

## SECTION 33 - APPEALS, GENERAL

The Planning Commission shall have the power to hear appeals from administrative decisions, and to declare the meaning and intent, and interpret the provisions of the Ordinance. In thus resolving ambiguities on appeal, the Planning Commission shall so interpret the Ordinance as to carry out Section 1, of this Section. In the event of an ambiguity in this Ordinance affecting enforcement thereof, the City Council shall have the power to hear and decide appeals from Planning Commission interpretations, and to declare the meaning and intent, and interpret the provisions of the Ordinance. In thus resolving ambiguities on such appeal the City Council shall so interpret the Ordinance as to carry out Section 2, of this Section. Final action on an application for a permit, limited land use decision, **conditional use permit, variance**, or zone change, including resolution of all appeals, shall be taken by the governing body of the City within 120 days after the application is deemed complete (according to ORS 227.180).

### 1. Appeal to Planning Commission.

- A. Any appeal from a decision of the administration, shall be based on a specific issue about the criteria and/or standards raised in the administrative decision that pertains to this Ordinance, and shall be filed with the Planning Commission within **fourteen (14) days of written notice (signed and mailed)** of the administrative decision. The Commission shall consider such appeal **on the record** and render its decision within sixty (60) days of the receipt of the appeal. Any action of the Planning Commission interpreting any uncertainty or ambiguity may be in the form of a **final order**, and shall be signed by the President or presiding member of the Commission and filed with the City Recorder.

Notice of the **appeal public** hearing shall be ~~by one publication in a newspaper of general circulation in the City, not less than four (4) days nor more than ten (10) days prior to the date of the hearing the same as that required for the original decision, but shall include other interested parties who may testified during the original decision.~~

- B. The action of the Planning Commission shall be final and an appeal shall not be heard by the City Council if the appeal period has lapsed.

### 2. Appeal to City Council.

- A. The appellant must be an interested party who has participated either orally or in writing in previous Planning Commission proceedings pertaining to the decision under appeal. The appeal must be made within ten (10) days of the **written notice of decision action** of the Planning Commission, in writing to the Tillamook City Council. All appeals shall be made in writing, based on a specific issue about the criteria and/or standards raised during the Planning Commission Hearing, dated and signed by the appellant. Such appeal shall be filed with the appropriate fee listed in Section 4 of this Ordinance within **fourteen (14) days** after the **written notice of decision action** of the Planning Commission with the City Recorder.

The City Council shall consider such appeal and render its decision within sixty (60) days of the receipt of the appeal. In no instance, however, shall this period extend the date of the hearing and final action beyond 120 days from the date of the initial submission of a

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complete application, unless voluntarily agreed to by the applicant. Notice of the **public appeal** hearing shall be *the same as that required for the original decision, but shall include other interested parties who may testified during the original decision by one publication in a newspaper of general circulation in the City, and sent to those who attended the Planning Commission Hearing, not less than four (4) days nor more than ten (10) days prior to the date of the hearing.*

### B. City Council - Hearings Procedures.

- 1) It shall be the duty of the City Council, upon receiving an application of Appeal of a Decision by the Planning Commission, to receive and examine available information, including Planning Commission transcripts per Section 4, and conduct a hearing on behalf of the applicant or other interested party. Individual Council Members may tour the site at any time prior to the Council rendering its decision, but there is no requirement that Council Members do so. The Mayor may call a special City Council Meeting to tour the site should he/she determine a unique need exists due to site characteristics or complexity of proposed development. A written decision will be rendered within thirty (30) days of the hearing and will be considered final. In no case, however, shall this decision and preparation of written findings extend beyond 120 days from the date of initial submittal of a complete application (ORS 227.178).
- 2) The City Council shall review only the record of the prior proceeding(s), and may ask for clarification or additional information from the participating parties as it relates to the record. Full disclosure of both parties must be made at the Planning Commission level and additional **non-related** issues of **law-evidence** or fact shall not be accepted nor considered.
- 3) The City Council shall establish and issue rules of procedures and standards for the conduct of hearings.
- 4) The City Council may affirm, rescind, or amend the action of the Planning Commission and may grant approval subject to conditions necessary to carry out the Comprehensive Plan **and the Zoning Ordinance**. The City Council may also remand the matter back to the Planning Commission for additional information subject to the agreement of the applicant to extend the 120-day review period.
- 5) The City Council shall make and enter findings from the record and conclusions thereof which support its decision; and the findings and conclusions shall set forth and demonstrate the manner in which the decision **recommended** shall be carried out, as well as the implementation of the goals and objectives of the Comprehensive Plan, the Zoning Ordinance, and other official policies and objectives of the City.