

## **ARTICLE 35    APPEAL OF ADMINISTRATIVE DECISION**

### **Sec. 35.1. Appeal as a Remedy.**

Persons may appeal to the Mayor and City Council for relief when aggrieved by an action or an interpretation of the Zoning Administrator made under this zoning ordinance. All such requests for relief shall be taken as an appeal to the Mayor and City Council, as provided in this Article.

### **Sec. 35.2. Initiation.**

Appeals of an administrative decision may be initiated by any person aggrieved by a decision made under this zoning ordinance or by an officer or department head of the City. Such appeal shall be initiated within thirty (30) days of the action or decision appealed from by filing with the Zoning Administrator an application for an appeal of an administrative decision specifying the grounds thereof. If the person aggrieved by an action within this zoning ordinance does not initiate an appeal within thirty (30) days, then the decision of the Zoning Administrator shall stand, and no further administrative remedy shall be available under this zoning ordinance

### **Sec. 35.3. Application Requirements.**

No application shall be accepted for processing by the Zoning Administrator unless it meets the requirements of this Article. To initiate an appeal, an application must be submitted to the Zoning Administrator which shall include at minimum the following. Incomplete or improper applications will be returned to the applicant.

- (a) Application Form. A completed application. All applications shall be submitted to the Zoning Administrator on the appropriate application forms.
- (b) Fee. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Mayor and City Council. A fee shall not be charged if the Mayor and City Council initiates the appeal application.
- (c) Written Narrative. A written narrative explaining the request and purpose for the appeal.
- (d) Additional Requirements. In reviewing an application, the Zoning Administrator shall also be authorized to require any supporting information necessary to review an administrative decision on the record necessary to resolve the request for appeal. These may include but are not limited to plat or boundary survey, architectural renderings, or concept plan or as-built surveys. When the appeal application is referred to the Mayor and City Council, the applicant shall be required to submit a sufficient number of scaled and reproducible size copies of such supporting documentation as determined by the Zoning Administrator.

### **Sec. 35.4. Public Notice and Public Hearing.**

An application for appeal of an administrative decision shall comply with the public notice and public hearing process before the Mayor and City Council as described in Article 33 of this zoning ordinance for variance applications. Applications for appeal shall not require public hearing and recommendation by the Planning Commission.

**Sec. 35.5. Stay of Proceedings.**

The filing of a completed application for an appeal of an administrative decision stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Mayor and City Council, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed unless the applicant for appeal of an administrative decision secures an order from a court of competent jurisdiction.

**Sec. 35.6. Decision.**

The Mayor and City Council shall make findings and render a decision after the public hearing on the appeal application. The City Clerk shall notify the applicant, in writing, of its decision within five (5) days after the Mayor and City Council has rendered its decision.

The Mayor and City Council may affirm, overrule or modify, in whole or in part, the rulings, or decisions or interpretations of the Zoning Administrator. In cases where an appeal is granted, the Mayor and City Council may direct the issuance of land development permits or building permits, not otherwise inconsistent with this or other ordinance adopted by the Mayor and City Council.

A decision of the Mayor and City Council pursuant to this Article shall constitute final action and may be appealed only to a court of competent jurisdiction in the manner provided by law.