

CHAPTER 19.77

BOARD OF ZONING ADJUSTMENT

Sections:

- 19.77.010 ESTABLISHMENT OF THE BOARD OF ZONING ADJUSTMENT
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- 19.77.030 GRIEVANCE WITH FINAL ORDER – APPEAL TO CITY COUNCIL

19.77.010 ESTABLISHMENT OF THE BOARD OF ZONING ADJUSTMENT

There shall be established pursuant to the authority granted in Section 65900 of the *California Government Code*, a Board of Zoning Adjustment for the purposes of administering the provisions of this Chapter. The members of the Board of Zoning Adjustment shall be 5 citizens of the City as appointed by the City Council for 4-year terms. Any 3 members shall constitute a quorum for the purpose of conducting business. The Planning and Community Development Director shall serve as the official secretary of the Board and shall make, keep and maintain all the records of the proceedings of the Board. All Board of Zoning Adjustment hearings shall be conducted as public hearings pursuant to *Government Code* Section 65900 et seq.

19.77.020 PUBLIC NUISANCES

The Board of Zoning Adjustment shall hear and decide orders to abate public nuisances as provided in the applicable sections of Chapter 7.02 of this Code and orders to assess the costs of abatement against the property abated as authorized by this Code.

19.77.030 GRIEVANCE WITH FINAL ORDER – APPEAL TO CITY COUNCIL

A. *General Appeal Procedure*

Whenever any person is aggrieved by any final order of the Board of Zoning Adjustment issued pursuant to the provisions of Title 1, Title 19, or any other provision of the Code, such person may appeal to the City Council the issuance of said order or confirmation by filing a written appeal in accordance with the provisions of Title 19. Nothing in this Title 19 shall be interpreted to mean that the appellate process set forth in this Section 19.77.030 shall apply when the Board of Zoning Adjustment makes solely a municipal ordinance violation decision. This section shall apply to municipal ordinance violation decisions only when such decisions are rendered in conjunction with a decision issued pursuant to a title other than Title 1.

B. *Public Appeal*

Within 10 calendar days after mailing of the decision, the applicant or any interested persons may appeal the decision to the City Council by filing a written appeal with the City Clerk, with the appropriate filing fee. The City Clerk shall transmit one copy of the appeal to the Planning and Community Development Director and one copy to the applicant, in the event that the appeal is not that of the applicant. The written appeal shall specify the person making the appeal, the decision appealed from and shall state the reasons for the appeal. Appeals shall be limited to action beyond the authority of the decision-making body, action based on incorrect facts or that the decisions violated provisions of law.

C. *City Council Appeal*

Within 10 calendar days after the mailing of the decision, any member of the City Council may appeal a decision and request review by the Council. Thereupon, the City Clerk shall give written notice to the Planning and Community Development Director and the applicant and set the matter for review by the City Council within 30 days.

D. *Report*

After filing of an applicant's or any other interested person's appeal, the City Clerk shall transmit the appeal to the Planning and Community Development Director for a written report detailing the facts of the appeal. The Planning and Community Development Director's report shall be filed within 30 days for review by the City Council. After reviewing the facts, the City Council may decide to either hear the appeal, hear the appeal in part or not hear the appeal by minute motion.

E. *Hearing*

The appeal hearing shall be held within 30 days after the City Council's decision to hear the appeal, unless the 30 day time limit is waived by the appellant. Not less than 10 days before the date of the hearing the notice of the hearing shall be mailed to the applicant in the event that the applicant is not the appellant, and to any person who has made a written request for such notice.

F. *Referral of Appeal*

After the hearing and before making a final decision, the City Council may refer the appealed item back to the Board of Zoning Adjustment for further consideration. The City Council may affirm in whole or in part, modify or reverse the decision of the Board of Zoning Adjustment.