

ATTACHMENT v

Zoning and Land Development Regulations, Section 5.7
Procedures relating to Decisions of the Planning and
Development Board, Historic Preservation Board, and
Administrative Decisions

Print

City of Hollywood Zoning and Land Development Regulations

§ 5.7. Appeal Procedures relating to Decisions of the Planning and Development Board, Historic Preservation Board, and Administrative Decisions.

A. Appeal of a Planning and Development Board decision. Except as provided in § 5.6 above, any appeal of a decision by the Planning and Development Board must be made as follows:

1. The City Manager, or the Executive Director of the CRA when the decision involves a project within the Executive Director's said CRA District, may file an appeal within ten days of the date of such decision or ruling. In computing the period of time prescribed, the day of the Board's decision or ruling from which the designated period of time begins to run shall not be included. If the tenth day falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. On the day following the Board meeting, the Department of Planning and Development Services shall notify each member of the City Commission of a decision of the Board. Should the City Manager or the Executive Director of the CRA wish to appeal a decision of the Board, a notice must be filed with the Department of Planning and Development Services within the aforementioned ten-day period. Upon receipt of such notice, the Department of Planning and Development Services will notify the City Clerk who shall schedule the appeal before the City Commission. Public notice requirements shall be the same as those set forth in § 5.7.F. of this Article. Should a member of the Commission wish to review a Board's decision, he/she shall follow the CRR procedure set forth in § 5.6 above.

2. Any person who appeared on the record at the Board meeting and who has filed written notice of his/her position prior to the Board's ruling may file an appeal of an adverse ruling as set forth in division A.5. below.

3. Any appeal filed pursuant to divisions A.1 or A.2 above must be made on a form provided by the Department of Planning and Development Services and, if filed pursuant to division A.2 above, be accompanied by the applicable filing fee as established by resolution of the City Commission.

4. In the absence of any CRR or timely appeal pursuant to division A.1 or A.2 above, the decision or ruling of the Board shall be final.

5. Appeals brought pursuant to division A.2 above shall be processed as follows:

a. An appeal of a ruling of the Board which results in the requested development being allowed to go forward as requested in the application shall be to a court of competent jurisdiction by petition for writ of certiorari within 30 days of the Board's decision.

b. An appeal relating to a ruling of the Board which results in the requested development not being allowed to go forward shall be to the City Commission and must be filed within ten days of the date of such decision. In computing the period of time prescribed, the day of the Board's decision or ruling from which the designated period of time begins to run shall not be included. If the tenth day falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

c. A reversal or modification of a ruling of the Board, including those relating to stipulations or conditions, shall require a five-sevenths vote of the City Commission. An affirmance of a ruling of the Board shall require a three-sevenths vote of the City Commission. All applicable criteria relative to the original petition shall apply.

d. Once filed, an appeal pursuant to the provisions of this section may not be withdrawn without approval of the City Commission at a duly advertised public meeting.

6. When an appeal is filed, the appeal will be heard de novo and the same criteria applied by the Board below are applicable to the City Commission in hearing the matter.

7. An appeal of a City Commission decision shall be to the circuit court by writ of certiorari within 30 days of the City Commission's decision.

B. Appeal of decisions by the Planning and Development Board relating to Variances. Any appeal of a decision by the Planning and Development Board relating to Variances shall be in accordance with the procedures set forth in § 5.7.A. of this Article.

C. Appeal of decisions by the Historic Preservation Board. Any appeal of a decision of the Historic Preservation Board shall be in accordance with the procedures set forth in § 5.7.A. of this Article.

D. Appeals of an administrative decision by the Director. Any party in interest aggrieved by an administrative decision by the Director authorized under this Article, may file an appeal to the applicable Board. Such appeal must be filed within 30 days of the administrative decision, shall be in writing, on a form provided by the Department of Planning and Development Services and shall specify the grounds for such appeal. The appeal form shall be accompanied by the applicable fee as established by resolution of the City Commission. Upon receiving an appeal from an administrative decision, the Department of Planning and Development Services shall schedule a public hearing before the applicable Board. Notice of the public hearing shall be as prescribed in § 5.7.F. of this Article.

1. Stay of proceedings. An appeal of an administrative decision by a party of interest, other than the city, shall not automatically stay proceedings in furtherance of the action appealed. However, an appellant may file a request to stay proceedings pending the appeal. Upon receiving such request for a stay, the Board, in its discretion, may grant, modify or deny such relief. The Board may in its discretion require the applicant to post a bond which complies with the requirements set forth in Rule 9.130, Florida Rule of Appellate Procedure, during the pendency of the appeal.

2. Decision of the Board. The applicable Board shall hold a public hearing on an appeal from an administrative decision, and may reverse or affirm, wholly or in part, or may modify the administrative decision appealed as is deemed to be proper, and to that end shall have all the powers of the official from whom the appeal is taken. The Board shall adopt a resolution setting forth the action of the Board, including any requirement or interpretation made by the Board relative to the case. A copy of the resolution shall be mailed to the appellant and submitted to the City Clerk. Such resolution shall be authorization for any approval, permit or license incidental to any use of the land or building as set forth in the resolution. The decision of the Board may be appealed to the City Commission pursuant to § 5.7.A. of this Article.

E. Development approval challenges.

1. Purpose. To provide for a limited extension of the effective period of development approvals issued by the city when third parties file challenges to such approvals, or file challenges to other permits or approvals issued for the development project, which challenges, if upheld, would prevent the developer from proceeding with the development as approved, in order to enable the property owner to have a reasonable time to develop the project after the third party challenge is concluded.

2. Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEVELOPMENT APPROVALS. Approvals for the development of real property in the City of Hollywood granted by the city, through its City Commission, Planning and Development Board, or other committee or individual with the authority under the Zoning and Land Development Regulations or Code of Ordinances to issue such approvals, including, without limitation, site plan approvals, variances, special exceptions and design review approvals, which approvals have an Effective Period as defined below.

EFFECTIVE PERIOD. That period for which a Development Approval is valid as set forth in the City of Hollywood Zoning and Land Development Regulations, Code of Ordinances or in a Resolution or Ordinance granting a Development Approval.

THIRD PARTY CHALLENGES. Challenges to permits or approvals by the city or state or federal or local agency, or the South Florida Water Management District, filed by a party other than the city, or the developer or owner of the property for which such permit or approval has been granted, which challenges are prosecuted by writ of certiorari, by administrative judicial appeal, or by original action.

3. Extension of the effective period of development approvals. When a third party challenge is filed, the Effective Period of the Development Approval for the property that is the subject of the challenge, shall be extended for a time period which is equal to the number of days of the time period beginning on the date that the third party challenge is filed and ending on the date that all appeal periods expire with respect to a final determination of the third party challenge.

4. Application. Development approvals granted subsequent to the effective date of this Article, as well as development approvals pending on the effective date of this Article, shall be eligible for the extension provided for herein.

F. Public notice of appeals. When an appeal from a decision of a Board or the Director of the Department of Planning and Development Services is filed, the following notice procedures shall be followed:

1. When notice and notification are required, the following shall apply:

a. Notice of the public hearing shall be published at least ten days prior to the date of the public hearing in a newspaper of general circulation in the city.

b. Notification to the appellant and property owners within 500 feet of the subject property shall be mailed at least 15 days prior to the date of the public hearing.

c. Such notices and notifications shall state the date, time and place of the public hearing, and shall contain the legal description of any property subject to any action and, in substance, the matter to be heard.

d. The mailing of notice to individual property owners, whose addresses are indicated on the records of the tax assessor to be within Broward County, as set forth in this Article, shall not be required in any change of zoning district involving 500 or more parcels, as indicated on the records of the assessor, provided that the city, in addition to publishing the required notice, shall publish, in conjunction with the required notice, in a newspaper of general circulation within the city, a map of the entire area affected by the petition with the existing and proposed zoning classification clearly indicated therein.

(Ord. O-2001-15, passed 5-16-2001; Am. Ord. O-2002-40, passed 11-6-2002; Am. Ord. O-2003-04, passed 2-19-2003; Am. Ord. O-2003-38, passed 11-5-2003; Am. Ord. O-2008-11, passed 6-4-2008; Am. Ord. O-2011-14, passed 5-4-11)