

CHAPTER 4.04

ADMINISTRATIVE APPEALS

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4.04.010: Purpose: The purpose of this chapter is to provide for the orderly review of all decisions and actions by City officials and administrative bodies. (Ord. 2814 Sec. 1, 1984)

4.04.020: Applicability: Upon receipt of an appeal from an affected and aggrieved person, all decisions and actions of any City official, employee, board, commission or other agency may be reviewed in accord with this chapter unless specific provisions for review are otherwise provided by law, ordinance, regulation or contract. This chapter does not apply to forfeiture proceedings under KMC 10.01.260 or KMC 10.01.270, or to decisions of the Civil Service Commission, the Zoning Board of Adjustment or Kennewick City Council. No review is possible of a final decision except for appropriate review by the Benton County Superior Court after the appeal process under Section 4.04.110 has been exhausted. (Ord. 5264 Sec. 1, 2009; Ord. 3429 Sec. 20, 1992; Ord. 2814 Sec. 1, 1984)

4.04.030: Employee Determinations: Except for actions commencing or refusing to commence a civil or criminal action, the decision or action of a City official or employee may be reviewed by that employee's department head. A request for review must be made within ten (10) days of the taking of the action or decision or, if written, within ten (10) days of delivery, publication, posting, or mailing, whichever is the shorter period. The department head will review the action or decision promptly and give notice of his determination in writing. (Ord. 2814 Sec. 1, 1984)

4.04.040: Appeals: Except for actions commencing or refusing to commence a criminal or civil action, the decision or action of any department head, board, commission, or other agency of the City government may be reviewed by the Appeals Commission. (Ord. 2814 Sec. 1, 1984)

4.04.050: Appeals Commission: The Appeals Commission is composed of the City Manager or his designee, the Mayor or a Councilmember selected by him, and a third person selected

from time to time by the other two members. The Commission will meet as necessary to hear matters presented to it. (Ord. 2814 Sec. 1, 1984)

4.04.060: Perfection of Appeals: Petitions for appeal must be made in writing to the City Clerk within ten (10) days of the taking of an action or making of a decision or, if written, within ten (10) days of delivery, publication, posting, or mailing, whichever is the shorter period. The petition must set out the action or decision appealed and the error claimed to have been made. The Clerk will determine a date for hearing and give reasonable notice to the petitioner. If the petitioner indicates that a hearing must be held immediately, the Clerk shall refer the matter to the Commissioners for a hearing date. (Ord. 2814 Sec. 1, 1984)

4.04.070: Hearing: At the hearing the Commission will take relevant testimony and receive evidence bearing on the issues raised. They may adjourn from time to time and require additional information of the parties. All witnesses must be sworn by the Clerk and a recording will be made of the proceedings and retained for one year. (Ord. 2814 Sec. 1, 1984)

4.04.080: Decision: The Commission will render a decision in writing as soon as reasonably practical. A majority present must concur in any modification or reversal of the action or decision appealed. The decision will set out facts as determined, any applicable law, rule or regulation relied on and the decision or action appealed. The Commission may affirm, modify, reverse or return with directions, the action or decision appealed. The Commission's decision is final. (Ord. 2814 Sec. 1, 1984)

4.04.090: Bias: No member of the Commission may be personally interested in the outcome of its decision. Challenges to a member must be made prior to the date of hearing. The removal of a member or members for bias does not preclude the remaining member or members from hearing a case. If all members are removed for bias, the City Council will appoint a special Commission to hear the appeal. (Ord. 2814 Sec. 1, 1984)

4.04.100: Summary Determination: If the petitioner and department head, board, commission or agency agree upon the facts but not upon the proper policy or application of law to which error is claimed, the action or decision may be reviewed by the City Manager or City Attorney, respectively, upon written facts. Their written decisions are final. (Ord. 2814 Sec. 1, 1984)

4.04.110: Review: Any person aggrieved by a final decision may petition the Superior Court of Benton County within 21 days of the date of the decision for such relief as he may be entitled. (Ord. 3589 Sec. 1, 1996: Ord. 3429 Sec. 1, 1992: Ord. 2814 Sec. 1, 1984)

4.04.120: Perjury and Obstruction: Any person knowingly giving false testimony or evidence before the Commission is guilty of a gross misdemeanor and any person obstructing or hindering the Commission, City Manager, or City Attorney in the performance of their duties under this chapter is guilty of a misdemeanor. (Ord. 2814 Sec. 1, 1984)