

SECTION 12.4.8 APPEAL OF ADMINISTRATIVE DECISION

12.4.8.1 Review Process

A. Initiation

1. Any person aggrieved or any officer or department of the City may appeal to the Board of Adjustment from any administrative order, requirement, or any decision or determination made by a Community Planning and Development administrative official in the enforcement of this Code.
2. Such appeal shall be filed within the time provided by the rules of the Board of Adjustment and must specify the particular grounds upon which the appeal is taken.

B. Application

1. Appeal and Fees

All appeals of an administrative order or decision shall be filed in writing according to the rules of the Board of Adjustment. The appellant shall pay all required fees at the same time the application is submitted. See Section 12.3.3, Submission of Applications.

C. Effect of Appeal – Stay of Enforcement Proceedings

An appeal to the Board of Adjustment of a cease and desist order issued by Community Planning and Development shall stay all enforcement proceedings of the cease and desist order unless the Zoning Administrator certifies that, by reason of the facts stated in the certificate, a stay in the Zoning Administrator's opinion would cause imminent peril to life or property. When such a certificate is filed, proceedings shall not be stayed except by a restraining order granted, after due notice to Community Planning and Development, by the Board of Adjustment or a court of proper jurisdiction.

D. Action by Zoning Administrator

Upon receipt of a notice of appeal, the Zoning Administrator shall transmit to the Board of Adjustment all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed from was based.

E. Public Hearing and Decision by Board of Adjustment

Following notice and a public hearing according to the rules of the Board of Adjustment, the Board of Adjustment shall approve or deny the appeal based on the review criteria below, and to that end the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

F. Presumption and Review Criteria Presumption

1. Presumption

Any order or decision of an administrative official authorized to act under this Code shall be presumed to be correct unless clear and convincing evidence introduced before the Board of Adjustment supports a contrary determination or finding.

2. Review Criteria

The Board of Adjustment shall consider whether or not the action by the administrative officer complied with the applicable portions of this Code when approving or denying an administrative appeal.