

## CHAPTER 21 - GENERAL PROCEDURAL REQUIREMENTS

### 21.1 APPLICATION PROCESS AND OFFICIAL FILING DATE

#### A. Standardized Forms.

Requests for development permits shall be made on applications provided by the Town. The Town may promulgate submittal requirements, instructions for completing forms, internal procedures for acceptance and filing of applications, and provisions for waiver by establishing administrative guidelines. Additional information may be required for particular applications.

#### B. Submission and Determination of Complete Application.

All development permit applications shall be submitted to the Town Administrator, who shall review the application for completeness. Incomplete applications shall be returned to the submitter and no action taken until any deficiencies are remedied. Complete applications shall be processed according to Section 21.1C of this Chapter. Failure by the Town Administrator to make a determination of completeness within ten (10) working days of the submission of the application shall result in the application being deemed complete. A determination of completeness, either positive or deemed, shall not constitute a determination of compliance with the substantive requirements of this title.

#### C. Processing of Application and Report.

Following the determination that a development application is complete or the application is deemed complete under this title, the Town Administrator shall review the application, forward the application for review to any advisory body, and prepare a report, if any, to the Planning and Zoning Commission or Town Council, as may be required, within 25 working days. Upon filing of the report with the Secretary of the Commission or Council, the Town Administrator shall schedule the matter for public hearing and/or decision within the time and in the manner required by this title.

#### D. Official Filing Date.

The time for processing applications for development permits or acting on such applications established by Texas Local Government Code or by this title shall commence on the date that a complete application has been filed, together with all required reports thereon, with the Secretary of the Commission or Town Council. Modification of any application by the applicant following the filing of the application and prior to the expiration of the period during which the Town is required to act shall extend the period for a like time following the Town Administrator's determination that the modified application is complete and the application is refiled.

## 21.2 REVIEW AND DECISION BY PLANNING AND ZONING COMMISSION

### A. Public Hearing and Recommendation by Planning and Zoning Commission.

Whenever the Planning and Zoning Commission is required by the Texas Local Government Code or these zoning regulations to make a recommendation to the Town Council concerning a development application, the Commission shall conduct a public hearing, if required by this title, in accordance with the provisions of Section 21.6. The public hearing shall be held within the time frame established by this title. If no specific timeframe is established by this title for such hearing, the hearing shall be held within 14 days from the day the completed application is filed with the Secretary of the Commission by the Town Administrator. If no public hearing is required, the Commission shall consider the matter at a regularly scheduled public meeting. The Commission's written recommendations, if any, together with the staff report and recommendation, if any, shall be filed with the Secretary of the Town Council within five working days of the date the Commission's recommendation is made.

### B. Decision by Planning and Zoning Commission.

If the Planning and Zoning Commission has been delegated final decision-making authority for a development application pursuant to these zoning regulations, whether by original jurisdiction or upon appeal, it shall decide whether to approve, conditionally approve or deny the application at a public meeting, following receipt of the report and recommendation of the Town Administrator. If a public hearing is required by these regulations prior to decision, the hearing shall be conducted in the manner provided in Section 21.6. If the Commission denies the application, a written statement setting forth the basis for this decision to deny the application shall be prepared.

### C. Notification and Appeal from Decision by Planning and Zoning Commission.

The Town Administrator shall notify the applicant of the decision of the Planning and Zoning Commission within ten working days of such decision in the manner provided in Section 21.5. The applicant may appeal the decision of the Planning and Zoning Commission in the manner provided in Section 21.7.

## 21.3 REVIEW AND DECISION BY TOWN COUNCIL

### A. Public Hearing by Town Council.

Whenever the Town Council is required by the Texas Local Government Code or these zoning regulations to review and decide upon a development application, the Town Council shall conduct a public hearing, if required by these regulations, in accordance with the provisions of Section 21.6. The public hearing shall be held within the timeframe established by these regulations. If no specific timeframe is established for such hearing, the hearing shall be held within fourteen (14) calendar days from the day the application is filed with the Council.

If no public hearing is required, the Town Council shall consider the matter at a regularly scheduled public meeting.

B. Decision by the Town Council.

If the Town Council is the final decision-making authority for a development application pursuant to these zoning regulations, whether by original jurisdiction or on appeal, it shall decide whether to approve, conditionally approve or deny the application at a public hearing, following the receipt of the recommendation of the Planning and Zoning Commission. If a public hearing is required by these regulations prior to a decision, the hearing shall be conducted in the manner provided in Section 21.6. If the Council denies the application, a written statement setting forth the basis for the decision to deny shall be prepared.

C. Notification and Appeal from the Decision of the Town Council.

The Town Administrator shall notify the applicant of the decision within ten (10) working days of such decision in the manner provided in Section 21.5. The applicant may appeal the decision of the Town Council in the manner provided in Section 21.7.

#### 21.4 CONDITIONAL APPROVAL

A. Authority to Condition Development Permits.

Whenever these zoning regulations authorize the Town Administrator, the Planning and Zoning Commission, the Town Council or other body to condition applications for development, the official or entity, after review of the application and other pertinent documents and any evidence made part of the record of the public hearing, may impose such conditions as are reasonably necessary to assure that applicable general or specific standards stated in the zoning district regulations, in the regulations governing particular uses, in the Special Regulations or zoning procedures are met.

Any conditions imposed by recommendation of the Town Administrator or Planning and Zoning Commission may be modified subsequently by the Town Council.

B. Record and Notification of Conditions.

The Town Administrator shall include a copy of the conditions attached to approval of the development application with the record of the decision which is filed with the secretary of the final decision-maker or the Secretary of the Town Council. The applicant shall be notified of any conditions proposed or imposed on the application in the manner provided in Section 21.5C.

#### 21.5 NOTICE PROVISIONS

A. Published Notice.

Whenever a public hearing is required before the Town Council regarding a zoning text or map amendment, notice setting forth the date, time, place and purpose of such hearing, the name of the applicant, and identification of the subject property must be published once in the Town's official newspaper, at least fifteen (15) days before the date set for the hearing. The notice shall be prepared by the Town.

B. Personal Notice of Public Hearing.

1. Whenever personal notice of a public hearing is required by this title, notice shall be sent by regular mail at least ten (10) days before a Commission hearing to each owner of real property located within four-hundred (400) feet of the exterior boundary of the property in question; to any neighborhood organizations having an interest in the application; and if the matter to be considered is an appeal, notice to all parties to the appeal, including interested parties.
2. The notice shall set forth the name of the applicant, time, place and purpose of the hearing and identification of the subject property.

C. Notification Following Decision.

Within ten (10) working days of the date of the final decision-maker's determination on the development application, written notification of such action shall be mailed to the applicant, stating the action taken and including all conditions imposed and times established for satisfaction of such conditions, if any. If the final decision-maker denies the application, a written statement setting forth the basis for his decision to deny the application also shall be included. Record of such notification shall be filed with the Secretary of the Planning and Zoning Commission or Town Council.

D. Notification of Appeal or Revocation.

Whenever appeal is taken from a final decision on a development application following a public hearing pursuant to Section 21.6, or whenever the Town determines to revoke a development permit which was obtained following a public hearing pursuant to Section 21.7, personal notice of the appeal or revocation shall be prepared and made in the manner prescribed by Section 21.5B. If no public hearing was held prior to obtaining the development permit, personal notice of revocation shall be given only to the holder of the permit.

E. Costs of Notice.

All actual costs incurred by the Town in preparing and publishing the notice required by this Chapter shall be paid by the applicant prior to publication or mailing of such notice according to a schedule of fees established by the Town Council.

## 21.6 PUBLIC HEARINGS PROCEDURES

### A. Setting of the Hearing.

When the Town Administrator determines that a development permit application is complete and that a public hearing is required by this title, the Manager shall consult with the secretary of the body required to conduct the hearing and shall select a place and a time certain for the required hearing, and shall cause notice of such hearing to be prepared and made pursuant to Section 21.5. The time set for the hearing shall conform to the timeframes required by this title.

### B. Examination of and Copying of Documents.

At any time upon reasonable request, any person may examine the application and materials submitted in support of or in opposition to an application for a development permit. Copies of such material shall be made available at cost, in accordance with the Texas Public Information Act.

### C. Conduct of Hearing.

1. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record.
2. The body conducting the hearing shall exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. Any person appearing as a witness may ask relevant questions of other persons appearing as witnesses, but shall do so only through the chairperson of the body conducting the hearing at the chairperson's discretion. The order of proceedings shall be as follows:
  - a. The Town Administrator or appropriate designee(s) shall present a description of the proposed development and a written or oral recommendation, if required. This recommendation shall address each factor required by this title to be considered prior to approval of the development permit. The staff's written recommendation shall be available to the applicant at the time that the agenda packet for the body conducting the hearing is compiled.
  - b. The applicant shall present any information it deems appropriate;
  - c. Public testimony shall be heard first in favor of the proposal, then in opposition to it;
  - d. The Town Administrator may respond to any statement made by the applicant or any public comment; and

- e. The applicant may respond to any testimony or evidence presented by the staff or public.

D. Record of Proceedings.

1. The body conducting the hearing shall record the proceedings by any appropriate means and such record shall be transcribed at the request of any person upon application to the secretary of the body conducting the hearing and payment of a fee set by the Town Council to cover the cost of transcription or duplication of the audio record or tape.
2. The transcript of all proceedings, including testimony and statements of personal opinions, the minutes of the secretary, all applications, exhibits and papers submitted and any proceeding before the body, all staff and advisory body or commission reports and recommendations, and the decision and report(s) of the body before which the hearing is heard shall constitute the record.
3. All records of the body shall be public records, open for inspection at reasonable times and upon reasonable notice in accordance with the Texas Public Information Act.

E. Continuance of Proceedings.

1. The body conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. No notice shall be required if a hearing is continued. An applicant shall have the right to request and be granted one (1) continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown.
2. If a public hearing is closed, no further public testimony shall be taken. The body conducting the hearing may re-open a closed public hearing only upon giving all notices which would have been required prior to convening the initial public hearing.

F. Additional Rules.

Additional rules governing the public hearing provided for by other provisions of the Sunnyvale Code of Ordinances applicable to the body conducting the hearing, including its adopted rules or procedures, may be applied as well, as long as the same are not in conflict with this section. The body conducting the hearing may adopt rules of procedure to limit the number of applications for development approval which may be considered per meeting and the time for each presentation.

## 21.7 POST DECISION PROCEEDINGS

A. Reapplication Following Denial.

Whenever any development application is denied for failure to meet the substantive requirements of this title, an application for development permit for all or a part of the same property shall not be considered for a period of one (1) year from the date of denial unless the subsequent application involves a proposal that is materially different from the previously denied proposal or unless four (4) members of the body charged with conducting the initial public hearing determines that the prior denial was based upon the material mistake of fact. The body charged with conducting the initial public hearing under such successive application shall resolve any questions concerning the similarity of the second application or other questions which may develop under this section.

B. Appeals to Town.

1. Any person, including any officer or agency of Sunnyvale, aggrieved by a final determination on a development permit by the Town Administrator or final decision-maker may appeal such final determination to the appellate body designated by this title, if any, in the manner provided in this section.
2. A written appeal must be filed with the Secretary of the body hearing the appeal within ten (10) working days after notification of the final decision. The appeal shall contain a written statement of the reasons why the final decision is erroneous, and shall be accompanied by the fee established by the Town Council.
3. The appellate body shall hear the appeal within twenty-five (25) working days after the filing of the statement of reasons. The hearing shall be conducted in accordance with the provisions of Section 21.6.
4. The appellate body must affirm, reverse or modify the decision from which appeal was taken within thirty (30) days after the date the hearing is closed. The appellate body may attach such conditions as are reasonably necessary, as provided in Section 21.4.

C. Judicial Appeals.

No action or proceeding shall be commenced for the purposes of seeking judicial relief or review from or with respect to any final decision made pursuant to this title, unless such action or proceeding is commenced within thirty days from the date of filing of notice of such final decision with the secretary of the final decision-maker or the Secretary of the Town Council.

D. Amendments and Revisions to Approval.

1. The Town Administrator may approve minor revisions to the terms of approval of an application for development. Minor revisions must be

authorized in writing by the Town Administrator and are subject to appeal to the Board of Adjustment pursuant to this section. Minor revisions that may be authorized are those that appear necessary in light of technical considerations brought to light by the applicant or the Town Administrator.

2. If the holder of an approved application for a development permit wishes to make a revision to the approval that the Town Administrator determines not to be a minor revision, approval of the original final decision-maker in accordance with the procedures established for the original approval of the subject development permit is required.

## 21.8 EXPIRATION OF DEVELOPMENT APPROVAL

### A. Time of Expiration.

Unless otherwise specifically provided for in this title, development permits shall automatically expire and become null or void, and all activities pursuant to such approval thereafter shall be deemed in violation of this title, if the applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the development or that was made pursuant to the terms of any development agreement within the time limits established therein for satisfaction of such condition or term, or if the applicant fails to present a subsequent development application required by this title within the time so required or as may be required by Texas Local Government Code. If no time limit for satisfaction of conditions is specified in the original or revised approval of the development, the time shall be presumed to be one year from the date such approval was filed with the secretary of the final decision-maker or the secretary of the Town Council.

### B. Extension Procedures.

Unless otherwise prohibited by Texas law or this title, the Town Administrator may extend the time for expiration of development permit for a period not to exceed one year upon a showing of good cause by the applicant, if application for extension is made in writing within the original period of validity. An extension beyond one year shall be granted only by the original final decision-maker, but not for a period to exceed an additional one year. A determination by the final decision-maker on whether to extend such development permit for a period exceeding one year shall be made in accordance with procedures set forth in this title for original approval of the particular development permit for which extension is requested. No extension may be granted by the Town Administrator or by the final decision-maker for a period exceeding any time limits established by Texas Local Government Code.

## 21.9 REVOCAION OF PERMIT

### A. Duties of Town Administrator.

If the Town Administrator determines, based on inspection by Town staff, that there are reasonable grounds for revocation of a development permit authorized by this title, the Manager shall set a hearing before the original decision-maker, or if the decision was made by the Town Administrator, to the body to which appeal may be taken under this title. If the Town Council was the original decision-maker, it may refer the proposed revocation to the Planning Commission for its report and recommendation prior to such hearing.

B. Notice and Public Hearing.

Notice shall be given in the same manner provided in Section 21.5. The public hearing shall be conducted in accordance with the procedures established in Section 21.6.

C. Decision and Notice.

Within ten working days from the conclusion of the hearing, the decision-maker shall render a decision, and shall notify the holder of the permit and any other person who has filed a written request for such notice in the manner provided in Section 21.5C.

D. Effect; Appeals.

A decision to revoke a development permit shall become final ten (10) days after the date notice of the decision was given, unless appealed. After such effective date, all activities pursuant to such permit thereafter shall be deemed in violation of this title. Appeal from the decision to revoke the permit shall be to the Town Council and shall conform to the procedures established in Section 21.7.

E. Right Cumulative.

The Town's right to revoke a development permit, as provided in this section, shall be cumulative to any other remedy allowed by law.

#### 21.10 PROCEDURES GENERALLY APPLICABLE

The general procedures in this Chapter shall apply to all forms of application for zoning and development permits established under this division, unless expressly modified or excepted by the provisions applicable to a specific form of zoning or development permit.