

RULES OF PROCEDURE FOR APPEALS OF ADMINISTRATIVE DECISIONS TO THE CITY COUNCIL OF THE CITY OF COMMERCE CITY

These rules of procedure shall govern all appeals to the City Council of administrative decisions.

1. Appeals to the City Council shall be initiated by a written appeal in conformance with the requirement of the Land Development Code. The Community Development Director or his/her designee in conjunction with the City Clerk shall schedule the appeal hearing within the time constraints provided in the Land Development Code.

2. Written notice of the hearing shall be sent to the Appellant no less than ten (10) days prior to the date scheduled for the hearing.

3. The documents considered by the City in making its decision, the decision rendered, the written appeal, the recommendation of the Planning Commission and any written response to such appeal shall be provided to the City Council prior to the commencement of the hearing.

4. At the commencement of the hearing, the Chair shall state for the record at least the following:

- a) The time and date.
- b) The parties in attendance and their counsel, if any.
- c) The subject matter of the hearing, which shall be limited to the issues framed by the Appellant in the written appeal.

5. The Appellant bears the burden of establishing that the City's decision was made in error. The burden of proof shall be by a preponderance of the evidence.

6. Appellant shall present his or her argument and/or testimony first, the City shall have an opportunity to respond with argument and/or testimony, and the Appellant may be provided with an opportunity to rebut the City's position with argument and/or testimony. The Mayor may set reasonable time limitations on testimony or arguments, and restrict or exclude duplicative or irrelevant evidence or testimony. When relevant and appropriate, the Chair may permit members of the public to testify. Such testimony, when permitted, shall be permitted at the conclusion of all argument and testimony by the Appellant and the City.

7. The Mayor shall generally conduct the hearing as a quasi-judicial proceeding. The Mayor shall have the authority to administer oaths, and all testimony presented at the hearing shall be under oath and subject to the penalties of perjury. The Rules of Evidence shall not govern the appeal hearing. Any evidence which the Mayor determines to be probative may be admitted, in the discretion of the Mayor. Hearsay may

be admitted, but all evidence should be reasonably reliable and calculated to aid the City Council in reaching an accurate determination of the issues.

8. Any member of the City Council, upon recognition by the Mayor, may question any person testifying or presenting, including counsel.

9. At all times, the Mayor shall endeavor to ensure that the hearing is conducted in a dignified and appropriate manner.

10. At the conclusion of the hearing, the City Council shall determine whether the City's decision be affirmed or reversed. The City Council shall forward its recommendation and the minutes of the hearing to the City Council.