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# DEVELOPMENT APPLICATION REVIEW CRITERIA

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## **7.5.906 (B): APPEALS OF PLANNING COMMISSION, AN FBZ REVIEW BOARD AND HISTORIC PRESERVATION BOARD DECISIONS:**

1. Notice Of Appeal: Any person may appeal to the City Council any action of the Planning Commission or an FBZ Review Board or Historic Preservation Board in relation to this Zoning Code, where the action was adverse to the person by filing with the City Clerk a written notice of appeal. The notice of appeal shall be filed with the City Clerk no later than ten (10) days after the action from which appeal is taken, and shall briefly state the grounds upon which the appeal is based.
2. Action And Procedure By The City Council: Upon receipt of the notice of appeal required by this subsection B, the City Clerk shall schedule a public hearing before the City Council at the next regular meeting of the City Council occurring a minimum of twenty (20) days after receipt. The City Council shall hold a public hearing on appeals from the Planning Commission, an FBZ Review Board or Historic Preservation Board upon the date so scheduled or upon the date to which the same may be postponed or continued. Before the public hearing is commenced, the City Council may entertain a motion to uphold the action of the Planning Commission, an FBZ Review Board or Historic Preservation Board or refer the matter back to the Planning Commission, an FBZ Review Board or Historic Preservation Board for further consideration and recommendation.
3. Postponement Of Items On Appeal To The City Council: As a matter of course, any person may postpone the first scheduled Council hearing or consideration of an appeal from a decision of the Planning Commission, an FBZ Review Board or Historic Preservation Board, made in accord with this subsection, to the next following regular Council meeting. Request for any additional postponement shall be only for good cause shown to and found by the City Council. If new or additional evidence is set forth as the grounds for a request for a postponement, the appeal may be referred to the Planning Commission, an FBZ Review Board or Historic Preservation Board for further hearing and recommendations.
4. City Council's Powers Upon Appeal: The City Council shall have the power to refer any matter appealed back to the Planning Commission, an FBZ Review Board or Historic Preservation Board for further consideration or Council may affirm, reverse or modify the action of the Planning Commission, an FBZ Review Board or Historic Preservation Board. City Council may hear the appeal de novo, or may limit the hearing to matters raised on appeal.
5. Failure To Appeal: The failure to appeal the decision of the Planning Commission, or an FBZ Review Board or Historic Preservation Board within the ten (10) day period shall be deemed to be a waiver of the applicant's or a party in interest's right to appeal to the courts under

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rule 106 of the Colorado Rules of Civil Procedure for failure to exhaust administrative remedies.

6. Final Decision; Court Review: On such appeals, the decision of the City Council shall be final agency action, and shall be subject to review by the courts pursuant to applicable rules and statutes, unless the matter is remanded to the Planning Commission, or an FBZ Review Board or Historic Preservation Board.
7. Filing Fee: The filing fee shall be borne by the appellant. (Ord. 80-131; Ord. 84-159; Ord. 86-66; Ord. 88-190; Ord. 89-7; Ord. 91-30; Ord. 94-107; Ord. 01-42; Ord. 01-127; Ord. 01-164; Ord. 03-16; Ord. 03-216; Ord. 04-280; Ord. 07-35; Ord. 09-76; Ord. 12-24)