

**From: James DiPietro,
Administrative Director**
Subject: Appeals

APPEALS FROM DECISION OF BUILDING OFFICIAL:

The Board of Rules and Appeals shall hear all appeals from the decision of the Building and/or Fire Code Official wherein such decision is on matters regulated by the Florida Building Code or South Florida Building Code from any person aggrieved thereby, and specifically as set forth in Sec. 104.23, Alternate Materials and Types of Construction. The Board of Rules and Appeals is not authorized to grant variances from the Building Code.

PROCEDURE FOR HANDLING APPEALS:

1. The person filing an appeal must do so on the form approved by the Board of Rules and Appeals.
2. The form **SHALL** be filled out in its entirety. An incomplete form will not be accepted for processing. Three (3) copies of the completed form and plans but reserve the right to require additional copies if any ***plans larger than 8 1/2 x 11***. The material will be submitted to the Board's office. The copies should be as "clean" as possible and should not be bound in any way (except for a staple or clip on the top left corner). The completed appeal form will be date stamped when received, and an appeal reference number will be assigned by a Board Technician I.
3. Immediately upon receipt of the appeal all copies will be provided, to the Administrative Director or Administrative Coordinator II, who will assign the appeal to the Chief Code Compliance Officer whose specialty is involved. In the absence of the Administrative Director and the Administrative Coordinator II, the appeal will be given to the Chief Code Compliance Officer (Structural) or another Code Compliance officer available. In conjunction with the Administrative Director or the Administrative Coordinator II, the Chief Code Compliance Officer will designate a hearing date before the Board of Rules and Appeals or proper committee. The hearing date will be established taking into consideration the review period by the governing body and the cut off dates for the Board or committee agenda. In all cases, when the appeal relates to a matter regulated by a committee, the appeal may be referred to that committee(s) for review, prior to being heard by the board. The procedures established in steps 4 and 5 will be followed when assigned to any committee for review, and again when heard by the Board of Rules and Appeals.
4. The assigned Chief Code Compliance Officer working with their assigned Board Technician, will send a copy of the appeal by certified mail (return receipt required) to the Building or Fire Code Official involved who will be given at least five (5) working days upon receipt to respond to the

Board in writing via Fax & Mail, defending his decision or interpretation. For the purpose of resolving an appeal faster, a Building and/or Fire Code Official may waive this requirement. The assigned Chief Code Compliance Officer will be responsible for all remaining steps in this procedure being accomplished.

5. At least fifteen (15) days prior to any hearing but not more than thirty (30) days, a notice of hearing will be sent by certified mail return receipt required to the governing body (governing body is defined as the Mayor, City Manager, and City Attorney; or in the case of the County, County Administrator, Building Code Services Director, and County Attorney) involved. A copy of the notice will be sent to the Building and/or Fire Code Official involved.
6. The assigned Chief Code Compliance Officer will attempt to resolve the issue prior to being reviewed by committee or heard by the Board of Rules and Appeals.
7. At any time during the process, the person filing the appeal (appellant) may request postponement or withdrawal of same by submitting a written request to do so. The assigned Chief Code Compliance Officer will be responsible for notifying appropriate interested parties by letter of the withdrawal of the appeal.
8. If the appeal proceeds to a hearing before the Board of Rules and Appeals, the assigned Code Compliance Officer responsible, **SHALL** prepare, for the Board, a concise statement of facts, a copy of any relevant sections of the Code involved or previous Board rulings, along with the recommendation of the appropriate committee or staff that the Board may adopt. The statement, tracking of each appeal, and the entire appeal package will be the responsibility of the assigned Chief Code Compliance Officer(s) who **SHALL** be responsible to deliver the completed appeal package to the Office Coordinator for placement on the agenda.
9. Within five (5) working days of the Board meeting, at which disposition of the appeal has taken place, the Office Coordinator **SHALL** notify, in writing, all parties involved in the appeal of the results of the Board's ruling.

Notice to Appellant

Before any appeal can be considered by the Broward County Board of Rules & Appeals, the following conditions must be met:

1. The Building and/or Fire Code Official or the delegated representative must have rendered an interpretation of the applicable Building/Fire Code which the appellant considers erroneous, or denied the use of an alternate method which the appellant feels is demonstrably equal to or better than adherence to the letter of the Code might be.
2. The appeal must be filed on or before the cutoff dates established by the Board of Rules & Appeals, in order to be heard at the next meeting.

Once the appeal form is filed, the Board of Rules & Appeals staff will request a response, in writing, from the Building and/or Fire Code Official, explaining the reasoning behind his or her ruling.

The case will then be heard at the next Board meeting, unless Board staff, working with the appellant and the Building and/or Fire Code Official, has been able to help facilitate a mutually satisfactory solution to the issue.

If the issue does go forward, the Board may make a decision regarding the appeal at that meeting, or, if it deems necessary, the Board may send the appeal to the appropriate technical committee or may defer it pending additional information, etc.

If the Board feels enough information has been presented to allow a ruling, the appeal will be granted only if the Board feels the decision of the Building and/or Fire Code Official was incorrect.

The Board cannot, by law, grant a variance or waiver to the requirements of the applicable code.

The presentation of graphic materials in the form of plans and renderings to the Board to describe each appeal is encouraged. However, because of the recording and transcription of each presentation, appellants are requested to avoid verbally referring to the graphics as “this” or “that” or any reference to colors.

It is impossible to accurately transcribe a presentation of this character. Future ruling of the appeals depends heavily on accurate minutes of the meeting, and your assistance to the recording secretary will be greatly appreciated.

Any handouts or documentation must be presented as part of the appeal package, giving Board members adequate time to study the issue and to become familiar with the material. No handouts will be allowed at the meeting.

NOTICE TO APPELLANT PROHIBITING SPLITTING CAUSES OF ACTION

Florida Law prohibits the filing of the same claim(s) or substantially the same claim(s) arising from the same sets of facts or circumstance, in multiple forums. This is called “splitting causes of action.” If you have previously filed essentially the same claim(s) in another court, or with another administrative body including but not limited to a code enforcement board, which is still pending or a decision was rendered, you may not file an appeal with the Board of Rules and Appeals. See Mims v. Reid, 98 So.2d 498 (Fla.1957).



Broward County Board of Rules & Appeals

1 N. University Drive, Suite 3500B
Plantation, FL 33324
Phone 954-765- 4500
Fax 954-765- 4504

<http://www.broward.org/codeappeals>

Appeal Application Please Type or Print Information

Appellant Representative Information:

Name _____
Address _____
City/State _____
Business/Profession _____
Phone _____ Fax _____
E-mail Address _____

<i>Office Use Only</i>	
Date of Receipt:	_____
Appeal #	_____
Hearing Date	_____
Notice Mailed	_____
Code in Effect	_____
Electrical	_____
Fire Code	_____
Mechanical	_____
Plumbing	_____
Structural	_____
Alternate Material	_____
Alternate Method	_____

Project Information:

Address _____
Type of Construction _____
Height of Building _____
Square Footage per Floor _____
Permit Number _____
Permit Application Date _____
Group of Occupancy _____
Number of Stories _____

We, the undersigned, appeal the decision of the Building/Fire Code Official of _____ as it pertains to Chapter _____, Section _____, of the (check one) South Florida Building Code / Florida Building Code / Florida Fire Prevention Code, / Other _____, as applicable to Broward County.
(Attach copy of relevant Code sections).

Note: The Board shall base their decision upon the section(s) of the Code you have indicated above. If these are in error, you will be required to re-submit your appeal.

The Board is not authorized to grant variances from the Code.

Summary of appeal (attach additional sheets as necessary):

Results desired (attach additional sheets as necessary):

Note: Exhibits intended for distribution to the Board, supporting the appeal, must be submitted with the appeal. No additional material shall be passed out at the appeal hearing. A letter from the Building Official rejecting the applicant's appeal must be included in the appeal packet submitted to the Board of Rules and Appeals.

By signing this application I confirm that I have not requested review or relief for the claims, or substantially similar claims, as set forth herein, by any other judicial or administrative body and for which a decision is pending or has previously been rendered.

Appellant Name (Please print) _____

Appellant Signature _____