



LAND DEVELOPMENT CODE REFERENCE

APPEALS (SECTION 14-3.17 SFCC)

A. Appealable Actions

1. Final Action

- a. Only final actions may be appealed
- b. Final actions of a land use board include a decision made after a public hearing, including the final approval or denial of a preliminary plat or development plan.
- c. Final actions of the land use director include the written issuance or denial of a permit, approval or denial of an application for a final plat for resubdivisions or summary subdivisions or other approval or denial within the land use director's jurisdiction.
- d. Final action does not include:
 - i. a recommendation;
 - ii. a delay in rendering a decision;
 - iii. a decision to postpone or remand;
 - iv. a decision not to take enforcement action;
 - v. an informational response to an inquiry;
 - vi. any action for which an appeal is specifically prohibited;
 - vii. any action regarding procedural matters or requirements, provision of notice, the admissibility, relevance or weight of evidence or conduct of a public hearing; however, these actions may be raised by parties as part of an otherwise valid appeal.
- e. Basis for Appeal: An appeal may only be filed for the following reasons:
 - i. to contest noncompliance of a final action with Chapter 14 or Sections 3-21 through 3-21-14 NMSA 1978
 - ii. to contest the application of Chapter 14; or
 - iii. to appeal a decision lacking substantial evidence to support it.

B. Standing Required to Appeal, appeals of final actions may be filed by the following persons:

1. the applicant when the application is denied or, if approved, the approval included conditions not accepted by the applicant;
2. all persons or neighborhood associations that were required to be mailed notice for the application giving rise to the final action being appealed;
3. persons or organizations duly organized at the time the decision appealed from was rendered alleging injury to their economic, environmental, or aesthetic interests;
4. City staff members acting in their official capacity; and
5. Any person who has recognized legal interest under New Mexico Law.

C. Time for Appeal

1. Time for Appeal, Appellants shall file an appeal as follows:
 - a. within thirty days for appeals of final actions by land use boards on subdivision plats, master plans, and development plans; or
 - b. within thirty days for appeals of approval or denial by the land use director of an application for a final plat for resubdivision; or
 - c. within fifteen (15) days of the date of final action for all other appeals.
2. Amended Appeals: an appelliant may amend an appeal until the time for appeal has expired.
3. Response: any party may file a response to the appeal as set forth in Subsection 14-3.17(H)(2).
4. Date of Final Action: the date of the final action shall be deemed to be the date of the final written decision and determined as follows:
 - a. For final actions of the land use director, the date of issuance of any written order (including a decision, letter, permit or other document, and including recordation of a final plat for resubdivision or summary subdivision) granting or denying relief or in the case of building permits , the date of the posting of the permit ; or
 - b. For final actions of a land use board or the governing body , the date that body adopts a written decision containing findings of fact and conclusions of law; provided that if such body has not adopted findings of fact and conclusions of law within thirty-five days of the date the vote deciding the matter was taken, then the date of final action shall be deemed to be such thirty-fifth (35th) day.



LAND DEVELOPMENT CODE REFERENCE

APPEALS (SECTION 14-3.17(D) SFCC) CONTINUED

Process to File an Appeal

1. Filing Appeal; Form; Verification

The appellant shall file two copies of the written appeal with the land use director. The appeal shall be filed on a form provided for that purpose and shall be verified, signed by the appellant under oath and notarized.

2. Receipt; Service of Appeal

The land use director shall initial and enter the date and time of filing on both copies of the appeal and return one copy to the appellant. Within three days of the filing date, the appellant shall hand deliver a copy of the appeal to any appellee or deliver it by first-class certified mail.

3. Appeal Fee

- a. An appeal fee shall be paid at the time of filing an appeal.
- b. The governing body has established a fee schedule for appeals as set forth in Table 14-13.1-1 SFCC 1987. The land use director may waive or reduce the appeal fee if the land use director determines that the appellant would qualify for the city's utility fee poverty exemption set forth in Section 15-1.3 SFCC 1987 (Utility Billing - Poverty Exemption).

4. Multiple Appeals and Multiple Jurisdictions

- a. An appellant may not appeal any single final action more than once.
- b. Every appeal requires an independent basis. Final actions may not be appealed solely on the basis of alleged mistakes in prior stages of the same project, whether or not the prior final actions were appealed.
- c. More than one appellant may file an appeal of a final action, and appellants may combine their appeals and share the appeal fee proportionally. All appeals of any single final action shall be consolidated for hearing purposes.
- d. Any review by the governing body of a planning commission decision under Section 14-2.2(A)(3) shall be combined with the hearing on an appeal of that decision.
- e. In the case of an appeal that includes final actions that fall under the jurisdiction of more than one land use board, the land use director shall determine the appropriate land use board to hear any particular issue on appeal, except as otherwise provided in this section.

5. **Withdrawal:** An appellant may withdraw the appeal at any time. A withdrawal does not affect any related appeal. At any time after an appeal has been filed, an appellant and appellee may agree to settle any matters raised in the appeal and the appellant may withdraw the appeal; provided that such settlement complies with applicable code requirements, including any conditions of approval of the final action being appealed.

6. Conformity of Appeal

The land use director shall promptly review all appeals for conformity with the requirements of Section 14-3.17. Upon determining that an appeal does not conform to the requirements, the land use director shall refer the matter to the city attorney for review.

- a. If the city attorney concurs with the land use director's determination, the city attorney's written recommendation shall be forwarded to the governing body for discussion. The governing body may accept the city attorney's written recommendation and the decision is final and may be appealed to district court. If the governing body does not accept the city attorney's recommendation, the appeal shall be heard as set forth in Chapter 14.
- b. If the city attorney does not concur with the land use director's determination, the appeal shall be heard as set forth Chapter 14.(7)

7. **District Court Appeals:** An appeal of a final action of the governing body or a land use board, or of an action of the city manager, the city attorney or the land use director that is only subject to appeal to district court, shall be to the first judicial district court pursuant to Section 39-3.1.1 NMSA 1978, Rule 1-074, NMRA or Rule 1-075, NMRA, as amended, or other relevant statute or court rule.



APPELLANT INFORMATION

Name
Address: Street Address Suite/Unit #
City State ZIP Code
Phone Email Address
Additional Appellant Names
Correspondence Directed to Owner Applicant Both

APPLICANT/AGENT INFORMATION (IF DIFFERENT FROM OWNER)

Company Name:
Name (First, Last):
Address: Street Address Suite/Unit #
City State ZIP Code
Phone: E-mail Address:

AGENT AUTHORIZATION (IF APPLICABLE)

I am/We are the owner(s) and record title holder(s) of the property located at:
I/we authorize to act as my/our agent to execute this application.
Signed: Date:
Signed: Date:

SUBJECT OF APPEAL

Project Name:
Applicant or Owner Name:
Location of Subject Site:
Case Number: Permit Number (if applicable) :
Final Action Appealed: Issuance of Building Permit Other Final Determination of LUD Director
Final Action of Board or Commission: Planning Commission BCD-DRC
Board of Adjustment Historic District Review Board

Two originals of this form must be filed. The Land Use Department Director or their designee will enter the date and time of receipt and initial both original copies. See Section 14-3.17(D) SFCC 2001 for the procedure.

LAND USE STAFF ONLY

Time Filed: Fee Paid: \$ (Receipt Attached)
Date Filed: Staff Signature:



BASIS OF STANDING (SECTION 14-3.17 SFCC)

Basis for Appeal: The facts were incorrectly determined Ordinance/laws were violated and/or misrepresented

Description of the final action appealed from, and date on which final action was taken:

Check here if you have attached a copy of the final action that is being appealed.

A. DESCRIPTION OF HARM Describe the harm that would result to you from the action appealed (attach additional pages if necessary):

B. EXPLAIN THE BASIS FOR APPEAL Please detail the basis for Appeal here (be specific):

SIGNATURE & VERIFICATION

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection or postponement of my application. I also certify that I have met with the City's Current Planning staff to verify that the attached proposal is in compliance with the City's zoning requirements.

Appellant Signature: Date:

Agent Signature: Date:

I/We _____, being first duly sworn, depose, and say: I/We have read the foregoing appeal petition and know the contents thereof and that the same are true to my/ our own knowledge.

Appellant/s

Signature

Signature

Print Name

Print Name

Subscribed and shown to before me this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires: