

APPEALS PROCESS

SANDOVAL COUNTY COMPREHENSIVE ZONING ORDINANCE

SECTIONS 22. APPEALS.

- A. **Right of Appeal.** Anyone aggrieved by a decision of the Zoning Officer or the Zoning Commission in carrying out the provision of this Ordinance may appeal such decision as specified in Table A Below. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter. Standing to appeal a decision may be granted to another of the following parties:
1. The owner of the property listed in the application.
 2. A representative of any County department, County agency, or other governmental or quasi-governmental agency whose services, properties, facilities, interest or operations may be affected by the application.
 3. Any other person or organization that can demonstrate that his/her/its property rights or other legal rights have been specially and adversely affected by the decisions.
 - a. Such showing must be presented by the appellant as part of the appeal and the Zoning Officer or County Board shall enter a finding or findings as to whether this requirement has been met.
 - b. If it is found that the appellant cannot satisfy this standard, the appeal shall be denied.
 4. Property owners (other than the applicant) on the basis of proximity of land within one hundred (100) feet, excluding public right-of-way, of the land for which the approval is requested.

TYPE OF APPLICATION	ZONING OFFICER	ZONING COMMISSION	COUNTY BOARD
Temporary Use Permit	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Temporary Use Permit (Administrative Procedure)	Decision	Considers Appeal (Record Hearing)	Considers Appeal (Record Hearing)
Variance	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Conditional Use	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)
Special Event Permit	Decision	Considers Appeal (Record Hearing)	Considers Appeal (Record Hearing)
Beneficial Use Determinations	Recommends		Decision (Hearing)
Interpretation / Administrative Action	Decision	Considers Appeal (Record Hearing)	Considers Appeal (Record Hearing)
Zone Map Amendment	Recommends	Decision (Hearing)	Considers Appeal (Record Hearing)

- B. **Application.** Any appeal following a decision of the Zoning Officer or the Zoning Commission shall be made in writing on prescribed forms obtainable from the Zoning Officer upon payment of the applicable filing fee. Any appeal not submitted within thirty (30) days after the decision that is the subject of the appeal shall not be considered.
- C. **Public Hearing.** The decision on an appeal shall be made by the appropriate body as specified in Table A following a public hearing. Within sixty (60) days of the date of the filing of an appeal the Zoning Officer shall schedule a date for the public hearing. At that time, person(s) filing the appeal shall be notified by certified mail, return receipt requested, of the time and place of the public hearing. The date of the appeal hearing will be scheduled by the Zoning Officer based in part upon the quantity and complexity of other matters pending before the body that is to consider the appeal. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least fifteen (15) days prior to the hearing. At the same time, notice shall be provided via certified mail, return receipt requested, to the original applicant (if he/she is not the appellant) and the owners of property adjacent to the property that is the subject of the appeal.

- D. **Review on Record.** Any review of a decision of the Zoning Commission by the County Board shall be confined to the record of the proceedings, which shall include:
1. All materials, pleading, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the Zoning Officer or Zoning Commission as evidence;
 2. All materials submitted to the Zoning Officer with respect to any application(s);
 3. The minutes and/or tape recording of the public hearing(s) held by the Zoning Commission;
 4. The findings of fact and conclusions of law entered by the Zoning Commission following their decision; and
 5. Argument confined to the record by the parties or their legal representatives at the time of review before the County Board.
- E. **Stay of Proceedings.** An appeal shall stay all proceedings in the action unless the Zoning Officer or Zoning Commission certifies that a stay will cause imminent peril to life or property. Upon such certification, the proceedings shall not be stayed except by order of district court. Approval of a Building Permit or any other required approval required from the Zoning Officer in order to accomplish a development approved under Sections 17, 18, or 20 of this Ordinance shall not be granted until any appeal is decided or the time for filing such an appeal has expired.
- F. **Decision.** At the public hearing, the appellate body (either the County Board or Zoning Commission, whichever is Applicable) may reverse, change, or affirm the decision appealed. A majority vote of the members of the County Board is required to change a decision made by the Zoning Commission.