

Chapter 17.78 – Appeals

17.78.010 – Purpose

The purpose of this Chapter is to establish procedures for the appeal of incompleteness, interpretations, decisions, or determinations by the Community Development Director and the Planning Commission.

17.78.020 – Appealable Actions

A. **Code Administration and Interpretation.** The following actions of the Community Development Director may be appealed to the Planning Commission and then to the City Council:

1. Determinations on the meaning or applicability of the provisions of this Zoning Ordinance that are believed to be in error, and cannot be resolved with Department staff;
2. Any determination that a permit application or information submitted with the application is incomplete, in compliance with Government Code Section 65943; and
3. Any enforcement action in compliance with Section 17.XXXXX of the Zoning Ordinance.

B. **Action on a Permit.**

1. *Community Development Director.* The approval or denial of a project by the Community Development Director on a permit may be appealed to the Planning Commission.
2. *Planning Commission.* The approval or denial of a project by the Planning Commission may be appealed to the City Council.
3. *Recommendation.* A recommendation by the Planning Commission to the City Council is not an appealable action.

17.78.030 – Ministerial Actions

- A. There is no right to appeal ministerial actions which do not involve the exercise of judgment or deliberation.

17.78.040 – Who May Appeal

A. **Who May Appeal.** Any person aggrieved by a decision or action of the Community Development Director may appeal that decision or action to the Planning

Commission. Any person aggrieved by a decision or action of the Planning Commission may appeal that decision or action to the City Council.

- B. **City Council.** Any Member of the Hollister City Council may appeal the decision of the Community Development Director or Planning Commission acting as an individual.

17.78.050 – Filing Appeals

- A. **Subdivision Map Act.** All appeals of the Planning Commission’s decision on a Tentative Map shall be filed and processed in accordance with the Subdivision Map Act (Government Code Section 66452.5(a)(2) and (3)).
- B. **Effective Date of Approval.** All Planning Commission decisions on a permit application shall become effective at 5:00 p.m. on the tenth day following the action.
- C. **Filing of An Appeal.** All appeals shall be filed prior to 5:00 p.m. within ten days of the action which is the subject of appeal. When the appeal period ends on a weekend or holiday, the appeal period shall extend to 5:00 p.m. on the next business day. Appeals filed beyond the ten-day period will not be accepted.
- D. **Form.** An appeal shall be in writing on the form prescribed by the City and accompanied by the required fee. The appeal shall include a written statement which specifically states the pertinent facts and the basis for the appeal, the specific grounds for the appeal, and may also include any materials the appellant wishes to provide.
- E. **Location of Filing.** Appeals of the Community Development Director, in accordance with Section 17.78.020, shall be filed with the Planning Division. Appeals of any action by the Planning Commission shall be filed with the City Clerk.
- F. **Hearing Date.** The appeal body shall review the appeal no later than 45 days after the date the appeal was filed.

17.78.060 – Effect of Filing

- A. **Effect of Filing.** In the event that an appeal is filed, the decision being appealed shall not be effective until final action by the appeal body and all appeals have been exhausted.

17.78.070 - Processing of Appeals

- A. **Report and Scheduling of Hearing.** The Community Development Director shall prepare a staff report on all filed appeals, and schedule the matter for consideration by the appropriate appeal body after completion of the report.

- B. **Notice of Appeal.** A public hearing notice shall be provided in accordance with Section 17.XXXXX of the Zoning Ordinance for decisions on land use projects that have been appealed.
- C. **Hearing.** The appeal body shall conduct a public hearing in compliance with Section 17.XXXX (Public Hearings). At the hearing, the appeal body may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal.
- D. **Action.** During the meeting the appeal body will do one of the following:
 - 1. The appeal body 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 Zoning Ordinance.
 - 2. Remand the appeal for further review, recommendation or action to the previous review body.
- E. **New and/or Modified Conditions of Approval.** When reviewing a decision on a land use permit, the appeal body may adopt additional conditions of approval to address issues or concerns other than the subject of the appeal.
- F. **Final Decision.** The decision of the City Council on an appeal shall be final.

17.78.080 - Effect of Denial

- A. **Effect of Denial.** When an application for a permit is denied on appeal, no application for the same or substantially the same permit or a permit for the same use on the same property shall be filed for a period of one year from the date of denial, except where the permit was denied without prejudice.

17.78.090 – Withdrawal

- A. **Community Development Director Actions.** An appeal may be withdrawn by the appellant, in writing, prior to 3:00 pm on the day of the appeal hearing. Past 3:00 pm, the appeal may not be withdrawn except with the consent of the Planning Commission.
- B. **Planning Commission Actions.** An appeal may be withdrawn, in writing prior to 3:00 pm on the day of the appeal hearing. Past 3:00 pm, the appeal may not be withdrawn except with the consent of the City Council.

17.78.100 – Judicial Review

No person shall seek judicial review of a City decision on a planning permit or other matter until all appeals have first been exhausted.