



A Tradition of Stewardship
A Commitment to Service

**NAPA COUNTY
CLERK OF THE BOARD'S OFFICE
1195 Third Street, Suite 310, Napa, California 94559
(707) 253-4421**

APPEAL HANDBOOK

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It is the sole responsibility of the Appellant to prepare and file a legally adequate and timely appeal packet and to comply with all provisions of Napa County's appeals ordinance as set forth in Chapter 2.88 of the Napa County Code. County staff is not authorized to provide legal advice, nor is County staff authorized to allow time extensions or any other exception from the requirements set forth in the County Code or included in this handbook.

Applicants are not entitled to rely on any statements or comments made by County staff during the application for appeal process regarding the technical or legal adequacy of the packet, or timeliness of the submission of the appeal.

OVERVIEW OF THE NAPA COUNTY APPEAL PROCESS

This handbook is to be used to submit an appeal to the Napa County Board of Supervisors seeking review of a decision that has been made by a Napa County decision-making body or officer. It is the responsibility of the person or persons (the Appellants) submitting the appeal documents to comply with all provisions of Napa County's appeals ordinance, as set forth in Chapter 2.88 of the Napa County Code. The Napa County Code can be found online at:

https://library.municode.com/ca/napa_county/codes/code_of_ordinances.

THE APPEAL PROCESS

1) **Decision Rendered.** Appeals may only be submitted *after* a decision is made by a Napa County decision-making body. Not all decisions can be appealed. Prior to filing an appeal, the Appellants should review the relevant sections of the Napa County Code regarding the decision to ensure that the decision may be appealed using this packet.

(Napa County Code sec. 2.88.030.)

2) **File a Complete Notice of Intent to Appeal.** To begin the appeal process, a complete Notice of Intent to Appeal must be submitted to the Clerk of the Board's Office within ten (10) working days of the decision of the approving authority. No documents or submittals will be accepted after 2 p.m. on the 10th day. A complete Notice of Intent to Appeal includes providing all of the information requested in the Notice of Intent to Appeal form and confirmation of payment of the requisite fee from the Napa County Treasurer-Tax Collector. **If a complete Notice of Intent to Appeal is not received by the Clerk of the Board's office prior to the 2 p.m. deadline, the decision of the approving authority shall be deemed final and conclusive upon expiration of such time period.**

See the **NOTICE OF INTENT TO APPEAL** form and checklist beginning on page 4 of this handbook.

(Napa County Code sec. 2.88.040.)

2) **File a Complete Appeal Packet:** A complete Appeal Packet must be submitted to the Clerk of the Board's Office no later than 2 p.m. on the 10th working day following the date on which all documentation for a complete Notice of Intent to Appeal is filed. No documents or submittals will be accepted after 2 p.m. on the 10th day. A complete Appeal Packet includes all of the information requested on the Appeal Packet forms; evidence of payment of the requisite fees from the Napa County Treasurer-Tax Collector; supporting documentation describing all asserted grounds for the appeal and all relevant arguments, contentions, and facts; supporting documentation stating the legal and factual bases for allegations of prejudicial abuse of discretion, if such allegations are made; if the decision involves real property, an ownership report listing the name, address, and assessor's parcel numbers of property owners within 1,000 feet of the property at issue and the assessor's map book pages showing the property at issue; and an original ("wet") signature if the Appeal Packet is submitted electronically. **Failure to submit a complete Appeal Packet before the deadline shall result in the automatic withdrawal of the Notice of Intent to Appeal.**

It is the Appellants' responsibility to ensure that the supporting documentation provided contains *all* legal and factual bases for the appeal. **Any factual or legal basis for appeal that is not expressly stated in the Appeal Packet or supporting documentation is deemed waived** and will not be considered by the Board.

See the **APPEAL PACKET COVER SHEET** form and checklist beginning on page 6 of this handbook.

(Napa County Code sec. 2.88.050.)

3) **Ensure that the Record on Appeal is Prepared.** It is the Appellants' responsibility to pay the costs of preparing the Record on Appeal, which contains the factual, procedural, and evidentiary

documentation of the decision being appealed. The Appellant must consult the Clerk of the Board's office to obtain a cost estimate and pay all fees within the timelines required.

(Napa County Code sec. 2.88.100.)

4) **Attend the Mandatory Prehearing Conference.** Each Appellant or a representative for each Appellant must attend a mandatory prehearing conference, which will be scheduled between 25 days and 90 days after the Appellant files a complete Appeal Packet. The prehearing conference will include the Chair of the Board of Supervisors or designee, the Clerk of the Board or designee, a representative of the Napa County Counsel, each Appellant or a representative for each Appellant, and a representative of the project proponent or the subject of the appeal. For more about how the prehearing conference is conducted, please review the enclosed Prehearing Conference Procedures beginning on page 20 of this handbook.

(Napa County Code sec. 2.88.080 and 2.88.085; Prehearing Conference Procedures.)

5) **Submission of Evidence.** Following the prehearing conference, the Board of Supervisors will schedule a public hearing to consider your appeal. However, all evidence – including summaries of expert testimony, reports, or opinions – that you wish the Board to consider at the hearing must be submitted ahead of time. The deadline for submitting evidence is determined either by the Prehearing Conference Procedures if a prehearing conference was held, or no later than 5 calendar days before the Board hearing if no conference was held. Any evidence not submitted by the appropriate deadline will not be considered.

(Napa County Code sec. 2.88.090(B).)

6) **Hearing by the Board of Supervisors.** At the hearing on your appeal before the Board of Supervisors, you will have an opportunity to present your evidence and make arguments to support your grounds for the appeal. Other parties, including other Appellants and representatives of the underlying project or subject of the appeal, will also have an opportunity to present their own evidence and arguments. Board members may also ask questions or for clarification.

(Napa County Code sec. 2.88.070 and 2.88.090.)

7) **Issuance of Tentative Ruling and Resolution of Final Decision.** After the hearing is closed, the Board will issue a tentative decision to affirm, reverse, or modify the original decision made. You will be notified of this tentative decision. Within 60 days of issuing the tentative decision, the Board will hold a public meeting where it will consider a resolution that officially adopts the Board's final decision. Upon adoption of the resolution, the Board's decision will be final and take effect immediately.

(Napa County Code sec. 2.88.090(C) and (D).)



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NOTICE OF INTENT TO APPEAL
(Chapter 2.88 of Napa County Code)

Deadlines for submission of this form (2.88.040):

Decision made at a noticed public meeting: No later than 10 working days after the date of the decision of the approving authority. No Notice of Intent to Appeal shall be accepted after 2 p.m. on the 10th working day.

Decision not made at a noticed public meeting: No later than 10 working days after mailing of the decision to all parties is effective. Mailing is deemed effective 5 calendar days after the decision is deposited in the U.S. mail by County staff. No Notice of Intent to Appeal shall be accepted after 2 p.m. on the 10th working day.

TO BE COMPLETED BY APPELLANT
(Please type or print legibly)

Appellant's Name: _____

Telephone #: (____) _____ **Fax #:** (____) _____

E-Mail Address: _____

Mailing Address: _____
No. Street City State Zip

Description of Permit and Decision Being Appealed: _____

Date of Decision: _____

Nature of Permit and Decision: _____

Permit Number (if known) or name: _____

Evidence of payment of required fee (check one): Attached Will be submitted later*

Signature of Appellant Date Print Name

* Pursuant to Napa County Code sec. 2.88.040, evidence of payment **must** be received by the Clerk of the Board no later than the 2 p.m. deadline.

CHECKLIST FOR NOTICE OF INTENT TO APPEAL

Did you remember to include the following:

- a. _____ Identification of the name and nature of permit involved.
- b. _____ Date and nature of the decision being appealed.
- c. _____ Name, address, and telephone number of the appellant.
- d. _____ Confirmation that payment of the required filing fee has been made with the Napa County Treasurer-Tax Collector. Confirmation of payment must be obtained and provided to the Clerk of the Board's office prior to the 2 p.m. deadline.

HOW TO FILE THE NOTICE OF INTENT TO APPEAL

The completed Notice of Intent to Appeal and evidence of payment must be **received** by the Clerk of the Board's office **prior to** the 2 p.m. deadline.

By Hand Delivery	By Mail
Deliver the completed form and evidence of payment to: Napa County Clerk of the Board County Administration Building, 3 rd Floor 1195 Third Street, Suite 310 Napa, CA 94559	Mail the completed form and evidence of payment to: Napa County Clerk of the Board Attention: 2.88 Appeals County Administration Building 1195 Third Street, Suite 310 Napa, CA 94559
By Email	
Scan the signed completed form and attach it, along with evidence of payment, as PDF format to an email addressed to: clerkoftheboard@countyofnapa.org . **You are responsible for ensuring that delivery is effective. Any errors or misspellings of the clerk's email address shall not be cause for extending the deadline.**	

NEXT STEPS

Once you have filed your complete Notice of Intent to Appeal, including confirmation of payment, **you have 10 working days to file your complete Appeal Packet**. Your complete Appeal Packet, including confirmation of payment of fees and all supporting documentation, must be received no later than 2 p.m. on the 10th working day after filing your complete Notice of Intent to Appeal.

If your Notice of Intent to Appeal is deemed incomplete, you will be notified of that determination.

Please Note: County staff is **not authorized** to grant any exceptions, including any extension of the deadlines, to the requirements for the Notice of Intent to Appeal as set forth in Napa County Code sec. 2.88.040. It is your responsibility to ensure that you have complied with all requirements and that the Clerk of the Board's office receives your Notice of Intent to Appeal and evidence of payment prior to the 2 p.m. deadline. County staff cannot provide advice or legal assistance with this or any other appeal process.



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APPEAL PACKET COVER SHEET
 (Section 2.88.050 of Napa County Code)

Deadline for filing with the Clerk of the Board's office: no later than 2 p.m. on the 10th working day after the filing of the Notice of Intent to Appeal. (Napa County Code sec. 2.88.050(A).)

TO BE COMPLETED BY APPELLANT
 (Please type or print legibly)

Action Being Appealed: _____

Permittee Name: _____

Permittee Address: _____
No. Street City State Zip

Project Site Address/Location (if different from Permittee Address): _____
No. Street City State Zip

Assessor's Parcel No.: _____

Permit Number: _____ **Date of Decision:** _____

Nature of Permit or Decision: _____

Appellant's Name: _____

Appellant's legal status (check one): Individual Corporation/registered nonprofit
 Individual on behalf of unofficial organization (e.g., neighborhood group, special interest group, etc.)
 Specify organization name: _____

Telephone #: (____) _____ **Fax #:** (____) _____

E-Mail Address: _____

Mailing Address: _____
No. Street City State Zip

Appellant's Qualification as Interested Person: _____
project applicant, adjacent property owner, other (describe)

Primary Point(s) of Contact for Appellant: Check here if Appellant is sole point of contact and will be the prehearing conference representative

Contact # 1 Name: _____
Telephone # (____) _____ **Email:** _____

Mailing Address: _____
No. Street City State Zip

Check here if this contact will be your representative at the prehearing conference

Contact # 2 Name: _____
Telephone # (____) _____ **Email:** _____
Mailing Address: _____
No. Street City State Zip

Check here if this contact will be your representative at the prehearing conference

Attach additional sheet(s) for additional contacts if needed.

Reason for Appeal. Be specific – **factual or legal basis for such grounds of appeal must be expressly stated or they are waived.** At a minimum, you must include: (1) identification and description of the specific factual or legal determination(s) made as part of the decision that are the focus of the appeal; and (2) express assertion of all arguments, contentions, and facts that form the grounds for your appeal. If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, or that there was a lack of a fair and impartial hearing, this must be expressly stated. *(attach additional sheets and/or supporting documentation if necessary)*

Are you appealing a decision relating to real property? (check one) Yes No
 If Yes, please ensure that you attach the required Ownership Report, including list of owners and Assessor’s map page(s) as indicated on the Checklist.

Evidence of payment of required fees (check one): Attached Will be submitted later*

* Pursuant to Napa County Code sec. 2.88.050, evidence of payment **must** be received by the Clerk of the Board no later than the 2 p.m. deadline.

Signature of Appellant Date Print Name

CHECKLIST FOR APPEAL PACKET

Did you remember to include the following:

- a. ____ Name and address of the permittee or the subject of the decision being appealed, along with identifying information about the permittee and/or subject property.
- b. ____ Name and address of appellant.
- c. ____ Appellant's status as an individual or entity.
- d. ____ Basis for Appellant's qualification as an interested person.
- e. ____ Names, addresses, telephone numbers, and email addresses of the Appellant's primary point(s) of contact and the designated representative(s) of the Appellant for the mandatory prehearing conference.
- f. ____ Identification and description of the specific factual or legal determination(s) made as part of the decision that are the focus of the appeal.
- g. ____ A description of all asserted grounds for the appeal and all arguments, contentions and facts that you believe support the appeal and/or show that the decision was in some manner erroneous.
- h. If the decision involved real property, an Ownership Report prepared by a title company, engineer, architect, radius search service, or ownership listing service, that includes the following:
 1. ____ A list, from within the past 6 months, that identifies by name, address, and assessor's parcel number, the owners of all real property located within 1,000 feet of any and all portions of the real property that is the subject of the appeal.
 2. ____ A copy of the Assessor's Map Book Pages that show all real property which is the subject of the appeal and all properties to which the list of property owners within 1,000 feet of the subject property.

To ensure that your Ownership Report contains the necessary components and is provided in the proper format, please provide the following instructions to the preparing company or individual:

INSTRUCTIONS FOR OWNERSHIP REPORT

Please prepare an original and two copies of the property owners' list as follows:

1. Type the property owners' names, parcel numbers and mailing addresses on an 8½" by 11" sheet of Avery #5160 Laser Labels so that this information can be readily used in mailing by the Clerk of the Board of Supervisors.
2. Submit a full page copy of the assessors' map book page(s) and a copy of the latest equalized assessment roll used to compile the property owners' list. Please indicate the location of all parcels listed, by check mark or colored parcel number circled on the pages.

- i. ____ Evidence that payment of the relevant fees has been made with the Napa County Treasurer-Tax Collector. Evidence of payment must be obtained and provided to the Clerk of the Board's office prior to the 2 p.m. deadline. If you are unsure of the fees due, you must contact the Clerk of the Board's office to obtain a fee estimate and make the appropriate payment prior to the 2 p.m. deadline.
- j. ____ If you are filing by email, you must submit to the Clerk of the Board's office, prior to the 2 p.m. deadline, a copy of the signature page of the Appeal Packet Cover Sheet with your original ("wet") signature.

HOW TO FILE THE APPEAL PACKET

The completed Notice of Intent to Appeal and evidence of payment must be **received** by the Clerk of the Board's office **prior to** the 2 p.m. deadline.

<u>By Hand Delivery</u>	<u>By Mail</u>
Deliver the completed form and evidence of payment to: Napa County Clerk of the Board County Administration Building, 3 rd Floor 1195 Third Street, Suite 310 Napa, CA 94559	Mail the completed form and evidence of payment to: Napa County Clerk of the Board Attention: 2.88 Appeals County Administration Building 1195 Third Street, Suite 310 Napa, CA 94559
<u>By Email</u>	
Scan the signed completed form and attach it, along with evidence of payment, as PDF format to an email addressed to: clerkoftheboard@countyofnapa.org . If filing by email, you must additionally provide by hand delivery or mail a copy of the signature page of this Appeal Packet Cover Sheet with your original ("wet") signature. **You are responsible for ensuring that delivery is effective. Any errors or misspellings of the clerk's email address shall not be cause for extending the deadline.**	

Please Note: County staff is **not authorized** to grant any exceptions, including any extension of the deadlines or alterations of the fees, to the requirements for the Appeal Packet as set forth in Napa County Code Chapter 2.88. It is your responsibility to ensure that you have complied with all requirements and that the Clerk of the Board's office receives your Appeal Packet, supporting documentation, and evidence of payment prior to the 2 p.m. deadline. County staff cannot provide advice or legal assistance with this or any other appeal process.

NEXT STEPS

Once you have filed your Appeal Packet, including supporting documentation and confirmation of payment, the County will review your Appeal Packet for completeness. You will be notified of the outcome of this completeness review.

The fees required to be paid with submittal of your Appeal Packet are estimated fees. You may be notified at any time by the Clerk of the Board's office of additional fees due. **It is your responsibility to provide evidence of payment of any additional fees due from the Napa County Treasurer-Tax Collector within the timelines specified in Napa County Code sec. 2.88.100.** Failure to pay fees within a timely manner will result in automatic withdrawal of your appeal. (Napa County Code sec. 2.88.060.)

Prior to the Board of Supervisors holding a hearing on your appeal, the Napa County Counsel's office will schedule a **mandatory prehearing conference** that your designated representative(s) **must** attend. (Napa County Code sec. 2.88.085.) You, your representative(s) and point(s) of contact will be notified of the time, date, and location of the prehearing conference no later than 15 calendar days before the conference.

You, your representative(s) and point(s) of contact will be notified of the time, date, and location of the appeal hearing before the Board of Supervisors no later than 15 calendar days before the hearing.

NAPA COUNTY CODE CHAPTER 2.88

Chapter 2.88 – APPEALS

- 2.88.010 - Definitions.
- 2.88.020 – Application of provisions—Conflict resolution.
- 2.88.030 – Right to appeal.
- 2.88.040 – Notice of intent to appeal.
- 2.88.050 – Appeal packet and payment of fees and costs—Time and manner of submissions.
- 2.88.060 – Withdrawal of appeal.
- 2.88.070 – Hearing by the board.
- 2.88.080 – Scheduling and notice of the hearing; Prehearing conference.
- 2.88.085 – Mandatory prehearing conference procedures.
- 2.88.090 – Hearing—Conduct and procedures—Decision.
- 2.88.100 – Payment of Certain Costs In Connection with Appeals.
- 2.88.110 – [Reserved]
- 2.88.120 – [Reserved]

2.88.010 Definitions.

The definitions contained in Title 18 of this code, as amended, shall be fully applicable to this chapter except as hereinafter otherwise defined. For purposes of this chapter, the following definitions shall apply:

- A. "Appellant" means any interested person filing a notice of appeal under this chapter.
- B. "Board" means the board of supervisors of Napa County.
- C. "Clerk" means the clerk of the board of supervisors of Napa County.
- D. "Decision maker" means the officer, director, agency, commission, subsidiary board of the county, department, board of appeals or other person or body to which decision-making authority was delegated and that made the decision being appealed.
- E. "Decision" means a determination made by a decision maker, pursuant to authority vested in the decision maker by law or by delegation from the board of supervisors that is binding and/or final unless successfully appealed. For purposes of this chapter, "Decision" means only those decisions that involve the exercise of discretion by the decision maker, and shall not include ministerial actions.
- F. "Hearing" means any proceeding at which a person may attend and present testimony, including but not limited to, public hearings and noticed public hearings.
- G. "Interested person" means:
 - 1. For an appeal of a decision relating to real property, including discretionary land use permits, such as conditional use permits and modifications thereto, variances, rezonings and zoning text amendments, telecommunications permits, viewshed applications and certificates of legal nonconformity, "interested person" means any person who testified or offered evidence at a hearing or other proceeding at which the matter being appealed was considered, and all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within one thousand feet of any property which is the subject of the appeal.
 - 2. For all other appeals, "interested person" means any person who testified or offered evidence at a hearing or other proceeding at which the matter being appealed was considered, if such a hearing was held. If no hearing was required for the decision, then "interested person" means any person whose pecuniary interests, civil rights, or property rights or interests are demonstrably affected by a decision, provided they offered comment on the decision or offered evidence, if given the opportunity to do so.

3. "Interested person" includes the permittee.

H. "Noticed public hearing" means a hearing that is noticed in accordance with Section 18.136.040 of this code, or any similar provision of law.

I. "Permit" means any permit, certificate, certification, license, approval or other entitlement allowing the use of real property, construction of structures thereon, or conduct of business or personal activities, which was issued, denied or made subject to conditions as a result of the decision being appealed. An appeal of a decision to issue a "Permit" includes any environmental determination made pursuant to the California Environmental Quality Act (CEQA) and state or county guidelines or other regulations adopted to implement CEQA, in connection with final action taken on the permit to which the CEQA determination relates.

J. "Permittee" means the person or entity that has applied for the permit that is the subject of the appeal.

K. "Record on appeal" means all written materials, staff reports, statements, testimony, information and evidence that were considered by the decision maker, either directly or indirectly, in arriving at the decision being appealed. If a noticed public hearing was held, then the "record on appeal" includes either a certified transcript of the hearing prepared by a certified court reporter, if it already exists, or an audio-recording or video-recording of the hearing, which is available for purposes of preparing a certified transcript of the noticed public hearing for purposes of the appeal.

L. "Substantial evidence" means such facts:

1. that a reasonable mind would accept as adequate to support a conclusion, even if other conclusions might also be reached; and

2. that is reasonable in nature, credible, and of solid value.

M. "Working day" means a day when the office of the clerk of the board of supervisors is open for business. Weekends, county holidays, and days when the office is closed for regular business due to a declared or posted emergency do not constitute working days.

2.88.020 Application of provisions—Conflict resolution.

A. The procedures and standards of review provided in this chapter shall apply to all appeals brought before the board regarding any decision made by any decision maker to grant, deny or condition a permit; except that if a different procedure to appeal a determination has been established elsewhere in this code, by state or county guidelines or other regulations adopted to implement the California Environmental Quality Act, or by any state or federal law applicable to the permit, those procedures shall control.

B. Except as provided herein as to the board's procedures in considering appeals, none of the provisions of this chapter shall apply to any other final determination, decision or action of the board.

2.88.030 Right to appeal.

Unless otherwise provided in this code, an appeal may be filed by any interested person affected by any decision made by any decision maker.

2.88.040 Notice of intent to appeal.

A. An appeal is commenced by filing a notice of intent to appeal along with evidence of payment of the accompanying fees with the clerk within ten (10) working days of the decision. Payment of fees, as established by the then current board resolution establishing fees for appeals, shall be made to the Treasurer-Tax Collector, with confirmation of payment provided to the clerk

within the time period set forth herein. For purposes of this section, the first day of the period within which the notice of appeal may be filed shall be as follows:

1. The first full calendar day following the decision maker's vote at a noticed public hearing or the public announcement of the decision being appealed if such an announcement was made at a noticed public hearing; or

2. If the decision, or the announcement of the decision, was not made at a noticed public hearing, five (5) calendar days after the date a notice of decision is deposited in the U.S. mail by county staff and addressed to all persons or entities who are required by the applicable provision of this code or by the applicable provision of state or federal law to be notified of the decision.

B. The notice of intent to appeal must be filed with the clerk in writing, and may be submitted by personal delivery, by first class U.S. mail, by electronic mail, or by facsimile, but must be delivered, transmitted, or mailed in such a manner as to be received by the clerk within the time limits specified in this chapter. As a record of the date that the notice of intent is filed, the clerk shall note or stamp the date of receipt on the notice of intent to appeal. If the notice of intent to appeal is filed by electronic mail or facsimile after the close of business on a working day, the notice of intent to appeal shall be deemed to have been filed on the next working day. For purpose of this subsection, "close of business on a working day" shall mean 2:00 p.m. Pacific Time. The clerk is not authorized to change, waive, or postpone the deadline under any circumstances.

C. A notice of intent to appeal shall include a description, sufficient for reasonable identification of the subject of the appeal, of the name and nature of the permit that was the subject of the decision, the nature of the decision being appealed, the date of the decision being appealed, and the name, address, and telephone number of the appellant.

D. If no notice of intent to appeal is filed with the clerk with respect to a decision within the time period set forth in this Section 2.88.040, the decision shall be deemed final and conclusive upon expiration of such time period.

2.88.050 Appeal packet and payment of fees and costs—Time and manner of submissions.

A. If a notice of intent to appeal is timely filed, the appellant shall, no later than 2:00 p.m. on the tenth (10th) working day after the date of submission of the notice of intent to appeal:

1. Submit to the clerk a complete appeal packet meeting the requirements of this Section 2.88.050; and

2. Submit to the clerk evidence of payment of any fee(s) required for the filing and processing of appeals pursuant to the then current board resolution establishing fees or the then current policy manual for the applicable department. The amount of the fees shall be calculated and requested by the clerk at the time the appeal packet is submitted, subject to the clerk's right to provide a more precise statement and supplemental payment request later. Payment of any such fee(s) shall be made to the Treasurer-Tax Collector in any manner acceptable to the Treasurer-Tax Collector.

B. An appeal packet must be delivered to the clerk either in hard copy format by personal delivery or U.S. mail, or electronically by e-mail or facsimile transmission, such that the clerk receives the appeal packet either physically or in PDF format. If the appeal packet is submitted electronically, the appellant shall provide to the clerk an original, wet signature on the appeal packet form, within the same period allowed for the filing of the appeal packet. If the appeal packet is submitted electronically, the appellant is responsible for ensuring that delivery is effective. Any errors or misspellings of the clerk's email address shall not be cause for extending the deadline.

C. The appeal packet shall include all of the following:

1. The name and address of the permittee or the person, organization, or entity whose use of property or activities were the subject of the decision being appealed;

2. The name and address of the appellant, if different, and a statement of (1) the nature of the appellant as a person or entity; and (2) the basis for the appellant's qualification as an interested person;

3. The names, addresses, telephone numbers, and email addresses of each person who shall be (a) the primary point of contact for appellant, and (b) the designated representative(s) of the appellant at the mandatory prehearing conference on the appeal and who has authority to speak for appellant on the procedural and evidentiary issues that will be discussed at the prehearing conference;

4. A description, sufficient for reasonable identification of the subject matter of the appeal, of the name of the permit or other matter that was the subject of the decision, the nature of the decision, and the date of the decision being appealed;

5. Identification and description of the specific factual or legal determination(s) made as part of the decision that are the focus of the appeal; and

6. A description of all asserted grounds for the appeal and all arguments, contentions and facts that the appellant believes support the appeal and/or show that the decision was in some manner erroneous. If the basis of the appeal is, in whole or in part, an allegation that the decision maker committed a prejudicial abuse of discretion or that there was a lack of a fair and impartial hearing, such grounds of appeal and the factual and legal bases for such assertions must be expressly stated in the appeal packet. Any grounds of appeal, assertions, or legal or factual arguments that are not set forth in the appeal packet shall be waived unless the chair of the board or the board as a whole finds that good cause exists to consider the ground of appeal or assertion. The chair of the board may make a determination of such good cause at the prehearing conference, set forth in Section 2.88.085, and such determination may be reviewed by the board as a whole at the start of the hearing on the appeal.

D. In addition to the requirements stated above, if the decision pertains to or affected use of, interests in, or activities upon real property the appeal packet shall also contain the following:

1. A report prepared by a title company, engineer, architect, radius search service, or ownership listing service, which identifies by name, address, and assessor's parcel number, the owners of all real property located within one thousand feet of any and all portions of the real property that is the subject of the appeal and which certifies by affidavit that the information contained in the report is accurate, complete, and current as of a date no earlier than six (6) months prior to the date of the decision being appealed; and

2. A copy of the assessor's map book pages current as of the date of the decision being appealed that shows all real property which is the subject of the appeal and all properties to which the list of property owners described in subsection (D)(1) of this Section 2.88.050 pertains.

E. It shall be appellant's sole responsibility to ensure that all required items and information required to be submitted as part of the appeal packet are submitted to the clerk before the deadline. The clerk and/or county staff have been directed not to comment on or advise the appellant as to the completeness of the appeal packet. Therefore, the appellant shall not rely on statements made by the clerk or county staff.

F. Receipt of the appeal packet by the clerk and/or county staff does not constitute a representation that the appeal packet is accepted as complete. The clerk may take a reasonable amount of time to determine whether the appeal packet is complete in accordance with this Section.

2.88.060 Withdrawal of appeal.

A. Automatic Withdrawal. An appeal filed pursuant to this chapter shall be deemed withdrawn and the decision of the decision maker shall be final and conclusive if any of the following occur:

1. The appellant fails to timely file a complete appeal packet with the clerk;
2. The appellant fails to timely post any required fee(s), including any supplemental fee requested by the clerk, pursuant to Section 2.88.100, below. This includes any failure of payment, such as a check that is denied for insufficient funds or a declined transaction;
3. The appellant fails to timely post any required transcript preparation costs, pursuant to Section 2.88.100, below;
4. The appellant fails to attend the mandatory prehearing conference without good cause as determined in the chair's sole discretion, or fails to comply with the requirements established at the prehearing conference or as set forth in Section 2.88.085.

B. **Withdrawal by Appellant.** The appellant may withdraw the appeal at any time by filing with the clerk a signed and written request to withdraw. Such a withdrawal is effective upon receipt by the clerk of the written request.

C. **No Refund of Fees.** In the event of a withdrawal, any fees, including the filing fee, processing fees, and transcript costs incurred by the County, paid shall not be refunded to the appellant.

2.88.070 Hearing by the board.

Any appeal of a decision for which a notice of appeal has been filed in the manner required by this chapter shall be heard by the board unless withdrawn pursuant to Section 2.88.060. At the discretion of the board chair, multiple appeals of the same decision or related decisions may be consolidated for processing and hearing before the board.

2.88.080 Scheduling and notice of the hearing; Prehearing conference.

A. When a timely notice of appeal has been filed and when a complete appeal packet and all required fees have been timely submitted and posted with the clerk, the clerk shall schedule a hearing on the appeal at a regular or special meeting of the board held not less than twenty-five (25) calendar days and not more than ninety (90) calendar days after receipt of the complete appeal packet, as required by Section 2.88.050, above. The board may, in its sole discretion, open and continue the hearing to a date outside of the ninety-day period to ensure the availability and convenience of the board, County staff, and all parties to the appeal. If the appeal is required by state or federal law, or county regulations other than this chapter, to be held within a shorter period, the ninety-day period shall be reduced to the maximum number of days that may expire under such law or regulation before the appeal must be heard.

B. Unless a different requirement for giving notice of the appeal and board hearing or of the mandatory prehearing conference is specified by this code or by any applicable state or federal law or regulation, the clerk shall give notice of the appeal and of the date, time, and place of the hearing on the appeal at least fifteen calendar days before the hearing or the mandatory prehearing conference, by first class U.S. mail (postage paid), or by email, addressed to the following parties:

1. The appellant(s) and any person identified as the primary point of contact for the appellant or as the designated representative of the appellant, as set forth in Section 2.88.050(C)(3);
2. The applicant(s) or any beneficiary of the underlying permit or decision that is the subject of the appeal, if different than the appellant;
3. Any persons who have requested in writing that they be given notice of an appeal relating to the underlying permit or decision, if such persons have paid any fee imposed by resolution of the board to cover the cost of such notification; and
4. For any appeal pertaining to or affecting use of, interests in or activities upon real property, the owners of all real property located within one thousand feet of any real property that

is the subject of the decision being appealed, using the report provided by the appellant pursuant to Section 2.88.050(D), above.

C. In addition to the notice of hearing on the appeal given pursuant to subsection (B), the clerk shall give notice to the decision maker and each county officer or department head who may be concerned with the permit or other action.

D. The County Counsel, or their designee, shall arrange a mandatory prehearing conference, as required by Section 2.88.085 of this code and County Policy Manual, Part I, Section 8B, Rule 14.

2.88.085 Mandatory prehearing conference procedures.

A mandatory prehearing conference shall be conducted in accordance with County Policy Manual, Part I, Section 8B, Rule 14. The prehearing conference will be held among the board chair or designee, clerk of the board or designee, County Counsel or designee, one person designated by each appellant to attend the prehearing conference with authority to speak for that appellant, and, if different from the appellant, the applicant on the underlying subject of the decision being appealed. If an appellant fails to appear at the prehearing conference, without good cause as determined by the chair, in the chair's sole discretion, or if an appellant fails to comply with the requirements established at the prehearing conference or set forth in the County Policy Manual, Part I, Section 8B, Rule 14, then the appeal shall be deemed withdrawn, pursuant to Section 2.88.060, above, and the decision of the decision maker shall be final and conclusive.

2.88.090 Hearing—Conduct and procedures—Decision.

A. Standard of review. The board shall exercise its independent judgment, based on substantial evidence on the record on appeal, or such extrinsic evidence as may be allowed pursuant to this Section, in determining whether to grant or deny the appeal, or remand the matter, in whole or in part, to the decision maker.

B. Scope of oral and written evidence to be considered. If the appeal pertains to a decision for which a record on appeal exists, the board, in hearing the appeal, shall base its consideration of the appeal on the record on appeal and any extrinsic evidence submitted by the parties and allowed by the chair for good cause shown. "Good cause" means that the proposed evidence, in the exercise of reasonable diligence, could not have been produced to, or was improperly withheld or excluded from, the decision maker. At the beginning of the hearing on the appeal, prior to opening the public hearing and allowing statements from the parties or other interested persons, the chair shall announce any decision regarding the introduction of such extrinsic evidence to the record. The whole board, by majority vote, may overrule any such decision upon request by an appellant or the permittee, if different.

If no record on appeal exists, or if a de novo appeal is required by other provisions of this code or of state or federal law, then the board shall hear, accept and consider all materials, arguments, information, and evidence (including summaries of expert testimony, reports or opinions to be offered at the hearing) that are presented by the appellant, the applicant or any other person orally at the public hearing on the appeal, or in writing if submitted in a timely manner as governed by the County Policy Manual, Part I, Section 8B, Rule 14, or by the following timing:

1. For all appeals in which a prehearing conference is held, the deadline on submissions and the number of copies of evidence, written arguments and materials (including summaries of expert testimony, reports, or opinions to be offered at the hearing) that must be submitted is governed by County Policy Manual, Part I, Section 8B, Rule 14.

2. For all appeals in which no prehearing conference is held, or as to persons who are not among the categories of participants in the prehearing conference as set forth in Section 2.88.085, all evidence, written arguments, and materials that any person wishes to have the board consider on the appeal (including summaries of expert testimony, reports, or opinions to be offered at the hearing) must be submitted to the clerk no later than five (5) calendar days before the board hearing date, as may be continued from time to time. As to any materials and evidence submitted to the clerk five (5) days or more prior to the scheduled board hearing date, only one copy of such materials and evidence need be provided to the clerk.

3. If the person or party that proffers evidence or materials for consideration by the board did not provide the clerk with copies in a timely manner pursuant to this provision, the clerk shall exclude any such evidence or materials from consideration by the board and from the administrative record for the project, but shall retain the evidence or materials as part of the record of the meeting.

C. Procedure for tentative decision, preparation of findings, and final decision. After the close of the public hearing and after board discussion of the appeal, or, if applicable, after remand to staff or to the decision maker for preparation of an advisory report and return of the appeal to the board for decision, the board shall either (a) issue a tentative decision on the appeal to affirm, reverse, or modify the decision being appealed and refer the matter to County Counsel for preparation of a proposed resolution of findings of fact and decision on appeal, or (b) vote to waive the preparation of findings and to make a final decision to either affirm, reverse or modify the decision being appealed without a referral to County Counsel. Upon the board's issuance of a tentative decision and referral to County Counsel, the clerk shall continue the board item on the appeal for the sole purpose of the board's consideration of whether the resolution prepared by County Counsel accurately reflects the board's intent in rendering the tentative decision and for the purpose of the board's rendition of a final decision on the appeal. The date for the board's consideration of the resolution shall be no later than sixty (60) days after the board's announcement of its tentative decision, unless that period is extended by the board for good cause.

D. Finality of decision and notification of decision on appeal. The board's decision shall be final immediately upon adoption of a resolution of findings of fact and decision on appeal, or if the board waives the preparation of findings, immediately upon the final decision on the appeal. The clerk shall provide the resolution of findings of fact and decision on appeal, or the minutes of the board's action if the preparation of findings of fact was waived, by e-mail and first class U.S. mail (postage paid) to the applicant(s) or designee, to all appellants or their designees, and to all persons who have requested in writing that they be given notice of the decision, if such persons have paid any fee imposed by resolution of the board of supervisors to cover the cost of such notification. The resolution, together with the minutes of the meeting and action, shall also be posted online and shall be made available for viewing in the Clerk of the Board's office.

E. Issuance of ministerial permits based on decision on appeal. No building, environmental management or other ministerial permit shall be issued for the purpose of authorizing construction that is allowed to go forward as a result of the board's decision on an appeal until the date the board's decision becomes final and effective pursuant to the provisions of subsection (F) of this Section 2.88.090, above.

2.88.100 Payment of Certain Costs In Connection with Appeals.

A. The record on appeal shall be prepared in the manner determined by the clerk in consultation with County Counsel. The staff of the decision maker whose decision is the subject of the appeal shall assist the clerk as necessary in preparation and forwarding of the record on appeal to the clerk for presentation to the board prior to the hearing on the appeal. This shall include

preparation of a transcript of any hearing held before the decision maker if it was audio-recorded or video-recorded.

B. The actual cost incurred by the county in preparing the record on appeal shall be borne by the appellant, or, if there are multiple appellants, either (1) shared in equal proportion by the appellants, or, (2) if a reasonable basis exists for allocation of the costs to the separate appeals on some basis other than a simple division of the costs in equal shares, then borne by each appellant in shares that correspond to the costs incurred by the county in connection with each appeal. The multiple appellants shall be jointly and severally liable for such costs, and the clerk shall not be responsible for determining the allocation among such appellants. If any party requests accelerated preparation of transcripts of proceedings recorded by a certified court reporter, that person shall pay the additional fee required by resolution of the board for such expedited preparation.

C. Payment of the costs of preparing the transcript of the hearing on the decision being appealed (if decision was made at a public hearing) will be paid through the Treasurer-Tax Collector, with evidence of payment provided to the clerk, and shall be due upon completion of transcripts within fifteen (15) days of written notification by the clerk, but no later than thirty (30) days before the hearing on the appeal, whichever is earlier. Any supplemental request for payment of hourly fees will be due within fifteen (15) days of the date of such a request, but no later than thirty (30) days before the hearing on the appeal. If appellant has not paid such costs when they become due, the appeal shall be deemed withdrawn, pursuant to Section 2.88.060, above. Notwithstanding such withdrawal, the appellant shall remain liable for the excess cost of preparing the record. If such amount is not paid within thirty days following notification to appellant of the excess amount, the amount shall become a debt of appellant to the county which shall be enforceable by the county by civil action in a court of law.

D. If the actual cost of the accelerated preparation requested by an interested person other than the appellant exceeds the estimated additional cost, such actual additional cost shall, if not paid within thirty (30) days of notification to such person, become a debt of such interested person to the county which shall be enforceable by the county by civil action in a court of law.

E. Nothing contained in this chapter shall be deemed to require any commission, board or other agency of the county to record any hearing, and nothing herein shall be deemed to prevent any person from using the services of a certified court reporter to produce a transcript of any proceedings before an agency of the county.

2.88.110 [Reserved]

2.88.120 [Reserved]

OTHER RELEVANT NAPA COUNTY CODE SECTIONS

County Service Area No. 3	3.10.100
County Service Area No. 4	3.12.070
Transient Occupancy Tax	3.32.100
Property Tax Administrative Fee	3.44.030
Mobile Public Address System	5.32.080
Temporary Events	5.36.090
Caregiver Permits	5.60.060
Abandoned Vehicles	8.20.150
Solid Waste Franchises	8.48.130
Storage and Removal of Solid Wastes	8.52.160
Solid Waste Collection and Transportation	8.56.110
Solid Waste Facilities	8.58.190
Ambulance	8.70.065
Minor Alcohol Offenses	9.12.090
Special Events on Public Roadways	10.24.120
Houseboat Marinas	12.20.060
Moorage and Occupancy of Vessels	12.24.070
Groundwater Conservation	13.15.090
Holding Tanks and Hold and Haul Systems	13.52.070
Landmark Preservation	15.52.060
Floodplain Management	16.04.670
Surface Mining and Reclamation	16.12.510
Lot Line Adjustments	Chapter 17.46
Merger of Parcels	17.48.110
Certificates of Compliance and Conditional Certificates of Compliance	Chapter 17.52
Subdivisions	Chapter 17.54
(Including: Tentative Maps, Vesting Tentative Maps, Map Corrections and Amendments)	

PREHEARING CONFERENCE PROCEDURES

On all appeals to the Board of Supervisors, a Mandatory Pre-Hearing Conference (“Conference”) shall be scheduled by the Clerk in accordance with Napa County Code Section 2.88.080. The Conference shall be conducted informally among the Board Chair or designee, County Counsel or designee, one person designated by each appellant as its representative to attend the prehearing conference with authority to speak for that appellant, and, if different from the appellant, the applicant on the underlying subject of the decision being appealed. The prehearing conference is intended to accomplish the following purposes:

A. If the appeal pertains to a decision where there is a record on appeal, the participants at the Conference will review and discuss with the County representatives what the record on appeal consists of, and discuss whether any party intends to offer any evidence or materials not contained in the record on appeal (“extrinsic evidence”). The Conference will provide an opportunity to establish dates by which any request for extrinsic evidence shall be submitted to the Chair for a good cause determination. If any party disagrees with the Chair’s determination, they may request that a majority of the Board overrule the Chair’s determination on the day of the hearing pursuant to the procedures described in Napa County Code Section 2.88.090, subsection (C). Any party wishing to submit extrinsic evidence for the Chair’s consideration must provide the Chair and County Counsel with complete, legible copies of all such materials and any argument supporting a good cause finding by the deadline established by the Chair at the Conference.

B. If the appeal pertains to a decision for which no record on appeal exists, the participants at the Conference will describe to the County representatives the evidence, written arguments and materials (including summaries of expert testimony, reports, or opinions to be offered at the hearing) (“Materials”) that the participant intends to submit for the Board’s consideration on the appeal. Each party shall provide the Chair and County Counsel with complete, legible copies of all such Materials that the party desires to have the Board to consider on the appeal by the date established by the Chair at the Conference.

C. In the interests of efficient conduct of Board proceedings, all those who present testimony or evidence to the Board on an appeal must make every reasonable effort to present all arguments and evidence to the Board prior to the hearing in accordance with the procedures specified above and in the applicable Napa County Code provisions. Oral testimony and argument should be limited to points that were not raised in written submissions and documentary evidence and should not be repetitious of the contents of written and documentary submissions; however, parties may not introduce new grounds of appeal or new evidence unless the Chair allows such grounds or evidence pursuant to Napa County Code section 2.88.050(C)(6) or 2.88.090(C). At the Conference and at the appeal hearing, the Chair may determine not to receive cumulative, repetitious, immaterial, derogatory or abusive testimony.

D. The County representatives at the Conference will discuss with the Conference participants what the probable order for presentation of evidence, witnesses, and statements will be at the hearing, what time limits may apply to speakers (as addressed in more detail in subsection (E) below), and any other procedural topics, subject to any modifications that may be made by the Board at the hearing.

E. In the interests of efficient conduct of Board meetings and in fairness to all participants at such meetings, the Board Chair at the Conference will set reasonable and uniform limits on the presentations by each party to an appeal at the hearing. Unless the Chair, in the Chair’s sole discretion,

establishes different time limits, the standard time limit shall be thirty (30) minutes for each side. If there are multiple appellants, then the applicant shall have thirty (30) minutes per appellant.

F. The time limits specified above do not apply to or limit the right of members of the public to speak at an appeal hearing. Such public speakers will be subject to the time limits and other provisions set forth in Rule 11 of this Part I, Section 8B of the County Policy Manual.

G. Any additional written information shall be limited to 10 pages per appellant unless the Chair allows for a different page limitation at the Conference. Applicant shall be limited to the total number of pages of all appellants combined.

FEES FOR APPEALS

Sec. 80.037. Appeal

Appeal to Board of Supervisors or Planning Commission based on Record or *De Novo*

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| (a) | Fee paid by appellant to file appeal | \$1,000.00 |
| (b) | These fees are in addition to the fee collected by the Clerk of the Board of Supervisors for filing and processing appeals (see Sec. 60.100, below). | |
| (c) | For services rendered as a result of an appeal, the Standard Hourly Rate as identified in each division's fee policy will be charged to the project applicant. | Standard hourly rate |

Sec. 60.100. Appeals to the Board of Supervisors under Napa County Code Chapter 2.88

- | | | |
|-----|--|----------|
| (a) | Notice of Intent to Appeal (unless otherwise specified in another fee schedule): | \$736.00 |
|-----|--|----------|

- (b) Appeal Filing Fee (2.88.050):
 The fee for filing an appeal shall be comprised of the following components, where applicable, calculated as of the date the appeal is filed:

Notice by Mail:

Labor:

100 addresses or less:	\$49.00
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101 to 400 addresses:	\$173.00
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Over 400 addresses:	\$261.00
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Costs Associated with Notice by Mail:	\$0.54 per address
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Notice by Publication:

Cost of notice in newspaper:	\$198.00
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Costs associated with Notice of Publication:	\$63.00
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Preparation of Agenda:	\$60.00
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Court Reporter per diem (if appellant requests court reporter):	Actual Cost
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(c) **Cost of Record (2.88.050, 2.88.100):**

Labor:

250 pages or less: \$91.00

Over 250 pages (estimated cost): \$184.00

Transcript Cost: Actual Cost

Maps and special needs: Actual Cost

(d) **Request for Reconsideration (2.88.110):**

The fee for filing a petition for reconsideration shall be comprised of the following components, where applicable, calculated as of the date the petition for reconsideration is filed:

Notice by Mail:

Labor:

100 addresses or less: \$49.00

101 to 400 addresses: \$173.00

Over 400 addresses: \$261.00

Costs associated with Notice by Mail: \$0.54 per address

Notice by Publication:

Cost of notice in newspaper: \$198.00

Costs associated with Notice of Publication: \$63.00

Preparation of Agenda: \$60.00

Court Reporter per diem (if petitioner requests court reporter): Actual Cost

(e) **Third Party Requests (2.88.080(C), 2.88.100, 2.88.110):**

Expedited Transcript Fee:	.	Actual Cost
Court Reporter per diem:		Actual Cost

OTHER RELEVANT FEES

Sec. 60.070. Recordings of Meetings

Duplicating meetings of the Board of Supervisors, District or Authority meetings where the Board of Supervisors sits as the governing body.	\$11.00 per quarter hour plus 0.20 cents per CD
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Sec. 160.010. Public Record Copying Fees

The fees to reproduce documents by any County Department shall be \$3.00 for up to 5 pages of each individual document and \$.10 per page for each additional page of that same document.

The fee for copying CD/DVDs pursuant to a Public Records Act request is \$0.20 per CD/DVD.

Sec. 160.015. Returned Item/Check Fee

The fee for a returned item/check for any County Department shall be \$45.00 per item.