

# BINGEN MUNICIPAL CODE

## Chapter 16.20

### APPEALS

#### Sections:

- 16.20.010 Decision.
- 16.20.020 Appeal Authority.
- 16.20.030 Petition for Review – Boundary Line Adjustments.
- 16.20.040 Minutes and Transcripts.
- 16.20.050 Nature of Hearing.
- 16.20.060 Decisions of the City Council.

#### **16.20.010 Decision.**

- A. A decision of the City Administrator may be appealed by filing a complete petition for review with the City Clerk within fourteen (14) days of the decision of the City Administrator.
- B. A decision of the City Council, other than on petition for review or reconsideration, may be appealed with the City Clerk within fourteen (14) days of the decision of the City Council.
- C. A decision of the City Council on a petition for review or reconsideration may be appealed pursuant to RCW Chapter 36.70C as now or hereafter amended. (Ord. 507 §2, 2004).

#### **16.20.020 Petition for Review and Petition for Reconsideration.**

A petition for review or a petition for reconsideration shall not be complete unless it contains the following and is accompanied by the applicable fee.

- A. The name of the applicant and the City case file number.
- B. The name and signature of each petitioner and statement of the interest of each petitioner to determine party status. Multiple parties may join in filing a single petition for review, but each petitioner shall designate a single contact representative for all contact with the City. All City communications regarding the petition, including correspondence, shall be with this contact representative.
- C. The date that notice of the decision was sent as specified in the notice.
- D. The nature of the decision and the specific grounds for review or reconsideration.

- E. Failure to file, by 5:00 p.m. on the due date and with the applicable fee, a signed and complete original petition for review or a petition for reconsideration shall constitute a jurisdictional defect. (Ord. 507 §2, 2004).

**16.20.030 Minutes and Transcripts.**

- A. The City shall prepare minutes and keep a record of all land division action hearings and hearings on petitions for review and reconsideration.
- B. Transcripts
  - 1. The appellant has a right to a transcript, prepared by the City, if the appellant pays for the estimated cost of transcription and printing. The City shall procure the cost estimate in a timely manner.
  - 2. The appellant shall deposit the estimated cost of the transcription and printing. If the actual cost is more than the estimated cost, the appellant shall pay the difference in addition to the deposit before receiving the transcript. If the actual cost is less than the estimated cost, the City shall pay the difference to the City upon delivery of the transcript to the appellant.
  - 3. In the event the appellant fails to pay the actual cost of the transcript, the City Council may rely upon the minutes only for purposes of its consideration of the petition for review or petition for reconsideration. (Ord. 507 §2, 2004).

**16.20.040 Nature of Hearing.**

- A. At the hearing on petition for review or petition for reconsideration, participants shall be limited to the applicant, those who made the appeal, those persons who were entitled to be mailed a public notice of the pending review or reconsideration pursuant to Section 16.12.050 and those who made written comments as prescribed in Chapter 16.12.
- B. Except as provided in Sections 16.20.040 C. and D., petitions for review and petitions for reconsideration shall be confined to the record.
- C. At the hearing on petition for review or petition for reconsideration, the City Council may take such testimony as it deems necessary to fully and fairly address the significant procedural or substantive issues raised in the petition. The City Council shall only allow testimony or evidence beyond that in the record below only when in its discretion:
  - 1. Such evidence or testimony is necessary to fully and properly evaluate a significant issue relevant to the issues specified in the petition;
  - 2. The substantial rights of the issues will not be significantly and unfairly prejudiced thereby, and;

3. Consideration of such evidence or testimony is not necessitated by improper or unreasonable conduct of the party requesting such evidence or testimony or by a failure to present such evidence or testimony that was available at the time of the original decision.
- D. Hearings on a petition for review or petition for reconsideration, either on the record only or with additional testimony or evidence, may have time limitations for parties to testify or present argument. Said time limitations may be announced at the beginning of the hearing. (Ord. 507 §2, 2004).

**16.20.050 Decision of the City Council upon Petitions for Review or Petitions for Reconsideration.**

- A. Decisions of the City Council are governed by Section 16.12.070.
- B. In addition to the decisions listed in Section 16.12.070 A., the city Council, may in its sole discretion, remand the matter to the City Administrator for further proceedings as the City Council directs. The decision as to whether to so remand shall not be subject to appeal. Upon such remand, the applicant shall be entitled to a refund of the fee attendant to filing the petition for review or petition for reconsideration. Appeal from a decision on remand shall be taken as any other appeal. (Ord. 507 §2, 2004).