

Appendix C: NAC Appeal Reimbursement Process

Background:

A major function of the city's Neighborhood Association Committees (NACs) is to augment the citizen involvement process in land use related matters, such as planning and zoning activities concerning neighborhood and community livability. Chapter 9.06 (Neighborhood Associations) of the city's Municipal Code discusses this and other functions of the NACs. You can read the entire code at www.CodePublishing.com/or/Beaverton.

Neighborhood Review Meeting

The city's Development Code (Chapter 50.30 Neighborhood Review Meeting) includes information about the procedures for a Neighborhood Review Meeting. The purpose of the Neighborhood Review Meeting is to allow neighbors, representatives from the NAC, and interested persons an opportunity to become familiar with Type 3 Land Use proposals and to identify any associated issues. The procedures for the Neighborhood Review Meeting, including when they are required, are included in the Development Code, which can be found on the Web at: www.BeavertonOregon.gov/index.aspx?nid=463.

NAC Land Use Appeals

Each of the city's eleven NACs may consider appealing city land use decisions or Traffic Commission decisions to the City Council or the Planning Commission when evidence was provided to the decision making authority that was contrary to the decision.

NAC Land Use Appeal Reimbursements

Chapter 9.06.022 (Criteria for Eligibility for Fee Reimbursement for NAC Appeals) of the Beaverton Municipal Code details the steps that are required for a NAC to apply for reimbursement of the costs associated with a land use appeal.

This document is meant to help your NAC complete a transparent and inclusive process when it is considering a land use appeal and increase the chances that it will be eligible for an appeal reimbursement at the end of the process. Please read it carefully and utilize it as a tool when necessary.

Important Facts to Remember:

- Each NAC is eligible for one appeal reimbursement per fiscal year. The fiscal year begins on July 1 and ends on June 30.
- Applications for reimbursement of appeal fees are only for a city land use decision or Traffic Commission decision to the City Council or Planning Commission.
- Only NACs who fulfill the requirements are eligible for an appeal reimbursement. Individuals or other groups of citizens filing appeals are not eligible even if they are NAC officers or board members. **Your NAC's board must vote to file an appeal to be eligible for reimbursement and the vote must be recorded in the minutes.**
- NACs may only apply for reimbursement regarding decisions within their NACs boundaries. NACs may appeal a land use or traffic decision within another NAC or jurisdiction, but the fee would be the NAC's responsibility.
- Whether or not a NAC is reimbursed the appeal fee has no impact on the decision of any board or commission.
- Nothing in the Beaverton Municipal Code obligates the city to appropriate funds for or to reimburse the appeal filing fee nor creates any right or entitlement in any NAC or any person to a claim on city funds.

Checklist for Eligibility of NAC to File an Appeal

A. Recognition Status. The NAC shall be a recognized NAC, meeting the criteria listed under BC [9.06.020](#).

B. Meeting Requirements. The NAC shall hold at least one public meeting as to the potential appeal that has been publicized in accordance with BC [9.06.020](#)(C) and that meets, at minimum, the following:

- The NAC shall be notified of the meeting no fewer than five business days before the date of the meeting; *(Should this not be possible at your next regularly scheduled NAC meeting please see below for how to hold a "special meeting" and still fulfill these requirements.)*
- The meeting shall be conducted in conformance with Oregon public meetings law and Oregon public records law;
 - The vote to appeal conforms to the voting procedures and voting requirements in the NACs bylaws;
 - NAC board members shall conduct a vote on whether or not to appeal the action and whether or not to request reimbursement; and
 - The subject of the potential decision to file an appeal shall appear on the meeting agenda.



Tips on Filing an Appeal with a Short Timeline with a "Special Meeting" Outside of the NAC's Regularly Scheduled Monthly Meeting:

- Should a NAC need to meet and take a vote on filing an appeal that does not work with their regularly scheduled meeting, the NAC can hold a "special meeting" to meet, discuss, and take a vote. Such a special meeting could meet the requirements by following these steps:
 1. Notify the Neighborhood Program Office to work with them on scheduling the special meeting including finding a day, time, and location to hold the meeting. It is the responsibility of the NAC to schedule and hold the meeting, but the Neighborhood Program Office can help. **Keep in mind that a NAC cannot fulfill Oregon's Public Meetings Laws by taking a vote via email, telephone, or any other electronic format. It must be taken in person.**
 - Once a day, time, and location is verified, the Neighborhood Program Office will then assist your NAC with sending out an email notification to your NAC's entire email subscription list. If enough time is available to mail out notice via postal mail it will be done, but email will suffice for notice as long as it is no fewer than five business days prior to the meeting.
 - The subject of the potential decision to file an appeal must appear on the meeting agenda.
 2. After #1 is completed, the NAC must abide by all of the rules that are typically followed with regards to Oregon's Public Meetings & Records laws, and the NACs voting procedures and voting requirements in their bylaws.
 - Two votes should be taken at the meeting, including whether or not to file an appeal and whether or not to request reimbursement. Both of these votes must appear in the minutes for the meeting so that they can be referenced later.

Checklist for Filing a Reimbursement Request

C. Filing the Appeal Reimbursement Request. The NAC shall file the written request attached to the appeal within the appropriate appeal period with the City Recorder's Office or Community Development Department (CDD), as appropriate.

In addition to the appeal, a NAC filing a request for reimbursement should include the following:

- The appropriate appeal fee as established by City Council;
- The minutes from the meeting in which the NAC voted to appeal and voted to request reimbursement of the City's appeal fee; and

- All other requirements for appeals as required by City ordinance. The following is additional material that is needed to process the appeal request that is not included in the City Code, Chapter 9.06.022.
 - The agenda and minutes when the vote was taken to appeal.
 - The agenda and minutes when the vote was taken to seek reimbursement.
 - A copy of the application that was completed for the appeal.
 - A copy of the receipt that the Community Development Department (CDD) issued after the appeal fee was paid.
 - A one page summary that asks for the reimbursement that is signed by the NACs Chair or another member of the NAC's Board.

Decision Making Process for Fee Reimbursement (Chapter 9.06.022)

D. The mayor, or designee, shall determine whether there is money in the budget for the fee reimbursement and whether the request complies with the requirements above. This decision is not a land use decision and the above criteria on fee reimbursement shall not be applied to determine whether the NAC properly filed their appeal or the merits of any appeal. **Nothing in this code obligates the City to appropriate funds for or to reimburse the appeal filing fee nor creates any right or entitlement in any NAC or any person to a claim on City funds.**

E. If the NAC meets the above criteria and the fee reimbursement is granted, the City shall reimburse, within a timely manner*, the appeal fees to the NAC. [BC [9.06.022](#), added by Ordinance 4376, 11/14/05]

**"Within a timely manner" denotes that the City will provide a decision about the reimbursement request within 30 business days and provide the reimbursement, if it is approved, within that same time frame. (This is not contained in the City Code, Chapter 9.06.022, but is a reasonable expectation.)*

Questions?

This form was created by the Neighborhood Program to assist NACs who are considering a land use appeal to help ensure that the proper procedures are followed so that applying for reimbursement is a viable option at the end of the process. If you have questions please contact Sharon Gavin in the Neighborhood Program at 503-526-2543 or at sgavin@BeavertonOregon.gov.