



Canal Winchester City Council
Rule 7B – Quasi-Judicial Hearings
(Resolution 23-037; Effective November 2, 2023)

- A. **Applicability:** The procedures in this Rule 7B shall apply to quasi-judicial hearings before Council. Quasi-judicial hearings include: appeals from decisions of the Planning and Zoning Commission on applications for conditional uses, variances, and site development plans; and appeals from decisions of the Landmarks Commission on applications for certificates of appropriateness.
- B. **Purpose:** The purpose of these rules for quasi-judicial hearings is to provide a meaningful opportunity for interested parties to be heard on applications for administrative actions, including by the creating of a record of transcript of testimonial and documentary evidence admitted or proffered.
- C. **Perfecting an Appeal:** Appeals to Council shall be perfected by filing a notice of appeal with the Clerk of Council, as follows:
- (1) Appeals to Council shall be perfected within the time provided in the respective code section applicable to the appeal.
 - (2) A notice of appeal shall include:
 - a. A statement of the decision being appealed;
 - b. A copy of the underlying application on which the decision was rendered;
 - c. A statement of the legal or factual basis for the appeal;
 - d. A statement of the basis for appellant’s standing as an affected or aggrieved party to the decision being appealed;
 - e. Any fee for appeal as prescribed in the City’s fee schedule.

A Notice of Appeal that is not timely, or does not include all required documents elements stated herein, shall not be accepted by the Clerk.

- D. **Council Receipt of Appeals:** Council, for purposes of receiving an appeal and scheduling a hearing thereon within the times established in the Codified Ordinances, shall be considered to receive appeals when the same are docketed as “new business” on the next regular Council Work Session occurring not less than seven (7) days after the Clerk of Council’s receipt of the Notice of Appeal.

Council may dismiss a Notice of Appeal on its own motion for failure to include all required elements of the notice of appeal, including for failure to set forth a legally cognizable prima facie basis for appeal or for lack of standing.

- E. Scheduling of Hearings: Council will generally schedule hearings to coincide with the dates of regularly scheduled Council meetings. Any request by Applicant to reschedule a hearing shall toll the times for hearing and decision provided in the Codified Ordinances.

When scheduling a hearing, Council may prescribe reasonable and non-discriminatory time limits for presentations by Staff, the Applicant, and any Aggrieved Parties.

- F. Burden of Proof: The burden of proof in an appeal shall be on the Appellant.

- G. Evidence:

- (1) All testimonial and documentary evidence shall be given under oath, to be administered by the President of Council, or in the President's absence, the Vice President or President Pro Tempore. The person administering the oath shall direct all persons intending to provide testimonial or documentary evidence to stand, if able, and to raise their right hand, and thereupon the person administering the oath shall read the following:

Do you swear or affirm that the testimony and documentary evidence to be presented to this Council is the truth, whole truth, and nothing but the truth, subject to the pains and penalties of perjury, which you shall answer in the affirmative by saying "I do."

- (2) Documentary evidence shall include the application in question, with any drawings or other attachments; the staff report on the application; the minutes of the proceedings below; and any other presentation materials prepared by staff, the applicant, or an interested party. Such materials shall be submitted not less than 72 hours prior to the hearing. Documentary evidence submitted after this deadline shall only be admissible upon suspension of rules.

- (3) Evidence in the nature of expert testimony shall be admissible only upon the proponent establishing a foundation, by means of education or experience, for expertise in the subject matter in which the opinion testimony is being offered. A written expert shall not be required, but any written expert report shall be subject to the submittal requirements generally applicable to documentary evidence.

- H. Order of Proceedings and Decision: Hearing of an appeal by Council shall proceed as follows:

- (1) Administration of Oath
- (2) Acceptance of Documents (by Council Motion)
- (3) Case Presentation by Staff
 - a. Questions to Staff by Appellant
 - b. Questions to Staff by Council

- (4) Case Presentation by Appellant
 - a. Questions to Appellant by Applicant (if Applicant is not Appellant)
 - b. Questions to Appellant by Council

- (5) Testimony by Non-Appellant Aggrieved Parties
 - a. Questions to Non-Appellant Aggrieved Parties by Appellant
 - b. Questions to Non-Appellant Aggrieved Parties by Staff
 - c. Questions to Non-Appellant Aggrieved Parties by Council

- (6) Rebuttal Presentation by Appellant
 - a. Rebuttal shall be limited to new issues raised by Non-Appellant Aggrieved Parties

- (7) Council Deliberation
 - a. Council may deliberate in closed session or open session. Quasi-judicial hearings are not “meetings” for purposes of Ohio Open Meeting Laws.
 - b. Council may deliberate in closed session by motion, adopted by majority of the quorum.

- (8) Council Vote (by Motion)
 - a. In said motion, Council shall adopt a preliminary decision to affirm, affirm with conditions, or deny the appeal, and shall delegate the preparation of findings of fact and conclusions of law. The findings of fact and conclusions of law shall be presented at the next regular meeting of Council or another date prescribed by Council, in which case Council’s decision shall not be considered final until the findings of fact and conclusions of law are approved.