

sonal examination of said records or through purchase of photo copies, there is hereby established an annual business license fee as provided by section 9-94 of this Code.

(Code 1960, § 61203; Ord. No. 67-2, 3-20-67)

Cross reference—Licenses generally, Title 9.

Sec. 2-249. Reserved.

Editor's note—Ord. No. 93-8, § 3, adopted April 5, 1993, amended this Code by repealing § 2-249, pertaining to the requirement of a permit to engage in copying business, as derived from § 61204 of the 1960 Code and Ord. No. 67-2 adopted Mar. 20, 1967.

Sec. 2-250. Reserved.

Editor's note—Section 1 of Ord. No. 93-14, adopted Aug. 2, 1993, repealed § 2-250 in its entirety. Formerly, § 2-250 pertained to copying business permit conditions and derived from § 61205 of the 1960 Code and Ord. No. 67-2, adopted March 20, 1967.

Secs. 2-251—2-261. Reserved.

CHAPTER VIII. ADVISORY COMMITTEES*

ARTICLE 1. AIRPORT ADVISORY COMMITTEE

Sec. 2-262. Committee established.

To the extent required by law, the city council is designated as the airport advisory committee for the city.

(Code 1960, § 2500.10; Ord. No. 70-21, 6-1-70; Ord. No. 93-8, § 4, 4-5-93)

Secs. 2-263—2-269. Reserved.

Editor's note—Section 5 of Ord. No. 93-8, adopted April 5, 1993 repealed §§ 2-263—2-269, pertaining to the airport advisory committee, as derived from §§ 2500.11—2500.17 of the 1960 Code. Sections 2-263 through 2-268 were further amended by Ord. No. 70-21, adopted June 1, 1970.

Secs. 2-270—2-279. Reserved.

ARTICLE 2. RESERVED

Secs. 2-280—2-288. Reserved.

Editor's note—Ord. No. 77-1, § 1, adopted Jan. 17, 1977, specifically amended the Code by repealing Art. 2, §§ 2-280—2-288. Said sections, which pertained to the crime prevention committee, had been derived from Code 1960, §§ 2500.1—2500.9; Ord. No. 69-21, 9-15-69, and Ord. No. 72-14, § 2, adopted June 5, 1972.

Secs. 2-289—2-299. Reserved.

*Cross reference—Manager ex officio member of boards and commissions, § 2-126.

CHAPTER IX. APPEAL, REHEARING AND REVIEW PROCEDURE†

Sec. 2-300. Purpose.

The purpose of this chapter is to provide an orderly and fair method of appeal, rehearing and review of decisions of the staff, committees, commissions and council of the city.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-301. Definitions.

As used in this chapter, the following terms shall have the meanings set forth herein below:

- (1) *Affected person* means any person, including the applicant, any city staff member, committee, or commission who has an interest in the matter at issue or whose health, safety, or welfare may be affected by the decision.
- (2) *Appeal* means reconsideration, by a higher authority, of the specific facts and circumstances of any final decision made by the city, any of its employees, committees or commissions or by the redevelopment agency.
- (3) *Applicant* means the person who applied for or requested the decision or action which is the subject of the appeal, rehearing or review.
- (4) *Council* means the Costa Mesa City Council.
- (5) *Decision* means any final decision, finding, ruling, order or action.
- (6) *Permit*, as used in section 2-306, means anything referred to elsewhere in this Code as being a "permit" or "license."
- (7) *Person* shall have the meaning attributed in section 1-21 of this Code.
- (8) *Rehearing* means reconsideration of a decision by the person or body having made the decision.
- (9) *Review* means reconsideration of the decision of any city employee, committee, or commission requested by the city council, on its own motion, or upon request of any council member, in order to consider the decision and any broad legislative and policy factors involved.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

†**Editor's note**—Ord. No. 80-19, § 2, adopted Oct. 23, 1980, repealed former §§ 2-300—2-308 and 2-310 which pertained to review, rehearing and appeals procedure and was derived from Ord. No. 73-8, §§ 1—9, adopted April 16, 1973, and Ord. No. 77-8, § 2, adopted March 21, 1977. Section 3 of Ord. No. 89-19, enacted §§ 2-300—2-314 to read as herein set out.

Sec. 2-302. City council review.

Within the time limits set forth in section 2-305, the city council or any council member may request that a decision of any city employee, committee, or commission be reviewed by filing an application with the city clerk stating the reasons for the request. Said review will be conducted according to the procedures specified in section 2-303. The person or body to hear the review will be designated in the application by the applicant. If more than one applicant files an application and different bodies are designated, the review will be heard by whichever designated person or body is the lowest level of the hearing order set forth in section 2-309.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-303. Procedure for appeal.

(1) Any affected person may, within the time limits set forth in section 2-305, file an application for appeal with the city clerk. Said application shall contain sufficient information to identify the party, its interest in the matter, and the reasons for requesting an appeal.

(2) If the appeal is to be heard by a person or body which conducts regularly scheduled meetings, the appeal shall be considered at the first regular meeting which follows receipt of the application by ten (10) or more days, and which allows sufficient time for the giving of notice as required by section 2-308.

(3) If the appeal is to be heard by an individual or body which does not conduct regularly scheduled meetings, the appeal shall be considered not more than ten (10) days following receipt of the application; provided that the time period may be extended if necessary to allow the giving of notice as required by section 2-308.

(4) An appeal hearing shall consist of a new (i.e. de novo) hearing on the matter by the person or body specified in section 2-309. The appeal hearing shall be based on the following evidence:

- (a) Any relevant evidence, including staff reports, etc., submitted at the time of the prior decision and at the appeal hearing, and
- (b) Findings, if any, and decision of the person or body whose decision is being appealed.

(5) Notwithstanding the provisions of this chapter, there shall be no right of appeal to the city council from a decision by a public officer designated by City Council Policy No. 100-7 on an application for a waiver of fees for use of a city owned public facility or show wagon. A decision pursuant to City Council Policy No. 100-7 shall be subject to California Code of Civil Procedure section 1094.6.

(6) If the original decision being appealed involved issuance of any permit, license, or other entitlement or approval or requested some action by the city, the applicant for the original decision shall have the burden of proof to support the granting of the requested issuance, approval, or action at the appeal.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 87-29, § 2, 12-7-87; Ord. No. 97-25, § 2, 8-4-97; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-304. Procedure for rehearing.

(1) Any affected person, or the city council or any council member, may within the time limits set forth in section 2-305 file an application for rehearing with the city clerk. The application shall contain sufficient information to identify the party, its interest in the matter, and the reasons for requesting a rehearing.

(2) The application shall be considered at the first regular meeting which follows filing of the application, or shall be considered within ten (10) days if the person or body to whom the application is made does not hold regular meetings.

(3) To justify a rehearing the applicant must show in the application that there is new, relevant evidence which, in the exercise of reasonable diligence, could not have been produced, or which was improperly excluded, at the earlier hearing, or that the person or body failed to comply with the law, which contention was not asserted at the earlier hearing. The person or body may in its discretion decide whether to hear additional evidence than what is contained in the application. The decision whether to grant the rehearing is final and may not be appealed or reheard.

(4) If the person or body concludes the applicant has met the burden of justifying the rehearing, the rehearing will be scheduled for the next regular meeting which allows sufficient time for the giving of notice as required by section 2-308. (Ord. No. 80-19, § 3, 10-23-80; Ord. No. 87-29, § 2, 12-7-87; Ord. No. 99-11, § 1, 7-19-99; Ord. No. 00-8, § 1, 6-5-00)

Sec. 2-305. Time limitations for appeals, rehearings, and reviews.

All applications for appeals, rehearings, and reviews must be filed within the time limits hereinafter set forth:

- (1) For all matters relating to the approval, disapproval or extension of tentative and parcel maps, within ten (10) days from the date of the final decision subject to appeal, rehearing, or review.
- (2) For all other items, within seven (7) days from the date of the final decision subject to appeal, rehearing, or review.
- (3) For all matters requiring approval by the city, its employees, committees, commis

sions or council and by the redevelopment agency, the time limits for all applications shall begin on the date of the later of the following:

- (a) Final decision by the city, its employees, committees, commissions or council; or
- (b) Final decision by the redevelopment agency.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-306. Time limitation for issuance of permits.

Where a permit is sought and its issuance is contingent upon obtaining a prerequisite permit, the permit sought shall not be issued until the expiration of the time limit for seeking an appeal, rehearing, or review specified in section 2-305 applied to the prerequisite permit. Provided, however, that if an application for appeal, rehearing, or review of the prerequisite permit is filed within the specified time limits, the permit sought shall not be issued until seven (7) days following the final decision on the appeal, rehearing, or review. Any permit issued in violation of the provisions of this section shall be void.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-307. Fees.

Each application for appeal or rehearing shall be accompanied by a processing fee in an amount determined by resolution of the city council.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-308. Notice of appeal, rehearing or review.

Notice of the hearing for the appeal, rehearing, or review shall be given in the same manner as any required notice for the hearing at which the decision subject to the appeal, rehearing, or review was made. In all cases for the hearing for an appeal, rehearing, or review, written notice of the date, time, and place shall be given to the original applicant, if any, any prior applicant for appeal or rehearing regarding the same matter, and for appeals and rehearsings the person requesting the current appeal or rehearing.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-309. Person or body to hear an appeal.

The person or body to hear an appeal shall be the following:

- (1) From a decision of the city staff to the department head; except that an appeal from a decision of the transportation ser-

vices engineer regarding traffic matters pursuant to Title 10 of this Code, shall be made to the planning commission;

- (2) From a decision of the department head to the city manager; except that: (a) an appeal from a decision of the development services director on planning matters pursuant to Title 13 of this Code shall be made to the planning commission, and (b) an appeal from a decision of the building official on building matters pursuant to Title 5 of this Code shall be to the building, fire and housing board of appeals or access appeals board as required by section 5-3 of this Code;
- (3) From a decision of the city manager to the city council;
- (4) From a decision of any city committee or commission to city council.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 98-24, § 1, 10-5-98; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-310. Exhaustion of administrative remedies.

Unless appealed, reheard, or reviewed as provided herein, any decision becomes final for all purposes when made. To constitute the exhaustion of administrative remedies and as a condition precedent to filing any court action thereon, there must be filed and considered an application for rehearing of the council action. If an application for rehearing a council decision is filed, the council's decision becomes final when either (1) the application is denied, or (2) a decision is made at the rehearing.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 87-29, § 2, 12-7-87; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-311. Exclusive procedures.

The procedures set forth in this Chapter are the exclusive methods by which appeals, rehearsings and council reviews may be pursued and none of the steps set forth herein may be waived or omitted.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-312. Accrual of certain claims.

No claim for violation of constitutional rights for deprivation of economic use of property shall arise until and unless a claimant has secured a final decision on a permit application for a plan of development and on a request for a variance or similar relief from the zone or other development standard for a plan of development as specified in Title 13 of this Code.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 93-8, § 6, 4-5-93; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-313. Limitations on judicial review.

Notwithstanding any provision in this Code to the contrary, no court action or proceeding to attack, review, set aside, void or annul any decision or procedure of the City of Costa Mesa, its council, commissions, boards or officers, which has become administratively final shall be maintained by any aggrieved person unless duly commenced in a court of competent jurisdiction within ninety (90) days, as provided in California Code of Civil Procedure, Section 1094.6, incorporated herein by reference.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Sec. 2-314. Severability.

If any provision of this Chapter is found to be invalid or unconstitutional by interpretation or application to any person or circumstances, such invalidity or unconstitutionality shall not affect the other provisions or applications thereof which can be given valid effect.

(Ord. No. 80-19, § 3, 10-23-80; Ord. No. 99-11, § 1, 7-19-99)

Secs. 2-315—2-400. Reserved.**CHAPTER X. CONFLICT OF INTEREST CODE*****Sec. 2-401. Purpose and incorporation of state regulations.**

The Political Reform Act (Government Code section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix A designat-

***Editor's note**—Ord. No. 98-22, § 1, adopted Sept. 21, 1998, amended Ch. X in its entirety to read as herein set out. Former Ch. X, §§ 2-401—2-408, pertained to similar subject matter and derived from Ord. No. 77-46, § 2, adopted Sept. 6, 1977. Subsequently, Ord. No. 00-18, § 1, adopted Nov. 20, 2000, amended Ch. X in its entirety to read as herein set out. Former Ch. X, §§ 2-401—2-404, pertained to similar subject matter and derived from the aforementioned Ord. No. 98-22.

Cross reference—Disqualification of council members, etc., for conflict of interest, § 2-68.

ing officials and employees and establishing disclosure categories shall constitute the conflict of interest code of the City of Costa Mesa.

(Ord. No. 98-22, § 1, 9-21-98; Ord. No. 00-18, § 1, 11-20-00)

Editor's note—Appendix A of Ord. No. 98-22, adopted Sept. 21, 1998, referred to in § 2-401 above, has not been included within this Code but may be found on file and is available for public inspection in the office of the city clerk.

Sec. 2-402. Designated positions and disclosure statements.

(a) The positions listed on Appendix A are designated positions. Officers and employees holding those positions are designated employees and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest.

(b) As set forth in Appendix A, designated employees shall file their disclosure statements with the city clerk's office of the city which will make the statements available for public inspection and reproduction as required by Government Code Section 81008, and any amendments thereto. Statements for all designated employees will be retained by the city clerk's office of the city.

(c) All designated employees required to submit a statement of financial interests shall file the original with the city council of the City of Costa Mesa, or its duly authorized agent.

(Ord. No. 98-22, § 1, 9-21-98; Ord. No. 00-18, § 1, 11-20-00; Ord. No. 02-20, § 1, 12-2-02)

Editor's note—Appendix A of Ord. No. 98-22, adopted Sept. 21, 1998, referred to in § 2-402 above, has not been included within this Code but may be found on file and is available for public inspection in the office of the city clerk.

Sec. 2-403. Manner of disqualification.

Designated employees must disqualify themselves from making or participating in the making of any decisions which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any reportable interest in that employee (except sources of gifts less than two hundred fifty dollars (\$250.00)). No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made.

(Ord. No. 98-22, § 1, 9-21-98; Ord. No. 00-18, § 1, 11-20-00)

Sec. 2-404. Definition of terms.

Except as otherwise provided, the definitions contained in the Political Reform Act of 1974 (Government Code Section 8100 et seq.), the regulations of the Fair Political Practices Commis-