NOTICE OF APPEAL

A land use decision shall be final, unless a written Notice of Appeal is filed with the Planning Department within 12 days of the final decision (date Notice of Decision is mailed to applicant and parties of record); or, unless prior to that date, the City Council, on its own motion, orders a review of the decision.

Every Notice of Appeal shall contain:

1. A copy of the application or adequate reference to the matter sought to be appealed and the date of the decision.

2. A statement describing how the appellant qualifies as a party.

3. The specific grounds why the decision should be reversed or modified based on the applicable criteria or procedural error. The grounds shall be raised with sufficient specificity so as to afford the reviewing body an adequate opportunity to respond to each issue.

4. The required appeal fee, which is equal to the original application fee.

File No.: _____
Fee: _____
Date Rec'd: _____

CITY OF HOOD RIVER
APPEAL APPLICATION

(1/2 of appeal fee to be refunded if appellant prevails on appeal)

Submit the completed application form with one (1) complete paper copy including full- and reduced sized plans, one electronic copy (original .pdf) and appropriate fees to the City of Hood River Planning Department, 211 2nd St., Hood River, OR 97031. Additional paper copies may be required as determined by staff. If you have any questions, please contact the Planning Department at (541) 387-5210.

APPLICANT / APPELLANT:

Name: _____

Address: _____
(physical)

_____

(mailing) _____

_____

(email) _____

Telephone: _____ Cell Phone: _____

Signature: _____ Date: _____

FILE BEING APPEALED: File Name _____ File #: _____

DATE OF NOTICE OF DECISION: _____

DATE OF APPEAL: _____
(*must be within **12 days** from the date of the Notice of Decision*)

ACTION SUBJECT TO APPEAL: _____

_____

_____

BASIS FOR THIS APPEAL: On a separate sheet of paper, list in detail the specific grounds why the decision should be reversed or modified based on the applicable criteria or procedural error. The grounds shall be raised with sufficient specificity so as to afford the reviewing body an adequate opportunity to respond to each issue.

APPLICANT QUALIFIES AS A PARTY BECAUSE: _____

_____

_____

CHAPTER 17.09 - REVIEW PROCEDURES

Legislative History: Ord. 1488 (1980); Ord. 1489 (1981); Ord. 1535 (1983); Ord. 1559 (1985); Ord. 1578 (1986); Ord. 1638 (1991); Ord. 1816 (2001); Ord. 1877 (2005); Ord. 2002 (2011).

17.09.070 Appeal Procedures. The following procedures apply to appeals of final decisions on ministerial and administrative planning actions made by the Director and final decisions on quasi-judicial planning actions made by either the Historic Landmarks Board or the Commission. The Planning Director may adopt supplemental rules of procedure addressing matters not included in this section.

A. **Right to Appeal Decisions.** The following persons may appeal a final decision described above:
   1. Ministerial Decisions.
      a. The applicant.
   2. Administrative Decisions.
      a. The applicant.
      b. Any person who was mailed a notice of decision.
      c. A person entitled to notice and to whom no notice was mailed. A person to whom notice is mailed is deemed notified even if the notice is not received.
      d. Any party of record to the particular action.
      e. The City Council upon a majority vote.
      f. The Planning Commission upon a majority vote; the Planning Commission may only appeal administrative decisions or Historic Landmarks Review Board decisions. An appeal by the Planning Commission on an administrative decision shall go before the Planning Commission.
      g. The Historic Landmarks Review Board upon a majority vote; the Historic Landmarks Board may only appeal administrative decisions made pursuant to the Historic Preservation Section. An appeal by the Landmarks Review Board on an administrative decision is heard by the Landmarks Review Board.
   3. Quasi-Judicial Decisions.
      a. The applicant.
      b. Any person who was mailed a notice of decision.
      c. A person entitled to notice and to whom no notice was mailed. A person to whom notice is mailed is deemed notified even if the notice is not received.
      d. Any party of record to the particular action.
      e. The City Council upon a majority vote.

B. **Filing Appeals.** To file an appeal an appellant must
   1. File a completed Notice of Appeal application on a form prescribed by the Planning Department.
   2. Include the standard appeal fee as part of the Notice of Appeal application.
   3. File the Notice of Appeal application and appeal at the Planning Department office no later than 5:00 PM on the twelfth (12^{th}) day following the date the decision became final.

C. **Notice of Appeal Application.** Every Notice of Appeal application shall include

1. The appellant's name and address, and a statement describing how the appellant qualifies as a party;
2. The date and a brief description of the decision being appealed;
3. The specific grounds why the decision should be reversed or modified based on the applicable criteria or procedural error;
4. For appeals to City Council if the appellant is not the applicant, a statement demonstrating that the appeal issues were raised below; and
5. The appeal fee.

D. **Jurisdictional Defects**.
   1. Any Notice of Appeal application that is received after the deadline, or is not accompanied by the required appeal fee shall not be accepted for filing.
   2. The failure to comply with any other provision *of Subsections (B) or (C*) above shall constitute a jurisdictional defect. A jurisdictional defect means the appeal is invalid and no appeal hearing will be held. Determination of a jurisdictional defect shall be made by the Planning Director, with the advice of the City Attorney, after the expiration of the twelve (12) day appeal period described in *Subsection (B)(3)* above. The Planning Director's determination may be subject to appeal to the State Land Use Board of Appeals (LUBA).

E. **Consolidation of Appeals.** If more than one (1) party files a Notice of Appeal application on a planning action decision, the appeals shall be consolidated, noticed, and heard as one (1) proceeding.

F. **Notification of Appeal Hearing.** The Notice of Appeal application, together with notice of the date, time, and place of the appeal hearing shall be mailed to all parties of record at least fourteen (14) days prior to the hearing.

G. **Appeal Hearing Procedures**. All quasi-judicial hearings shall be held in accordance with Oregon public meeting laws as described in ORS 192.610-192.710.
   1. Administrative and Ministerial action appeals are heard de novo before the Planning Commission or Landmarks Review Board, as appropriate, pursuant to the procedures in *Public Hearings* section of this Chapter with the following exception:
      a. The order of testimony shall be as follows:
         (1.) The appellant's case
         (2.) Other testimony or evidence in support of the appeal
         (3.) The applicant's case
         (4.) Other testimony or evidence in support of the applicant's case
         (5.) Rebuttal by the appellant, which shall be limited to comments on evidence in the record
   2. Quasi-Judicial action appeals are heard on the record before City Council. Appeals to the City Council are conducted per the procedures in the *Public Hearings* section of this Chapter with the following exceptions:
      a. Scope of Appeal. The appeal of a quasi-judicial decision is limited to the specific grounds in the Notice of Appeal application provided those grounds were raised below. The appeal record is limited to the record created below during the proceedings prior to appeal to the City Council.
      b. The order of testimony shall be as follows:

(1.) The appellant's case
(2.) The applicant's case
(3.) Rebuttal by the appellant, which shall be limited to comments on evidence in the record

3. Unless excused by the hearing body, the appellant shall attend the appeal hearing.

H. **Decision of Appeal.**

1. The hearing body on appeal may affirm, reverse, or modify the planning action decision being appealed, including approving, approving with conditions, or denying a particular application.
2. The hearing body on appeal shall make findings and conclusions, and make a decision based on the hearing record, except in cases of appeals of ministerial and administrative actions, which are heard de novo.
3. Copies of the appeal decision shall be sent to all parties participating in the appeal.