

Code Amendment to Improve Appeals Procedures

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- Appeals can be complex and confusing.
- Certain elements of appeal hearings can be unpredictable.
- Appeals can create an unrealistic expectation of different outcomes.
- Grounds for appeal are frequently found to lack merit at hearing.
- Processing and preparing for appeals is burdensome on Council and other City resources – as well as the Appellant and Respondent.

- Clarify Standing to Appeal
 - Require Participation in Original Decision Process
- Separate Processes and Decision Makers:
 - Fair Hearing Questions – Administrative Review
 - Failure to Apply/Interpret Code – Council Appeal
- Require That Issue on Appeal Was Raised at Time of Original Decision
- Completeness and Screening Reviews
- Appeal Party Registration and Prehearing Conference
- Update Fees
- Clarify timeframes, submittals, communication and “the record”
- Eliminate the organized site visit

Current State:

Broad standing, including anyone who received a mailed notice, and Council

Future State:

Allow appeals by:

- a. Project Applicant;
- b. Subject Property Owner; and
- c. An “Eligible Party” who participated in the original hearing / decision-making process by providing written or oral comments

Current State:

City Council is final decision maker on all process, fair hearing, and failure-to-interpret/apply issues.

Any issue may be raised to Council, regardless of whether

- The original decision maker considered the issue
- The record on appeal contains information on the issue

Future State:

Fair Hearing Issues – Subject to Administrative Review and Remand

Failure to Interpret/Apply Code Issues – Subject to an appeals hearing before Council

- Limited to issues raised at original hearing
- Existing record / NO new evidence

- **Completeness Review:**
 - All required materials
 - Appellant is Eligible Party
- **Screening Review:**
 - Verify issues with the Record
 - Grounds for appeal are legally sufficient and raise valid interpretation or application issue(s)
- **Registration for Opposing parties**
 - Confirm registered parties are Eligible Parties
- **Pre-hearing Conference**
- **Material Submittal requirements**
 - Timing for submittals
 - Level of specificity - appeal and response
- **Removed organized Council site visit**
- **Composition of “the Record”**
- **Scheduling and hearing procedures**
- **Updated fees to \$100 and \$250**



Process Comparison to other Municipalities



	QJ Land Use Appeals to Council	Appeal Only on Record, No New Evidence	Council Can Initiate	Notable Features
FORT COLLINS	Yes	No, may consider new evidence + record	Yes	
Arvada	Yes	Yes	No	No appeals to Council of items appealed to Planning Commission
Boulder	Yes	No, may consider new evidence + record	Yes	
Centennial	Yes	Yes	No	Basis for appeal must be specific; Council must affirm unless decision was abuse of discretion or unsupported by record
Colorado Springs	Yes	No, may consider new evidence + record	No	Council may preliminarily determine appeal meets application requirements and dismiss, if not; Council may hear appeal de novo or limit to issues raised on appeal
Denver	No	n/a	No	Appeals principally heard by Board of Adjustment
Golden	Yes	Yes	No	Council appeal decisions subject to appeal to municipal court
Greeley	Yes	Yes	No	Council gives deference to decision on appeal; appeals may be filed by any department director or referral agency that provided comments.
Longmont	Yes	No, may consider new evidence + record	No	Major development applications: residents, Planning Director, & City Manager have standing; for minor and administrative application: City Manager has standing.
Loveland	Yes	Yes	No	Staff may dismiss appeal if lacks standing or sufficient detail; no appeals to Council of items appealed to Planning Commission.
Thornton	Yes	No, de novo hearings	Yes	
Westminster	Yes	No, de novo hearings	Yes	Four Councilmembers must appeal matter, City Manager may also appeal

Final Decisions Appealable to City Council



- Administrative Hearing Officer
- Planning and Zoning Commission
- Land Use Review Commission
- Building Review Commission
- Historic Preservation Commission
- Water Commission
- City Manager
- City Engineer
- Utilities Executive Director
- Community Development & Neighborhood Services Director