



CITY OF ESPAÑOLA

Planning & Land Use Department
409 N. Paseo de Oñate Española. NM 87532

Date Received: _____
Received By: _____

NOTICE OF APPEAL Decision of the Planning & Zoning Commission

Action Being Appealed/Case # :		Date of Action
Appellant/Appellant Representative:		
Name:	Phone #	
Address:	Email:	
Describe the standing of the Appellant or the nature of the relationship of the Appellant to the subject of the action taken by the Planning & Zoning Commission:		

Instructions: List additional Appellants on page 2 of this form. For each allegation indicated below, please attach a separate summary of the facts contained in the record which supports the allegation. Please restate the allegation at the top of each page of the summary.

The Planning and Zoning Commission committed one or more of the following errors (check all that apply)

- Failure to properly interpret and apply relevant provisions of the Española Municipal Code and/or the Zoning Ordinance. List relevant Code sections, subsections, and paragraphs (attach additional sheets as necessary): _____
- Failure to conduct a fair hearing in that:
 - The Commission exceeded its authority or jurisdiction as contained in the Code.
 - The Commission substantially ignored its established rules of procedure.
 - The Commission considered evidence relevant to its Final Decision which was substantially false or grossly misleading. Describe any new evidence that the Appellant intends to submit at the hearing in support of this allegation*: _____
 - The Commission improperly failed to receive all relevant evidence offered by the Appellant.
 - The Commission was biased against the Appellant by reason of a conflict of interest or ex-parte communications that interfered with independence of judgement. Describe any new evidence that the Appellant intends to submit at the hearing in support of this allegation*: _____

Appellant Signature: _____ Date: _____

*No new evidence will be received at the hearing in support of the allegation unless described herein or given in response to questions raised by City Council members at the Appeal Hearing.

ESPAÑOLA MUNICIPAL CODE RELEVANT TO APPEALS

Additional Appellants

Printed Name:	Signature:
Address:	Date:
Phone#:	Email:
Describe the standing of the Appellant or the nature of the relationship of the Appellant to the subject of the action taken by the Planning & Zoning Commission:	

Printed Name:	Signature:
Address:	Date:
Phone#:	Email:
Describe the standing of the Appellant or the nature of the relationship of the Appellant to the subject of the action taken by the Planning & Zoning Commission:	

Printed Name:	Signature:
Address:	Date:
Phone#:	Email:
Describe the standing of the Appellant or the nature of the relationship of the Appellant to the subject of the action taken by the Planning & Zoning Commission:	

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Chapter 350 ARTICLE X – Public Hearing and Decision Making Procedures

§1004. Appeals.

- A. Jurisdiction over administrative appeals.
 - (1) Appeal of any action taken by the Planning Director and authorized by § 201 of the Development Code is to the Planning Commission.
 - (2) Appeal of any interpretation of the City of Española Development Code by the Planning Director made in accordance with § 201 is to the Planning Commission.
 - (3) Appeal of any action taken by the Planning Commission is to the City Council.
 - (4) Appeal of a decision of the City Council is to the District Court as provided by law.
- B. Applications.
 - (1) Administrative appeals shall be filed at the City of Española Planning Department. Any decision which can be appealed under Article XI is final unless an appeal is initiated by application to the City of Española within 15 days of the announced decision. The City of Española may prescribe forms for appeal, in which event the appeal may be made on the prescribed form. The date of a determination is not included in the fifteen-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday, or holiday, the appeal must be filed no later than the next business day.
 - (2) Persons who have a personal or pecuniary interest or property right adversely affected by the decision, which right or interest is more than merely nominal or remote, may file an appeal of the decision. The following persons are deemed to meet this criteria:
 - (a) Persons who were parties at the hearing conducted by the decision-making authority, or the applicant for those matters decided by the Planning Director without a public hearing.
 - (b) Persons who own a property interest within 100 feet of the subject site or whose property will be adversely affected by the decision.
 - (c) An organized neighborhood association, if the subject site or a portion thereof is within the association's boundaries or within 300 feet of the subject site.
 - (3) Applications for an appeal that do not articulate the reasons for the appeal and specifically cite one or more alleged errors will not be accepted and will be returned to the appellant. Errors may include:
 - (a) Failure to consider adopted plans, policies, and ordinances in arriving at the decision.
 - (b) Factual error.
 - (c) Appeals that are arbitrary, capricious, or a manifest abuse of discretion.
 - (d) Procedure. Appeal procedures are as set out in this section and in Article XI.

Chapter 350 ARTICLE XI - Appeals

§ 1101. Purpose.

The purpose of this article is to establish a uniform and consistent procedure for appeals.

§ 1102. Time for filing, effect and notice.

- A. An appeal from a decision or determination of the decision-making authority may be taken by filing written notice of appeal with the Planning Department within 15 days after the date of action. The day following the date of action shall be the first day of the fifteen-day appeal period, and the period shall end at the close of business on the 15th day.
- B. The filing of an appeal shall suspend further action of the decision-making authority until such time as the appeal shall be heard and acted upon by the appellate body having jurisdiction as provided in this chapter. No permit, license or certificate of approval or use of land or structures involved in the application on appeal shall be issued until the appeal has been acted upon.
- C. For appeals to the Planning Commission, within 15 days following receipt of a complete notice of appeal on a form provided by the Planning Director, the Planning Director shall set a date for public hearing before the

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ESPAÑOLA MUNICIPAL CODE RELEVANT TO APPEALS

Planning Commission on the appeal. For appeals to the City Council, the Planning Director shall submit the notice of appeal to the City Manager, who shall advise the City Council of the notice of appeal. The City Council shall set a date for public hearing on the appeal.

- D. The appellate body shall hold a public hearing on the appeal. Notice of public hearing shall be given as provided in Article V of this chapter.
- E. The appellate body shall apply the review criteria applied by the decision-making authority that considered the application.

§ 1103. Procedure for appeals to City.

- A. By the affirmative vote of the majority of all its members, the appellate body may, without a full hearing, remand an appeal to the decision-making authority that heard the application for rehearing and decision if it finds that rehearing would be likely to serve public policy or resolve the appeal. If the appellate body remands the appeal without a full hearing, the appellate body shall make findings of fact on which that action is based.
- B. An appellant may withdraw the appeal at any time, provided that notice of the withdrawal is provided in writing to the Planning Director. The fee for filing an application of appeal is not refundable, in whole or in part.
- C. The general procedure for an appeal hearing is as follows:
 - (1) The appellate body shall hold a hearing on the entire record sent to it and reverse, affirm, or modify the decision appealed. The appellate body shall affirm the decision appealed unless it finds that the decision was not in accordance with adopted City of Española plans, policies, and ordinances, the facts on which the decision was based are not supported by the record, or the decision was arbitrary, capricious, or a manifest abuse of discretion.
 - (2) The appellate body shall not accept or consider evidence outside of the record sent to it for review.
 - (3) The appellate body may remand the matter for reconsideration. If the appellate body remands the appeal, it shall state specifically the matters to be reconsidered and the reasons for remand on which that action is based.
 - (4) Staff of the appellate body may communicate with the appellate body at any time and by any means. The foregoing shall not apply to members of the City of Española Planning Department staff if the City of Española staff brought the appeal.
 - (5) The appellate body shall take action on the appeal at the conclusion of the hearing, and shall state and adopt, or make provision for the adoption of, findings of fact supporting the decision. A decision to reverse or modify the decision appealed will be effective only on motion and affirmative vote of a majority of the members of the appellate body present, and in no event fewer than four votes. If no action is taken or approved at a hearing at which a quorum of the members of the appellate body is present, the decision shall be considered affirmed.
- D. If an appeal is filed by a member of the City Council, that member shall be excused from deliberations or voting on the appeal, if there is a determination by the remaining members of the City Council that the member has a conflict of interest or is an aggrieved party.

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