

**APPEALS APPLICATION CHECKLIST**

<b><u>APPEALS APPLICATION CHECKLIST</u></b>	
Application:	<b>Check <input checked="" type="checkbox"/></b>
<b>Summary</b> of events leading the appeal, the reason for the appeal, and the date if the decision of the City staff against which the appeal is made.	
The names and addresses of the owners of the subject property and their agents if any	
Notarized <b>consent</b> of the owner if applicant is not owner	
If an attorney represents the appeal, complete the attached <b>Authorization of Attorney</b> .	
<b>Documentation</b> of the decision that is appealed, and <b>documents</b> that support appeal.	
Application fee \$100.00	
Additional Documents:	
A legal description (deed) of the property proposed to be rezoned	
A recent survey plat showing the dimensions and location of the subject property prepared by a land surveyor whose state registration is current and valid and whose seal is affixed to the plat	
Proof that all city, county, and state ad valorem taxes due upon the property have been paid in full	

Date Filed: \_\_\_\_\_, 20\_\_\_\_ Application No. \_\_\_\_\_  
Name of Applicant \_\_\_\_\_ Phone # \_\_\_\_\_  
Company Name (if applicable) \_\_\_\_\_ Email \_\_\_\_\_  
Address \_\_\_\_\_  
Street City State Zip Code

**Legal Description of Property:**

Land Lot \_\_\_\_\_ District \_\_\_\_\_ Section \_\_\_\_\_ Parcel \_\_\_\_\_  
Address \_\_\_\_\_  
Street City State Zip Code

Name of Property Owner \_\_\_\_\_ Current Zoning: \_\_\_\_\_

Property is located in:  City  Unincorporated County

Reason of Appeals \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**\*NOTE: a \$100.00 fee will be assessed for application fee and is non-refundable.** The fee must be paid at the time of the submittal of the request to Planning and Zoning Department.

<b>Office Use Only</b>	
STAFF SIGNATURE: _____	DATE RECEIVED: _____
DATE COMPLETED: _____	



**Authorization of Attorney**

**(Required only if the appellant is represented by an attorney)**

I SWEAR, AS AN ATTORNEY AT LAW, THAT I HAVE BEEN AUTHORIZED BY THE APPELLANT TO FILE THE ATTACHED APPEAL APPLICATION.

**NAME OF APPELLANT:**

LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

APPELLANT'S TELEPHONE NUMBER: \_\_\_\_\_

**NAME OF ATTORNEY:**

LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

ATTORNEY'S TELEPHONE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF ATTORNEY

**Section 6.02. - Appeals of an administrative interpretation.**

6.02.01. *Initiation.*

- a. An appeal of an administrative interpretation may be initiated by any person aggrieved by such interpretation. Such appeal shall be taken within 30 days of the administrative interpretation by filing such appeal in writing with the zoning official, whereupon the city council shall render a final decision.
- b. It is the intention of this zoning ordinance that all questions arising in connection with the interpretation of this ordinance shall be presented first to the zoning official, from whom an appeal can then be taken to the city council.

6.02.02. *Interpretations by city council.* The city council, upon appeal of an aggrieved party or at the request of the zoning official, is authorized to:

- a. Interpret the use of words or phrases within the context of the intent of this zoning ordinance.
- b. Determine the boundaries of the various zoning districts where uncertainty exists.
- c. Decide appeals from any order, determination, decision or other interpretation by any person acting under authority of this zoning ordinance, where a misinterpretation or misapplication of the requirements or other provisions of this zoning ordinance is alleged.
- d. Interpret such other provisions of this zoning ordinance as may require clarification or extension in specific or general cases.

(Ord. No. O-00-106, § 2, 12-4-00; Ord. No. O-01-37, § 2(Exh. B), 6-18-01; Ord. No. O-03-17, § 27, 5-19-03; Ord. No. O-04-13, § 15, 4-19-04; Ord. No. O-05-67, § 21, 12-19-05)

**Section 10.02. - Appeals of an administrative decision.**

10.02.01. *Initiation.*

- a. An appeal of an administrative decision or interpretation may be initiated by any person aggrieved by such action. Such appeal shall be taken within 30 days of the administrative decision or interpretation by filing such appeal in writing with the development official.

- b. It is the intention of this development code that all questions arising in connection with the interpretation of this ordinance shall be presented first to the development official, from whom an appeal can then be taken to the city council.

10.02.02. *Appeals of permit decisions.* The holder of or applicant for a development permit or a building permit may appeal any of the following actions taken by an administrative official:

- a. The suspension, revocation, modification or grant with condition of a land-disturbance or development permit by the development official upon finding that the holder is not in compliance with the approved erosion and sedimentation control plan or other approved plans.
- b. The determination that the holder is in violation of development permit or building permit conditions.
- c. The determination that the holder is in violation of any other provision of this development code.

10.02.03. *Interpretations by city council.* The city council, upon appeal of an aggrieved party or at the request of the development official, is authorized to:

- a. Interpret the use of words or phrases within the context of the intent of this development code.
- b. Decide appeals from any order, determination, decision or other interpretation by any person acting under authority of this development code, where a misinterpretation or misapplication of the requirements or other provisions of this ordinance is alleged.
- c. Interpret such other provisions of this development code as may require clarification or extension in specific or general cases.

(Ord. No. O-01-39, § 3, 6-18-01; Ord. No. O-04-14, § 66, 4-19-04)

#### **Section 10.04. - Process for granting an appeal.**

10.04.01. *Receipt of appeal.*

- a. Upon receipt of an appeal from an administrative decision or a request for a variance, the development official shall assemble such memos, papers, plans, or other documents as may constitute the record for the appeal or as may provide an understanding of the issues involved.
- b. An application for an appeal shall include such descriptions, maps or drawings as needed to clearly illustrate or explain the action requested. The development official may request such additional information from the appellant as necessary to provide a full understanding of the applicant's request.

c. Once the record has been assembled, the development official shall schedule the appeal or request for variance promptly for a public hearing at a meeting of the board of adjustments and appeals or the city council, as appropriate to the request.

10.04.02. *Reserved.*

10.04.03. *Reserved.*

10.04.04. *Withdrawal of appeal.* Any appellant wishing to withdraw an appeal or request for variance prior to the public hearing shall file a written request for such withdrawal with the development official. The appeal shall thereupon be withdrawn and the request shall have no further effect.

10.04.05. *Public hearing procedures.*

a. The public hearing shall be convened at the scheduled time and place by the appropriate body, as advertised.

b. The presiding official may administer oaths and compel the attendance of witnesses by subpoena.

c. The development official shall submit the assembled record of the appeal or variance. The development official shall provide such information or explanation as appropriate to the circumstances of the appeal or variance.

d. *Reserved.*

e. At the public hearing concerning the appeal or variance, the applicant after being sworn in shall be allowed to present evidence. Any parties in support of or in opposition to the appeal or variance shall also be allowed to present sworn testimony.

f. For each appeal or variance, the appellant and proponents of the request shall have no less than ten minutes for presentation of data, opinions and evidence at the public hearing, and opponents of the appeal or variance shall likewise have a minimum of ten minutes for presentation. The proponents of each request shall have a collective maximum of 20 minutes for their presentations, and the opponents of each request likewise shall have a collective maximum of 20 minutes for their presentations, unless these time limitations are waived at the discretion of the presiding official.

g. Hearsay testimony shall not be considered and shall be ruled out of order.

h. After the public hearing and any information presented by the development official, action on the appeal shall be considered.

(1) A motion to approve or deny an appeal or variance must be approved by an affirmative vote of a majority of the members in order for the motion to be approved.

(2) If a motion to approve an appeal or variance fails, the appeal or variance is automatically denied. If a motion to deny an appeal or variance fails, another motion would be in order.

(3) Tie votes.

(a) In the case of the board of adjustments and appeals, a tie vote on a motion for approval of an appeal or variance shall be deemed a denial of the appeal or variance. A tie vote on any other motion shall be deemed to be no action, and another motion would be in order.

(b) In the case of the city council, the mayor casts his or her vote when a tie vote occurs among the council members. If the mayor abstains or otherwise casts no vote, a tie vote on a motion for approval of an appeal or variance shall be deemed a denial of the appeal or variance, while a tie vote on any other motion shall be deemed to be no action, and another motion would be in order.

(4) If no action is taken on an appeal, it shall be considered tabled and action deferred to the next regular meeting.

i. In taking action on an appeal or variance, the board of adjustments and appeals or city council may:

(1) Approve, approve with conditions, or deny the request;

(2) Table the appeal or variance for consideration at a subsequent meeting; or,

(3) Allow withdrawal of the appeal or variance at the request of the applicant.

10.04.06. *Waiting period for re-filing.* If a request specifically for a variance is denied by the city council, another request for a variance affecting the same property shall not be considered by the city council for a period of six months from the date of denial; provided, however, that the city council may reduce the waiting period under extenuating circumstances or on its own motion.

(Ord. No. O-99-27, §§ 1—4, 7-27-99; Ord. No. O-01-39, § 3, 6-18-01; Ord. No. O-04-14, §§ 69—72, 4-19-04)