

CHAPTER 2.09. - BOARD OF SUPERVISORS—JUDICIAL AND QUASI-JUDICIAL HEARINGS

Sec. 2.09.010. - Purpose.

The purpose of this chapter is to provide rules for the conduct of judicial and quasi-judicial hearings before the Board of Supervisors of the County to the end that matters can be expeditiously processed and that when a hearing is required by law, the parties will have notice of the hearing and an opportunity to appear before the Board and present evidence.

(Prior Code, § 1301; Code 1997, § 2.09.010)

Sec. 2.09.020. - Reserved.

Sec. 2.09.030. - Applicability.

- A. Unless otherwise provided by law or by rules and regulations of limited application adopted by the Board of Supervisors, this chapter shall govern all judicial or quasi-judicial proceedings before the Board of Supervisors of the County, including appeals taken from decisions and rulings of the Planning Commission and excepting hearing before the Board sitting as a Board of Equalization.
- B. Where an appeal is taken from a decision or ruling of the Planning Commission, the Board may sustain or overrule the action of the Planning Commission, or may modify conditions attached thereto, or may substitute its own determination upon a hearing de novo. In granting an appeal, the Board shall make the finding that it is in conformity with the intent of this chapter and not detrimental to the public health, safety and welfare, or injurious to the neighborhood. The decision of the Board shall be final in all matters.

(Prior Code, § 1303; Code 1997, § 2.09.030)

Sec. 2.09.040. - Appeals.

Appeals shall be initiated by written application. The application shall be filed with the Clerk of the Board of Supervisors. The application shall set forth specific facts of the matter in sufficient detail to notify the parties of the nature of the proceedings, to place the parties upon notice as to how any proposed action may affect their interest so that they may formulate their defense or opposition without being subjected to surprise. The application shall contain the name and address of the applicant and to the extent known by the applicant, of all parties.

(Prior Code, § 1304; Code 1997, § 2.09.040)

Sec. 2.09.045. - Appeals initiated.

Unless otherwise stated in this Code, appeal proceedings shall be initiated by written application within ten working days of the aggrieved action. In all other respects, appeals shall be treated like all other judicial or quasi-judicial proceedings before the Board of Supervisors of the County and shall be governed by this chapter.

Sec. 2.09.050. - Notice.

After filing of a complete written application or appeal the Clerk of the Board shall notify the applicant or appellant and all parties listed in the application or appeal of the hearing date for the application or appeal. The hearing shall commence within 30 days of receipt of the completed application or appeal.

(Prior Code, § 1306; Code 1997, § 2.09.050)

Sec. 2.09.060. - Default.

When notice of hearing has been given in accordance with this chapter, a hearing may proceed in the absence of any party and the Board may decide the matter.

(Prior Code, § 1307; Code 1997, § 2.09.060)

Sec. 2.09.070. - Hearings.

- A. *Fairness.* All hearings shall be full and fair in a substantial sense, so that all necessary parties shall be afforded ample opportunity to make a showing fairly adequate to establish the propriety or impropriety, from a standpoint of justice and law, of the action proposed to be taken, giving the parties an opportunity to present in a deliberate, regular and orderly manner issues of law and fact.
- B. *Disqualification.*
 - 1. Unless a quorum is broken thereby, any member of the Board of Supervisors who has a personal interest or a bias in the matter shall disqualify himself or herself.
 - 2. Unless a quorum is broken thereby, upon a showing of personal interest or bias, the Board shall order disqualification of a member.
 - 3. Only members of the Board of Supervisors who have heard the whole matter may participate in the decision.
- C. *Record.*
 - 1. The Clerk of the Board of Supervisors shall cause all testimony to be summarized and shall receive all exhibits and mark them in evidence.
 - 2. Any party may provide and pay the compensation for a shorthand reporter. A transcript of testimony taken by a certified shorthand reporter so provided shall constitute the official record of testimony.
- D. *Continuances.* The Board of Supervisors may order the hearing continued from time to time without notice.

(Prior Code, § 1307; Code 1997, § 2.09.070)

Sec. 2.09.080. - Evidence.

- A. *Basic standard.* All relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in a civil action.
- B. *Hearsay evidence.* In a contested hearing, incompetent hearsay evidence may be used for the purpose of supplementing or explaining any other evidence, but shall not be sufficient in itself to support a finding.
- C. *Privilege.* The rules of privilege shall be effective to the same extent as they are now or hereafter may be recognized in civil action.
- D. *Burden of proof.* The burden of proof rests upon the party asserting the affirmative of an issue.
- E. *Inferences and presumption.* Rules regarding inferences and presumptions in civil actions shall obtain.
- F. *Rebuttal.* Each party shall have the right to rebut evidence against him or her.

(Prior Code, §1308; Code 1997, § 2.09.080)

Sec. 2.09.090. - Witnesses.

- A. *Oath.* The Chair of the Board may require that witnesses testify under oath.

- B. *Exclusion.* The Board may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the Board.

(Prior Code, § 1309; Code 1997, § 2.09.090)

Sec. 2.09.100. - Objection.

Unless timely objection is made to the Board, error is waived.

(Prior Code, § 1310; Code 1997, § 2.09.100)

Sec. 2.09.110. - Decision.

- A. *Basic standard.* The decision of the Board of Supervisors shall be rendered at the conclusion of the hearings, unless it is stipulated by the parties that the matter may be submitted for a later decision upon a certain date. The decision shall be in the form of a resolution.

- B. *Contents.* The decision shall set forth the following:

1. The action taken by the Board;
2. The findings of fact with sufficient particularity to make possible an intelligent review by the court and to apprise the parties of the basis for the action taken.

(Prior Code, § 1311; Code 1997, § 2.09.110)

Sec. 9.02.470. - Administrative and judicial review.

- (a) Within 30 calendar days from service of an administrative order or other decision by the Hearing Officer, any party may appeal the determination of the Hearing Officer to the Board in accordance with the provisions under Chapter 2.09 et seq. The Board shall thereafter set the matter for hearing at the next regular meeting of the Board. Except as otherwise provided by specific Code provisions, the Board shall apply the provisions of this chapter. The Board may consider any other non-cumulative and relevant evidence at the hearing.
- (b) Within 20 calendar days from service of an order or other decision of the Board, any party may appeal to the superior court.
- (c) Any party failing to timely file an appeal to the Board or the superior court shall be deemed to have waived any and all objections to the administrative Hearing Officers or the Board's decision. Any review of the matter conducted in court shall be de novo.

(Code 1997, § 9.02.470; Ord. No. 4677; Ord. No. 4706, 10-24-2006)