencing applications and use permits.**

The Zoning Administrator shall assign a unique application number to each application for all conditional use permits, planned unit developments, site plan reviews, variance, and amendments and shall maintain a record of all such applications indicating the location of the site and the use by address or some other unique identifier. The unique application number shall also be the reference number of the permit or entitlement approval pursuant to that application.

(Ord. No. 269.41, § 14, 1-9-96; (Ord. No. 269.65, § 135, 10-28-08)

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