

Chapter 17.148 – PUBLIC NOTICE AND HEARINGS

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17.148.010 Purpose

This chapter establishes procedures for public notices and hearings required by the Zoning Code.

17.148.020 Notice of Hearing

When the Zoning Code requires a noticed public hearing, the City shall provide notice of the hearing as required by this section ~~and any applicable sections of by the California Government Code.~~

- A. Content of Notice.** Notice of a public hearing shall include all of the following information, as applicable.
1. **Hearing Information.** The date, time, and place of the hearing; the name of the hearing body; and the phone number, email address, and street address of the Community Development Department where an interested person could call or visit to obtain additional information.
 2. **Project Information.** The name of the applicant, the City's file number assigned to the application, a general explanation of the matter to be considered, a general description of the location of the subject property, and any recommendation from a prior hearing body.
 3. **Statement on Environmental Document.** A statement that the proposed project is determined to be exempt from the California Environmental Quality Act (CEQA), or that a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report has been prepared for the project. The hearing notice shall state that the hearing body will consider approval of the CEQA determination or document prepared for the proposed project.
 4. **Zoning Map Amendments (Rezoning).** Public notices posted onsite for proposed Zoning Map Amendments (rezoning) shall consist of the words "Notice of Proposed Change of Zone" printed in plain type with letters not less than 1½ inches in height.

B. Method of Notice Distribution. Notice of a public hearing required by the Zoning Code shall be given at least ~~10~~^{ten} calendar ~~10~~ days before the hearing date in compliance with Sections 1 through 5 below and as summarized in Table 17.148-1.

TABLE 17.148-1: METHOD OF NOTICE DISTRIBUTION

Type of Permit <u>or Approval</u> Hearing	Mailed notice required at least 10 days prior	Printed notice posted at site	Notice published in newspaper of record at least 10 days prior
Conceptual Review Design Permit & Appeal Major Revocable Encroachment Permit & Appeal Minor Modifications <u>& Appeal</u> Minor Design Permit Appeal Minor Use Permit Appeal <u>Removal of Structure from Designated Historic Structure List</u> Sign Permit <u>& Appeal</u> Historic <u>Alteration Resource Permit</u> Historic Resource Demolition Permit Tenant Use Permit Appeal	Yes 300-foot radius for adjacent property owners	Yes	No
<u>Development Agreement</u> <u>General Plan Amendment</u> Change in Zoning Designation/Zoning Map Code Amendment <u>& Appeal</u> Variance & Appeal Conditional Use Permit & Appeal Master Use Permit, Amendment, <u>& Appeal</u> Condominium Conversion & Appeal Subdivision & Appeal Preliminary Development Plans <u>(PD Zones)</u>	Yes 300-foot radius for adjacent property owners	Yes	Yes
Coastal Development Permit & Appeal	Yes 100-foot radius for adjacent property owners	Yes	Yes

Notice of Administrative Review for Minor Design Permit and Minor Use Permit	Yes 100-foot radius	Yes	No

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1. **Newspaper Publication.** ~~Where required by Table 17.148-1, For Zoning Code Amendments, Zoning Changes, Variances, Conditional Use Permits, Coastal Development Permits, Master Use Permits, Subdivisions, Condominium Conversions and appeals thereof,~~ notice ~~of public hearing~~ shall be published in at least one newspaper of general circulation at least ~~10~~ten calendar days before the hearing.
2. **Mailing.** Where required by Table 17.148-1, notice shall be mailed at least ten calendar days before the scheduled hearing to the following recipients:
 - a. **Project Site Owners and the Applicant.** The owners of the subject property or the owner’s authorized agent, and the applicant.
 - b. **Adjacent Property Owners.** ~~For all hearings before the Planning Commission and appeals thereof with the exception of solely Coastal Development Permits,~~ The owners of the real property located within a radius of 300 feet from the exterior boundaries of the subject property.
 - b.c. **California Coastal Commission.** For applications including a Coastal Development Permit, a notice shall be mailed to the California Coastal Commission Central Coast office.
 - e.d. **Local Agencies.** Each local agency expected to provide roads, schools, sewerage, streets, water, or other essential facilities or services to the subject property, whose ability to provide those facilities and services may be significantly affected.
 - e. **Persons Requesting Notice.** Any person who has filed a written request for notice with the Community Development Department.
 - e.f. **Blind, Aged, and Disabled Communities.** Whenever a hearing is held regarding a permit for a drive-through facility, or modification of an existing drive-through facility permit, notice procedures shall incorporate the blind, aged, and disabled communities in order to facilitate their participation.
 - e.g. **Other Persons.** Any other person, whose property, in the judgment of the Community Development Department, might be affected by the proposed project.
3. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with Subsection 2 above is more than 1,000, the Community Development Department may choose to provide notice by placing a display

advertisement of at least one-eighth page in one or more local newspapers of general circulation at least ten days prior to the hearing.

~~4. **Publication and Posting.** A printed notice shall be posted at the project site at least ten calendar days prior to the hearing. If notice is mailed or delivered as described in Subsection 2, above, the notice shall also either be:~~

~~5. Published at least once in a newspaper of general circulation in Capitola at least ten days before the scheduled hearing; or~~

~~6.4. Posted at least ten days before the scheduled hearing in at least three public places within Capitola, including one public place in the area affected by the proceeding.~~

~~7.5. **Additional Notice.** In addition to the types of notice required above, the Community Development Department may provide additional notice as determined necessary or desirable.~~

~~8.6. **Failure to Receive Notice.** The validity of the hearing shall not be affected by the failure of any resident, property owner, or community member to receive a mailed notice.~~

17.148.030 Notice of Pending Action for Minor Use Permits and Administrative Design Permits

- A.** For Minor Use Permit, and Administrative Design Review applications, public notice of a pending action shall be mailed to the owners of the real property located within a radius of ~~3100~~ 100 feet from the exterior boundaries of the subject property at least ten calendar days prior to the City taking action on the application.
- B.** In addition to information required by Section 17.148.020.A, the notice of a pending action shall state that the City is considering the application and that the Community Development Director will hold a public hearing for the application only upon receiving by a specified date written request for a hearing.
- C.** If the City receives a request for a public hearing by the specified date, the Community Development Director shall hold a noticed public hearing on the application consistent with this chapter. Public notice of the requested public hearing will be mailed to the owners of real property located within a radius of 100 feet from the exterior boundaries of the subject property.
- D.** If no request for a public hearing is received by the specified date, the Community Development Director shall act on the application without a public hearing.

17.148.040 Notice for Administrative Permits and Section 6409(a) Permits

- A.** For Administrative Permits, Section 6409(a) Permits and other ministerial permits requiring public notice, a notice of a pending action shall be posted on the subject property at least 10 days prior to the City taking action on the application.

B. The notice of a pending action shall contain the following:

1. A description of the proposed project, including the location of the subject property.
2. Required permits and approvals.
3. How the public can obtain additional information on the proposed project.
4. Date after which the Community Director will take action on the application.
- 4.5. A statement explaining that the proposed project is allowed by-right with a ministerial permit and will be approved by the Community Development Director if the project complies with all applicable standards and regulations.

17.148.04017.148.050 Scheduling of Hearing

After the completion of any environmental document required by the California Environmental Quality Act (CEQA), and a Community Development Department staff report, a matter requiring a public hearing shall be scheduled on the next available agenda reserved for public hearings, but no sooner than any minimum time period established by State law.

17.148.05017.148.060 Hearing Procedure

- A. General.** Hearings shall be conducted in a manner consistent with the procedures adopted or endorsed by the hearing body and consistent with the open meeting requirements of the Ralph M. Brown Act.
- B. Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given, unless the required quorum of hearing body members is not present.
- C. Continued Hearing.** Any hearing may be continued ~~from time to time~~ without further public notice, provided that the chair of the hearing body announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- D. Motion of Intent.** The hearing body may announce a tentative decision, and defer action on a final decision until appropriate findings and conditions of approval have been prepared.

17.148.06017.148.070 Recommendations

After a public hearing resulting in a recommendation to another hearing body, the recommendation shall be forwarded to the other hearing body. A copy of the staff report to other ~~other~~ hearing body with the recommendation shall be provided to applicant.

17.148.07017.148.080 Decision and Notice

A. Date of Action. ~~With the exception of appeals to the City Council, t~~The hearing body shall take action on the matter being considered following the close of the public hearing. The hearing body shall also take action on projects within the following timeframe as required by the California Environment Quality Act (CEQA):

1. Within 60 days of the date a Negative Declaration or Mitigated Negative Declaration has been adopted for project approval, the City shall take action on the accompanying discretionary project.
2. Within 180 days from the date the decision-making authority certifies a final Environmental Impact Report (EIR), the City shall take action on the accompanying discretionary project.

B. Decision.

1. The hearing body may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or make a motion of intent and continue the matter to a later meeting agenda.
2. At the conclusion of a hearing conducted by the Community Development Director, the Community Development Director may choose to refer the matter to the Planning Commission for review and final decision. Referral to the Planning Commission may be chosen in cases of unusual public sensitivity, controversy, or complexity relating to the requested approval.

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C. Notice of Decision.

1. ~~If the review authority denies a permit, notice shall be mailed to the applicant and property owner the next day and shall include include procedures for appeal, if applicable.~~
2. Following a final decision ~~granting a permit and conclusion of the appeal period as described in Ssection 17. 152,~~ the Community Development Department shall provide notice of the final action to the applicant and to any person who specifically requested notice of the final action.
 - a. Notice of an approved final action shall contain applicable findings, conditions of approval, reporting and monitoring requirements, and ~~the procedure for appeal of the decision.~~ the expiration date of the permit.
 - a.b. Notice of final actions that include a Coastal Development Permit that may be appealed to the California Coastal Commission will include notice that they are subject to an additional 10ten working day appeal period.