

ARTICLE 7

Zoning Code Administration

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CHAPTER 17.70 - ADMINISTRATIVE RESPONSIBILITY

Sections:

- 17.70.010 - Purpose of Chapter
- 17.70.020 - Planning Agency Defined
- 17.70.030 - Planning Director
- 17.70.040 - Zoning Administrator (ZA)
- 17.70.050 - Hearing Officer (HO)
- 17.70.060 - Film Liaison

17.70.010 - Purpose of Chapter

This Chapter describes the authority and responsibilities of City staff and official bodies in the administration of this Zoning Code, in addition to the Council.

17.70.020 - Planning Agency Defined

The functions of a Planning Agency shall be performed by the Pasadena City Council, Planning Commission, Board of Zoning Appeals (BZA), Design Commission (DC), Historic Preservation Commission (HPC), Arts Commission, Planning Director, Zoning Administrator (ZA), Hearing Officer (HO), Film Liaison, and Planning and Development Department, in compliance with State law (Government Code Sections 65100, et seq.)

17.70.030 - Planning Director

- A. Appointment.** The Pasadena Planning Director, referred to in this Zoning Code as the Director, shall be appointed by the City Manager.
- B. Duties and authority.** The Director shall:
 1. Have the responsibility to perform all of the functions designated by State law (Government Code Section 65103 [Planning Agency Functions]);
 2. Perform other responsibilities assigned by the City Manager, Commission, and Council; and
 3. Perform the duties and functions identified in this Zoning Code, including the initial review of land use applications, in compliance with State law (Government Code Sections 65901 et seq.), Section 17.60.020 (Authority for Land Use and Zoning Decisions), Table 6-1 (Review Authority), the California Environmental Quality Act (CEQA), and the City's *Environmental Policy Guidelines*.
- C. Delegation and supervision.** The Director may delegate the responsibilities of the Director to assigned Department staff under the supervision of the Director. When the Director designates a Department staff person, the staff person shall perform the duties assigned by the

Director in addition to those listed in Subsection B., above, as appropriate to the personnel title of the designee.

17.70.040 - Zoning Administrator

- A. Appointment.** The Pasadena Zoning Administrator, referred to in this Zoning Code as the Zoning Administrator, shall be appointed by the Director.
- B. Duties and authority.** The Zoning Administrator shall:
1. Have the responsibility and authority to take action on applications for all administrative permits and approvals issued by the Department;
 2. Perform other responsibilities assigned by the Director, Commission, and Council; and
 3. Perform the duties and functions identified in this Zoning Code, including Section 17.60.020 (Authority for Land Use and Zoning Decisions), Table 6-1 (Review Authority), the California Environmental Quality Act (CEQA), and the City's *Environmental Policy Guidelines*.
- C. Delegation and supervision.** The Zoning Administrator may delegate the responsibilities of the Zoning Administrator to assigned Department staff under the supervision of the Zoning Administrator.

17.70.050 - Hearing Officer

- A. Appointment.** The Pasadena Hearing Officer, referred to in this Zoning Code as the Hearing Officer, shall be appointed by the Director.
- B. Duties and authority.** The Hearing Officer shall:
1. Have the responsibility and authority to take action on applications for all administrative permits and approvals assigned by the Director;
 2. Perform other responsibilities assigned by the Director, Commission, and Council; and
 3. Perform the duties and functions identified in this Zoning Code, including Section 17.60.020 (Authority for Land Use the California Environmental Quality Act (CEQA), and the City's *Environmental Policy Guidelines*.

17.70.060 - Film Liaison

- A. Appointment.** The Pasadena Film Liaison, referred to in this Zoning Code as the Film Liaison, shall be appointed by the Director.

- B. Duties and authority.** The Film Liaison shall:
 - 1. Have the responsibility and authority to take action on applications for all Short-Term Film Permits and Filming Conditional Use Permits, in compliance with Section 17.61.090 (Filming Permits); and

 - 2. Perform other responsibilities assigned by the Director and Council.

CHAPTER 17.71 - NONCONFORMING USES, STRUCTURES, AND LOTS

Sections:

- 17.71.010 - Purpose of Chapter
- 17.71.020 - Applicability
- 17.71.030 - Restrictions on Nonconforming Uses and Structures
- 17.71.040 - Continuation of Nonconforming Uses and Structures
- 17.71.050 - Limitation on Other Uses
- 17.71.060 - Abandonment and Termination
- 17.71.070 - Repair and Maintenance
- 17.71.080 - Alterations and/or Additions to Nonconforming Uses and Structures
- 17.71.090 - Exemptions and Exceptions
- 17.71.100 - Uses Requiring Conditional Use Permits
- 17.71.110 - Nonconforming Lots
- 17.71.120 - Condemnation of a Portion of a Lot
- 17.71.130 - Unlawful Uses and Structures
- 17.71.140 - Nuisance Abatement

17.71.010 - Purpose of Chapter

This Chapter establishes uniform provisions for the regulation of nonconforming land uses, structures, and lots.

- A. Within the zoning districts established by this Zoning Code, there exist land uses, structures, and lots that were lawful before the adoption or amendment of this Zoning Code, but which would be prohibited, regulated, or restricted differently under the current terms of this Zoning Code or under future amendments.
- B. It is the overall intent of this Chapter to generally discourage the long-term continuance of nonconformities and to:
 - 1. Limit the number and extent of specific nonconforming uses and structures that conflict with the provisions of this Zoning Code by prohibiting their reestablishment after abandonment or, in some cases, their enlargement;
 - 2. Allow for the reconstruction of nonconforming residential dwelling units that are involuntarily damaged or destroyed;
 - 3. Limit the extent to which nonresidential uses that are involuntarily damaged or destroyed can be restored;
 - 4. Allow for the continuation and maintenance of specific nonconforming uses and structures;
 - 5. Establish procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and structures;

6. Limit the alteration, enlargement, or relocation of nonconforming structures in a manner that would further increase the difference between existing nonconforming conditions and the current provisions of this Zoning Code; and
7. Eliminate specific nonconforming uses and structures.

17.71.020 - Application of Regulations

The provisions of this Chapter shall apply to all nonconforming uses, structures, and lots located within any zoning district in the City. This Chapter does not apply to land uses, structures, and lots that were illegally established, constructed, or divided. These are instead subject to Chapter 17.78 (Enforcement).

17.71.030 - Restrictions on Nonconforming Uses and Structures

The following provisions shall apply to all nonconforming uses, structures, and lots existing as of the effective date of this Chapter:

A. Maintained and continued.

1. **Nonconforming use.** A nonconforming use may be maintained and continued; provided there is no increase or enlargement of the area, space, or volume occupied or devoted to the nonconforming use, except as allowed by this Chapter.
2. **Nonconforming structure.** A nonconforming structure may be maintained and continued; provided there is no physical change other than necessary maintenance and repair to the structure, except as allowed by this Chapter.

B. Change of use. Any part of a structure or land occupied by a nonconforming use which is changed to or replaced by a conforming use shall not again be used or occupied by a nonconforming use.

C. Replacement of a nonconforming use prohibited. The nonconforming use of a structure or site shall not be changed to another nonconforming use.

D. Nonconforming signs. Nonconforming sign provisions are located in Section 17.48.140 (Nonconforming Signs).

17.71.040 - Continuation of Nonconforming Uses and Structures

Each and every nonconforming use or structure may be continued and maintained, provided that there is no addition, alteration, or enlargement to any use or structure, except as allowed by this Chapter, or unless ordered discontinued, modified, or removed as a public nuisance in compliance with Municipal Code Chapter 14.50 (Property Maintenance and Nuisance Abatement).

17.71.050 - Limitation on Other Uses

So long as a nonconforming use or structure exists upon a lot, no new use or structure may be constructed, established, or installed on the lot, except as allowed by this Chapter.

17.71.060 - Abatement and Termination

Nonconforming uses and structures shall be subject to abatement and termination of the use, in the following manner:

- A. Termination for violation of or change of use.** Whenever any of the following facts are found to exist with reference to a nonconforming use, the nonconforming protection/benefits provided by this Chapter shall cease, and the use shall be abated, except as otherwise allowed by this Chapter.
1. Violation of any applicable law;
 2. A change from a nonconforming use to another nonconforming use;
 3. A change from a nonconforming use to a conforming use;
 4. An increase or enlargement of the area, space, or volume of the structure or land occupied by or devoted to the nonconforming use except if the structure is nonconforming with respect to setbacks, height, distance between structures, architectural projections, staircase and landing area encroachments, and the requirements of the City's adopted Building Code are met. No new additions or alterations shall increase existing nonconformities; or
 5. A structural alteration, except as required by law.
- B. Termination by discontinuance.**
1. A nonconforming use that is discontinued or changed to a conforming use for a continuous period of at least 12 months shall not be reestablished, and the use of the structure or site thereafter shall conform to the current provisions of this Zoning Code for the subject zoning district.
 2. This Section shall not apply to uses which do not comply with the residential density regulations for the subject zoning district.
 3. Without any further action by the City, a nonconforming use shall not retain the nonconforming protection/benefits provided by this Chapter if:
 - a. The nonconforming use of land, or a nonconforming use within a structure, ceases for any reason for a continuous period of at least 12 months:
 - (1) A vacant nonconformity may be occupied by a use for which it was designed if so occupied within a period of 12 months after the effective date of this

- Zoning Ordinance or after the date when the nonconformity first became vacant.
- (2) If the use is discontinued for a continuous period of 12 months or more, the land or structure shall lose its nonconforming status. The use shall be considered discontinued when any of the following apply:
 - (a) The intent of the owner to discontinue use of the nonconformity is apparent; or
 - (b) Where characteristic furnishings and equipment of the use have been removed and not replaced with equivalent furnishings and equipment during this time.
 - (3) The determination of discontinuance (aka abandonment) shall be supported by evidence, satisfactory to the Zoning Administrator (e.g., the actual removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, the turning off of the previously connected utilities, or where there are no business receipts/records available to provide evidence that the use is in continual operation).
- b. The structure in which the nonconforming use is conducted or maintained is moved any distance on the site for any reason, or is removed from the site.
 - c. The use of the site after the discontinuance or removal of a nonconforming use shall comply with all current requirements of this Zoning Code and the subject zoning district.

- C. Termination by operation of law.** Nonconforming uses and structures listed in Table 7-1 shall be discontinued and removed from their sites, altered to conform, or altered to decrease the degree of nonconformity within the specified time after they become nonconforming. Additional time for abatement of the nonconformity may be granted by a Variance, in compliance with Section 17.61.080.

TABLE 7-1 - ABATEMENT SCHEDULE

Type of Nonconformity	Term of Abatement
A. Nonconforming Uses.	
1. Removal of a nonconforming use that does not occupy a structure, or a use occupying a structure having an assessed valuation of less than \$4,000.00.	3 years
2. Removal from an R district of a use occupying a structure having an assessed value over \$4,000.00 that is an allowed use only in an IG district, or not allowed in any district.	5 years
B. Nonconforming Structures.	
1. Removal or alteration of a nonconforming fence or wall.	1 year
2. Compliance with screening provisions requiring a fence or wall.	2 years
3. Removal or alteration of a nonconforming structure having an assessed valuation of less than \$2,000.00.	5 years
C. Nonconforming with respect to standards.	
Uses that are nonconforming with respect to the performance standards required by this Zoning Code.	3 years

17.71.070 - Repair and Maintenance

A. Ordinary repair and maintenance.

1. Ordinary repair and maintenance may be performed on a structure or site, the use of which is nonconforming; and
2. Ordinary repair and maintenance of a nonconforming structure shall be allowed.

B. Nonresidential uses or structures. Whenever a nonconforming nonresidential use or structure is involuntarily damaged or destroyed by a catastrophic event (e.g., fire or other calamity, by act of God, or by the public enemy):

1. **75 percent or less.** To the extent of 75 percent or less, the use or structure may be rebuilt and resumed.
2. **Greater than 75 percent.** To an extent greater than 75 percent, or is voluntarily razed or is required by law to be razed, the use or structure shall not be resumed, except in full conformance with the current provisions of this Zoning Code.

3. **Issuance of Building Permit within 24 months.** The damaged use or structure may be rebuilt and resumed provided that a Building Permit for the reconstruction or repair is issued within 24 months after the date of destruction and the construction is diligently pursued to completion.
 4. **Central District.** To an extent greater than 75 percent, and if located within the Central District, the structure may be rebuilt and its use resumed, provided that:
 - a. The replacement structure matches the original structure in terms of exterior materials, height, setbacks, and building configuration;
 - b. The replacement structure is in compliance with the City's adopted Building Code; and
 - c. A Building Permit for the reconstruction is issued within 24 months after the date of destruction and the construction is diligently pursued to completion.
 5. **Self-storage Use.** To an extent greater than 75 percent, a self-storage use may be rebuilt and its use resumed; provided, that:
 - a. The replacement structure is in compliance with the City's adopted Building Code; and
 - b. A Building Permit for the reconstruction is issued within 24 months after the date of destruction and the construction is diligently pursued to completion.
- C. **Calculation.** The extent of damage or partial destruction shall be determined by comparing the estimated cost of restoring the structure to its condition before the damage or partial destruction to the estimated cost of duplicating the entire structure as it existed before the damage or destruction occurred. Estimates for this purpose shall be reviewed and approved by the Zoning Administrator.
- D. **Assessed value.** For the purpose of this Section, "assessed value" shall mean the assessed value of the structure as shown on the current County property assessment roll in effect at the time of the occurrence of the casualty, or at the time the repair and maintenance is first conducted.

17.71.080 - Alterations and/or Additions to Nonconforming Uses and Structures

Nothing in this Chapter shall be deemed to prevent the construction, enlargement, expansion, extension, or reconstruction (hereafter referred to as "work") of a nonconforming structure in the following manner:

- A. **Elimination of nonconformity.** The work shall be allowed in order to render the use or structure in conformity with this Zoning Code;
- B. **Compliance with laws.** The work shall be allowed in order to comply with any law enacted subsequent to the adoption of this Zoning Code;

C. Seismic retrofitting/Building Code compliance. Repairs or alterations otherwise required by law shall be allowed in the following circumstances:

1. Reconstruction required to reinforce unreinforced masonry structures shall be allowed without cost limitations, provided the retrofitting is limited exclusively to compliance with earthquake safety standards in compliance with Municipal Code Chapter 14.06 (Earthquake Hazard Reduction in Existing Unreinforced Masonry Buildings); and
2. Reconstruction required to comply with the City's adopted Building Code requirements shall be allowed without cost limitations, provided the retrofitting/Code compliance is limited exclusively to compliance with earthquake safety standards and/or other applicable Building Code requirements, including State law (e.g., Title 24, California Code of Regulations, etc).

D. Alteration or enlargement of a nonconforming structure.

1. A nonconforming structure shall not be altered or enlarged so as to further increase the difference between existing conditions and the current development standards identified for the subject zoning district, unless a Variance is obtained in compliance with Section 17.61.080. Alteration and enlargement may occur, but only in compliance with the current applicable development standards.
2. A nonconforming structure shall not be enlarged or moved unless the enlargement or new location conforms to the current development standards identified for the subject zoning district.

E. Alteration or enlargement of a nonconforming use shall require a permit.

1. A nonconforming use may not be altered or enlarged unless a Minor Conditional Use Permit is first obtained, in compliance with Section 17.61.050.
2. The use shall comply with the performance standards and applicable development standards for the subject zoning district.
3. There shall be no expansion of a nonconforming use onto an additional lot, adjacent or otherwise.

17.71.090 - Exemptions and Exceptions

A. Nonconformance with loading, parking, and screening standards. A use that does not conform with the loading, parking, planting area, or screening standards of the zoning district in which it is located shall not be deemed a nonconforming use solely for these reasons.

B. Residential uses or structures.

1. Nonconforming single- and multi-family dwelling units (including the residential component of a mixed-use project) that have been involuntarily damaged or destroyed by a catastrophic event (e.g., fire or other calamity, by act of God, or by the public enemy) may be reconstructed or replaced with a new structure using the same development

standards applied to the damaged or destroyed structures (e.g., setbacks, square footage, building height, and density standards) in compliance with State law (Government Code Section 65852.25), provided:

- a. The applicant provides documentation satisfactory to the Zoning Administrator supporting the claim that the damage or destruction occurred involuntarily;
 - b. No expansion of the gross floor area occurs;
 - c. The replacement structure is in compliance with City's adopted Building Code; and
 - d. A Building Permit is issued within 24 months after the date of destruction and the construction is diligently pursued to completion.
2. If the preceding requirements are not met, the replacement structure shall comply with all current requirements of this Zoning Code in effect on the date a Building Permit is issued.
- C. Public utilities exempt.** The foregoing provision of this Chapter concerning the required removal of nonconforming uses and structures, and the reconstruction of nonconforming structures partially damaged or destroyed, shall not apply to a public utility structure that distributes a utility service (e.g., electric distribution and transmission substations, gas storage, metering, and valve control stations, steam electric generating stations, water wells and pumps, etc.); nor shall any provision of this Chapter be construed or applied to prevent the expansion, modernization, or replacement of public utility structures, equipment, and features as are used directly for the delivery of or distribution of the service; provided that this Section shall not exempt the uses from the provisions of this Chapter covering nonconformity of the uses or structures not immediately related to the direct service to consumers (e.g., storage yards, warehouses, etc.)

17.71.100 - Uses Requiring Conditional Use Permits

Notwithstanding the other provisions of this Chapter, no use identified in this Zoning Code as a "Conditional Use" that was lawfully in existence as of the effective date of these regulations, shall be deemed nonconforming solely by reason of the application of the Conditional Use Permit procedural requirements, in compliance with Section 17.61.050; provided, that:

- A. Use allowed with Conditional Use Permit approval.** A land use that was legally established without a Conditional Use Permit, but would be required by current Zoning Code provisions to have Conditional Use Permit approval, shall not be altered or enlarged in any way unless a Conditional Use Permit is first obtained.
- B. Use no longer allowed with Conditional Use Permit approval.** A land use that was established with Conditional Use Permit approval, but is not allowed with Conditional Use Permit approval by the current Zoning Code, may continue only in compliance with the original Conditional Use Permit. If the original Conditional Use Permit specified a termination date, then the use shall terminate in compliance with the requirements of the Conditional Use Permit.

17.71.110 - Nonconforming Lots

- A. Determination of nonconforming status.** A nonconforming lot of record that does not comply with the current access, area, or dimensional requirements of this Zoning Code for the zoning district in which it is located, shall be considered to be a legal building site if it meets one of the criteria specified by this Section. The applicant shall be responsible for providing sufficient evidence to establish the applicability of one or more of the following to the satisfaction of the Zoning Administrator.
1. **Approved subdivision.** The lot was created through a subdivision approved by the City or the County, before incorporation.
 2. **Individual lot legally created by deed.** The lot is under one ownership and record, and was legally created by a recorded deed before the effective date of the zoning amendment that made the lot nonconforming or before the City adopted regulations requiring a Parcel Map for minor subdivisions.
 3. **Variance or lot line adjustment.** The lot was approved through the Variance procedure (Section 17.61.080) or its current configuration resulted from a lot line adjustment.
 4. **Partial government acquisition.** The lot was created in conformity with the provisions of this Zoning Code, but was made nonconforming when a portion of the lot was acquired by a governmental entity.
- B. Further subdivision prohibited.** Where structures have been erected on a nonconforming lot, the area where the structures are located shall not be later subdivided, nor shall lot lines be altered through lot line adjustment, so as to reduce the building site area or frontage below the requirements of the applicable zoning district or other applicable provisions of this Zoning Code, or in any way that makes the use of the lot more nonconforming.

17.71.120 - Condemnation of a Portion of a Lot

- A. Failure to meet minimum requirements.** A nonconforming structure located on property acquired for public use may be relocated on the same lot even though the current minimum lot area or setback requirements of this Zoning Code cannot reasonably be complied with. Where a part of the structure is acquired for public use, the remainder of the structure may be reconstructed, remodeled, or repaired with the same or similar kind of materials used in the existing structure. However, the materials shall conform to the requirements of the City's adopted Building Code.
- B. Involuntary destruction.** A nonconforming structure, or portion thereof, located on the lot remaining after acquisition of the property for public use which is thereafter involuntarily damaged or destroyed by a catastrophic event (e.g., fire or other calamity, act of God, or the public enemy), may be rebuilt or reconstructed on the same lot even though the current minimum lot area or setback requirements of this Zoning Code cannot reasonably be complied with. However, the floor area and cubical contents of the structure, or portion thereof, shall not be increased.

- C. **Does not apply to uses.** The provisions of this Subsection shall not apply to a nonconforming use existing at the time of acquisition of the property for public use.
- D. **Off-premise signs.** Any off-premise sign located on property acquired for public use may be relocated on the same lot or site through the approval of a minor conditional use permit.

17.71.130 - Unlawful Uses and Structures

- A. **Violations.** Uses and structures that did not comply with the applicable provisions of this Zoning Code or prior planning and zoning regulations when established are violations of this Zoning Code and are subject to the provisions of Chapter 17.78 (Enforcement).
- B. **Illegal uses and structures prohibited.** This Chapter does not grant any right to continue occupancy of property containing an illegal use or structure.
- C. **Permits required.** The illegal use or structure shall not continue unless/until permits and entitlements required by this Zoning Code and the Municipal Code are first obtained.

17.71.140 - Nuisance Abatement

In the event that a nonconforming use or structure is found to constitute a public nuisance, appropriate action shall be taken by the City, in compliance with Municipal Code Chapter 14.50 (Property Maintenance and Nuisance Abatement).

CHAPTER 17.72 - APPEALS

Sections:

- 17.72.010 - Purpose of Chapter
- 17.72.020 - Review Authority
- 17.72.030 - Eligibility
- 17.72.040 - Scope of Appeals
- 17.72.050 - Application Filing, Processing, and Action
- 17.72.060 - Calls for Review

17.72.010 - Purpose of Chapter

This Chapter establishes procedures for the initiation of appeals and Calls for Review of a decision rendered by the Director, Zoning Administrator, Hearing Officer, Film Liaison, Environmental Administrator, Board of Zoning Appeals, Design Commission, Historic Preservation Commission, and Commission.

17.72.020 - Review Authority

- A. Board of Zoning Appeals.** The Board of Zoning Appeals shall serve as the review authority for decisions of the Director, Zoning Administrator, Hearing Officer, Film Liaison, and Environmental Administrator.
- B. Historic Preservation Commission.** The Historic Preservation Commission shall serve as the review authority for decisions of the Director that are appealable in compliance with Chapter 17.62 (Historic Preservation).
- C. Design Commission.** The Design Commission shall serve as the review authority for decisions of the Director regarding design review matters.
- D. Council.** The Council shall serve as the review authority for decisions of the Design Commission, Historic Preservation Commission, and the Board of Zoning Appeals.

17.72.030 - Eligibility

An appeal may be filed by any person affected by a determination, decision, or action rendered by the Director, Zoning Administrator, Hearing Officer, Film Liaison, Environmental Administrator, Design Commission, Historic Preservation Commission, or Commission.

17.72.040 - Scope of Appeals

Determinations, decisions, and actions that may be appealed, and the authority to act upon an appeal shall be as follows.

- A. Determinations.** The following determinations of the Director, Zoning Administrator, Hearing Officer, Film Liaison, and Environmental Administrator may be appealed to the Board of Zoning Appeals:
1. Interpretations of the meaning and determinations on the applicability of the provisions of this Zoning Code that are believed to be in error;
 2. A determination that a permit application or information submitted with the application is incomplete, in compliance with State law (Government Code Section 65943); and
 3. An enforcement action in compliance with Chapter 17.78 (Enforcement).
- B. Permit/entitlement and hearing decisions.** Decisions and actions by the Director, Zoning Administrator, Hearing Officer, Film Liaison, and Environmental Administrator may be appealed to the Board of Zoning Appeals.
- C. Director decisions.** Decisions by the Director, in compliance with Chapter 17.62 (Historic Preservation), may be appealed to the Historic Preservation Commission. Decisions by the Director, in compliance with Section 17.61.030, may be appealed to the Design Commission.
- D. Design Commission and Historic Preservation Commission decisions.** Decisions by the Design Commission and the Historic Preservation Commission may be appealed to the Council.
- E. Appeal of CEQA decisions.**
1. **Appeal of CEQA decisions to the Council.** When a CEQA document is certified or approved (certification of EIR, approval of Negative Declaration or Mitigated Negative Declaration) by the Board of Zoning Appeals or the Commission, it may be appealed to the Council.
 2. **Categorically exempt projects not appealable.** Projects that are categorically exempt under CEQA would not be appealable to the Council and the Board of Zoning Appeals shall be final decisionmaker.
 3. **Appeal shall include the entire decision.** Recognizing that it is difficult to separate the decision on the environmental document from the project itself, the appeal to the Council shall include the entire decision. For example, if, after CEQA document certification or approval, the Board of Zoning Appeals approves a land use permit, the appeal shall include both the CEQA document certification or approval and the accompanying land use permit. Such an appeal shall be reviewed in a *de novo* hearing.

17.72.050 - Application Filing, Processing, and Action**A. Timing and form of appeal.**

1. **Application submittal.** An appeal application shall be submitted:
 - a. Before the effective date established by Section 17.64.020 (Effective Dates) of the decision being appealed;
 - b. While City offices are open and before the end of the final day of the appeal period (or the following workday if the appeal period ends on a day when the City Hall is closed); and
 - c. In person only. No mailed appeal applications will be accepted.
 2. **Filed in writing.** An appeal shall be filed in writing with the Secretary or Clerk of the applicable review authority.
 3. **The appeal application shall:**
 - a. Specifically state the pertinent facts of the case and the reason(s) for the appeal;
 - b. Be accompanied by the information identified in the Department handout for appeal applications; and
 - c. Be accompanied by the filing fee established by the Council's Fee Resolution.
 4. **Consideration of submitted application, plans, and materials.**
 - a. At the hearing, the review authority shall consider the same application, plans, and materials submitted by the applicant for the original decision.
 - b. If the applicant submits new plans and materials that differ substantially, as determined by the Zoning Administrator, from the materials submitted for the original decision, the hearing shall be terminated and the applicant shall file a new application.
 - c. Changes to the original submittal to address objections of the review authority need not be the subject of a new application.
 - d. Revised materials shall be submitted at least 14 days before the public hearing on the appeal application. However, the Zoning Administrator may choose to accept minor revised materials after that time, upon determining that there is sufficient time to review the materials before the hearing date. In addition, the review authority may continue an appeal application until the next available meeting date in order to adequately evaluate the revised materials.
- B. Effect of appeal.** The filing of an appeal shall stay the effective date of a decision until the review authority can make a decision on the appeal request.

- C. Withdrawal of appeal.** If an appeal is withdrawn after filing, the remaining days of the appeal period (e.g., 10 days) shall start from the date on which the appeal is withdrawn.
- D. Joining an appeal.**
1. Only those persons who file an appeal within the specified appeal period shall be considered appellants of the matter under appeal.
 2. Any person who wishes to join an appeal shall follow the same procedures as the appellant.
 3. A person(s) shall not be allowed to join an appeal after the end of the specified appeal period.
- E. Action on appeals.**
1. **Notice and public hearing.** An appeal hearing shall be a public hearing if the original decision required a public hearing. Notice of the public hearing shall be the same as the original decision, in compliance with Chapter 17.76 (Public Hearings).
 2. **Scope of review and decision.** When reviewing an appeal, the review authority may:
 - a. Consider any issues associated with the decision being appealed, in addition to the specific grounds for the appeal;
 - b. Reverse, modify, or affirm, in whole or in part, the determination, decision, or action that is the subject of the appeal; and
 - c. Adopt additional conditions of approval, that were not considered or imposed by the original applicable review authority, deemed reasonable and necessary.
 3. **Failure to act.** If the review authority fails to act upon an appeal, the decision from which the appeal was taken shall be deemed affirmed. A failure to act shall be considered a decision and may be called for review.
 4. **Effective date.** A decision regarding an appeal shall become effective in compliance with Section 17.64.020 (Effective Dates).
 5. **New evidence.** If new or different evidence is presented during the appeal hearing, the applicable review authority (e.g., Board of Zoning Appeals, Design Commission, Historic Preservation Commission, or Council) may refer the matter back to the Director, Zoning Administrator, Hearing Officer, Film Liaison, Environmental Administrator, Design Commission, or Historic Preservation Commission, as applicable, for a report on the new or different evidence before a final decision on the appeal.
 6. **Findings.** When reviewing an appeal, the review authority shall adopt findings in support of the intended action on the appeal. The nature of the findings shall be in compliance with the findings adopted by the original review authority (e.g., Adjustment Permits —

Section 17.61.070, Conditional Use Permits — Section 17.61.050, and Variances — Section 17.61.080, etc.).

7. **Effect of appeal.** A decision on an appeal vacates (i.e., voids) the previous decision from which the appeal was taken, except as otherwise identified in Section 17.72.060 E.3. (Failure to act), above.

17.72.060 - Calls for Review

- A. **Authority and final decision.** The authority and final decision for a Call for Review is as follows:

1. **Design Commission's review.**

- a. **Review.** The Design Commission may choose to Call for Review a decision by the Director regarding the Director's action on a Design Review in compliance with Section 17.61.030, except for a project identified in Subparagraph 17.61.030 J.7 (Design Review - Procedures - Calls for Review).
- b. **Decision final.** The decision of the Design Commission shall be final unless Called for Review by the Council or an appeal is filed in compliance with this Section.

2. **Board of Zoning Appeals' review.**

- a. **Review.** The Commission may choose to Call for Review a decision rendered by the Director, Zoning Administrator, Hearing Officer, Film Liaison, or Environmental Administrator to the Board of Zoning Appeals.
- b. **Decision final.** The decision of the Board of Zoning Appeals shall be final unless Called for Review by the Council or an appeal is filed (only available when contesting an action on a Negative Declaration (ND) or an EIR, but not for a determination of categorical exemption) in compliance with this Section.

3. **Council's review.**

- a. **Review.** The Council may choose to review a decision rendered by the Director, Zoning Administrator, Film Liaison, Environmental Administrator, Hearing Officer, Board of Zoning Appeals, or Design Commission, and the Historic Preservation Commission as identified in Section 2.75.228(A) of the Municipal Code.
- b. **Decision final.** The decision of the Council on the appeal shall be final and shall become effective upon adoption by the Council.

4. **Filing of an appeal pending a Call for Review.**

- a. **Right to file an appeal.** An eligible person affected by a determination, decision, or action, as specified in Section 17.72.030 (Eligibility) may file a timely appeal in compliance with this Chapter even though a Call for Review has been filed in compliance with this Section.

- b. **Effect of filing an appeal.** The filing of the appeal shall serve to protect the rights of the appellant(s) in the event the Call for Review is subsequently withdrawn or fails.
5. **Withdrawal or failure of a Call for Review.** If a request for a Call for Review is withdrawn after filing, or fails, the remaining days of the Call for Review period (e.g., 10 days) shall start from the date on which the Call for Review is withdrawn or fails.

B. Procedures.

1. Initiation.

- a. A member of a review authority with Call for Review authority may initiate a Call for Review by filing a written request with the Secretary or Clerk of the body with Call for Review authority.
- b. A member of the Design Commission may initiate a Call for Review at a regular meeting of the Design Commission without filing a written request before the meeting.

2. **Agenda.** The Secretary or Clerk shall place the request on the next available regular meeting agenda.

3. **Date to file.** A Call for Review of a permit shall be filed before its effective date in compliance with Section 17.64.020 (Effective Dates).

4. Effect of Call for Review.

- a. A request for a Call for Review by a member of a review authority shall stay the effective date of a decision until the review authority can make a decision on the Call for Review request.
- b. The timely filing of a Call for Review does not extend the time in which an appeal of a decision shall be filed; the normal appeal period shall continue to run in compliance with Subsection 17.72.050 A. (Timing and form of appeal) above.
- c. If the review authority decides to Call for Review the subject decision, then the previous decision shall be vacated.
- d. If the review authority decides not to Call for Review the subject decision, then the decision shall become final unless the appeal period has not expired.

5. **Notice and public hearing.** A Call for Review hearing shall be a public hearing if the original decision required a public hearing. Notice of the public hearing shall be the same as the original decision, in compliance with Chapter 17.76 (Public Hearings).

6. **Required votes.** The number of affirmative votes required to Call for Review a decision shall be as identified in Title 2 of the Municipal Code.