

**CHAPTER 19.52
HEARINGS AND APPEALS**

<u>Section</u>		<u>Page</u>
19.52.010	Purpose	IV-19.52-1
19.52.020	Application Processing	IV-19.52-1
19.52.030	Director Investigation	IV-19.52-2
19.52.040	Hearing Procedure	IV-19.52-2
19.52.050	Notice of Decision – Director and Development Review Committee	IV-19.52-2
19.52.060	Notice of Decision – Commission	IV-19.52-2
19.52.070	Notice of Decision – Council	IV-19.52-3
19.52.080	Effective Date	IV-19.52-3
19.52.090	Appeal of Action	IV-19.52-3
19.52.100	Filing of Appeals	IV-19.52-3
19.52.110	Notice of Appeal Hearings	IV-19.52-4
19.52.120	Effective Date of Appealed Actions	IV-19.52-4
19.52.130	Reapplication	IV-19.52-4
19.52.140	Reconsideration	IV-19.52-4

19.52.010 PURPOSE

These provisions specify procedures for hearings before the Council, Commission, Development Review Committee (DRC) and Director and appeals of any requirement, decision or determination made by the Director, DRC or the Commission.

19.52.020 APPLICATION PROCESSING

Applications shall be reviewed and processed in a manner consistent with the provisions of the California Government Code Sections 65090, 65091, and 66451.3.

Not less than 10 days before the date of a hearing, public notice shall be given of such hearing by the following methods:

1. By 1 publication in a newspaper of general circulation within the City. The notice shall state the nature of the request, the location of the property (text or diagram), the date, time, and place of the scheduled hearing, and the hearing body;
2. By mailing, 10 days prior to said hearing, postage prepaid, to the owners of property within a radius of 500 feet of the exterior boundaries of the property involved in the application, using for this purpose the last known name and address of such owners as shown upon the current tax assessor's records. Notice is deemed received two days after date of postmark. The list of property owners and tenant addresses shall be typed upon gummed labels, together with required postage. The list shall be prepared and certified by the applicant, or a title insurance company, civil engineer or surveyor licensed to practice in California.

The notice shall state the nature of the request, location of the property (text or diagram), the date, time, and place of the scheduled hearing, and the hearing body; or, in the event that the number of owners and tenants to whom notice would be sent is greater than 1000, notice may be given at least 10 days prior to the hearing by placing a display advertisement of at least 1/8 page in the newspaper having the greatest circulation within the area affected by the proposed action. The notice shall state the nature of the request, the location of the property (text or diagram), the date, time, and place of the scheduled hearing, and the hearing body; and

3. By mailing, 10 days prior to said hearing, postage prepaid, to the owner of the subject real property or the owner's authorized agent, and to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the proposed project. The notice shall state the nature of the request, the location of the property (text or diagram), the date, time, and place of the scheduled hearing, and the hearing body. Notice is deemed received 2 days after date of postmark.

19.52.030 DIRECTOR INVESTIGATION

The Director shall make an investigation of the facts bearing on the case to provide the information necessary for action consistent with the intent of this Development Code and the General Plan. The Director shall report the findings to the DRC, Commission or Council as appropriate.

19.52.040 HEARING PROCEDURE

Hearings as provided for in this Chapter shall be held at the date, time, and place for which notice has been given as required in this Chapter. The summary minutes shall be prepared, or audio tape made and filed in the Department. Any hearing may be continued provided that prior to the adjournment or recess of the hearing, a clear announcement is made specifying the date, time, and place to which said hearing will be continued.

19.52.050 NOTICE OF DECISION – DIRECTOR AND DEVELOPMENT REVIEW COMMITTEE

The Director and/or the DRC shall announce and record their respective decisions at the conclusion of each required hearing. The decision shall set forth applicable findings and any conditions of approval. Following the hearing, a notice of the decision and any conditions of approval shall be mailed to the applicant at the address shown upon the application.

19.52.060 NOTICE OF DECISION – COMMISSION

The Commission shall announce and record its decision at the conclusion of the public hearing. The decision shall set forth the findings of the Commission together with all required conditions of approval deemed necessary to mitigate any impacts and protect the health, safety and welfare of the community.

Following the hearing, a notice of the decision of the Commission, and any conditions of approval shall be mailed to the applicant at the address shown upon the application.

The recommendation with findings of the Commission for the following applications shall be transmitted to the Council for final action:

1. Specific Plans;
2. General Plan Amendments, text or map;
3. Development Code Amendments;
4. Development Agreements; and
5. Surface Mining and Land Reclamation Plans.

19.52.070 NOTICE OF DECISION – COUNCIL

The Council shall announce and record its decision at the conclusion of the public hearing. The decision shall set forth the findings of the Council and conditions of approval deemed necessary to mitigate any impacts and protect the health, safety and welfare of the City.

Following the hearing, a notice of the decision of the Council and any conditions of approval shall be mailed by the City Clerk to the applicant at the address shown upon the application.

The decision of the Council shall be final.

19.52.080 EFFECTIVE DATE

Director approved Development Permits shall become effective upon approval, unless appealed. Minor Exceptions, Variances, all other Development Permits, and Conditional Use Permits, shall become effective 15 days following the final date of action (i.e., approval) by the appropriate review authority. Specific Plans, General Plan Amendments, Development Code Amendments, Development Agreements, and Surface Mining and Land Reclamation Plans shall become effective 30 days following the final date of action (i.e., adoption) by the Council. The letter of approval shall constitute the permit, and the resolution or ordinance shall constitute the amendment.

19.52.090 APPEAL OF ACTION

Any determination or action taken by the Director or the DRC may only be appealed to the Commission. In a similar manner, any action taken by the Commission to approve or disapprove an application may be appealed to the Council. Any determination or action taken by the City Engineer may only be appealed directly to the Council.

19.52.100 FILING OF APPEALS

All appeals shall be submitted to the Department on a City application form, and shall specifically state the basis of the appeal. An appeal of a Director or DRC action shall be filed with the Department within 15 days following the final date of action for which an appeal is made. An appeal of a Commission decision shall be filed with the Department within 15 days following the final date of action for which an appeal is made.

An appeal of a City Engineer action shall be filed in the office of the City Clerk. All appeals relating to subdivision matters shall be made within 15 days following the date of the decision or action for which an appeal is made. Appeals shall be accompanied by a filing fee as specified in Chapter 19.32 (Applications and Fees).

19.52.110 NOTICE OF APPEAL HEARINGS

Notice of an appeal hearing shall conform to the manner which the original notice was given. The appellant shall be responsible for all noticing materials required in the original application.

19.52.120 EFFECTIVE DATE OF APPEALED ACTIONS

An action of the Director or DRC appealed to the Commission shall not become final until upheld by the Commission. An action of the Commission or City Engineer appealed to the Council shall not become final unless and until upheld by the Council.

19.52.130 REAPPLICATION

When an application for a permit or amendment is denied, no application for the same or substantially same permit or amendment shall be filed in whole, or in part, for the ensuing 12 months except as otherwise specified at the time of denial. The Director shall determine whether the new application is for a permit or amendment which is the same or substantially the same as a previously denied permit or amendment. No decision of the Director shall be effective until a period of 15 days has elapsed following the written notice of decision.

19.52.140 RECONSIDERATION

If more complete or additional facts or information, which may affect the original action taken on an application by a review authority are presented, the review authority may reconsider such action taken, if a request for reconsideration is filed with the Department within 15 days following the final date of action. If a public hearing was required in the original review process, another public notice as specified in Section 19.52.020 shall be made prior to the reconsideration of the review authority, and all costs associated with the reconsideration shall be paid by the applicant.