

APPEAL FORM

You may complete this form if you wish to appeal a decision of the Community Development Director or Planning Commission or you may submit a letter containing information in accordance with Section 17.06.150 of the Foster City Municipal Code.

Please note: All appeals must be filed within ten (calendar) days after the decision of the Community Development Director or Planning Commission. The appeal must be in writing and must provide information addressing all of the items below to be considered complete. The required appeal fee as adopted by the City Council must accompany an appeal to the Planning Commission of a decision of the Community Development Director (Planning Director) or an appeal to the City Council of a decision of the Planning Commission or it will be considered incomplete. Prior to submitting your appeal, please check with staff regarding the amount of the appeal fee due.

1. Appellant _____

(Your name, phone # _____
and address) _____

2. Address of project _____

3. Brief project description _____
(Improvement requested by property owner)

4. Brief description of decision being appealed: _____

5. Relief or action sought _____
(Reversal of decision or change in conditions of approval, etc.)

6. Basis for the appeal. (A) List all findings made by the Planning Director or Planning Commission in the decision you are appealing. (B) Provide a written statement indicating which findings you contend were made in error and why. You may attach other sheets. Please attach all documentation supporting your request.

Signature

Date

domain, on a form prescribed by the planning director of the city. They shall be accompanied by a fee as set by resolution of the city council, a plan of the details of the variance requested, and evidence showing that:

A. The granting of the variance will not be contrary to the intent of this title or to the public safety, health and welfare; and

B. Due to special conditions or exceptional characteristics of the property, or its location, the strict application of this title would result in practical difficulties and unnecessary hardship. (Ord. 212 § 1 (part), 1981)

17.06.110 Variance—Grant.

If the planning commission finds that the qualifications under Section 17.06.080 apply to the land for which variance is sought, and that such variance is in accordance with the intent of this title, it may grant all or part of the variance sought. (Ord. 212 § 1 (part), 1981)

17.06.120 Hearing—Required.

The planning commission shall conduct a public hearing on any application for a variance or for a use permit. (Ord. 212 § 1 (part), 1981)

17.06.130 Hearing—Notice.

The notice of public hearing shall include the time, date, and place of such hearing, the identity of the hearing body, a general description of the matter to be considered and real property that is the subject of the hearing, and shall be given not less than ten days prior to the hearing by the following methods:

A. Published in at least one newspaper of general circulation within the city or posted in at least three public places within the city, including one public place in the area directly affected by the proceeding;

B. Mailed or delivered to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant;

C. Mailed or delivered to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected;

D. Mailed or delivered to all owners of real property as shown on the latest equalized assessment roll within three hundred feet of the real property that is the subject of the hearing. In lieu of utilizing the assessment roll, the city may utilize records of the county assessor or tax collector which contain more recent information than the assessment roll. If the number of owners to whom notice would be mailed or delivered pursuant to this paragraph or paragraph (B) is greater than one thousand, the city

may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city;

E. Mailed or delivered to any person who has filed a written request for notice;

F. In addition to the notice required by this section, the city may give notice of the hearing in any other manner it deems necessary or desirable. (Ord. 371, 1989; Ord. 212 § 1 (part), 1981)

17.06.140 Appeal period—Issuance.

A. Use permits, variances, and architectural review approvals shall not be issued until ten calendar days have elapsed from the granting thereof, to allow time for any appeal to be filed, except where such appeal period is waived for an architectural review pursuant to Section 17.58.040F. In case an appeal is filed from the approving body's decision, the variance, use permit, or architectural review approval shall not be issued until a decision is made by the respective appellate body authorized to hear such appeal.

B. Use permits, variances, or architectural review approvals shall not have any force and effect until the permittee acknowledges receipt thereof and acceptance of any conditions thereto. (Ord. 371 § 11, 1989; Ord. 212 § 1 (part), 1981)

17.06.150 Appeal procedures.

A. Decisions of the Planning Director.

1. In case the applicant or any other person is not satisfied with any decision of the planning director, they may, within ten calendar days after the decision of the planning director, appeal in writing to the planning commission, accompanied by a fee as set by resolution of the city council. The appeal letter or completed appeal form shall specify:

- a. The person making the appeal;
- b. The specific item of appeal, and all supporting documentation, written in clear and concise language;
- c. The basis for such appeal; and
- d. The relief or action sought.

The appeal letter shall contain information substantiating the basis for appeal (e.g., failure to comply with the city's general plan, state or local laws; or stating reasons why the approval would adversely affect surrounding property; the neighborhood, and/or the city).

2. Upon receipt of the complete appeal letter and fee, the planning director shall transmit one copy of the appeal letter to the applicant. The planning commission shall review the written findings of the planning director on the matter, and shall consider the written and oral argument of the appellant. Information not presented to

the planning director for consideration prior to rendering a decision may not be introduced at the meeting of the planning commission on the appeal. However, where the appeal was filed by a third party appellant, the appellant shall have the right to present evidence in support of the appeal.

B. Decisions of the Planning Commission.

1. In case the applicant, or any other person who is not satisfied with any decision of the planning commission, they may, within ten calendar days after the decision of the planning commission, appeal in writing to the city council, accompanied by a fee as set by resolution of the city council. The appeal letter or completed appeal form shall contain the same information as required above for appeals of decisions of the planning director.

2. Upon receipt of the complete appeal letter and fee, the city clerk shall transmit one copy of the appeal letter to the planning director and the applicant. The city shall schedule the appeal before the city council. The city council shall review the written findings of the planning commission on the matter and shall consider the written and oral argument of the appellant. New matter may not be introduced by either party to such appeal. The decision of the city council shall be final.

C. Appeals by Planning Director, Planning Commissioners and City Councilmembers. The planning director or any member of the planning commission or city council may, within the ten-calendar-day period described in subsection A or B of this section, appeal any decision by the planning director or planning commission without fee. (Ord. 371 § 12, 1989; Ord. 293 § 1, 1984; Ord. 212 § 1 (part), 1981)

17.06.155 Reconsideration within one year.

In case an application for a use permit, variance, or architectural review is denied, the application shall not be eligible for reconsideration for one year subsequent to such denial unless a new application affecting or including all or a part of the same property is substantially different in the opinion of the planning director from the application denied. If an application is denied without prejudice, the same application may be eligible for reconsideration at any time following the resubmittal of the application, filing fee and supporting materials. (Ord. 371 § 13, 1989)

17.06.160 Violation—Infraction.

Any person who commits any act declared by any provision of this chapter to be unlawful, or who violates the provisions, or fails to comply with the mandatory requirements of any section or portion of this title, shall be guilty of an infraction, punishable by:

A. A fine not exceeding one hundred dollars for a first violation;

B. A fine not exceeding two hundred dollars for a second violation of the same provision within one year;

C. A fine not exceeding five hundred dollars for one additional violation of the same ordinance provision within one year.

For purposes of this section, each day in which a non-conforming condition continues is a single violation and each subsequent day such nonconforming condition continues is a new and separate offense. (Ord. 371 § 14, 1989; Ord. 212 § 1 (part), 1981)

17.06.170 Violation—Nuisance declaration—Abatement.

In addition to the penalties provided in Section 17.06.160 and 17.06.175, any use of property or structures, structure, building or improvement operated, constructed, altered, or maintained contrary to the provisions of this title are public nuisances. The city attorney, upon order of the city council or planning director, may commence the necessary action or proceedings for the abatement, removal and injunction thereof in the manner prescribed by law in the courts which may have jurisdiction to grant such relief as will accomplish such abatement and restraint. The remedies provided for in this section shall be in addition to any other remedy or remedies or penalties provided in this title or any other law or ordinance. (Ord. 371 § 15, 1989; Ord. 212 § 1 (part), 1981)

17.06.175 Violation—Penalty fees.

In addition to the penalties provided in Section 17.06.160 and 17.06.170, any use of property or structures, structure, building or improvement operated, constructed, altered, or maintained contrary to the provisions of this title shall pay a penalty fee, as established by resolution of the city council, for any application necessary pursuant to this title to eliminate any violation, including violations which only require the securing of a permit but otherwise conform to the regulations of this title. Such penalty fees shall not apply to any application necessary to make a legal nonconforming use or building conform to the current regulations. (Ord. 371 § 16, 1989)

17.06.180 Expiration.

Any use permit, variance, or architectural review approval granted in accordance with the terms of this title shall, without further action, become null and void if not used within two years from the date of approval thereof, or within any shorter or longer period of time specifically stated in the conditions of approval. However, within one

year of the date on which the use permit, variance, or architectural review approval was originally granted and prior to the improvement or structure being constructed, the decision making body may review all conditions of approval attached to the original approval and, if it so determines, attach new conditions of approval which may be necessary due to receipt by the city of new information or changed circumstances affecting the property and/or project. No extensions of use permit, variances, or architectural reviews shall be considered or granted, except that use permits and variances issued in conjunction with a tentative subdivision map for a planned unit development would expire no sooner than the approved tentative map, or any extension thereof, whichever occurs later. (Ord. 371 § 17, 1989; Ord. 293 § 2, 1984; Ord. 212 § 1 (part), 1981)

17.06.190 Revocation—Generally.

Any use permit, variance or architectural review approval granted in accordance with the terms of this title may be revoked by the city council in the manner herein after set forth, if any of the conditions or terms of such permits are violated. (Ord. 371 § 18, 1989; Ord. 212 § 1 (part), 1981).

17.06.200 Revocation—Procedure.

Before the council considers revocation of any permit, the planning commission shall hold a public hearing thereon after giving notice thereof to the permittee at least ten days in advance of such hearing. Within five days, thereafter, the commission shall transmit a report of its funds and its recommendations on the revocation to the city council. (Ord. 212 § 1 (part), 1981)